United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

Vol. 143 WASHINGTON, WEDNESDAY, MAY 14, 1997 No. 63

House of Representatives

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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
May 14, 1997.

I hereby designate the Honorable CLIFF STEARNS to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

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

We are grateful, O God, that You have surrounded us with family and colleagues who support us and encourage us. We are also aware that we are encompassed about with our communities from all over this land. O gracious God, from whom we receive our strength and to whom we belong, remind us every day that we do not live or serve alone nor do we have the abilities to run only our course, but are dependent upon others to truly know ourselves and to be Your faithful people. May we be ready to assist those about us just as they sustain us in our concerns. So be with us in our work, and may Your blessings be upon us and all Your people, now and evermore. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New Jersey [Mr. MENENDEZ] come forward and lead the House in the Pledge of Allegiance.

Mr. MENENDEZ led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 15 1-minutes on each side.

TRIBUTE TO THE LATE UNIVERSITY OF NEBRASKA FOOTBALL COACH AND ATHLETIC DIRECTOR, BOB DEVANEY

(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, last Friday, Nebraska lost one of its finest. Former University of Nebraska football coach and athletic director Bob Devaney passed away, but not before leaving a legacy that will never be forgotten in the Cornhusker State and in the rank and file of college football.

Anyone familiar with college football knows the outstanding accomplishments that Coach Devaney achieved. He took an average college football program and led the Cornhuskers to back-to-back national titles in 1970 and 1971.

Bob Devaney not only ushered in a new era of college football, he brought Nebraskans together and gave our great State a team and an institution to be proud of.

Most of all, Coach Devaney put life in perspective.

In 1965, Devaney told fans before a game that there are 800 million people in China who could care less if Nebraska won or lost because there are bigger things in life than whether your team wins or loses.

Coach Devaney taught sportsmanship and unity, lessons from which we all can learn.

So, Mr. Speaker, as Coach Bob Devaney is laid to rest this afternoon, I think that I can speak for all Nebraskans and all college football fans across this country alike when I say, ''Coach, thanks for the memories.''

IRISH DEPORTEES

(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, I rise today on behalf of Noel Gaynor, his family, and six other families on whom injustice has fallen across the ocean from Ireland to America.

The Irish political deportees, as they are referred to, left Ireland to restart their lives in America. Today they are engaged in a different struggle with the U.S. Department of Justice which relentlessly seeks to deport them for their political beliefs. Each man is married to an American citizen or permanent resident.

These men are not wanted by anyone. They were prosecuted for political reasons in the British Diplock Courts. That means one British judge, no jury, confessions which were extracted under torture and duress, and as such, they were sentenced and held with a special political status, a direct acknowledgment of their status as British political prisoners.

All of them have proven through years of residence their commitment to their families, communities, and indeed to the American dream.

This is a photo of Sinead Gaynor holding a sign at a demonstration

Printed on recycled paper containing 100% post consumer waste

which says ''Don't Deport My Daddy.'' She and the other nine American children are the reason we are here today. Sinead deserves the same opportunity to live in America and realize her dream as any other child. These people should not be deported.

NEWLY ASSUMED POLICE POWERS BRUCE BABBITT AND THE BUREAU OF LAND MANAGEMENT ALLEGE TO POSSESS

(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, I would like to discuss the newly assumed police powers Bruce Babbitt and the Bureau of Land Management allege to possess. Although the BLM claims these regulations are merely a recodification of the current regulations and do not result in the creation of new authority, this is simply not the case. The proposed law enforcement regulations are an attempt to vastly, and in most cases unlawfully, expand BLM's law enforcement authority.

The Constitution of the United States guarantees proper notice describing those actions which may subject its citizens to criminal punishment. However, in this case, BLM has criminalized thousands of minor violations of Federal, State, and local rules that previously were not criminal. The proposed regulations' vague references to any law or ordinance are not constitutionally sufficient, thus making the proposed regulations unlawful and, indeed, unconstitutional.

Tomorrow, Mr. Speaker, the Subcommittee on National Parks and Public Lands of the Committee on Resources will bring BLM and the Department of the Interior before our committee and the American people to explain their new regulations, which have begun to put a stranglehold on the western part of this country. To that extent, we may never recover.

LET US FEED OUR CHILDREN AND EDUCATE THEM

(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, last night the majority Republicans made a wise decision in including full funding for the WIC programs. They threatened originally to cut the President's $76 million request for additional fiscal year 1997 funds in half, which would have forced 180,000 women, infants, and children to be kicked off of the nutrition program.

I join a lot of my colleagues today in breathing a sigh of relief now, although we hear that WIC has been replaced by education cuts.

Under their new proposals there are several red flags. Under this Republican proposal, 86,000 children will be cut from Head Start, 360,000 fewer students would be eligible for Pell grants for college or job training, and nearly 500,000 fewer children would have teachers to help them with basic math and reading skills.

Congress has enacted a safeguard for our country's pregnant women and infants and children by not removing them from the WIC rolls. Now let us make sure they can also educate our children. Let us not only feed our children, but let us educate them.

CONDEMNING THE JUSTICE DEPARTMENT'S EFFORTS TO DEPORT IRISH-AMERICAN FAMILIES

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

Mr. KING. Mr. Speaker, I rise today to denounce the outrageous decision by the Justice Department to deport Irish nationals from this country. As my friend, the gentleman from New Jersey [Mr. MENENDEZ] has said, we are talking about 10 men and women who have lived in this country a number of years, who have never violated any laws of the United States, who are legally in the United States, who are married either to American citizens or foreign-born residents of this country.

The fact is these men are outstanding members of this community. They have raised their children who go to our schools, they have raised families, they have worked hard, they have contributed to this country. Yet, in a mean-spirited action, the Justice Department is moving to deport them. Their only crime is they were politically convicted in nonjury political courts in Britain years ago. They were political prisoners. They entered this country legally. Now, for no reason whatsoever, our Justice Department is moving to deport them.

The gentleman from New York [Mr. GILMAN] and I had the opportunity to testify for one of these men, Brian Pearson. At his trial the judge found that he was entitled to status in this country, and refused to deport him. Yet the Justice Department has decided to appeal that decision, in direct violation of President Clinton's campaign pledge that there would be no more Joe Doherty's. This is another Joe Doherty. The decision is wrong, it is outrageous, and I condemn it.

CONGRESS SHOULD TAKE A LOOK AT CHINA, THE NEXT MAJOR NATIONAL SECURITY THREAT

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

Mr. TRAFICANT. Mr. Speaker, China violates American trade laws, China threatens to nuke their neighbors, China sells nuclear weapons to our enemies, China tries to influence American elections, and to boot, there is no political freedom in China. There is no religious freedom in China. Let us not forget China is still a Communist dictatorship.

Mr. Speaker, if that is not enough to compromise your samurai, there is a group of Washington politicians who want to reward China with permanent, that is right, permanent most-favored-nation trade status. Beam me up.

I say there should be some permanent brain surgery for these permanent politicians performed by some permanent proctologist; permanent this, China. Congress had better take a look at the next major national security threat that is a dragon about ready to eat our assets.

A SALUTE TO CHRIS ALLEN, MAKING A DIFFERENCE IN THE LIVES OF CHILDREN

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

Mr. WAMP. Mr. Speaker, how do you follow that?

Mr. Speaker, I, too, rise today to commend and salute one man in Chattanooga, TN, who is making a huge difference in the life of children. His name is Chris Allen. He is a reporter with WDEF Channel 12 in Chattanooga, but he is being recognized this month by the President of the United States as one of 28 citationists of over 3,600 nominated from the Points of Light Foundation.

Chris, several years ago, was on a routine mission studying the inner city schools in Chattanooga and found that the library books were not on the shelves, that the materials were not in the classrooms, and he began an organization that has now helped over 11,000 children and raised over $500,000 to help the inner city schools in Chattanooga, TN.

Chris Allen deserves this recognition. He deserves for the House of Representatives today to recognize him, which I do at this time. We commend you, Chris Allen. One man can make a difference.

URGING AN END TO DEPORTATION PROCEEDINGS FOR SEVEN IRISH NATIONALS

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

Mr. NEAL of Massachusetts. Mr. Speaker, I join with my colleagues in support of the seven Irish nationals residing in the United States who are currently facing deportation by the Immigration and Naturalization Service.

While these individual cases and backgrounds may be different, they do share a number of important similarities. These seven Irishmen were convicted in British courts, with no juries. They have served their time and they are not wanted for any crime

anywhere. They are now productive, law-abiding members of their communities, and most importantly, they pose no threat to anyone.

Mr. Speaker, I have met personally with the Gaynors, the Morrisons, the Pearsons, the Megaheys, the McErleans, the Crossans and the Caufields, and they have told me what this decision will mean if they are deported at this time.

The election of Tony Blair as Prime Minister of Britain has restored a sense of hope on both sides of the Atlantic that a just and lasting peace can finally be achieved in the north of Ireland. I urge the administration to give these seven Irish-American families renewed hope today by ending these foolish deportation proceedings and allow them to live their lives out in peace and tranquility as American citizen.

THE ADMINISTRATION MISSES AN OPPORTUNITY TO HELP PROVIDE LASTING PEACE AND JUSTICE FOR NORTHERN IRELAND

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

Mr. GILMAN. Mr. Speaker, the President and his Immigration and Naturalization Service have missed an important opportunity to help in our efforts to provide lasting peace and justice for Northern Ireland.

Brian Pearson, an Irish nationalist who lives in Rockland County, NY, in my district, with his American wife and child, faces continued INS deportation proceedings. Despite an immigration judge's extensive findings that Brian Pearson is no threat to our Nation's security, and which granted him political asylum and permanent resident status, and despite extensive public support for not pursuing an appeal, the INS has gone forward in the appeal process.

I have raised Brian's possible deportation with the President, with the Secretary of State, and asked to use Brian's case to begin the reconciliation and healing that Northern Ireland needs so badly today. During the recent 18-month cease-fire the prior conservative British Government missed the opportunity to use the cases of both nationalists as well as loyalist prisoners to help build confidence, reconciliation, and greater healing to underline and build support for lasting peace.

I urge the administration to stop this appeal process.

□ 1015

ON BEHALF OF DEPORTEES

(Mrs. MCCARTHY of New York asked and was given permission to address the House for 1 minute.)

Mrs. MCCARTHY of New York. Mr. Speaker, I am here today to talk about the Irish deportees. I come from the great State of New York. We have the Statue of Liberty in front of us. That Statue of Liberty is there because we take immigrants here. We have people that are living in this country and now we are trying to take them out of the country.

I am sorry, Mr. Speaker. We are here to protect the families of these Irish-American families. I am sorry, sir. We have to protect the wives and children. If we do not take a stand now, how often will it happen?

That is what is great about this country. We stand up for those things that we believe in. Mr. Speaker, please. Mr. President, hopefully you will listen to our voices. Let these people stay here in peace. They are part of us. We are part of them.

TAX ON CAPITAL GAINS

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

Mr. HUTCHINSON. Mr. Speaker, I often get asked the question, are cuts in the tax on capital gains a tax break for the rich? Actually, it is a very interesting question. But the answer would reveal little more than the fact that the rich have, well, more money than the nonrich. But it is a fair question nonetheless.

Who benefits the most from a tax cut on capital gains, the rich or the middle class? The answer is, it depends on how we measure it. If we measure by value, then, yes, most of the gains go to upper income people because upper income people have more money to invest. So that is not saying very much. But if we measure by the number of people who own a capital asset, we may be surprised to know that according to the Internal Revenue Service, the vast majority of taxpayers claiming capital gains are 77 percent.

They have adjusted gross incomes of less than $75,000 a year. I repeat this surprising fact. According to the IRS, 77 percent of those claiming a capital gain on their tax returns have incomes less than $75,000 a year.

It produces jobs, Mr. Speaker. That is why we need it.

NOEL GAYNOR

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

Mr. PASCRELL. Mr. Speaker, I rise today to bring this House's attention to a matter of concern to all Americans.

A little over 7 years ago, Noel Gaynor legally emigrated from his native Northern Ireland to the United States in hopes of putting his past behind him and beginning a new life. Mr. Gaynor settled in my district in Bloomfield, NJ, and since his arrival has been nothing but a model citizen and part of the community, a diligent and hard-working union laborer. He is highly regarded for both his work and his character. Mr. Speaker, he is my neighbor.

More importantly, Mr. Gaynor has married a wonderful wife, Colleen, two beautiful young daughters. He has established a life here in the United States. This is all in jeopardy because the INS now seeks to tear Mr. Gaynor away from his home.

Mr. Speaker, he is my neighbor. Uprooting Mr. Gaynor from his life here and deporting him would not only destroy his life but the life of his wife and his children.

Mr. Speaker, Noel Gaynor is our neighbor.

ON THE BUDGET

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

Mr. FRELINGHUYSEN. Mr. Speaker, New Jersey is moving forward again. As a former chairman of New Jersey's Assembly Appropriations Committee, I was one of those chiefly responsible for passing Gov. Christie Todd Whitman's economic plan in 1993.

Let me tell my colleagues, we heard a lot of doomsday predictions back then. So I know that it is sometimes tough to be bold. But we passed tax cuts. We passed spending reductions and we passed a balanced budget. And New Jersey is stronger today because of those victories. We have seen more jobs, a growing economy, and a better quality of life in our State.

Mr. Speaker, it is time to be bold for the American people. We can do that by passing our own balanced budget plan. Our historic agreement invests in education, the environment and protects important priorities like Social Security and Medicare.

Better yet, it cuts taxes, creates jobs and will keep our economy growing for the future. But best of all, our budget builds a stronger America for our children by actually balancing the budget once and for all.

Mr. Speaker, we owe it to our children to be bold once again.

PROVIDE WIC WITH THE MONEY TO FEED WOMEN AND CHILDREN

(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 today to add my voice to those who are saying it is about time, time that it was recognized that we cannot neglect the hungry, that we cannot deny nutrition to women, infants and children.

The decision to provide more money for WIC was a step in the right direction. The special supplemental nutrition program for women, infants and children faced a shortage that had to be made up. Tens of thousands of needy mothers and babies would have gone without proper food if changes were not made to the supplemental appropriations.

The U.S. Department of Agriculture has estimated that $76 million more is needed to see that the WIC program through the end of the fiscal year is appropriated. Otherwise, the WIC rolls would be cut by as many as 360,000 participants.

WIC improves diet. It reduces low birth weight. It reduces infant mortality. The program works. It delivers on its promises.

I am glad that we have been able to deliver on ours. I want to thank my colleagues who worked so diligently in succeeding in getting that job done.

IN SUPPORT OF TAX CUTS

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

Mr. DUNCAN. Mr. Speaker, the average American today pays about 40 percent of his or her income in taxes when we count taxes of all types, Federal, State and local. Then the average person pays another 10 percent in regulatory costs passed on to them in the form of higher prices. This is why today the average family has one spouse working for the government and one spouse working for the family. Many people do not realize how much they are paying, about half of their income going to support the government.

Today we are proposing in our budget an $85 billion tax cut. Some people have implied that this tax cut is just too much, yet this cut is spread over a 7-year period. During that time period, this amounts to a tax cut of less than 1 percent per year. I know we can afford this. The Federal Government wastes far more than 1 percent each year.

I urge my colleagues to support this very needed tax relief for the families of America, a large part of which is a $500 per child tax credit. Let us support the families of America instead of wasting more through our Federal bureaucracy.

THREAT OF DEPORTATION

(Mrs. LOWEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY. Mr. Speaker, I rise today to discuss an issue that is affecting many of my constituents on a very personal level. A number of Irish nationals living in my district in New York and elsewhere have been unfairly targeted for deportation. Many of my colleagues and I have sent letters to President Clinton, Attorney General Reno and other United States and British officials raising this issue and calling for justice for these members of our community.

Most of the individuals who are facing deportation have established their lives here. They are married to American citizens, have American children and have been productive members of their communities for many years.

The threat of deportation has taken an enormous emotional and financial toll on these families every day. They wake up to the possibility that the lives they have worked so hard for will be shattered by deportation. We must demand that these families are treated fairly. They deserve at least that much.

AGAINST DEPORTATION

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

Mr. WALSH. Mr. Speaker, I rise in strong support of my colleague from New York, Mrs. LOWEY, and other Members and as chairman of the Friends of Ireland to speak out strongly against the Justice Department's decision to appeal the decision of a court and to attempt to deport a citizen of the United States currently back to Northern Ireland. These men, and there are a number of them, served time in prison in Northern Ireland. Many of them are trumped-up charges and very questionable judicial processes.

They came to the United States, married, raised their kids and have become excellent and productive citizens of the country. Now they may be forced to return and, if they do, they are marked men in Northern Ireland. It would be wrong to send them back where they and their families would be subjected, again, to possible injustice and physical harm.

Mr. Speaker, I ask that my colleagues join me in expressing their dissent from the Justice Department.

GENERAL LEAVE

Mr. SCHUMER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the subject of my 1 minute.

The SPEAKER pro tempore (Mr. STEARNS). Is there objection to the request of the gentleman from New York?

There was no objection.

MESSAGE TO THE INS

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

Mr. SCHUMER. Mr. Speaker, I rise this morning on behalf of Brian Pearson. For the last 9 years Brian has lived in Pearl River, NY, in Rockland County working construction, being a loyal husband, raising a daughter, paying his taxes and taking part in his community.

In short, Brian Pearson has lived the American dream. And now the INS wants to snatch that dream from Brian and his family. Why? Because Brian was a political prisoner two decades ago. Yes, a political prisoner. And those are not my words. Those are the words of the British Government, the same British Government that convicted him in a kangaroo court with no injury. Brian Pearson paid his debt to the British Government. Brian Pearson is no threat to us. In fact, Brian Pearson makes Pearl River a better town, New York a better State, and America a better country. Do not trust my words on this. Trust the words of Mary Gill and Kathleen Conway and Cornelius Buckey, his friends and neighbors who have written to me asking for justice.

So this morning, Mr. Speaker, in conclusion, I say to the INS, Brian Pearson's case and at least six other cases like his are just ones. Keep the Pearson family together and leave Brian Pearson alone.

TAX CUTS FOR WORKING FAMILIES

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

Mr. CHABOT. Mr. Speaker, like many of my colleagues, I go back to my district every weekend. Since there is a lot more common sense, in my view, in Cincinnati than there is here in Washington, I try to listen to as many people as possible when I am back home.

The one question that keeps coming my way is this: ''Why can't you folks in Washington cut our taxes?'' That is a question they have got every right to ask us. It is their hard-earned money that comes to Washington every year in bigger and bigger chunks. The Government keeps getting bigger, and Federal programs up here grow and grow and that money comes right out of the paychecks of hard-working people in my district in Cincinnati.

□ 1030

Well, Mr. Speaker, I am with them. I am one of those Congressmen who is going to work very hard in the next few weeks to see that any budget agreement considered by this House contains serious tax cuts for the working families in Cincinnati and all around the country.

We have a golden opportunity to let the people of this country keep more of the hard earned money that they make and they send up here to Washington. For the people's sake, let us not blow it this time, let us cut taxes on people all over this great Nation.

ADMINISTRATION SHOULD KEEP PLEDGE OF NO MORE JOE DOHERTY'S

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

Mr. MANTON. Mr. Speaker, I rise today to express my concern about seven families who are being unjustly targeted by the Immigration and Naturalization Service for deportation to the north of Ireland.

I was first informed about the plight of these families after I met Charles Caulfield, his wife Kathleen, and their four children, who reside in my district. I learned that despite the fact that they committed no crime in the United States and despite the fact that neither the Irish, nor British Governments are seeking to extradite them, the Federal Government is going to extraordinary lengths to force their family to return to a dangerous conflict.

Mr. Speaker, Kathleen Caulfield has been harassed and detained by British security forces in Ireland while being over 6 months pregnant and without being charged with a crime. I believe the threat of persecution and harassment for these seven families due to their beliefs in a united Ireland is genuine.

Immigration Judge Williams has recently ruled that one of the men facing deportation, Brian Pearson, should be granted political asylum due to the fact his acts in Ireland were political in nature and the threat of persecution is great. I am deeply disappointed with the INS.

President Clinton, by the way, in 1992 stated there would be no more Joe Doherty's. I ask that this administration be true to that pledge.

CONGRESS STILL RESPONSIBLE TO DEBATE, CRAFT, AND PASS TAX BILLS

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

Mr. SAM JOHNSON of Texas. Mr. Speaker, I commend the hard work of our budget negotiators for coming to an agreement that balances the budget by the year 2002. It is a positive step. But let me make it perfectly clear, as a member of the Committee on Ways and Means, I take seriously my responsibilities and constitutional authority to debate, craft, and pass tax bills out of this committee. In no way should the President dictate or bind our committee as to what should and should not be in any tax bill. That is what the committee process and this Congress was designed to do.

We will give full backing to the gentleman from Texas, Chairman ARCHER, when he says we will accept the number given to us by the budget negotiators and the President, but we reserve the right to craft the provisions that are in any tax bill that comes before the committee and we may make them higher in the interest of the American people. It is that simple.

BLOCK GRANTS DO NOT WORK

(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, already there is evidence that the Republicans' mindset on block grants do not work. Why I say that, in my home State of Texas, unfortunately, the Medicaid block granting process has hit home in the 18th Congressional District.

Yesterday, the Texas Health Department issued its contracts on HMO's for our community. Is it not interesting that the largest hospital district that serves the poor, the Harris County Hospital District, did not get a Medicaid contract from the Texas Department of Health? Is it not interesting that Eric Baumgartner and the Texas Department of Health decided to exclude the Harris County Health District in this Medicaid contract, the one district that serves the largest number of individuals who are indigent.

There exists a serious lack of African-American, Asian, and Hispanic representation within the top management and decisionmaking groups within the six HMO award recipients for Harris County, which has a Medicaid majority population of African-Americans, Asians, and Hispanics.

It seems outrageous that in this time when we say block grants work, I am saying they do not work because they had denied opportunity to the bulk of my constituents in the 18th Congressional District.

EFFECT OF CAPITAL GAINS TAX REDUCTION

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

Mr. DREIER. Mr. Speaker, I rise to comment again, as I have in the past, on one of the most important pieces of legislation that has been introduced in this Congress. It is H.R. 14, which is designed to take the top rate on capital gains from 28 to 14 percent.

Now, many people have in the past called this a tax cut for the rich, but we all know from every bit of empirical evidence that we have that it would in fact do more for working families in this country than virtually any of the so-called family tax cuts that we have.

In fact, a study by the Institute for Policy Innovations found we could increase the take-home pay for the average family by $1,500 per year if we were able to reduce the top rate on capital gains from 28 to 14 percent.

The gentleman from Texas, [Mr. ARCHER], and others on the Committee on Ways and Means very much want to do this. I am pleased that the President has indicated his support for a broad-based reduction in capital gains. It should be zero, but I will accept 14 percent.

BATTLE AGAINST ILLEGAL DRUGS SHOULD GO ON

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

Mr. SOUDER. Mr. Speaker, I realize the election is over, but just because an election ended our drug war should not end. The battles against illegal drugs should go on. I am very concerned that the President of the United States, who had backed away and we put a lot of pressure on in the last year and a half and he responded, he appointed Barry McCaffrey drug czar.

General McCaffrey has done an excellent job in speaking out and bringing to the attention of America, and through the election, that both parties were united against the drug war. What happens when the election ends? Now apparently we are going to nominate for an ambassador a man who blasted our drug czar for saying he was going to enforce the drug laws of the United States over this so-called medicinal use of marijuana.

There is no medicinal use of marijuana. There is a THC component that is available in other drugs. It is a backdoor way to legalize drugs in America. Why would we send an ambassador to Mexico? Mr. Weld, the Governor of Massachusetts, why would we send him to the country that we have been trying to send the message that they need to work to crack down on drugs coming into America?

Then the House, where we said we would take the lead against illegal drugs, is apparently going to take back the right to certify or decertify countries for their drug behavior. How can we as a House point our finger at others if we do not lead ourselves? I hope we can change this bill before tomorrow.

WILL THE STATUS QUO IN CHINA BECOME THE STATUS QUO IN HONG KONG

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

Mr. WOLF. Mr. Speaker, this week, Newsweek magazine, which is the country's premier news magazine, focused on Hong Kong and its return to China later this summer. The world is waiting to see if what has become the status quo in the People's Republic of China will become the status quo in Hong Kong.

How long will it take until those who desire to express their love of a Democratic system be banned from public process? How long will it take for pastors and priests and religious leaders to be barred from practicing their faith freely and leading believers in worship and obtaining Bibles and other spiritual material?

If we want to protect Hong Kong, the best thing that we can do for this House is to vote to deny MFN for China, because that will send a message to the Chinese Government like no other message that we could send. I strongly urge my colleagues to read this article in Newsweek.

CONGRATULATIONS TO HON. BILL REDMOND ON HIS ELECTION TO CONGRESS

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

Mr. SKEEN. Mr. Speaker, the vote is in and the people have spoken in New Mexico's Third Congressional District, and they are sending another Republican to Congress. I would like to congratulate the gentleman from Los Alamos, NM, BILL REDMOND, for winning New Mexico's special election held yesterday in northern New Mexico.

Mr. REDMOND will be an excellent Member of the House of Representatives and will support many of the principles our majority party stands for: lower taxes, a balanced Federal budget, a strong national defense, family values and a get-tough attitude on crime.

Mr. REDMOND won his election by being honest with the people about his views and concerns on the important issues facing New Mexicans and all Americans. BILL REDMOND, we look forward to working with you throughout the remainder of the 105th Congress. Congratulations and thanks to all of the Republicans that helped make this come about.

PROVIDING FOR CONSIDERATION OF H.R. 1469, 1997 EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR RECOVERY FROM NATURAL DISASTERS, AND FOR OVERSEAS PEACEKEEPING EFFORTS, INCLUDING THOSE IN BOSNIA

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 146 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 146

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1469) making emergency supplemental appropriations for recovery from natural disasters, and for overseas peacekeeping efforts, including those in Bosnia, for the fiscal year ending September 30, 1997, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The amendment printed in part 1 of the report of the Committee on Rules accompanying this resolution and an amendment striking lines 8 through 17 on page 24 shall be considered as adopted in the House and in the Committee of the Whole. Points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived except as follows: page 3, line 1, through line 9; page 10, line 3, through line 15; page 25, line 1, through line 21; page 26, line 8, through line 15; and page 33, line 14, through page 34, line 19. Before consideration of any other amendment it shall be in order to consider the amendments printed in part 2 of the report of the Committee on Rules. Each amendment printed in part 2 of the report may be considered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in part 2 of the report are waived. During consideration of the bill for further amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be fifteen minutes. During consideration of the bill, points of order against amendments for failure to comply with clause 2(e) of rule XXI are waived. At the conclusion of consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and any amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. STEARNS). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

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

Mr. Speaker, House Resolution 146 provides for the consideration of H.R. 1469, which is the Emergency Supplemental Appropriations bill for Fiscal Year 1997, under an open rule. In fact, this rule may be described as an ''open-plus'' rule.

The rule provides 1 hour of general debate, equally divided and controlled between the chairman and ranking minority member of the Committee on Appropriations, and it waives all points of order against consideration of the bill.

The rule further provides that the amendment printed in the rule and the Riggs amendment relating to the WIC program, printed in part 1 of the Committee on Rules report, shall be considered as adopted when the rule passes.

All points of order against provisions of the bill for failure to comply with clause 2, which prohibits the unauthorized or legislative provisions in a general appropriations bill, or clause 6, prohibiting a reappropriations in a general appropriations bill, of rule XXI, are waived except as specified in the rule itself.

These exceptions relate to those legislative and unauthorized provisions contained in the bill reported by the Committee on Appropriations which were objected to by the authorizing committee of jurisdiction. In an effort to be as fair as possible to all Members and to respect the committee system, the Committee on Rules followed its standard protocol of leaving any provision to which an authorized committee objection was raised subject to a point of order. Specifically, this rule leaves the following unprotected:

Provisions relating to enrollments in the Conservation Reserve Program; provisions establishing exemptions to the Endangered Species Act for disaster areas; language changing existing procurement rules with respect to currency paper; and unauthorized parking garage and rescissions of contract authority from the transportation trust funds.

□ 1045

The rule also waives all points of order against each amendment printed in part 2 of the report of the Committee on Rules. It provides that these amendments may only be offered in the order specified, shall be debatable for the time specified in this report, equally divided and controlled by the proponent and an opponent, shall be considered as having been read, shall be offered only by the Member designated in the report, and shall not be subject to further amendment or a demand for a division of the question.

Once these nine amendments have been considered by the House, the rule also provides for consideration of the bill for amendment under the 5-minute rule. The rule grants priority in recognition to those Members who have preprinted their amendments in the CONGRESSIONAL RECORD prior to their consideration if otherwise consistent with House rules.

The rule also allows the chairman of the Committee of the Whole to postpone votes during consideration of the bill, and to reduce the vote to 5 minutes on a postponed question if the vote follows a 15-minute vote.

The rule waives points of order against all amendments for failure to comply with clause 2(e) of rule XXI, prohibiting nonemergency designated amendments to be offered to an appropriations bill containing an emergency designation.

Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 1469 is an important bill for this country, particularly parts of the country. It seeks to provide needed disaster relief for thousands and thousands of families around

the country, particularly in the upper Midwest, where floods, fires and other disasters have literally decimated homes, livestock and lives. I know that those Members who have not been able to visit there have witnessed it on television and certainly read about it in the newspapers.

Furthermore, the bill provides needed supplemental funding to protect and equip our Nation's 8,000 troops in Bosnia.

Mr. Speaker, despite these laudable goals, I am personally disappointed that the Senate version of this emergency spending bill has been loaded up with extras, like a Christmas tree, many nonemergency items which may threaten the enactment of these important funds for families and for Bosnia. While the bill before us today also has some nonemergency items, the open process under which we will consider the bill today will provide the whole House with the opportunity to fully and openly debate these important issues.

After hearing testimony up in the Committee on Rules yesterday for 4 hours from over 50 witnesses, the Committee on Rules has presented the House what I would describe as a very fair and open rule that allows 9 additional amendments to be offered to the bill, in addition to any amendment any Member of the House may wish to offer under the regular amendment process.

In this light, I urge my colleagues to support this important rule.

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

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding me the customary half-hour, and I yield myself such time as I may consume.

Mr. Speaker, today we are considering a bill originally designed to provide flood relief to the people of the Midwest who have lost their homes, who have lost their businesses and have lost personal memorabilia.

Unfortunately, Mr. Speaker, the Midwesterners who are waiting for this flood relief are not going to get it, at least not yet. Because, Mr. Speaker, despite opposition from the gentleman from Louisiana [Mr. LIVINGSTON], chairman of the Committee on Appropriations, and the gentleman from Wisconsin [Mr. OBEY], the ranking member, despite a veto threat from our administration, my Republican colleagues have decided to attach a poison provision to this bill that effectively says, ''Stop us before we shut the Government down again.'' This provision says that our Republican colleagues do not think that they can keep the Government open this year any better than they did last year.

This provision does not belong in emergency disaster relief legislation, Mr. Speaker. The people of North Dakota, the people of Minnesota who have suffered floods and fires, some of their stories really belong in the book of Job. They deserve the Federal relief that every single one of us wants to give them, and my Republican colleagues should not put politics in the way of helping them put their lives back together.

In addition, Mr. Speaker, to dooming flood relief, this bill first helps, then hurts, mothers and small children who need nutrition assistance. Last night my Republican colleagues changed their mind and agreed to rewrite the bill to include full funding for WIC nutrition programs this year. But, Mr. Speaker, it stops there. This bill could end up cutting 500,000 women and children from that same program next year. I am glad to see my Republican colleagues did away with their proposal to cut 180,000 women and children from the WIC nutrition program this year, but next year we will have even more American children and more pregnant women who badly need this nutrition assistance, and my Republican colleagues will not let them get it.

In the Committee on Rules yesterday afternoon, they joined us in restoring this year's funding for this very important program that supplies pregnant women and young children with milk, eggs, cereal, formula, et cetera. But by allowing the gentleman from Pennsylvania [Mr. GEKAS] to offer his amendment, my Republican colleagues will be locking in WIC and education funding at last year's level, which will cut one-half million women and small children from this program next year.

Mr. Speaker, it will also keep 86,000 children from Head Start, 360,000 students from Pell grants for college or job training, and 71,000 fewer adults from adult education.

Mr. Speaker, education is the American people's No. 1 priority. I think my Republican colleagues are making a big mistake by restricting its funding. We were not sent here to take bottles away from babies and Head Start away from toddlers, even if it is not until next year.

In terms of this rule, we are in a bad position. This rule is attached to a self-executing temporary WIC funding measure, and I hope that we will be able to reverse the course in time for next year.

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

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

Mr. Speaker, when, oh when, oh when will we stop playing politics on the floor of this Chamber?

Mr. MOAKLEY. That is what I would like to know.

Mr. SOLOMON. Regular order, Mr. Speaker.

Mr. Speaker, last year this Congress was criticized for shutting down Government. In an attempt to try to be responsible and to try to work with the President of the United States, we are incorporating into this legislation today a continuing resolution. I am no fan of continuing resolutions. As a matter of fact, what this means is that Congress and the President have not done their jobs when we finally get around to having to have a continuing resolution. If Congress did its job, we would pass the 13 appropriation bills funding all branches of Government and that would be the end of it. But the truth of the matter is that last year when the President and the Congress could not agree, the Government was shut down. This is an attempt to keep the Government open. That is exactly what it is.

Just to explain that, we have 13 appropriation bills that provide for the funding of this Government of ours. If one of those or two of them or three of them are not signed into law by the beginning of the fiscal year 1998, which is this September 30, it means that there will be a continuing resolution that will provide for the funding of those branches of Government for which we could not reach agreement. That is exactly what a continuing resolution is. It means that come September 30 if we have not agreed, we are not going to shut down the Department of Transportation or the Defense Department or any other department. That is all this does.

When we held this hearing yesterday in the Committee on Rules, we had good Members from the Republican side and from the Democratic side. We had the gentleman from Maryland [Mr. WYNN], who has 72,000 Federal employees coming up and asking us for a continuing resolution. We had the gentleman from Virginia [Mr. MORAN], who represents another huge number of public employees coming and asking for the same thing. We had Republicans like the gentleman from Virginia [Mr. DAVIS] and the gentlewoman from Maryland [Mrs. MORELLA] asking for the same thing. This is an attempt to keep this Government moving should we not have reached agreement on all these issues. We ought to have less posturing around here and let us get down to the business of the House.

Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from Sanibel, FL [Mr. GOSS].

(Mr. GOSS asked and was given permission to revise and extend his remarks.)

Mr. GOSS. I thank the distinguished gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules, for yielding me this time, and I associate myself with his remarks.

Mr. Speaker, I rise in strong support of this modified open rule. The rule provides for consideration of this legislation, which as we have heard is extremely important, in a timely manner and without restricting the right of Members to have their say in the process. That is obviously a delicate balance but I am very pleased with the final product we bring to the body to vote on, and I congratulate the gentleman from New York [Mr. SOLOMON], the chairman, for his leadership on this.

Mr. Speaker, this bill continues the tradition begun in the last Congress of

paying for the supplementals. While commonsense by the standards of most Americans, the idea of actually paying for new emergency spending was foreign to past Congresses. Before the new majority, the old practice was charge it and send the bill to the kids. That was the wrong thing to do. This is the right thing to do, and I commend the gentleman from Louisiana [Mr. LIVINGSTON], the chairman, and his committee for making the very hard choices necessary to keep our word with the American people.

Finally, we must acknowledge the Americans who have been dealt such a severe blow from the floods. Yesterday I met with the mayor of Grand Forks and other local officials in that area who are working overtime to put their lives back together, and the lives of the people they represent.

They did not ask for any special treatment or sympathy. They just want a fair disaster hand right now to help them rebuild their communities, which are obviously devastated. They actually have a different view than our committee on how best to deliver the money, and this rule accommodates them by allowing the gentleman from South Dakota [Mr. THUNE] to offer his amendment, I suspect helped by the gentleman from Minnesota [Mr. PETERSON] and the gentleman from North Dakota [Mr. POMEROY].

As a Floridian, I know the terrible personal tragedy that comes with a flood, hurricane, or other natural disasters. We have them, too. With this bill, we have assumed our responsibility to our friends in the Midwest while not forgetting the American taxpayer. This is a good bill, it is a good rule, it is going to be fair and open, and I urge its adoption.

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

I just want to reiterate and I question my dear friend from New York when he says he is working with the President on this. The President has said in a letter he sent to the Committee on Rules that he will veto this if the CR is in the bill. The CR is in the bill. This is not cooperating with the President.

Mr. Speaker, I yield 7 minutes to the gentleman from Wisconsin [Mr. OBEY], the ranking member of the Committee on Appropriations.

Mr. OBEY. Here we go again.

Mr. Speaker, we hear on the majority side of the aisle in their press conferences that they are all for bipartisan cooperation with the President, all for trying to work things out and being constructive. But then they bring a rule and a proposition to the floor which invites and indeed guarantees a White House veto. What this does in my view is to give the back of the hand to the President. It rejects cooperation with the House Democrats on a wide range of issues, and it virtually assures weeks and weeks of delay in getting needed assistance to the people who have been the victims of floods and natural disasters all over the country.

The rule does a number of things which I think Members ought to know about. First of all, it has a self-executing rule on WIC so that after more than a month of the majority party trying to cut in half the administration's request for WIC, it now has a self-executing provision in the rule that guarantees that there will not even be any debate on WIC, in order to cover their tracks on the issue, I guess. At least that is the way it appears to me.

Then they have a provision on the FEC. The administration originally requested $1.6 million for the FEC so the FEC could pursue campaign finance violations investigations and also to provide for an upgrade of the FEC computer system.

□ 1100

First the committee itself said, ''Oh, no, no. No money for investigations. You can only use money for computers.'' Then the gentlewoman from New York [Mrs. MALONEY] announced that she wanted to offer an amendment to restore the ability of the FEC to pursue these congressional finance investigations. And so what did they do? Rather than have a debate on the issue, they have deep-sixed the whole thing because in this, if my colleagues vote for this rule, they will be automatically knocking out all of the additional funding for the FEC. Nice, nice job.

Then they have amendments that they are putting out that are guaranteed to produce a veto. First of all, the CR amendment that is being proposed does nothing but turn every single remaining appropriated program in the budget into an entitlement, that is all it does, and it becomes the Bureaucracy Supremacy Act of 1997. It guarantees that there will be no further choices by Congress. It absolutely eliminates the pressure for compromise between the two parties. It guarantees status-quo Government across the board. That is some leadership.

Then they have a provision being offered by the distinguished gentleman from New York which again virtually guarantees a veto. We, under a time limit of 10 minutes, are asked to consider his amendment that would totally reorder our national strategy on dealing with weapons of mass destruction in the Soviet Union, and based on 5 minutes of arguments on each side we are supposed to throw into the junk heap the Nunn-Lugar legislation which has, at the cost of less than one B–2 bomber, helped us to get rid of some 4,500 nuclear weapons within the former Soviet Union.

Tell me whether or not it is responsible for this country to make that kind of major decision on the basis of 5 minutes' token debate on each side of the question. I think it is laughable.

Next they propose an amendment which would in the view of the Pentagon endanger the security of American troops in Bosnia by sending a specific date for a pullout, congressionally mandated. All of us might like to see the troops out by that date, but I see no sense in advertising to every potential adversary in Bosnia exactly what the date is, after which they can behave like the irresponsible characters that so many of them behaved like before the American presence there.

It has a number of provisions which, far from helping the situation, make matters worse in terms of our ability to get needed aid to the States who need it. The gentleman from New York said, ''When is politics going to stop being played on this floor''; indeed that is the question that ought to be asked. This rule is chock full of politics. These amendments are chock full of politics. It seems to me if there is a desire on the majority side of the aisle for bipartisan cooperation that a good number of these amendments that the administration itself has defined as poison pens would simply not be offered.

Mr. Speaker, the way to get together on a deal is to get together on a deal. This CR amendment, simply it is the old saw of someone crying out in the wilderness, ''Please stop me before I kill again.'' We do not need this CR provision in order to stop the Government from being shut down. We need a new attitude on the part of this Congress; that is all we need.

I would urge opposition to this rule, and I would urge opposition to the bill itself so long as it contains these egregious provisions. If my colleagues vote for this proposal, they will be slowing down the delivery of needed relief to those areas of the country who have disasters, they will be slowing down the assurance that we need to get to those folks who we are trying to help by restoring Federal support for needy immigrants for the 1-month bridge that is needed until the new budget agreement takes care of the problem.

So I would urge Members who are interested in bipartisan cooperation to vote against this rule, vote against this bill, have the Committee on Rules go back up and bring us a rule that is truly bipartisan, not one designed to create further confrontation with the White House.

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

Mr. Speaker, I think the gentleman doth protest too much. He knows that this is an open rule, and to stand up and to ask people to vote against an open rule I just think is wrong, but the gentleman is entitled to his opinion.

But let me just say this. Where is the Democratic leadership here today? I want them on the floor, and I want them to tell me and this side of the aisle that they are opposed to a continuing resolution when I am on this floor, and say it now, and also say that they have got the gentleman from Maryland [Mr. WYNN] and they have got the gentleman from Virginia [Mr. MORAN]. I would think that they would want to come over here and protect the 100,000 Federal employees and hear the

opposition from their side of the aisle opposing this continuing resolution. I just think this is outrageous.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Wisconsin, just briefly.

Mr. OBEY. Mr. Speaker, I would simply point out his leadership is not on the floor. Where are they? It would be nice if they were providing some help in getting us together rather than pulling us apart again.

Mr. SOLOMON. I would say to the gentleman I am a part of the Republican leadership, and we are here represented. Let us get the gentleman's side over here as well.

Mr. Speaker, having said that, I yield 1 minute to the gentlewoman from New Jersey [Mrs. ROUKEMA], the very distinguished chairman of the Subcommittee on Financial Institutions and Consumer Credit of the Committee on Banking and Financial Services.

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, I want to thank the gentleman from New York [Mr. SOLOMON] for incorporating full funding for the WIC program in this proposal, and we are doing the right thing here. This should not be a partisan issue, and with the full funding I think Congress is saying no, we are not going to take food out of the mouths of little babies and WIC is off limits.

I would also like to say with the concerns of some of my Republican colleagues, please do not be penny-wise and pound-foolish. WIC is a program that works, and it works in the longer term and actually saves Federal money.

I will have more to say in the general debate, but I do appreciate the fact that the committee has taken this out of the partisan position and given bipartisan support for this very essential program.

Mr. Speaker, I rise in support of this rule and want to extend my thanks to Chairman SOLOMON and the Republican leadership for their attention to funding for the Women, Infants, and Childrens Program. This rule does the right thing by bringing the WIC Program to full funding.

This should not be a partisan issue and with this full funding, Congress is saying: ''No. We are not going to take food out of the mouths of little babies. WIC is off-limits.''

The Congress cut funding for WIC last year significantly—$150 million. The Department of Agriculture estimates that full funding for the program requires $76 million. This rule provides that figure in this supplemental.

This self-executing amendment would draw on NASA funding—the national aeronautical facilities account—to offset the $38 million. We are rescinding spending for our space agency to ensure that our children are provided for here on Earth.

I would like to address the fiscal concerns that I know will be raised by some of my Republican colleagues.

Don't be penny-wise and pound-foolish.

The WIC Program is a program that works and, in the longer term, actually saves Federal money. For every $1 used in the prenatal segment of the WIC Program, Medicaid saves untold moneys and gives healthy productive lives to these children that cannot be measured in dollars and cents.

WIC works. It reduces the instances of infant mortality, low birth weight, malnutrition, and the myriad other problems of impoverished children. The WIC Program also provides valuable health care counseling for expectant mothers for both mothers and children.

In recent months Time and Newsweek magazines have written feature articles on the importance of the years from birth to age three. These articles validate long-standing research based on up-to-date studies of prenatal and early childhood development. WIC funding is a big part of the future development of these infants. Let's not be penny-wise and pound-foolish.

This $38 million for the WIC Program is truly an investment. A wise investment, at that.

Without this $38 million, we could see another 180,000 women and children dropped from the program.

Mr. Speaker, don't we ever learn? This is the wealthiest Nation in the world and yet, children still go to bed hungry.

Again, WIC should be fully funded and should be off limits. Only, then will we preserve food for hungry babies.

I want to extend my thanks to several of my colleagues who were instrumental in restoring full funding for WIC.

MARCY KAPTUR of Ohio has been a longtime champion of the WIC Program. FRANK RIGGS of California is the chairman of the authorizing subcommittee and we will be working closely to reform and protect WIC when we reauthorize.

Together with JACK QUINN of New York and many other colleagues, the WIC Program wins today. That means women and children—and the taxpayers—win today.

I urge support of the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I thank the distinguished gentleman from Massachusetts, [Mr. MOAKLEY], for the time, and I want to start by commending the gentlewoman from Ohio, [Ms. MARCY KAPTUR], and the gentlewoman from New Jersey [Mrs. ROUKEMA], for working so hard on trying to restore the money for the women, infants and children program that is such a wise investment for this country.

I do have some deep concerns about this rule, Mr. Speaker. I believe that through the self-executing aspect that we will not be able to debate this WIC Program for as long or as thoroughly as we probably should. So I would encourage my colleagues on both the Democratic side and the Republican side to oppose this rule.

I would say about the WIC Program, however, that as I joined in special orders and 1-minutes to say that the Republicans through cutting $38 million of this program in the Committee on Appropriations, finally they have come around, better late than never. This is one of the best bipartisan Government programs ever created. It is an investment in our children, it is an investment in our families, it is an investment in balancing the budget. To have cut $38 million from this program would probably cost the taxpayers about $120 million later on through Social Security disability payments that would have robbed from children through all kinds of social costs and welfare costs. Finally, after many mistakes, we have restored this money.

Why is this a great investment? Because milk prices are up, the caseload is up for children and for women, and we have problems in terms of making sure that we get resources to these women in their efforts to make sure they deliver healthy babies.

Again, Mr. Speaker, I think it is very, very important that we get this $38 million restored. I encourage bipartisan support for the WIC Program. However, I do have concerns with the self-executing part of the rule.

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

Mr. Speaker, I just cannot believe what I am hearing here, because to defeat this rule would slow down this process, and they are going to prevent these moneys from going to people that need it desperately, and they need it today, not next week, next month.

We are about to adjourn for an entire week coming up here after this coming week, and if my colleagues defeat this rule, there is no way to get this back on the floor and even deal with this issue.

Second, if my colleagues vote against the rule, they are voting against increasing WIC funding by $38 million. They better think about that. Those funds are needed.

To speak more eloquently to that, Mr. Speaker, I yield 2½ minutes to the gentleman from North Dakota [Mr. POMEROY], someone whose constituents are suffering by the day, by the hour, and they want action on this bill.

Mr. POMEROY. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding, and indeed it is the amendment of the gentleman from South Dakota [Mr. THUNE] that I care so deeply about.

I am speaking in favor of this rule. In doing so I understand I am at odds with people in my own caucus whom I deeply respect. It does not happen often, particularly on ruled debates, but I think it is important to remember that at the heart of this bill is disaster relief for people who desperately need it. I do not think there is a group in the country that is as desperately in need of the relief in this bill as those in the district I represent, the State of North Dakota, and particularly the region of Grand Forks, ND.

No one can remember when a city of 50,000 has gone entirely under water, but that is the circumstance, tragically, that happened to us when the Red River, which has a flood stage of 28 feet, finally crested at 54 feet, almost double the flood stage.

We need the relief that the amendment of the gentleman from South Dakota [Mr. THUNE] offers to this package. It is allowed under the rule. Frankly, it concerns me that non-disaster relief amendments are also pending, and throughout the afternoon I intend to vote against each and every extraneous matter that might impede this bill. But let us address it amendment by amendment. Let us not take this whole package off the floor and put it away for another day.

Let me tell my colleagues exactly what is at issue. We have in North Dakota homeowners that face enormous costs of repair to their home before they can even move back in: $20,000 $30,000 $40,000. Their homes are in the floodway. If they throw that kind of investment back into their home, they may have to cash out and move their home in a year because of the arrangements being made to make sure this flood never happens again.

Only by the passage of the Thune amendment and package of the disaster supplemental bill in its ultimate enactment do we get back the ability for people in Grand Forks to buy those homes, get them out of the floodway, give these people the means they have to room their lives. That is why, as the chairman suggested, it is important to move this disaster supplemental bill forward, it is important to move it immediately, it is important it be considered today, which is why the rule must pass so we can get under way with getting relief to people who need it.

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

Mr. Speaker, I agree with the gentleman who just left the microphone. We should take prompt action on it. But the Republican action of putting the CR in the bill, which is going to guarantee a Presidential veto, is not the way to put prompt action on this matter.

Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MARTINEZ].

(Mr. MARTINEZ asked and was given permission to revise and extend his remarks.)

Mr. MARTINEZ. Mr. Speaker, while I am pleased that the Committee on Rules realizes the importance of providing much needed additional WIC funding, I am disturbed by the politics of it. I am the ranking member on the committee that has jurisdiction over this program, and more than that, I visited several WIC programs in my district, and I know full well the value of this program to the women and children. Fortunately, the leadership of the Clinton administration and my Democratic colleagues have convinced the House to provide the extremely additional funding needed. However, I am extremely dismayed by the partisan bickering that kept us until the 11th hour to be convinced of the importance of adequate funding. Had my colleagues known the possibility of an amendment being offered by the distinguished Member from Ohio [Ms. KAPTUR] has been discussed for over a week and this issue has received much attention since an amendment was defeated along party lines in the Committee on Appropriations.

□ 1115

I ask, why is it that it has taken the majority so long to see the importance of ensuring that the WIC Program can serve a full case load, and now the Members from the other side are supporting it. But I am troubled by the obvious partisan politics being played with the Nation's children and mothers.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentlewoman from Ohio [Ms. KAPTUR], who really is the sponsor of the WIC Program, but her amendment was not allowed and the Republicans put some other person's name on the WIC bill, and the gentlewoman actually is the one that we look to for leadership regarding the WIC legislation.

Ms. KAPTUR. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MOAKLEY], my distinguished colleague, for yielding me this time.

I wish to say that I rise in opposition to this rule and urge my colleagues to vote ''no'' on the previous question and ''no'' on the rule.

As the ranking member on the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, let me point out to my colleagues that the only reason that the bill appears the way it does this morning is that the Republican majority has been embarrassed, embarrassed into including WIC funding to serve the current level of recipients. Over 180,000 women and children were going to be eliminated from this program, based on the votes taken on the record at the subcommittee level and the full committee level.

I am usually not this partisan, but boy, this morning I am. They are so embarrassed at what has happened at the subcommittee level and the full committee level, they have hidden, attempted to hide their voting record and their handiwork inside this bill through a self-executing rule that will not permit us even to talk about WIC on this floor.

Now, let me set the record straight as to who has been fighting for America's pregnant women and children. At the subcommittee level, not one Republican voted for WIC support at a level to serve current beneficiaries. Every single Republican voted to cut over 180,000 women and children from that program this year. Every single Democrat voted to protect pregnant women and vulnerable children in need of decent nutrition. My colleagues can look back at the voting record at the subcommittee level.

Then at the full committee level of appropriations, of 34 Republicans out of a 60-member committee, only 2, only 2 voted to protect America's at-risk women and children. Only 2 out of 34. All Democrats voted to protect America's women and children.

So the Republican Party, fearing a backlash, as they should, have tried to cover their tracks inside this rule, and how have they done this? They have muzzled the debate process through the self-executing rule and have moved funds from NASA accounts, if anybody here cares about NASA, into the WIC Program, but nobody has had a chance to even think about or debate at the subcommittee or full committee level where that money is supposed to come from. If it is coming from the wind tunnel projects, how is that going to affect our NASA exports, which is one area where we really do have a positive trade balance.

In any case, I just wanted to set the record straight this morning and say we understand what is going on. We understand what is going on, and we understand the games they are playing, and my colleagues should be embarrassed.

I just have to say I am sorry that the gentleman from New York [Mr. SOLOMON], my friend and the chairman of the Committee on Rules, had to be strong-armed into this by the red-faced members of his own party. I am proud to be a Democrat this morning. I am proud to have been a party that fought for America's women and children at every single level.

I also have to say, because I do not think she could say it for herself, I really think if anybody's name in the Republican Party should be associated with the WIC Program, it should be the gentlewoman from New Jersey [Mrs. ROUKEMA]. Hers should have been the lead name because she was the one that circulated the letter on the Republican side of the aisle. I do not want to get her into trouble, but she should not be a second-stringer on this, she should be right up here with me today. It is too bad that a member of the Republican Party has to be handled that way.

I thank the gentleman for yielding me this time, and I ask my colleagues to vote against the previous question and against the rule. We should be able to debate the WIC Program on the floor of this Congress.

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

I really take exception to what my good friend, and she is a good friend, the gentlewoman from Ohio [Ms. KAPTUR] said about this amendment, because she and I work so closely together on so many issues when it really means family values, and I am a little surprised.

Let me just say this. I have the amendment of the gentlewoman that she filed with us, and it is the identical amendment that the gentleman from California [Mr. RIGGS], who is the chairman of the Subcommittee on Early Childhood, Youth and Families, they both filed the amendment. The amendment of the gentlewoman from Ohio [Ms. KAPTUR] was a second

amendment, I believe, that she had filed, and so we incorporated, self-executed into the rule exactly what she is asking for.

I do not think we need to talk about pride of authorship here, we need to get the job done. That is what I am attempting to do, is to recognize everybody in this effort. I commend her for all of her hard work on it.

Ms. KAPTUR. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentlewoman from Ohio, whom I have great respect for.

Ms. KAPTUR. Mr. Speaker, it is mutual.

I understand what has happened here. In a way it is laughable, but in a way it is truly sad, because I remember the debates in subcommittee, I remember the debates in full committee, and I have to say that the amendment that we submitted was very different in terms of where we took the initial funding. We were trying to be somewhat flexible when we came before the committee. We feel that we were hijacked in the process, but I really feel that the name of the gentlewoman from New Jersey [Mrs. ROUKEMA] should be on there.

Mr. SOLOMON. Mr. Speaker, reclaiming my time, this is the Kaptur amendment and I would be glad to submit it for the RECORD so that everybody could see it.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. RIGGS], the chairman of the Subcommittee on Early Childhood, Youth and Families, for an additional explanation because he has done outstanding, yeoman work on this WIC Program and other programs that affect our families.

Mr. RIGGS. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding me this time.

As I listened to the teeth-gnashing coming from the other side of the aisle, I am reminded of one of Ronald Reagan's favorite sayings: There is no limit to what an individual can accomplish in life, provided they do not mind who gets the credit.

Let me say at the outset, I served on the Agriculture Appropriations Subcommittee in the last Congress. I am fully aware of the concerns associated with the administration of the WIC Program. There are questions on the part of Members on both sides of the aisle regarding why this program needs a $100 million carryover from 1 fiscal year to the next; why this program has spin forward and spinback provisions in the law; why the administration has now requested a $100 million contingency fund in their current budget proposal pending before Congress for this program, again, given the fact that it already has an estimated $100 million carryover.

However, the time and place to debate these concerns, and perhaps make structural reforms to the program, is when we take up the authorization of WIC this fall in the authorizing Subcommittee on Early Childhood, Youth and Families, which I chair, not in the context of a supplemental appropriation.

So the reason that I offered my amendment, which is made self-executing under this rule, is to put back the $38 million which the administration claims they need to serve current enrollees in the program, with the provision that we will look at all of these policy issues in the fall again when we take up the reauthorization of WIC and the other child nutrition programs.

That is where I am coming from. This is not some sort of partisan rivalry. I do not understand why we have to turn this into yet another partisan food fight in the Congress. There is bipartisan support for the WIC Program, there has been historically for the WIC Program over the years. Members of both parties are concerned about reducing the number of low weight births and the number of birth defects associated with inadequate nutrition during pregnancy.

So again, I take issue with what the gentlewoman has said, I thank the Committee on Rules for making my amendment self-executing, and I urge support of the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the outstanding gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I would like to just point out that the gentleman from California who just addressed this House never appeared before the subcommittee. The gentleman said he served on the Committee on Appropriations before.

When the WIC issue was being hotly debated in the subcommittee, the gentleman never walked in the door. When we were debating this in the full committee, the gentleman never made his appearance. And when his colleague from his side of the aisle circulated the letter on WIC, he never signed the letter saying that he supported the current level, a level of funding to support current recipients. So it seems to me the gentleman truly is a Johnny-come-lately to the battle.

As far as holding hearings this fall, the problem is the people being cut off today, not next fall. That is why we need the supplemental appropriation bill passed with that money in there. Waiting until next fall does not solve the current problem we are having, which goes to prove the gentleman really does not understand the program to begin with and what this fight is all about.

I think to ice out one of your colleagues who has fought this hard on the issue is truly a disgrace to the institution.

PARLIAMENTARY INQUIRY

Mr. MCINNIS. Mr. Speaker, I have a parliamentary inquiry as to whether or not the gentlewoman's words are a violation in regards to the Johnny-come-lately comments and so on, questioning the motives of the Member.

The SPEAKER pro tempore. The Chair will not respond to that specific parliamentary inquiry at this time. Does the gentleman make a point of order?

Mr. MCINNIS. Mr. Speaker, I make that a point of order, the same comment.

The SPEAKER pro tempore. Is the gentleman making a point of order that her words be taken down?

Mr. MCINNIS. No. I will withdraw the point of order.

Is it my understanding that the Chair will not take a parliamentary inquiry at this point in time, or the Chair will accept a parliamentary inquiry?

The SPEAKER pro tempore. The Chair will not respond specifically to a parliamentary inquiry as to whether her words were out of order.

Mr. MCINNIS. But in general?

Mr. Speaker, let me ask, in general, is it in order to engage in personalities on the House floor?

The SPEAKER pro tempore. The rule is that Members may not engage in personalities in debate.

Mr. MCINNIS. Mr. Speaker, I yield 2 minutes to the gentlewoman from the State of Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Speaker, I thank the gentleman for yielding me the time.

Along with the gentlewoman from Florida, Mrs. CARRIE MEEK, the gentleman from Florida, Mr. LINCOLN DIAZ-BALART, the gentleman from Rhode Island, Mr. PATRICK KENNEDY, the gentleman from Florida, Mr. CLAY SHAW, the gentlewoman from Connecticut, Mrs. NANCY JOHNSON, and many others, we have been working on a bipartisan amendment to extend SSI benefits until September 30, and we are glad to see it in this bill.

The Supplemental Security Income program, SSI, is designed to help the poor who are elderly, disabled, or blind. These folks who receive SSI now but are not U.S. citizens, even though they are U.S. residents, would normally be receiving their last SSI check very soon.

August 22 is to be the last date of their availability for this very needed benefit. Now with this bipartisan amendment which is included in this bill, these poor, sick, elderly, law-abiding, legal U.S. residents will get an extension of this assistance.

Through the leadership of the Republican Senator of New York, AL D'AMATO, the Senate passed this SSI extension last week with an overwhelming vote of 89 in favor and only 11 against. On the House side, with the leadership of the gentleman from Florida, Mr. CLAY SHAW, and the gentleman from New York, Mr. JERRY SOLOMON, these poor residents will also now get the same extension.

This will give the Social Security Administration and other Federal agencies the time to implement changes in the benefits that we hope to be making soon, if we are successful in passing the balanced budget amendment and the plan which will restore Federal benefits for all legal U.S. residents who get now SSI benefits.

□ 1130

Mr. Speaker, as a Representative and a resident of the 18th District of Florida, I encounter on a daily basis constituents who are legal residents who have resided in this country for many years, who have paid their taxes, many of whom served this country, whose children and grandchildren were born in this country, and who live in fear, constant fear of that August 22 date when their Social Security supplemental benefits, for many of them their basic sustenance, will be eliminated.

How, then, do we justify this elimination of these benefits to those who are eligible? Congress is going to do the right thing to vote for the people, protect the people, and this bill does exactly that.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY of New York. Mr. Speaker, I rise against this rule. The Republican National Committee ought to be sending roses this morning to the Republican leadership of the House. The $1.7 million in emergency funding requested by the Federal Election Commission to conduct investigations has somehow disappeared. The only nonpartisan group that should be looking into these alleged abuses has just lost the funding it needs to get the job done.

On the other hand, the Republican-controlled Committee on Government Reform and Oversight just received $6 million to carry out its partisan probe. Now they have tied the hands of the only nonpartisan agency empowered to conduct an investigation and to find abusers.

This is not their first stunt. Just last week the Committee on Appropriations actually granted the money, but tied it up by specifying it could only be used to buy computers, like the computers would just do the work themselves. Now the funding has just disappeared. First they give, then they limit, and now they take it away.

I say to the Republican leadership, why are they doing this? Why are they taking the funding away from the one nonpartisan group empowered to conduct investigations?

I urge a ''no'' vote on this rule.

Mr. MCINNIS. Mr. Speaker, I yield 2½ minutes to the fine and patient gentleman from Pennsylvania [Mr. GEKAS].

(Mr. GEKAS asked and was given permission to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, in the fall of 1990, while our fellow young Americans were being amassed in the deserts of Saudi Arabia, musket in hand, prepared to do battle when Desert Storm was about to erupt, the Government of the United States shut down. I ask the gentleman from Massachusetts [Mr. MOAKLEY] to recall with me, if he will, that here we are in Desert Shield, young Americans poised to do battle, and the Government of the United States shuts down. A Democrat Congress and a Republican President failed to agree on a budget and the Government shut down, while our young American colleagues, fellow citizens, are ready to do battle in Saudi Arabia.

Mr. Speaker, it is disgraceful to contemplate even the possibility of the Government of the United States shutting down. It was organized and set into motion in 1789, and it was built to last forever. So long as time shall last, this Government of ours should never shut down. Yet, the people who oppose this rule actually favor the possibility of the Government shutting down. That is appalling to me.

The CR that is part of the rule on which we are now passing consideration would guarantee that no shutdown would occur because of lack of will on the part of the Congress and the President to negotiate and agree to a final budget.

Mr. Speaker, I ask every Member to consider this as a good government bill. This is one that guarantees the soul of our country remaining intact during a time of inability of the Members of Congress and the President of the United States to agree on a joint budget. This is not a partisan effort. We have had dozens of people contact us from both sides of the aisle, most notably the gentleman from Maryland [Mr. WYNN], the gentleman from Wisconsin [Mr. KLECZKA], the gentleman from Virginia [Mr. MORAN], the gentleman from Maryland [Mr. HOYER] and others who are interested in making sure we have a smooth transition when there is an impasse in budget negotiations, so we would never have the fallacy, the tragedy, the shame of the Government of the United States shutting down.

I urge support of the rule, and particularly of the CR amendment, which I will be offering.

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

Mr. Speaker, in answering the gentleman who just left the microphone, under the Democrats I think the Government shut down one day. Under the Republicans it shut down for 6 months. Government shutdowns can be averted by negotiation, but when one party does not want to negotiate, that is when the Government shuts down. I do not think that this is necessary in this vehicle. If they want to talk about it and discuss it, I think there are other vehicles that can be addressed.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. HARMAN].

(Ms. HARMAN asked and was given permission to revise and extend her remarks.)

Ms. HARMAN. I thank the gentleman for yielding time to me, Mr. Speaker.

Mr. Speaker, I rise this morning as a supporter of a fully funded WIC program, and want to commend our colleague, the gentlewoman from Ohio [Ms. KAPTUR], for her passion and leadership on this issue.

I had hoped also this morning to engage in a colloquy with the gentleman from New York [Mr. SOLOMON], but he has been called away from the floor, so I will make my point now and hope that he will get back a bit later and be able to make his point.

Mr. Speaker, the issue is the deficit reduction lockbox, which, sadly, is not in order under this rule. A lockbox, as my colleagues know, assures that amendments cutting spending from appropriations bills are translated into savings, not reallocated to other spending. To quote from a current movie, ''Show me the money,''—lockbox shows us the savings.

The House has on three occasions overwhelmingly passed the deficit lockbox, twice as amendments to appropriations bills and once as a free-standing bill. Regrettably, the other body failed to match our efforts and this measure died with the adjournment of the 104th Congress. If lockbox has been enacted during the fiscal year 1997 appropriations process, almost $1 billion in spending could have been locked away for deficit reduction.

The lockbox is a very simple mechanism, and will help restore fiscal responsibility to this body. I regret that the Committee on Rules could not make it in order as an amendment to the supplemental appropriations bill, but I hope that the chairman and the full committee will work with us, a bipartisan group of Members, to make it a regular part of the appropriations process, starting with the first appropriations bill for fiscal year 1998.

Mr. MCINNIS. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Speaker, I thank the gentleman for yielding to me. I just felt compelled to come down to the well one more time and clarify for our listeners, and especially, of course, for our colleagues who will be making a decision on the rule here momentarily, just, again, the background behind my appearance before the Committee on Rules to offer my amendment to add an additional $38 million for funding for the Women, Infants, and Children Program during the current fiscal year, and why that was made self-executing under the rule.

I want people to understand, and I cannot believe the gentlewoman from Ohio [Ms. KAPTUR] is actually suggesting that the chairman of an authorizing subcommittee cannot engage constructively with an issue like that. What kind of precedent would that create in the House? What kind of sour grapes have we heard down here? There is a majority party, there is a minority party.

I suspect if the gentlewoman, who has served in the Congress for a number of years, goes back and searches her memory she might just recall a precedent when the Democrat Party as the majority party allowed a Member of the majority party who demonstrated an interest in this issue to take the lead.

That was not intended to exclude other parties. We made an effort. We reached out to the gentlewoman. We reached out to the gentlewoman from New Jersey [Mrs. ROUKEMA] and the gentleman from New York [Mr. QUINN] as well to make our efforts bipartisan. So how do bipartisan efforts ultimately get reduced down to another political food fight down here on the House floor, with people squabbling over who gets credit and one colleague referring to another colleague as a Johnny-come-lately.

Let me not stoop to that level. Let me offer the gentlewoman the opportunity to testify before our subcommittee this fall when we take up the reauthorization of WIC and the child nutrition program, so that together, in the best spirit and tradition of bipartisanship, we can address the concerns regarding the management of the program.

Ms. KAPTUR. Mr. Speaker, will the gentleman yield?

Mr. RIGGS. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Speaker, I would say to the gentleman, I would be delighted to appear before the gentleman's subcommittee. I thought it was very curious that when we were holding hearings on the WIC Program the gentleman did not appear before our committee, when 180,000 women were cut from the program by the gentleman's party.

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

Mr. Speaker, I think it is important to note that yesterday the Committee on Rules heard testimony from three Democrats who are in support of the automatic continuing resolution, talking about an amendment. One of them spoke very eloquently, I thought, on its effectiveness at the State level, and we should keep that in mind.

Second of all, I think the key issue here is to get assistance to the women and children that need it, and not spend our very valuable time on this House floor arguing about the pride of authorship, which is exactly what I think has occurred on the other side of the aisle. I think it is best to step over that, and let us discuss the rule and let us pass the rule.

Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, I just wanted to revisit the issue raised by the gentlewoman from California [Ms. HARMAN] on the Crapo-Harman-Foley amendment for lockbox. Clearly, when I came to this Congress I had made an attempt to save money for the taxpayers from a wasteful program in this Chamber. We saved $25 million on one issue, but that money then became freed up for spending in another boondoggle program, so all of my work and effort in saving the tax dollars was swept away in one fell swoop by a person seeing free-up capital.

The lockbox, much like a savings account, would allow us to earmark that money for deficit reduction. The gentlewoman from California, Ms. HARMAN, myself, and the gentleman from Idaho, Mr. CRAPO, have had very, very good meetings with the gentleman from New York, Chairman SOLOMON, and others who agree with us on the premise of a lockbox, but now it is time to enact this mechanism to save dollars for the taxpayers, just like American families who decide they want a nice vacation. They forego expenditures and save that money up in an account, so at the end they can move forward in their life. Lockbox will provide fiscal sanity and integrity for the U.S. Congress.

Mr. MOAKLEY. Mr. Speaker, I yield my remaining time to the gentleman from Wisconsin [Mr. OBEY], the ranking minority member of the Committee on Appropriations.

The SPEAKER pro tempore (Mr. STEARNS). The gentleman from Wisconsin [Mr. OBEY] is recognized for 6¾ minutes.

Mr. OBEY. Mr. Speaker, I doubt that I will take the full time. But let me simply observe, we have had a budget deal announced by the President of the United States and the leadership of this Congress. That has been met with varying degrees by enthusiasm by different Members of Congress, and yet, whether we are for or against that budget deal, I would hope that every responsible Member would like to see a bipartisan attitude develop for the consideration of that and all others that we deal with this year.

□ 1145

It seems to me that a very important place to start with that bipartisan attitude is on this bill. I do not think we further that cause when this House inserts into this legislation provisions which they know the White House has already announced are poison pills.

I do not much care which party gets credit for some of these provisions that we are going to be debating in the bill today. I do not think that either party gains or loses when we provide aid to regions of the country that are in distress. I think the country gains, and I think those regions gain.

There is no partisan approach to disaster relief, and I personally was happy to see that there will be an amendment offered that tries to restore community development block grant funding to the disaster package which this Congress is going to support. I supported that proposition in the committee. We were stopped from, we were asked by the majority in the committee not to provide an amendment at that time. They promised they would keep an open mind during the process to see whether or not a consensus could develop around it, and that has happened. So the Thune amendment is going to be offered, and I think Members will see bipartisan support for that amendment and a number of others.

I think it is especially dangerous for the House to insert totally extraneous material, including an amendment which would virtually trash the program which has enabled us to eliminate 4,500 nuclear weapons that were formerly existent in the former Soviet Union. I do not see any reason on God's green Earth why we ought to do that, especially on the basis of 5 minutes of discussion on both sides. That is simply too serious a matter to be handled in such a cavalier and thoughtless fashion.

I also think that it is going to do nothing but delay this proposition when we add to that the CR provision which the White House has already indicated it is going to veto. And I do not think it was fair at all in the way the gentlewoman from Ohio [Ms. KAPTUR] was treated on the WIC amendment. I find it interesting that some of the same folks who originally said that we were being disingenuous when we produced the numbers that indicated that we needed the full funding for WIC, those are some of the same Members who are now saying, ''oh, gee whiz, we have to support this through a self-executing rule.''

I would also point out that this bill is not going to be paid for. When it left the committee, it was at least paid for on the budget authority side, but because of actions taken in the Committee on Rules, which they had a perfect right to take, this bill, in fact, will not be paid for on either the outlay side or the budget authority side as it leaves the House. I do not think that helps in getting aid to the areas of the country who most need it.

I very regretfully urge that we vote against the rule so that the Committee on Rules can bring us a better rule which will deal with the WIC problem, which will deal with the immigrant problem, which will deal with the other disaster problems, but which will be stripped of most of the extraneous material that can only slow this much-needed proposal down.

Mr. ROEMER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Speaker, I thank the gentleman from Wisconsin for yielding to me.

I would say there are natural disasters and there are human disasters. Certainly a human disaster is one when we cut WIC programs that affect thousands of children and thousands of expectant mothers. I would just say to the Committee on Rules chairman and Members on the Republican side, why did they not allow a bipartisan amendment offered by the gentlewoman from Ohio [Ms. KAPTUR] and the gentlewoman from New Jersey [Mrs. ROUKEMA] to share the credit, to allow debate rather than having a self-executing rule which will gag debate and limit the credit.

I am delighted that the gentleman from California [Mr. RIGGS] is going to help us later on in the fall, but we have an immediate problem right now with

caseload and milk prices and a freeze on disability benefits for children. The problem is right now. I hope in a bipartisan way we would give credit where credit is due to the Members that have worked so hard on this.

Mr. OBEY. Mr. Speaker, I simply note that this rule also denies to the Republican chairman of the Committee on Appropriations the right to offer a very thoughtful and fair-minded substitute on the amendment to be offered on Bosnia. I think that alone is a very good reason to turn down this rule.

Ms. KAPTUR. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Speaker, I thank the gentleman for yielding to me and urge Members to vote no on the rule; among other reasons, because it has a self-executing procedure that denies us an opportunity to debate WIC.

It is not a bipartisan effort. It does not allow us to fully consider what is being done in the bill to tap NASA funds and shift those dollars to other places. I find it amusing but sad that there are some who are trying to hold this baby close to their breast but they were nowhere to be seen when the babies were dying in subcommittee and full committee.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

Let me just say again, there has been a lot of conversation about the WIC Program in here. I will just say one more time to my very good friend, the gentlewoman from Ohio [Ms. KAPTUR], and she is a good friend, that we have taken her fallback position which takes the funding, the increased funding for WIC, and pays for it out of NASA funds. Here is the amendment. This is an identical amendment to the gentleman from California [Mr. RIGGS]. We tried to self-execute into this rule the names of both the gentleman from California [Mr. RIGGS] and the gentlewoman from Ohio [Ms. KAPTUR] to make it bipartisan. Now there is some complaint about it. Nevertheless, it is in the bill.

Second, let us talk about this continuing resolution for a moment, because again we all know that the Government was shut down 2 years ago and the American public were upset over that. This is an attempt to make sure that that does not happen again.

If the President has changed his mind and he does not care about the Government being shut down, he can veto this supplemental bill. If he does, the bill will come back and no doubt we will take the continuing resolution out. Then it will be the responsibility of the President if the Gvernment is shut down. I do not know how much more fair we can be than this.

Let me just say that the rule is an open rule. It is an open rule, plus we have made amendments in order, some of which may be offered, and some may not. I understand now that the Bosnia amendment may not even be offered, and it may be postponed and dealt with in the defense authorization bill. If that happens, I am opposed to that, but nevertheless, if that is the consensus viewpoint, then we would not offer the Bosnia amendment. And we would deal with that in coming weeks when the defense authorization bill comes up.

Other than that, this is a totally open rule. It means that any Member of Congress on either side of the aisle can come and offer amendments to cut. They can offer amendments to add. They can offer amendments to cut and offset, but they are not being deprived in any way. That is why Members of Congress should come over, for one reason and one reason only, they should come over and vote for this rule, because it will expedite these moneys going into these areas.

I can guarantee my colleagues that 13 Republicans from the State of New York are going to vote to help those people in North Dakota, South Dakota, and Minnesota that have been deprived, that have been hurt by this flooding, because we know that sometime the shoe may be on the other foot and we may be needing to ask for help, too, just as South Carolina was when there was a hurricane that went through, just as California was helped when they had the earthquakes. We need to help each other.

Having said that, I would like every Member to come over to the floor and vote for this rule, which increases funding for WIC by $38 million, which is exactly what the President requested. We put it into the rule at his request. Come over here and vote to give these people this aid.

Mr. KOLBE. Mr. Speaker, I rise today in opposition to this rulemaking in order the fiscal year 1997 emergency supplemental appropriations bill. I must oppose it because this rule does not protect section 601 of the committee-passed bill.

For nearly 117 years, Crane & Co. has been awarded the contract to provide the Bureau of Engraving and Printing its currency paper. I certainly do not hold Crane & Co. at fault for that.

However, in fiscal year 1988, a provision of law was added that required the Department of Treasury to purchase currency paper only from American-owned firms and that the paper be manufactured in the United States. The report language accompanying the fiscal year 1988 continuing resolution stated that the company must be 90 percent owned by American citizens—a provision that essentially guaranteed that the family-owned Crane & Co. in Dalton, MA, would be the only company that could, under interpretation of this report language, compete for the currency paper contract. This provision would not allow American-owned companies that are public to compete because it is possible there may be greater than 10 percent foreign interest in the stock.

During the fiscal years 1995 and 1996 hearing cycles, the Treasury Subcommittee heard from the Bureau of Engraving and Printing that the 1988 report language limited competition for the procurement of paper and increased costs to the taxpayer. So, in report language which accompanied the fiscal year 1996 appropriation for Treasury, Congress promoted competition for the procurement of currency paper by clarifying that American-owned should include companies that are over 50 percent American-owned.

However, the Treasury Department, in a clear attempt to politicize this issue, caved into Massachusetts interests and determined that 1996 report language does not supersede 1988 report language. I ask my colleagues to think about the implications of this Treasury General Counsel decision which says subsequent report language cannot alter earlier report language—a decision that states when Congress gives agencies direction through report language, the administration does not have to abide by that direction.

Thus, we find it necessary to include section 601 of this bill to enforce the 1996 congressional intent through binding bill language.

I am outraged that this rule does not protect section 601 and will allow only one company to compete for the procurement of currency paper. All American-owned companies—not just Crane & Co.

My colleagues should know that the Treasury Department Inspector General has been conducting an audit of contracts between Crane & Co. and the BEP for over 5 years. Not until this week did Crane open up its financial books to the IG who is trying to determine if the taxpayer is getting the best value on procurement of currency paper. We have reason to believe that the profit margin for Crane & Co. is as high as 20 percent—far exceeding the normal rate for Government contracts. In 1996, Crane & Co. agreed to a $9.7 million settlement with the BEP over unallowable costs which it had charged against previous contracts. This settlement—by itself—should be proof that competition is needed to ensure the best price to taxpayers.

There are more reasons why section 601 should be protected in this rule, but I am confident that this matter will ultimately be resolved in favor of competition between American-owned businesses, and in favor of taxpayers.

I want my colleagues to know that, although this issue seems to have died with the supplemental, it won't be dead for long. I fully intend to pursue open competition among American-owned companies for the production of our Nation's currency and I will not stop until I have succeeded.

Mr. HALL of Ohio. Mr. Speaker, one of the things that is important here is that the bill provides the full $76 million needed for the WIC Program to avoid cutting off mothers, infants, and children in the current fiscal year. This was done by a Rules Committee amendment that added $38 million to the original $38 million reported out of Committee—the very proposal that my Ohio colleague, Congresswoman KAPTUR, and our colleague from New Jersey, Congresswoman ROUKEMA, vigorously fought for over the past 2 months, with stiff resistance until this welcome change of heart on the issue. Due credit should go to Representative KAPTUR and Representative ROUKEMA for their hard work on WIC in this bill, and their strong support for WIC throughout the process. I thank them for ensuring that mothers and children are not thrown off the program and put at nutritional risk during the very time when other assistance is being scaled back.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 193, nays 229, not voting 11, as follows:

[Roll No. 125]

YEAS—193

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bono
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Campbell
Canady
Chabot
Coble
Coburn
Combest
Cook
Cox
Crane
Crapo
Cunningham
Davis (VA)
Diaz-Balart
Dickey
Dingell
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Greenwood
Gutierrez
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hunter
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Kasich
Kelly
Kim
Klug
Knollenberg
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntyre
McKeon
Meek
Metcalf
Mica
Miller (FL)
Minge
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Nussle
Olver
Oxley
Packard
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Regula
Riggs
Riley
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Shadegg
Shaw
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Traficant
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—229

Abercrombie
Ackerman
Allen
Baesler
Baldacci
Barr
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Bishop
Blagojevich
Blumenauer
Blunt
Bonior
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Camp
Capps
Cardin
Carson
Castle
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Collins
Condit
Conyers
Cooksey
Costello
Coyne
Cramer
Cubin
Cummings
Danner
Davis (FL)
Davis (IL)
Deal
DeFazio
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Edwards
Ehrlich
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Graham
Granger
Green
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hooley
Hoyer
Hulshof
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntosh
McKinney
McNulty
Meehan
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Norwood
Oberstar
Obey
Ortiz
Owens
Pallone
Pappas
Parker
Pascrell
Pastor
Payne
Pelosi
Pickering
Pickett
Pitts
Pombo
Poshard
Price (NC)
Radanovich
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rogan
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sessions
Shays
Sherman
Sisisky
Skaggs
Slaughter
Smith, Adam
Snyder
Souder
Spratt
Stabenow
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tiahrt
Tierney
Torres
Towns
Turner
Upton
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
Wicker
Wise
Woolsey
Yates

NOT VOTING—11

Andrews
Buyer
Cannon
DeGette
Flake
Hefner
Holden
McHale
Schiff
Skelton
Stark

□ 1216

Ms. ESHOO, Mrs. CHENOWETH, and Messrs. PICKERING, SESSIONS, CHRISTENSEN, DAVIS of Florida, ROGAN, McINTOSH, Ms. GRANGER, and Messrs. NORWOOD, BRADY, GONZALEZ, and PARKER changed their vote from ''yea'' to ''nay.''

Mr. COX of California and Mr. HERGER changed their vote from ''nay'' to ''yea.''

So the resolution was not agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

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

Mr. ARMEY. Mr. Speaker, I wanted to take a moment to advise the body that I have made a decision about the schedule. What I would like to ask our Members to do in consideration of the Subcommittee on Housing and Community Opportunity of the Committee on Banking and Financial Services and the gentleman from New York [Mr. LAZIO] and the gentleman from Massachusetts [Mr. KENNEDY] to have an opportunity to bring their team together, that we would spend the next hour entertaining 5-minute special orders, which I expect will be entertaining, and allow them time to prepare to return to the floor and complete the very important work on the housing bill, perhaps even to have that bill completed today.

With the indulgence of all of our Members, I would ask, then, that we go ahead, retire to 5-minute special orders for 1 hour and at that point we can bring that very important work to the floor.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, would my distinguished colleague from Texas tell us when he expects the supplemental to come back to the floor in the form of a rule?

Mr. ARMEY. I appreciate the gentleman's inquiry.

Mr. BONIOR. I did it as nicely as I could.

Mr. ARMEY. Nearly as nice as the gentleman appreciated his inquiry.

We will, of course, be discussing the supplemental and the rule with the Committee on Rules. We would, of course, try to bring that back as soon as possible. I will see what advice I can give to the body later in the day.

Mr. Speaker, if the Members agree, then, we will retire to 5-minute special orders for 1 hour, at which time we will bring up the housing bill again.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. FAZIO of California. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 148) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

HOUSE RESOLUTION 148

Resolved, That the following named Members be, and that they are hereby, elected to the following standing committees of the House of Representatives:

To the Committee on Small Business:

Ruben Hinojosa of Texas;

Marion Berry of Arkansas.

To the Committee on Veterans' Affairs: Ciro Rodriguez of Texas.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. STEARNS). The Chair will entertain unanimous-consent requests for 5-minute special orders, alternating sides of the aisle, for 1 hour, without prejudice to the resumption of legislative business.

WARS ARE TEMPORARY; LANDMINES ARE NOT

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

Mr. CAPPS. Mr. Speaker, last month the United Nations Association in my district sponsored an essay contest for high school students on the subject of eliminating land mines.

Land mines are a piece of military weaponry designed to help end wars, but wars are temporary and most mines are not, writes first place winner Andrew Feitt, a 9th grader from Santa Barbara's Laguna Blanca School.

Second place winner Nikolaus Schiffman, a 12th grader from Santa Barbara High School also hit the nail on the head when he wrote, Canada showed such leadership when it hosted the Ottawa Conference in October 1996, and hopefully the United States will make similar gestures.

It is time to eradicate all land mines before they do the same to us, says third place winner and 9th grader, Geren Piltz from Carpenteria High School.

Tomorrow is the first anniversary of the President's announcement that he will seek an international ban on land mines, but we have seen little progress. It is time to get serious about land mines. It is time to join the Canadian process. As my three constituents made clear, we must live without land mines.

Mr. Speaker, I include for the RECORD the essays to which I referred:

WARS ARE TEMPORARY, BUT MINES ARE NOT

(By Andrew Feitt, Santa Barbara, CA)

The devastating technology of land mines is one that plagues the battlefields and trouble spots of our century. They are a piece of military weaponry designed to help end wars, but wars are temporary, and most mines are not. Even when the conflict draws to a close and old enemies become friends, the mines remain, destroying the lives of simple men, women, and children who might never suspect their hidden presence. Yet what can the U.N. do to end this problem? The global community has tried before, and failed. Will anyone be able to cure the spreading plague of mine warfare?

Every fifteen minutes, it is estimated, a mine explodes and every day some seventy people die as a result. Nor are these combatants, for since the end of the Second World War ninety percent of those killed were civilians. Official government estimates put the number of mines at over 100,000,000, but they acknowledge there could be many more lying in wait, as of yet undetected. According to Paul Davis, land mines are ''. . . the greatest violators of international humanitarian law, practicing blind terrorism . . . they never miss, strike blindly, and go on killing long after hostilities have ended.'' According to the Protocol II of the UN Inhumane Weapons Convention of 1980, landmines are, like chemical and biological weapons, to be strictly regulated. Many, however, wish to go further believing landmines should be banned outright, like chemical and biological weapons. Other countries, in which landmines constitute a great deal of their exports, believe they should only be regulated. Which side should the U.N. take?

The major supporters of a total ban on all mines, the Scandinavian countries, Ireland, Belgium, and New Zealand, favor an immediate end to production. They are a vocal, if small and seemingly unimportant group, especially when lined up against those from the other extreme, the major producers. China is the most visible, one of the last strongholds of Communism, ever at odds with the Capitalist West. A compromise must be reached if ever any action on landmines is to be taken.

At the 34th North American International Model United Nations Conference, held in Georgetown earlier this year, a topic raised was that of 'smart' mines. I myself had the opportunity to attend this conference, and this particular idea was well-thought and logical. 'Smart' mines, like 'smart' bombs, are weapons of war that can be programmed, i.e. in this case to deactivate themselves after a certain time period has elapsed. For example, if a conflict broke out between North and South Korea, the opposing armies could lay 'smart' mines on the demilitarized zone, activate them, then have them deactivated after nine months. Thus the effects would not be lingering. The best solution to ending the civilian casualties would be a U.N. resolution, passed by the Security Council, banning outright the production, import, and export of all forms of conventional landmines, though not 'smart' mines, and a gradual reduction of those currently in stock. Thus the only potential opponent to this, China, might grudgingly consent or abstain, not wishing to see some of its trading privileges revoked. Already the United Kingdom has declared a moratorium on conventional mine export, excluding the self-destruct or self-neutralizing 'smart' mines. The rest of the world should follow their example.

However, mere resolutions are not the only answer. Even when conventional mines are banned, many others will remain. Acting through non-governmental organizations such as the International Red Cross, the U.N. must help to provide immediate relief to the beleaguered nations. As well, U.N. affiliated organizations like the United Nations Institute for Disarmament Research (UNIDIR) could also be of some assistance. Those countries most ravaged by landmines most often are those with recent, now resolved, conflicts, and often have U.N. observer forces there, whose duties could be expanded to landmine location and destruction.

Thirdly, in order to better address this issue in the world community, an ad hoc body of military and industrial analysts should be established whose sole duty would be to constantly review landmine removal efforts around the world at pinpoint potential trouble spots where large civilian populations are located near dormant minefields. This tribunal could also be entrusted with reviewing the efforts of member nations to end landmine production, and, if a nation fails to comply, suggest some form of economic retribution to the Security Council.

Of course, there is always the ever-present question. Who will pay for all this? Certainly the United Nations, already deep in debt, could not afford to fund all these efforts. There are many nations, such as the United States, that may begin paying back its debt when it sees the U.N. is moving in a productive direction. As well, there are numerous private companies, possibly seeking to invest in such countries as Vietnam, that may fund landmine removal if the minefield occupies the terrain they wish to build on. In 1993, it was a British mine-producing company that sought the U.N.'s permission for landmine removal. Once the U.N. begins this endeavor, there will be little shortage of donations for a noble cause.

In conclusion, while landmines remain an ever-present threat to peace and global security, the campaign against them grows stronger every year.

A CALL TO DISARM

(By Nikolaus Matthias Schiffman, Santa Barbara, CA)

Recently, much international attention has focused upon the possibility of the instillation of a worldwide ban on the production and utilization of antipersonnel mines. Not too long ago, the general consensus of the people of the world was that landmines were a horrific yet necessary part of military warfare; however—partly due to the recent developments in Somalia—people's general awareness of the devastation and hardship caused by landmines has greatly increased, and, thanks to the efforts of the United Nations and many other non-governmental organizations, the prospect of the complete elimination of landmines no longer seems like a utopian ideal, but instead, a realistic goal to work towards for the year 2000 (a). As an economic and military superpower, it is imperative that the United States assumes a leading role in the United Nations' continuing efforts to establish a ban on antipersonnel landmines.

It is estimated that every year, there are more than 25,000 incidents of people being killed or maimed by landmines, and in most of these cases, the victims are innocent civilians who are living in countries without sufficient medical facilities to deal with the injuries (b). Because of the sheer scope and frequency of these incidents, the United Nations are usually unable to be of direct assistance to the victims. Instead, many non-governmental organizations, such as the International Red Cross, play a key role in helping the victims of landmines. To this extent, many lives and limbs have been saved because a landmine victim was able to get medical help in time (c).

Working with other governments, the United Nations has helped to educate civilians about the dangers of landmines. For example, in January of 1996, the UN Department of Humanitarian Affairs teamed up with the Government of Bosnia-Herzegovina to set up the Mine Action Programme. Plans like the Mine Action Programme devote time and money to educating and increasing people's awareness of landmines, to gathering information and data about the possible locations of landmines, to mechanically removing landmines, and to training specialists who can remove the mines (d). Without programs such as these, the situation with landmines would be much worse than it is today. The United Nations has provided great assistance to countries like Cambodia that lack the technology to properly deal with the problem (e). However, these efforts are not enough. Something else must be done.

Every day, more landmines are planted in the earth than are removed (f). As long as

countries continue producing and planting landmines, people—innocent civilians—will continue to get blown up by them. The casualties and fatalities resulting from landmines will not go away until a worldwide prohibition is put into effect. Some countries, including the United States, have been reluctant to endorse a total ban on landmines, claiming that landmines hold an important role in military warfare. Defense Secretary William Perry said in April of 1996 that the use of antipersonnel landmines by American troops facing North Korea have helped to prevent war (g). However, Perry's logic is a bit self-defeating. Every landmine planted in South Korean soil will come up again sometime, at the possible cost of a human life, and despite the cheap production costs of landmines, which can be purchased for as little as three dollars each, they are much more expensive to remove. The cost of removing a single landmine can exceed one thousand dollars (f). Surely, there must be military alternatives to the use of landmines.

Recently, the United States has been making some indications that it is willing to support a total ban on landmines. On January 20, 1997, President Clinton announced that he will be pursuing a total ban on landmines through a United Nations conference rather than through an outside summit or conference. In this way, it is more likely that certain countries, such as China and Russia, that have been reluctant to agree to a worldwide ban on landmines will be more likely to sign a treaty in agreement (g).

As the strongest military power in the world, the full support and leadership of the United States is necessary if a worldwide ban on landmines is to occur. Canada showed such leadership when it hosted the Ottawa Conference in October of 1996, and hopefully, in the future the United States will make similar gestures in an effort to curb the production of landmines (h). If significant progress is made in the next year, it is possible that we may see all legal production of landmines cease before the next millennium.

The United Nations plays a major role in helping to reduce the destructive effects of landmines. Working with individual governments, agencies such as the UN Department of Peacekeeping Operations and the UN Department of Humanitarian affairs have provided healthcare and education to the people at risk from landmines. As more and more are becoming aware of the senselessness of landmines, the United Nations is gaining support in its quest to achieve a ban on the terrible weapon.

Eventually, a ban on landmines will be enacted. However, as history tends to repeat itself, it is important that the nations of the world learn from their mistakes, and one can only hope that when the next cruel, senseless weapon comes around, we will have the wisdom and the courage to stop its carnage before it starts.

THE UNITED NATIONS AND THE ELIMINATION OF LAND MINES

(By Geren, Piltz, Carpenteria, CA)

Globally, it is frightening to think that nuclear land mines are in development. Looking back in history we learn that the land mine, an important weapon of World War II, was an encased explosive charge sometimes laid on the surface of the ground, but usually buried just below the surface. It was triggered by the weight of a passing vehicle or men, by the passage of time, or by remote control. The case is generally circular or square, made of metal or, to combat the magnetic detector, of wood, cardboard, glass or plastics. There are two types of mines: the antitank, to immobilize tanks and other vehicles, and the antipersonnel, to kill soldiers.

The ancestor of the antitank mine was the artillery shell, buried by the Germans late in World War I to stop British tanks. The antitank mines were developed in Great Britain, the Soviet Union and the United States between 1919 and 1939. They usually contained only five or six pounds of TNT. They could stop a light tank, but had to be used in twos or threes against anything heavier. The true antitank mine, and the first antipersonnel mine, appeared early in World War II. It was an economical way of stopping an enemy or restricting his movements. In 1943 it had become a standard form of warfare. In the Korean War, both the North Korean and the United Nations armies used land mines extensively. In the Vietnam War, the Claymore mine came into general use. Claymores are made of plastic and are small and light. They contain a high-explosive substance and metal pellets that can be aimed in any direction and which have a range of 250 ft. The Claymore can be pushed into the ground or hung from trees, about 36 in. off the ground. A trip wire sets off the charge. Today, a standard U.S. army antitank mine contains between 6 and 12 lbs. of TNT.

The antipersonnel mine is also triggered by weight. They generally contain from 1 to 4 lbs. of explosives and can blow off a man's hand or foot or kill him with flying fragments. They may be a one-stage, simple blast type that explodes in place, or a two-stage fragmentation mine that first fires a container into the air, and then releases a fragmenting explosive charge.

It is time to eradicate all land mines before they do the same to us. Accidents are all too common since a land mine is detonated by disturbing a trip-wire attachment to the mine, or by a delayed-action mechanism. Innocent men and women, whose lives, safety, and freedom we are defending, are being threatened by land mines. And what about the children? Their roads and playing fields are strewn with land mines. Curious, and adventuresome, kids wander unknowingly into dangerous situations. Millions of children throughout the world suffer needlessly from lack of food, water and medical care, as billions of dollars are spent on armaments. We take steps to immunize children from diseases, yet we expose them to the possibility of death on their own playgrounds. It has been said that human beings are the softest and weakest targets in war. The innocent always seem to suffer. Our world leaders seem so busy with the vast game of politics that they are forgetting the reason nations and governments exist: to insure the survival of people, to protect their children, to prevent terror. Why gamble with our children and with future generations? Unfortunately, throughout history, nations have sought security by gathering the most powerful weapons available, or so it seems. Land mines do not make us any more secure.

With today's technology, we see a grotesque collection of chemical and biological weapons. Land mines pollute the environment with chemical leakage as well as heavy metals. Recovery is expensive and often not very effective. We need everyone's commitment to eliminate land mines. Everyone is affected by, and can affect, public policies. Serious dialogue can keep alive the basic nerves of our democratic society. As a voice of today's young people, I am actively involved in making our society healthier. If the nerves of a people are dead, then their political vitality is sapped. My own view is, as a conscientious human being, that all warfare is senseless and that young and old alike should look carefully at present strategies for national and world security. We are capable of better protecting our people by taking global action. I hope to see the day when national security is not measured in military terms. As Americans we have built a dynamic and prosperous society, yet we seem unable to think of, or work for alternatives to war. Conflicts such as war can be solved peacefully. Everyone wants to live. Everyone loves their children. Small steps are important because they can have far-reaching effects. Challenge the experts. Land Mines: we can LIVE without them.

THE COURAGE TO STAND ALONE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, I am delighted to have this unexpected opportunity at this time of the day to rise and share an occasion with my colleagues. Yesterday, May 13, marked the publication of a book, ''The Courage to Stand Alone,'' by Wei Jingsheng.

For those of our colleagues who are not familiar with Wei Jingsheng, he has been called the Sakarov of China. His book, ''The Courage to Stand Alone,'' is a compilation of some of his previous writings, some earlier from prison and letters that he has written. He is a full-fledged world class champion for democracy. He received, in 1994, the Robert F. Kennedy Human Rights Award. Last year he received the Sakarov award from the European Parliament.

Mr. Wei Jingsheng was sent to jail in 1979 following his peaceful writings about human rights and democratic freedoms. He served nearly 14 years in prison, and then about the time that the Chinese Government was trying to court the Olympics, Mr. Wei Jingsheng was released, only to be re-arrested after the Olympic decision was made.

Mr. Wei Jingsheng was then re-arrested following a meeting that he had with Assistant Secretary of State for Human Rights, John Shattuck. At the time the Chinese Government said that Mr. Wei Jingsheng was arrested for revealing state secrets. The state secret he revealed was to tell a foreign journalist something that had already appeared in the Chinese newspapers. In any event, he has gone back to prison for at least another 14-year sentence.

For most of the time that he has been in prison, about 18 years now, he has been in solitary confinement. The only other people around him from time to time are other prisoners whose duty it is for the Chinese regime to taunt Mr. Wei Jingsheng.

Mr. Wei Jingsheng has written the way the Founding Fathers of our country have written about democratic freedoms being written on the hearts of men. He has done this courageously. He continues to be arrested and re-arrested because he will not recant. He has spoken out against the repressive policies of the regime under Deng Xiaoping and continues not to recant even following the death of Deng.

As I have said, he is a great champion of democracy. I hold his courage

up to the attention of my colleagues one day following the publication of his book. As I say, he has been called the Sakarov of China. Many of us in our lifetime will never meet a person who has risked so much for democracy.

It is interesting to me to see leaders of our Government travel to South Africa and visit the prison at Robin Island where Nelson Mandela was incarcerated. It is like visiting a shrine. That is appropriate. Nelson Mandela is a great hero. Why, then, would these same people not even speak out in support of Wei Jingsheng, who right now is suffering the same plight that Nelson Mandela did for so many years?

Remember the name, Wei Jingsheng, the father of democratic freedoms in China, because he had the courage to stand alone.

Mr. WELDON of Florida. Mr. Speaker, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Florida.

Mr. WELDON of Florida. I would like to associate myself with the gentlewoman's remarks. I have been very concerned about the status of this gentleman. Is the gentlewoman familiar with any efforts on the part of the Clinton administration to intervene on his behalf up until this point?

Ms. PELOSI. It is my understanding that in meetings from the higher levels of the Clinton administration that Mr. Wei's case has been brought to the attention of the Chinese regime. Either the attempts on Mr. Wei's behalf have not been forceful enough or, one thing is for sure, they have not been successful.

Mr. WELDON of Florida. One of the things I am concerned about, if the gentlewoman will yield further, is that while there are many Members in this body such as the gentlewoman, the gentleman from Virginia [Mr. WOLF], and the gentleman from New Jersey [Mr. SMITH], who are very concerned about this situation, the issue is not really being taken very seriously by the administration. It really is their responsibility, they run the State Department, to bring pressure to bear on the Communist Chinese.

THE AUTOMATIC CONTINUING RESOLUTION

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

Mr. FOGLIETTA. Mr. Speaker, people in the Midwest are making the tough and necessary choices to rebuild their own lives. Everything has been taken from them. They very much need our help right now, but they may not get that help.

Why? Because Washington is playing another one of its cynical games. Senator BYRD was just right when he called the CR an automatic pilot.

□ 1230

It would rescue us from the same public embarrassment they suffered from last year's Government shutdowns, but it also saves us from having to make the tough choices to balance our budget.

The President has been to North Dakota and knows the need to provide assistance there as soon as possible, but he says that he will veto this bill because of the automatic pilot CR. He is right because it is bad policy, it is a gimmick. It enables us to avoid our constitutional responsibility to make budgets. And if we can lean back on automatic pilot and keep the Government going, how are we ever going to balance the budget?

Let us not play Pennsylvania Ping-Pong. Why do we not invest the time in passing a budget resolution marking up the appropriations bills and getting the job done, not on automatic pilot, but doing the hard work of hard government. That is what we are paid to do.

MFN FOR CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, before I get into my 5 minutes I would like to yield to the gentleman from Virginia [Mr. WOLF], if I may.

Mr. WOLF. Mr. Speaker, I thank the gentleman for that, and I just wanted to thank the gentlewoman from California [Ms. PELOSI] for speaking out on Mr. Wei and, second, to say that he was arrested after meeting with John Shattuck from the Clinton administration. After the meeting he was arrested, and I guess I would just say to my colleagues in the House this Congress ought to do something about it.

When Sakharov was under house arrest in the 1980's and Scharansky was in Perm Camp 35, we did resolutions, we did everything, and now we are in the 1990's, in a Republican Congress I might say, so I would say to the leadership on our side we should be doing something to demonstrate that we care.

So I thank the gentleman from Florida [Mr. WELDON] for taking this time, and I thank the gentlewoman from California [Ms. PELOSI] for doing it because this Congress, if we do nothing, we are going to be somewhat complicit in what the Chinese government is doing.

So hopefully the Congress will make this a point of reference and we will talk about it until Mr. Wei is released.

Mr. HOYER. Mr. Speaker, if the gentleman from Florida will yield, I want to thank the gentlewoman from California [Ms. PELOSI] and the gentleman from Florida [Mr. WELDON] for taking this time, and I associate myself with Ms. PELOSI who has been a giant in the leadership on the issue of dealings with China, human rights in China, and in the Far East generally, as someone who has been very involved with my colleague on the Helsinki Commission as we focused on the former Soviet Union and Sakharov and other heroes of the Helsinki movement, which articulated principles of recognition of human rights in every Nation.

The former Foreign Minister, now the Prime Minister, articulated the fact that the Helsinki final act adopted a premise that it was of concern to all of us how a nation treated its own citizens. Historically, it has been the premise of nations of how they treated the other nation's citizens might be their business, but how they treated their own citizens should not be of their attention.

The fact of the matter is, of course, our world is a better place because nations, and particularly the United States, has taken a focus on how other nations treat their own citizens.

I will be voting against MFN for China, as I have in the past, with some exceptions, when I join the gentlewoman from California [Ms. PELOSI]. But the fact of the matter is we ought to say in the strongest possible terms, as we did to the Soviet Union, ''If you treat your citizens badly, you will not be able to deal with us on a business-as-usual basis.''

Constructive engagement was not good in South Africa, and I suggest to this administration and previous administrations that constructive engagement, as if we were dealing with nations that adopt our own standards of conduct, should not be the policy of this Government and this Nation.

Mr. WELDON of Florida. Mr. Speaker, I appreciate the comments of the gentleman from Maryland [Mr. HOYER], and the point I was trying to make with the gentlewoman from California [Ms. PELOSI] is that this is an arena or area where leadership from the White House I think is very essential, and I do not believe we are getting that kind of leadership from the administration. I think the leadership is coming from this body, Members like the gentlewoman from California, like the gentleman from Maryland, the gentleman from Virginia, and there is a vacuum in this cause of human rights, and when we have a high ranking State Department official meeting with somebody and then immediately afterward an arrest occurring and then there is really no outcry coming from the Office of the President, the President of the United States himself, that is a problem, and I think it is incumbent upon us, and particularly people within the President's party, to bring pressure to bear on him to take a more aggressive role in this issue and speaking out on it.

Mr. Speaker, the last Democrat President who occupied the White House, Jimmy Carter, had a very, very strong record on doing this, and he would aggressively move on these issues, and I believe we are not seeing the kind of leadership that we need from the White House on this, and I very much appreciate, needless to say, the comments that the gentlewoman has made because this issue is very disturbing to me when we are having a

vote coming up in the next month on MFN for China. It is going to be very difficult for people to justify this in the light of the human rights violations that are occurring in China.

RESTORE WIC PROGRAM FUNDING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. ROEMER] is recognized for 5 minutes.

Mr. ROEMER. Mr. Speaker, I would just say that to start my 5 minutes I am delighted to see that we are on 5 minutes because that means that the rule for the bill that we were going to undertake has been defeated.

I think one of the reasons that the rule was defeated was because we did not allow, through the Committee on Rules, the opportunity to offer a bipartisan amendment that would have restored the entire amount of WIC funds, Women, Infant and Children Program funds to make sure that the program continues to help women that are pregnant not deliver anemic or underweight children.

Mr. Speaker, this is one of the best programs and one of the best bipartisan programs that we have in Government, yet the Committee on Rules had locked out and shut down and prohibited us from offering and discussing this bipartisan amendment with the self-executing rule.

So I am delighted that the Committee on Rules now is back to discuss ways by which to improve that bill. I think it was defeated in a bipartisan way, with 43 Republicans joining the Democrats, because we do want to discuss the importance of WIC. We also want to make sure that that bill is not loaded up like a Christmas tree with the branches sagging to the floor with pork barrel ornaments.

So there are two problems with that bill. I am hopeful that we can get that bill back to the floor right away because it does involve natural disaster relief that is very important for a number of States, including States in the Midwest, it involves funding for human disasters, which would help women and children with the restoration of $38 million in the WIC Program.

Why do we need this funding for the WIC Program? There are a number of reasons. One is because the administration, the White House, recognized, with the help of some Republicans, that we were going to have an increased caseload, that disability payments through Social Security for children were frozen, and that we had increases in milk prices. So we needed to make sure we got this $38 million put into the WIC Program to ensure that 180,000 children were not cut off from WIC.

Mr. Speaker, we were able to do that defeating the rule in a bipartisan way. I am hopeful that the gentlewoman from Ohio [Ms. KAPTUR], the gentlewoman from New Jersey (Mrs. ROUKEMA], the gentleman from California [Mr. RIGGS] and whoever wants to will go to the Committee on Rules and make sure that we get a fair rule to discuss and debate this WIC Program, which is a wonderful program to help our women and children throughout this country, and I would be happy at this time to yield to the gentlewoman from Ohio [Ms. KAPTUR] who has done a marvelous job fighting passionately for a wonderful program such as WIC.

Ms. KAPTUR. Mr. Speaker, I want to thank the gentleman from Indiana for his strong support of the WIC program, making sure that there is a funding stream for WIC that is not smoke and mirrors, one that we can depend on and one that is not just invented a few hours before a bill comes to the floor.

I can say that I serve as a member on two of the subcommittees of concern here, the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, dealing with the WIC funding, and the Subcommittee on VA, HUD, and Independent Agencies as well, which includes the NASA budget. We never had any kind of hearings with NASA on taking money from that account and placing it in the WIC account.

It was very unclear to us yesterday when we went before the Committee on Rules. We were told, well, maybe they might make a rule in order where we could debate the funding issue. Then it turns out to be a self-executing rule, and when we asked the Committee on Rules yesterday when we testified, well, where is the money coming from, they said, well, we think it may be coming from a NASA account. I said which NASA account? Well, was it the wind tunnel account? They said, well, maybe it is section 8, maybe it is not NASA.

It was very confusing up in the Committee on Rules, and then today we are presented with a self-executing rule where apparently the money is being taken from some NASA account.

This was never, never talked about, as the gentleman from Georgia knows, in our Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, and I can assure the gentleman that as a member of the Subcommittee on VA, HUD, and Independent Agencies, which includes the NASA budget, we never talked about this and had the opportunity to deal with the agency people from NASA.

So I think for those of us who are fighting for the WIC Program and for certainty, not just after next fall, the gentleman from California [Mr. RIGGS] said he wants to hold hearings next fall. We have people being taken off the rolls today around the country, including in his own State of California, where the Governor has written us and said he needs an additional $27 million just in California alone.

SUPPORT FULL FUNDING FOR THE WIC PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 5 minutes.

Mr. BILIRAKIS. Mr. Speaker, I rise today to support our Nation's future by calling for full funding for the WIC nutrition program. All too often the debate in this great House of democracy focuses on estimates, projections, baselines, adjustments, or some other technical term that we hear every day. We are asked to ponder piles of paper filled with facts and figures and then make a judgment about how those numbers or how changing those numbers will affect the everyday lives of millions of Americans.

Today I ask that instead we take a moment and focus on the foundation of our Nation, indeed, its future, our children. I think it is more important to focus on the valuable benefits and help services WIC provides to its participants rather than haggling over census numbers and terms like full participation. When discussing the WIC Program, we must remind ourselves that it has a 22-year track record of providing valuable and, in fact, critical services to some of our Nation's most vulnerable citizens. The WIC Program provides specific nutritious foods to at-risk, income-eligible, pregnant, postpartum and breast feeding women, infants and children up to five years of age. WIC gives women and young children the means to obtain highly nutritious food like iron-fortified infant formula, calcium rich milk, eggs, juice, cereal and other staple foods necessary for healthy development. More than food, WIC is designed to influence a lifetime of good nutrition and healthy behavior by providing valuable nutrition education for its participants as well as referrals to other local health and social service organizations.

During pregnancy, Mr. Speaker, one of the most fragile periods in a woman's life, WIC enhances dietary intake, which improves weight gain and the likelihood of a successful pregnancy. After birth, WIC continues to promote the health of infants and is responsible for reducing low birth rate and infant mortality. Children who participate in WIC receive immunizations against childhood diseases at a higher rate than children who are not WIC participants, and WIC also helps to reduce anemia among children.

As we know, children receiving nutritious meals are in a better position to focus on their daily studies. I recently visited an elementary school in my district and spoke with the very people providing meals to students. They, along with many others, told me that proper nutrition is an integral part of our children's educational experience. In this regard WIC has been linked to improve cognitive development among children. Stated plainly, WIC children are more prepared to learn compared to those children who lack proper nutritionally balanced diets.

In short, Mr. Speaker, WIC serves as a safety net for this country's most vulnerable citizens. However, the greatest testament to WIC comes from not from politicians or bureaucrats, but from those who actually participate in the program.

□ 1245

Allow me to share some comments from a few of the dozens of letters one of the WIC directors in my district received over the past few days. Each of these women felt compelled to write and to urge careful consideration of full funding for WIC.

Erica Miner said that WIC ''helped provide my son a better life than what I could before I started the program.''

Laura Tadoun praised WIC for ''showing me how to eat and drink properly so I could have a healthy baby.'' She continues, ''I don't know how we could have made it without you.''

Julia Bruno commented that ''thanks to this program, my children are physically and nutritionally well. It is my sincere hope that WIC continues so that in the future we will have healthy, happy children and save money on medical costs.''

Tina Donaldo wrote, ''If it weren't for the WIC program I wouldn't be able to get by at all.''

Finally, Nicole LeBaron pleaded, ''Please take this service and the funding that they need into serious consideration before cutting it and cutting the families like myself that depend on it to help their children grow healthy.''

These WIC success stories from my Florida district, Mr. Speaker, are representative of the performance of the program as a whole across the country.

However, in this era of budgetary constraints and fiscal conservatism, everything boils down to dollars. And yet on this count, WIC has indeed withstood fiscal scrutiny and, without question, actually increases the return, increases the return on our investment in the program.

Studies have shown that WIC provides a 350 percent return on the tax dollars spent on the program. For example, for every dollar that WIC spends, $3.50 is saved in expensive neonatal and disability programs. Money spent on pregnant women in WIC produces similar Medicaid savings for newborns and their mothers.

At a time, Mr. Speaker, when we are reducing welfare rolls and stressing personal responsibility, I can think of no better way to encourage fiscal stability and certainty than by supporting and appropriating full funding for the WIC program.

Let me share with my colleagues the words of my good friend, Clara Lawhead. Clara is the Director of Nutrition of WIC Services in Pasco County, FL, in my Ninth Congressional District.

She succinctly explains the problem in my district, in terms we all can understand:

In Florida, we have faced the problem that this year's funding cannot support our current caseload and we have already been forced to initiate a reduction in benefits to our WIC participants. This effort was necessary to maintain some level of service to our clients that have already been identified with a medical or nutritional risk. We began in February to carefully evaluate the diet prescription (food package) in milk and fruit juice for low risk clients. The next step is to reduce caseload.

Friends and colleagues, WIC is too important to the future of this Nation to leave to political games.

In short, WIC is supported by many people and continues to be a popular program. It yields tremendous returns on our investments and has been proven, time and time again, to improve the health and well being of pregnant women, infants, and children.

Mr. Speaker, if the greatest sin we commit is erring on the side of caution—on the side of children—I will be proud to make that mistake. I believe many of my colleagues feel the same and will support me in calling for the full $76 million in supplemental funding for the WIC program.

Let me close with the simple yet eloquent words of Dawn Stamper, who lives in New Port Richey in my congressional district:

Our children are our future and need to be given the best chance and first steps needed to lead a healthy and nutritious life.

Our children are the future. This investment in WIC is one that, at the end of the day, we can all point to with pride, because we did what was right and we did it for the people who sent us here in the first place.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill and a concurrent resolution of the House of the following titles:

H.R. 5. An act to amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes.

H. Con. Res. 66. Concurrent resolution authorizing the use of the Capitol grounds for the sixteenth annual National Peace Officers' Memorial Service.

The message also announced that pursuant to Public Law 101–509, the Chair, on behalf of the majority leader, announces the appointment of C. John Sobotka, of Mississippi, to the Advisory Committee on the Records of Congress.

The message also announced that pursuant to Public Law 101–509, the Chair, on behalf of the Democratic leader, announces the reappointment of John C. Waugh, of Texas, to the Advisory Committee on the Records of Congress.

FEC FUNDING

The SPEAKER pro tempore [Mr. GOODLATTE]. Under a previous order of the House, the gentleman from Massachusetts [Mr. MEEHAN] is recognized for 5 minutes.

Mr. MEEHAN. Mr. Speaker, the last action on the rule that has resulted in this time for the Republican leadership to kind of regroup is very important, because that rule was defeated in a bipartisan vote, and there is no fundamentally more important reason to defeat that rule than the fact that that rule eliminated the need for funding for the Federal Election Commission.

Mr. Speaker, last February, the FEC asked for a supplemental appropriation of $1.7 million needed to address the campaign abuses from the 1996 campaign, which the Committee on Appropriations granted. Up until last night, there was every indication that the appropriation would go forward. But last night, the Committee on Rules unilaterally, and without warning, left the public hearing and behind closed doors deleted the appropriation for the bill. They did this even after the gentlewoman from New York [Mrs. MALONEY], the gentleman from Connecticut [Mr. SHAYS] and myself asked that the specific appropriation be included and that certain restrictions be removed.

The FEC funding was the only funding deleted, and it was no accident. This, after all, was the first money that Congress would have appropriated to allow investigations into the congressional campaign abuses to go forward.

Make no mistake. What we have here is a total abuse of process, a total violation of fundamental fairness. In fact, today we now have the majority really committing a double abuse. First, the majority is abusing the legislative process which we were counting on to make sure that the FEC is able to enforce the law as a small first step to clean up our campaign system.

Second, Mr. Speaker, as a result, they are obstructing the FEC's ability to investigate congressional violations of Federal election law. This was a hatchet job, and it is especially outrageous in light of the Congress's alleged outrage over the 1996 campaign and its providing of millions of dollars to investigate politically charged investigations, allegations that have been ongoing over the last several months.

It was interesting, because just last week, Michael Kranish from the Boston Globe reported that an organization created by former Republican Chairman Haley Barbour to boost the GOP's image wrote a fundraising plan that relied partly on newly available documents disclosed. The organization, a Republican think tank called the National Policy Forum, wound up receiving a $2.2 million loan guarantee from a Hong Kong business and then failed to repay $500,000. Since that time, the Republican National Committee has agreed to return the money.

When are all of these stories going to stop, and when are we going to do something about campaign finance reform? The Federal Election Commission, and I just left a hearing before the Subcommittee on Commercial and Administrative Law of the Committee on the Judiciary where officials from

the FEC reported before that committee that they cannot even get to 68 to 70 percent of the cases because of their inadequate funding.

I am amused by all of the dialog, the political rhetoric, the partisan rhetoric on both sides of the aisle about how we need to have these investigations by Congress, and the only nonpartisan group that is discharged with the responsibility to conduct investigations of congressional campaigns is the FEC. The FEC puts in a request for an appropriation for $1.7 million in order to get funded, and what does the Congress do?

The Committee on Rules, in the middle of the night, decides we are not going to take this up. This action is outrageous, and when the Republican majority is meeting to try to figure out, they are all meeting, how are we going to get this bill passed, what they ought to do is put the request for the FEC funding into the budget. It is significantly less money than we have appropriated for literally millions of dollars for politically charged investigation. Let us let the FEC do its job, and we ought to start with this supplemental appropriations bill.

Now is the time for Congress to put its money where its mouth is and provide the FEC funding to investigate congressional abuses.

Mr. Speaker, it was the ax last night, nothing less than a midnight massacre, on the obstruction of the process and the ability of the FEC to conduct investigations of the congressional campaigns that were held in 1996. It is an outrage.

I think the fact that this rule was defeated lends credence to the fact that we need to make sure that we fund the FEC if we are serious about conducting fair, nonpartisan investigations and giving the FEC fair enforcement power so that they can do their job. Let us make sure we include that funding.

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on House Resolution 146.

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

There was no objection.

BLM BULLIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nevada [Mr. GIBBONS] is recognized for 5 minutes.

Mr. GIBBONS. Mr. Speaker, today I want to discuss something so powerful and hurtful that it cripples the economy, puts a stranglehold on businesses and farms, destroys livelihoods and families, and yet seems unstoppable.

The monster that I am discussing is the power that was once granted to Congress in article I, section 1 of the U.S. Constitution, which reads: All legislative powers herein granted shall be vested in Congress. Today, however, the executive branch of this very Government has taken control of this reserved privilege and holds it captive at the expense of American citizens.

To illustrate my point, I would like to discuss newly assumed police power Secretary of the Interior Bruce Babbitt and the Bureau of Land Management allege to possess. The proposed law enforcement regulations are an attempt to vastly, and in most cases unconstitutionally, expand the BLM's law enforcement authority by increasing the number and types of actions which may result in the violations of law and substantially increase penalties for violation of such regulations.

Let me share with my colleagues, Mr. Speaker, exactly what powers the BLM is commandeering. A story: On July 24, 1994, a family from New Mexico was on a family outing in the Santa Cruz Lake area in the northern part of New Mexico. After fishing and picnicking for 2 hours, the family loaded up their car and were leaving the area when they were stopped by a BLM ranger. According to a complaint filed by the family's attorney, the BLM ranger approached the vehicle carrying a shotgun and ordered everyone out of the car using threats of bodily harm laced with profanity. The BLM ranger fired his shotgun at the car to show that he meant business.

This complaint continues to state that the three men got out of the car and asked why they were being stopped. They asked if it was for fishing without licenses, but they were never asked for their fishing licenses. When a man, woman, and the children tried to leave, the BLM ranger maced the driver and handcuffed him. The driver's mother tried to help her son but was knocked to the ground by the ranger who then stomped on her leg before handcuffing her.

After handcuffing the mother, the BLM ranger went back to the driver and sprayed him again in the face with mace. All this time the children were crying and the ranger yelled at them to shut up. According to the complaint, the BLM ranger said he was going to blow their, and I will delete the expletive, heads off.

It gets worse, Mr. Speaker. When one of the men picked up a child to comfort him, the BLM ranger put a shotgun to the child's head and ordered the man to put the child down. Two other BLM rangers allegedly arrived and began waving their weapons around as well. The BLM rangers refused to say why they had stopped the family in the first place.

The adults were incarcerated, and the BLM ranger did not notify the Attorney General, as they are required to do. Although records at the Santa Fe jail indicate six adults were arrested on charges of assault and hindering a Federal employee, a U.S. magistrate released all those jailed because the BLM did not produce a written complaint and no formal charges were made. To this day the family has no idea, Mr. Speaker, why they were arrested.

Remember these are Federal public land management employees who are committing these atrocious acts. It becomes very evident that these power hungry bureaucracies have designated themselves unconstitutional police powers without having proper authority or training. The agents are turning into bullies with little respect for public safety or property.

Mr. Speaker, no longer are Americans free. They are chained to the dictatorship of bureaucratic monsters. It is time for Congress to stand up for its constitutional rights and the protection of the American people. This is exactly what I and the Subcommittee on National Parks and Public Lands intend to do tomorrow when we bring the BLM and the Department of the Interior before our committee and the American people.

The regulatory authority now used by these Government agencies to create rule after rule and regulation after regulation has begun to put a stranglehold on the Western part of this country to the extent that it may never breathe again.

THE WIC PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Michigan [Ms. STABENOW] is recognized for 5 minutes.

Ms. STABENOW. Mr. Speaker, I rise today to commend my colleagues who supported voting no on the rule that came before us that addressed the issue of funding for WIC. Unfortunately, the rule that was in front of us did not guarantee solid, long-term funding for WIC. I am very pleased that the rule was voted down and that we now have an opportunity to come back and do the right thing.

I also rise today, Mr. Speaker, to commend colleagues of mine in a bipartisan basis, the gentlewoman from Ohio [Ms. KAPTUR] and the gentlewoman from New Jersey [Mrs. ROUKEMA], who have worked very hard in a bipartisan way to guarantee that women and children under the WIC Program have the nutritional services and the food that they need in order to be healthy and successful.

My colleague from the other side of the aisle from Florida spoke a few moments ago very eloquently about the need for the WIC Program. I would just add to that. In my years of working in county and State government, I have not felt more confident about any other program of government as I have about the WIC Program. It provides supplementation directly to pregnant women and women and young children up to 5 who are low income and in need of good nutritious food, vegetables, fruit, other nutritional supplementation, eggs, milk, and so on.

□ 1300

We know without a doubt that for every $1 we put into prenatal care, much of it is nutritional services to make sure that women are healthy, that babies are healthy. For every $1 we put into prenatal care we know we save more than $6 immediately in intensive care costs, many times related to low birthweight babies.

The WIC Program works. It is one that makes sense. It ought not to be a partisan issue. I would strongly urge that my colleagues in the majority come back with a process that we can all support to guarantee WIC funding.

I also need to respond as a member of the Committee on Agriculture for just a moment, because in addition to providing direct nutritional food and services for women and children to guarantee that they are healthy and have a good start in life, this is also a wonderful opportunity to provide additional markets for agricultural products.

Michigan is strong in agriculture. We have more agricultural products that we grow than almost any other State in the Union. We are very proud of the fact that Michigan farmers have expanded markets for fresh produce through the farmers market nutrition program, which in Michigan we call Project Fresh. This is a way for our farmers to provide fresh vegetables, fresh fruit, to women and children who are in need of that, and it also allows them to have another market for their goods, so it works on all accounts.

It is good for agriculture, it is good for families, it saves costs on health care, and I am very hopeful and urge that our colleagues who are determining the way to proceed on the rules regarding WIC funding will come back with an open process that we can embrace in a bipartisan way to guarantee that one of the most cost-effective and one of the most commonsense programs provided through Government, the WIC Program, is allowed to continue in a way that would allow our women and children in this country to be healthy.

WILL COCKROACHES BECOME PROTECTED UNDER THE ENDANGERED SPECIES ACT?

The SPEAKER pro tempore (Mr. GIBBONS). Under a previous order of the House, the gentleman from Michigan [Mr. KNOLLENBERG] is recognized for 5 minutes.

Mr. KNOLLENBERG. Mr. Speaker, I think we should stop the presses. It appears that the EPA has their facts wrong again. After weeks of chatter about proposed new clean air standards and their urgent necessity, this week we find out that the EPA has been given some incorrect or bogus data, certainly very questionable.

First, they cried that 20,000 people are killed every year by PM 2.5 pollution. Then it was revised to 15,000. The EPA Administrator, Ms. Browner, paraded before the Committee on Appropriations and my subcommittee to tell us how important these tough standards are and why they were needed.

Now we find out it is not 20,000, not even 15,000 lives that are at stake, that we are not even clear as to how many there are. In fact, scientist K. Jones, whose name appears along with some commentary in yesterday's Congress Daily, suggests that because of inadequate research, that EPA's first revision of their data now shows it could be below 1,000, less than 1,000 people are affected by the finer particulate matter pollution.

What is the EPA going to do now that this information has emerged? I believe they are hell-bent on imposing tougher clean air standards on our communities, businesses, and residences, even though the air quality across the country, across America, has improved immensely since we began this quest. After Mr. Jones, a scientist, caught them in their first mistake, how can we really trust the EPA data now when billions of dollars in costs are at stake for our communities?

I believe we have to get the facts straight before asking our local communities to pay up for costly regulatory reform. Also I might add, in addition, this week the New England Journal of Medicine, which is often quoted certainly by EPA as their source, has, it seems, driven another stake into the EPA drive to impose costly tougher air quality standards on us.

After hearing about how many children, for example, are hurt by PM 2.5, this Nation's most respected health journal reports that cockroaches are more of a problem than the air. That is right, cockroaches. The study, and it was not just a short-term study, it was for 10 years, focused on children and found that those exposed to cockroaches are more likely to suffer from asthma. They are over three times more likely to be hospitalized, and 80 percent more likely to have unscheduled doctor visits for asthma. Yet the EPA says it is not the bugs, it is the air. Our communities, businesses, and people are still going to be stuck with the EPA's bill.

I just hope as we rid our communities of the roaches to fight asthma, they do not become protected under the Endangered Species Act.

Let us get the facts straight before we impose new air standards on our communities. One scientist suggests there should be a 5-year moratorium, a 5-year study, before we present any facts, any conclusions.

The EPA seems determined in spite of the conflicting data to move ahead. They seem to have a sense of urgency that is wrapped up in the willingness to accept anything, any information that will justify their personal proposal, their own idea, about what is the proper proposal. They ignore, along the way, common sense and cost as part of the equation.

DEVASTATION CAUSED BY FLOODING OF THE RED RIVER IN NORTH DAKOTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Dakota [Mr. POMEROY] is recognized for 5 minutes.

Mr. POMEROY. Mr. Speaker, I represent the State of North Dakota. I am the only Representative in Congress that North Dakota has. It is my responsibility to advocate for North Dakota at a time when we are reeling from the worst natural disaster we have ever experienced.

Many of the Members are aware of the pain that we have suffered in light of the floods of the Red River this spring. The national media coverage has documented the destruction of the city of Grand Forks, N.D. These pictures, I believe, tell what words cannot in terms of just what a devastating event this was.

This is a street sign at the corner of Fourth Street and Eighth Avenue. You can see the water right up to the bottom of the sign. At this juncture the water was literally in excess of 6 feet, flooding neighborhoods, street after street after street. Even in areas of town that were not hit with this depth of water, the water still was sufficient to fill basements and come up on the main floor. We are still dealing with the devastation that flood water causes to homes and personal belongings.

At a time when we thought things could not get any worse, they did get worse. Fires broke out in downtown Grand Forks, destroying our historic business district. Eleven buildings burned. A fireman who fought the fire explained it this way. He said it was so unusual, because water is usually the fireman's friend. ''In this instance it prevented us from stopping the destruction of these buildings. We were simply incapable of getting our equipment to the fire. Then when we dove below the water to hook up the hoses to the hydrants, water pressure had failed and we had to stand by and watch the buildings burn.''

The net result was reflected by this picture, a business district in smoldering ruin, a city standing in water. The water has receded, and the picture that we would see in Grand Forks if we drove around the neighborhoods today is of huge mounds; not mounds of snow that we often see during some of our winters, but mounds of wet, wrecked sheet rock removed from basements and main floors, commingled with belongings, belongings that now appear just as rubble but before the flood were baby pictures, wedding pictures, letters from relatives that may not even be living any longer, priceless family mementoes, the things that make a house a home, all destroyed in the water's wrath.

That has left the people of Grand Forks, N.D. in a very terrible situation. We have literally hundreds of homes in the flood water, and I commend the city leaders because they are

stepping up to the plate, and they are not going to reconstruct everything just as it was, to face the threat of flooding in the future. They want to remake this community. But in order to do that, we need to get on with the program that buys homes in the floodway and pays owners the cash they deserve so they can get on with their lives.

That would have been permitted under the Thune amendment to the disaster bill, had the rule passed. Had the rule passed, we would be debating that right now, and we would be that much closer in terms of getting relief back to those who need it.

Immediately following the disaster there was an outpouring of support across the country the like of which we have never seen in North Dakota. It was followed by the visit by the President of the United States on a Tuesday, the Speaker of the House on a Friday, and the majority leader of the House on the following Monday. Leaders of both political parties came into the area, expressing concern and support for the people as they tried to rebuild their lives. Those people are dealing with some problems that we cannot even imagine. We have to get after this disaster bill in order to address them.

Let me read to the Members a question presented to the city commission the other night at a tumultuous city commission meeting attended by more than 1,100 displaced homeowners: ''What am I supposed to do? I have no place to live, I can't make my mortgage payment, I'm commuting 90 miles one way to work, my kids are living with relatives. Will I have a place to live in 3 months, 6 months, a year?'' The only answer the mayor and city commissioners could give is, we do not know. Congress is deliberating a disaster package.

I hope that we do not stray from the initial inclination to make a strong bipartisan response in support of people who need help, people who have been devastated with natural disasters, including the floods in Grand Forks. I hope we can rise above the temptation that often so afflicts this body of falling into partisan recriminations and dealing with everything but the thing that ought to be before us. What is before us is disaster relief to people who need it. I urge both parties, all Members of this body, to to pass a disaster supplemental bill just as fast as possible. My people really need the help.

INTERNATIONAL CHRONIC FATIGUE IMMUNE DYSFUNCTION SYNDROME AWARENESS DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. FORBES] is recognized for 5 minutes.

Mr. FORBES. Mr. Speaker, I rise today again to ask my colleagues to join with me in recognizing that Monday, May 12, was International Chronic Fatigue Immune Dysfunction Syndrome Awareness Day, a long name for a disease that is relatively new and still unknown to too many physicians around the world.

Last night on this floor I provided a brief overview of the problems facing chronic fatigue syndrome, or CFIDS, and the dilemma that this debilitating disease poses for so many people. Now I would like to put more of a human face on this malady and share a few of the struggles of some of the individuals that I am privileged to represent on Long Island, a place that has an inordinate number of cases of chronic fatigue syndrome.

Mr. Speaker, as I stated last night, we have several individuals in our area of Long Island that do have an inordinate number of cases in that region. It is absolutely heartbreaking for me to talk with parents and children and neighbors and spouses, too many children, frankly, who suffer from the enduring pain and pervasive weakness brought on by chronic fatigue syndrome.

As Members can imagine, to see vibrant, energetic people stricken with a mysterious ailment that medical professionals frankly have not been able to figure out how they can cure, and too many, too many doctors believe does not exist or may be caused by some other malady is sad and it is confounding.

It makes these people who are suffering from this disease very, very angry, frankly, because it is enough to know that you are bone tired, that every joint in your body hurts, that you cannot lift your head off the pillow anymore, and to be basically dismissed by supposedly intelligent, well-trained physicians that it is depression, or it is something you just need to snap out of.

When we talk to these folks, we understand the very important dilemma that they face. I refer, for example, to Alison Burke, who comes from Coram, Long Island. She is a mother with two children, and she has been stricken with chronic fatigue syndrome. Unfortunately, the high preponderance of these cases actually affect women who are in their thirties, and too many children, as I said previously.

Before chronic fatigue syndrome Alison was an energetic mom with two children. She worked 30 hours a week for a dentist. Then one day she woke up feeling absolutely ill, like she had the flu. She went to the doctor and she had some tests taken, and they all came back normal. He told her she was fine, and he basically said, just snap out of it. Get over your depression. At this point she was just so very weak she could not even walk to the bathroom.

Instead of getting better, her symptoms seemed to get worse. It took all of her energy to just get out of bed and try to take care of her 2-year-old child. Her friends and her family even were getting angry and annoyed at her, wondering, why are you constantly bedridden? Why are you so tired? Why can you not go on with your normal duties?

Finally she found out that chronic fatigue syndrome might, and this was through a newspaper article, might just be the cause. She began attending group meetings, and from those meetings found a doctor, one of the rare doctors, frankly, who understood this disease.

□ 1315

Barry Feinsod of Holtsville, Long Island, his wife was also stricken with chronic fatigue syndrome, and he wrote to me to say that for 6 years his wife has been unable to work. They have gone from doctor to doctor. She cannot even perform some of the most basic duties associated with living a normal life. It has destroyed the family's expectations and dreams for the future, and it has really posed a vexing problem.

Jeannette Crocken of Medford, Long Island, wrote me about her son Jason, who is also afflicted with chronic fatigue syndrome at the age of 10. Doctors did not know what was wrong, and, again, they spent 2 years going from physician to physician and testing that chronic fatigue was maybe the possibility. He has lost his hair, muscle pain, sore throat. It is this kind of vexing dilemma, Mr. Speaker, that really poses a great problem for the people affected and afflicted by this disease.

We spend tens of millions of dollars in very good research over at the National Institutes of Health for all kinds of diseases, hundreds of millions of dollars. Yet chronic fatigue syndrome has only gotten a paltry $5 million, and there are well over, I would suggest, 2 million people, I have been told; and the number may be actually three times that who have just had the disease but not been diagnosed.

We need to do a better job of researching the symptoms. We know only that it sends the immune system into overdrive, Mr. Speaker. When we see the immune system being shut down, as it is by HIV positive and AIDS, we have to step forward as a nation. We need to do likewise and double the funding for chronic fatigue syndrome.

CONGRESSIONAL SUPPORT FOR SUCCESSFUL INS PILOT PROGRAM

The SPEAKER pro tempore (Mr. GIBBONS). Under a previous order of the House, the gentlewoman from California [Ms. SANCHEZ] is recognized for 5 minutes.

Ms. SANCHEZ. Mr. Speaker, I rise today to express my strong support for an INS pilot program in the city of Anaheim, CA, which has successfully identified and deported criminal aliens in city detention facilities in my congressional district.

Yesterday the Immigration and Claims Subcommittee held a hearing to receive testimony regarding the program. The chief of police of the city of Anaheim testified about the success the city has had in removing criminal aliens from my congressional district.

I have consistently advocated that criminal aliens should be quickly and permanently deported. Not only do I support the permanent deportation of criminal aliens, I want them caught before they commit crimes and jeopardize our communities. Without Federal assistance in undertaking this law enforcement effort, criminal aliens could cause undue harm to women, men and children.

The Federal Government should do all it can to avoid burdening State and local police budgets with the cost of identifying, apprehending and deporting criminal aliens.

The pilot program in the city of Anaheim has resulted in a very successful track record of detentions and deportations of criminal aliens. Because I fully endorse the program's success, I contacted the INS and requested that the Anaheim portion of the pilot program be continued. The INS approved my request.

Because of my concerns, I have joined my colleagues in sending a letter to the Committee on the Budget requesting an increase in funding for the State criminal alien assistance program. This program reimburses State and local governments for the costs of incarcerating illegal alien felons. The Federal Government must not waste American taxpayer dollars to pay for the cost of incarcerating violent criminal aliens. We cannot afford to waste scarce law enforcement revenues.

As a fiscal conservative and in the light of the current budget roadblock, Congress must implement a cost-effective program that deploys INS enforcement officers in the most efficient manner. We need to ensure that more criminals are captured earlier and before they have done harm to our people in our districts and before they end up being a burden to our local law enforcement.

THE BUDGET AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. NEUMANN] is recognized for 5 minutes.

Mr. NEUMANN. Mr. Speaker, I rise to address the budget that is currently being discussed in Washington, DC, and maybe to clean up some misinformation that is floating around out here and provide some very basic elementary facts on what is included in the budget agreement that is currently being worked on and basically been agreed to, short a few final details.

Here is all this budget plan does that is currently being proposed. It balances by the year 2002, has declining deficits for each year starting 1998 and going forward, restores Medicare for a decade so our seniors do not have to go to sleep tonight wondering whether Medicare is going to be there tomorrow. It allows families, all Americans to keep more of their own money instead of sending it to Washington, DC.

This is done in four ways at least. The $500 per child tax credit is in here. Capital gains will be reduced, we are hoping, to a number below 20 percent. The death tax reform to allow people to not have to pass away and also see the taxman on the same day is in here. Also, we are hoping to provide a college tuition tax credit to help the many people across this Nation who are paying large college tuition bills this year.

Further, the budget plan does not adjust the CPI. This was a major concern to our senior citizens because, of course, lowering the CPI would reduce cost-of-living adjustments in the future. So there is no CPI adjustment in here. It was a major concern, and it has been addressed and is no longer part of it.

Also in the plan there is discussion and it is laid out exactly how to go about past 2002, paying off the Federal debt. And when we pay off the Federal debt, of course, that means that we also put the money back in the Social Security trust fund that has been taken out. I might add that it was brought to my attention this morning that as we pay off the Federal debt we would also be returning the money to the highway trust fund that has been spent over the last 10 or 15 years as opposed to dedicated to road construction.

As I am out here, there are a lot of things that have developed in this plan. There is an awful lot of misinformation floating around about it. But I think it is time that we look at some of the great things that have happened both under this plan in the last 2 years and how they compare to what happened prior to that.

In the 7 years before 1995, before the Republicans took over Congress, annual spending increases in overall Government was 5.2 percent. Government spending went up 5.2 percent every year. Since the Republicans have taken over in 1995 and as we look at this budget plan, 3.2. So it is a decrease in the amount of growth in Federal Government spending. In inflation adjusted dollars, it was 1.8, and it is all the way down to 0.6. It is a two-thirds reduction in the increases in real-dollar spending of this Government.

I heard some complaints that nondiscretionary defense spending is going up too much in this plan. That is not really true either when we look at the facts. We look at the facts before 1995, nondiscretionary defense spending was going up by an average rate of 6.7 percent per year. And under this plan it goes up by 0.9 percent per year, less than 1 percent increase per year. In real dollars, it was 3.2 before 1995, and under this plan it is actually being decreased by 1.5.

A lot of folks talk about us using a rosy scenario to make it look like the budget is balanced. I have good news for everyone in this great country that we live in. The good news is they were not rosy scenario projections that led to the budget getting balanced. The growth in GDP is now being projected 0.2 percent lower than projections we used in 1995. As a matter of fact, they are very conservative projections. And should the economy continue strong as it is today, the good news is we might very well, under this agreement, reach a balanced budget by 2000 or perhaps even 1999. That is how conservative the projections in this plan are.

One more point I would like to bring to the attention of my colleagues today. Back in 1995, we passed a budget resolution and we declared victory. We said that this is the best thing that could happen to this country because it is going to lead to a balanced budget. We had this idea that, if Government just controlled their growth, they reduced the amount of money they were borrowing out of the private sector, that that would lead to a strong economy in our country.

The theory was, if Government borrowed less, there would be more money available in the private sector. With more money available in the private sector, interest rates would stay low because of increased availability, and with interest rates low, people would start buying more houses and cars and the economy would boom. People would leave the welfare rolls and they would go back to work.

In fact, we find this is no longer a theory, but the model worked better than anyone anticipated. In the budget plan of 1995, we projected a deficit in 1997 of $174 billion. It turns out this model worked so well that the deficit is all the way down to $70 billion this year.

I would like to conclude with what I would call the miracle of 1997. I really do think this is a miracle. Before I came to Washington, I would have described this as a miracle. Here is the miracle of 1997.

Between our 1995 projections and today, $100 billion of unanticipated revenue came in. That is, they collected more revenue because the economy is so strong, $100 billion more than what was expected. The miracle is this, instead of spending that $100 billion, every nickel of it went to deficit reduction; and, in fact, that is why the deficit is $100 billion below what we anticipated back in 1995, when we passed the House budget resolution.

The end result, what this means for our families in America, it means that our kids can look forward to a bright future once again in this great Nation that we live in.

PERSIAN GULF WAR SYNDROME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont [Mr. SANDERS] is recognized for 5 minutes.

Mr. SANDERS. Mr. Speaker, I briefly wanted to discuss an amendment which I will be introducing as soon as the rule on the supplementary appropriation is fixed, which deals with an emergency situation for gulf war veterans who are really not getting the attention and the understanding that they need in

order to deal with the very serious crisis of Persian Gulf war syndrome.

As we know, Persian Gulf war syndrome is right now affecting some 70,000 of the brave men and women who served this country in the gulf. Mr. Speaker, I am a member of the Subcommittee on Human Resources, which is chaired by the gentleman from Connecticut [Mr. SHAYS], who has done an outstanding job in bringing before the subcommittee some of the leading researchers in this country who are searching for an understanding of Persian Gulf war syndrome.

We have also heard testimony from the Pentagon and the Veterans' Administration. I must say, Mr. Speaker, that the conclusion that I have reached is that, for whatever reason, and I say this unhappily, it is my view that neither the Pentagon nor the Veterans' Administration is going to come up with a solution regarding the problems and the cause of the problems that our Persian Gulf war veterans are suffering from. Nor in my view are they going to come up with an effective treatment.

Mr. Speaker, there is some good news. The good news is that there have been some major scientific breakthroughs in allowing us a better understanding of Persian Gulf war syndrome. Mr. Speaker, the military theater in the Persian Gulf was a horrendous chemical cesspool. Nobody denies that. It is now acknowledged that our troops there were exposed to chemical warfare agents that had been denied for a while, but it is now acknowledged by all.

In addition, they were exposed to leaded petroleum, a widespread use of pesticides, depleted uranium and the dense smoke from burning oil wells. In other words, all around them were very dangerous and toxic chemicals. In addition they were given various vaccines. Perhaps, most importantly, as a result of a waiver from the FDA, they were given pyridostigmine bromide for antinerve gas protection.

Mr. Speaker, an increasing number of scientists now believe that the synergistic effects of these chemical exposures plus the pyridostigmine bromide may well be the major cause of the health problems affecting our soldiers.

The truth is that after 5 years, there has not yet been, to the best of my knowledge, one significant study coming out of the Pentagon or the VA which shows the relationship between chemical exposure in the Persian Gulf and the Persian Gulf syndrome.

On the other hand, and this is where the good news is, there have been a number of important studies done outside of the Pentagon and the VA which makes this important link. I will be introducing these studies into the record so that interested Members can study them. But let me just very briefly mention a few of them.

Dr. Robert Haley of the University of Texas Southwestern Medical Center, based on studies that he has done, believes the syndromes are due to subtle brain, spinal cord and nerve damage caused by exposure to combinations of low level chemical nerve agents and other chemicals, including pyridostigmine bromide in antinerve gas tablets, DEET in a highly concentrated insect repellant, and pesticides in flea collars that some of the troops wore.

And Doctors Mohammed Abou-Donia and Tom Kurt, of Duke University Medical Center, found in studies that used chickens that two pesticides used in the gulf war, DEET and permethrin, and the antinerve gas agent pyridostigmine bromide, which was given to all troops, were harmless when used alone. However, when used in combination, these chemicals caused neurological deficits in the test animals similar to those reported by some gulf war veterans.

□ 1330

Dr. Satu Somani of the Southern Illinois University School of Medicine states that based on recent experimental proof and historical evidence of symptoms, such as impaired concentration and memory, headache, fatigue and depression of workers in the organophosphate industry, he considers that gulf war syndrome may be due to low dose sarin exposure and the intake of pyridostigmine and exposure to pesticides and other chemicals.

Drs. Garth and Nancy Nicolson of the University of Texas, Houston, found that gulf war veterans who are ill may eventually have their diagnoses linked to chemical exposures in the Persian Gulf, such as oil spills and fires, smoke in military operations, chemicals on clothing, pesticides, chemoprophylactic agents, chemical weapons, and others.

Dr. Claudia Miller and Dr. William Rea of Texas also see a connection between the chemicals that our soldiers were exposed to and gulf war syndrome.

Mr. Chairman, this is an important breakthrough. This research provides an important breakthrough which, in my view, may finally give us the information that we need to understand Persian Gulf war syndrome, which is affecting 70,000 veterans. This is why later this afternoon I will be bringing forward an amendment which asks for $10 million to go to the National Institute of Health and Environmental Science so that they can pursue this important area of research.

HOUSING OPPORTUNITY AND RESPONSIBILITY ACT OF 1997

The SPEAKER pro tempore [Mr. GIBBONS]. Pursuant to House Resolution 133 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2.

□ 1332

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2) to repeal the United States Housing Act of 1937, deregulate the public housing program and the program for rental housing assistance for low-income families, and increase community control over such programs, and for other purposes, with Mr. RIGGS (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, May 13, 1997, the amendment by the gentleman from Illinois [Mr. DAVIS] had been disposed of and title VII was open for amendment at any point.

Are there further amendments to title VII?

Are there further amendments to the end of the bill?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. KENNEDY OF MASSACHUSETTS

Mr. KENNEDY of Massachusetts. 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 in the nature of a substitute offered by Mr. KENNEDY of Massachusetts:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Public Housing Management Reform Act of 1997''.

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

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.

TITLE I—PUBLIC HOUSING AND RENT REFORMS

Sec. 101. Establishment of capital and operating funds.
Sec. 102. Determination of rental amounts for residents.
Sec. 103. Minimum rents for public housing and section 8.
Sec. 104. Public housing ceiling rents.
Sec. 105. Disallowance of earned income from public housing and section 8 rent and family contribution determinations.
Sec. 106. Public housing homeownership.
Sec. 107. Public housing agency plan.
Sec. 108. PHMAP indicators for small PHA's.
Sec. 109. PHMAP self-sufficiency indicator.
Sec. 110. Expansion of powers for dealing with PHA's.
Sec. 111. Public housing site-based waiting lists.
Sec. 112. Community service requirements for public housing and section 8 programs.
Sec. 113. Comprehensive improvement assistance program streamlining.
Sec. 114. Flexibility for PHA funding.
Sec. 115. Replacement housing resources.
Sec. 116. Repeal of one-for-one replacement housing requirement.
Sec. 117. Demolition, site revitalization, replacement housing, and tenant-based assistance grants for developments.
Sec. 118. Performance evaluation board.
Sec. 119. Economic development and supportive services for public housing residents.

Sec. 120. Penalty for slow expenditure of modernization funds.
Sec. 121. Designation of PHA's as troubled.
Sec. 122. Volunteer services under the 1937 Act.
Sec. 123. Authorization of appropriations for operation safe home program.

TITLE II—SECTION 8 STREAMLINING

Sec. 201. Permanent repeal of Federal preferences.
Sec. 202. Income targeting for public housing and section 8 programs.
Sec. 203. Merger of tenant-based assistance programs.
Sec. 204. Section 8 administrative fees.
Sec. 205. Section 8 homeownership.
Sec. 206. Welfare to work certificates.
Sec. 207. Effect of failure to comply with public assistance requirements.
Sec. 208. Streamlining section 8 tenant-based assistance.
Sec. 209. Nondiscrimination against certificate and voucher holders.
Sec. 210. Recapture and reuse of ACC project reserves under tenant-based assistance program.
Sec. 211. Expanding the coverage of the Public and Assisted Housing Drug Elimination Act of 1990.
Sec. 212. Study regarding rental assistance.

TITLE III—''ONE-STRIKE AND YOU'RE OUT'' OCCUPANCY PROVISIONS

Sec. 301. Screening of applicants.
Sec. 302. Termination of tenancy and assistance.
Sec. 303. Lease requirements.
Sec. 304. Availability of criminal records for public housing tenant screening and eviction.
Sec. 305. Definitions.
Sec. 306. Conforming amendments.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) we have a shared national interest in creating safe, decent and affordable housing because, for all Americans, housing is an essential building block toward holding a job, getting an education, participating in the community, and helping fulfill our national goals;

(2) the American people recognized this shared national interest in 1937, when we created a public housing program dedicated to meeting these needs while creating more hope and opportunity for the American people;

(3) for 60 years America's public housing system has provided safe, decent, and affordable housing for millions of low-income families, who have used public housing as a stepping stone toward greater stability, independence, and homeownership;

(4) today, more than 3,300 local public housing agencies—95 percent of all housing agencies throughout America—are providing a good place for families to live and fulfilling their historic mission;

(5) yet, for all our progress as a nation, today, only one out of four Americans who needs housing assistance receives it;

(6) at the same time, approximately 15 percent of the people who live in public housing nationwide live in housing with management designated as ''troubled'';

(7) for numerous developments at these troubled public housing agencies and elsewhere, families face a overwhelming mix of crime, drug trafficking, unemployment, and despair, where there is little hope for a better future or a better life;

(8) the past 60 years have resulted in a system where outdated rules and excessive government regulation are limiting our ability to propose innovative solutions and solve problems, not only at the relatively few local public housing agencies designated as troubled, but at the 3,300 that are working well;

(9) obstacles faced by those agencies that are working well—multiple reports and cumbersome regulations—make a compelling case for deregulation and for concentration by the Department of Housing and Urban Development on fulfillment of the program's basic mission;

(10) all told, the Department has drifted from its original mission, creating bureaucratic processes that encumber the people and organizations it is supposed to serve;

(11) under a framework enacted by Congress, the Department has begun major reforms to address these problems, with dramatic results;

(12) public housing agencies have begun to demolish and replace the worst public housing, reduce crime, promote resident self-sufficiency, upgrade management, and end the isolation of public housing developments from the working world;

(13) the Department has also recognized that for public housing to work better, the Department needs to work better, and has begun a major overhaul of its organization, streamlining operations, improving management, building stronger partnerships with state and local agencies and improving its ability to take enforcement actions where necessary to assure that its programs serve their intended purposes; and

(14) for these dramatic reforms to succeed, permanent legislation is now needed to continue the transformation of public housing agencies, strip away outdated rules, provide necessary enforcement tools, and empower the Department and local agencies to meet the needs of America's families.

(b) PURPOSE.—It is the purpose of this Act—

(1) to completely overhaul the framework and rules that were put in place to govern public housing 60 years ago;

(2) to revolutionize the way public housing serves its clients, fits in the community, builds opportunity, and prepares families for a better life;

(3) to reaffirm America's historic commitment to safe, decent, and affordable housing and to remove the obstacles to meeting that goal;

(4) to continue the complete and total overhaul of management of the Department;

(5) to dramatically deregulate and reorganize the Federal Government's management and oversight of America's public housing;

(6) to ensure that local public housing agencies spend more time delivering vital services to residents and less time complying with unessential regulations or filing unessential reports;

(7) to achieve greater accountability of taxpayer funds by empowering the Federal Government to take firmer, quicker, and more effective actions to improve the management of troubled local housing authorities and to crack down on poor performance;

(8) to preserve public housing as a rental resource for low-income Americans, while breaking down the extreme social isolation of public housing from mainstream America;

(9) to provide for revitalization of severely distressed public housing, or its replacement with replacement housing or tenant-based assistance;

(10) to integrate public housing reform with welfare reform so that welfare recipients—many of whom are public housing residents—can better chart a path to independence and self-sufficiency;

(11) to anchor in a permanent statute needed changes that will result in the continued transformation of the public housing and tenant-based assistance programs—including deregulating well-performing housing agencies, ensuring accountability to the public, providing sanctions for poor performers, and providing additional management tools;

(12) to streamline and simplify the tenant-based Section 8 program and to make this program workable for providing homeownership; and

(13) through these comprehensive measures, to reform the United States Housing Act of 1937 and the programs thereunder.

TITLE I—PUBLIC HOUSING AND RENT REFORMS

SEC. 101. ESTABLISHMENT OF CAPITAL AND OPERATING FUNDS.

(a) CAPITAL FUND.—Section 14(a) of the United States Housing Act of 1937 is amended—

(1) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(2) by inserting the paragraph designation ''(2)'' before ''It is the purpose''; and

(3) by inserting the following new paragraph (1) immediately after the subsection designation ''(a)'':

''(1) The Secretary shall establish a Capital Fund under this section for the purpose of making assistance available to public housing agencies in accordance with this section.''.

(b) OPERATING FUND.—Section 9(a) of the United States Housing Act of 1937 is amended by striking ''SEC. 9. (a)(1)(A) In addition to'' and inserting the following:

''SEC. 9. (a) The Secretary shall establish an Operating Fund under this section for the purpose of making assistance available to public housing agencies in accordance with this section.

''(1)(A) In addition to''.

SEC. 102. DETERMINATION OF RENTAL AMOUNTS FOR RESIDENTS OF PUBLIC HOUSING.

(a) IN GENERAL.—Section 3 of the United States Housing Act of 1937 is amended—

(1) in subsection (a)(1), by revising subparagraph (A) to read as follows:

''(A)(i) if the family is assisted under section 8 of this Act, 30 percent of the family's monthly adjusted income; or

''(ii) if the family resides in public housing, an amount established by the public housing agency not to exceed 30 percent of the family's monthly adjusted income;''; and

(2) in subsection (b)(5)—

(A) after the semicolon following subparagraph (F), by inserting ''and'';

(B) in subparagraph (G), by striking ''; and'' and inserting a period; and

(C) by striking subparagraph (H).

(b) REVISED OPERATING SUBSIDY FORMULA.—The Secretary, in consultation with interested parties, shall establish a revised formula for allocating operating assistance under section 9 of the United States Housing Act of 1937, which formula may include such factors as:

(1) standards for the costs of operation and reasonable projections of income, taking into account the character and location of the public housing project and characteristics of the families served, or the costs of providing comparable services as determined with criteria or a formula representing the operations of a prototype well-managed public housing project;

(2) the number of public housing dwelling units owned and operated by the public housing agency, the percentage of those units that are occupied by very low-income families, and, if applicable, the reduction in the number of public housing units as a result of any conversion to a system of tenant-based assistance;

(3) the degree of household poverty served by a public housing agency;

(4) the extent to which the public housing agency provides programs and activities designed to promote the economic self-sufficiency and management skills of public housing tenants;

(5) the number of dwelling units owned and operated by the public housing agency that are chronically vacant and the amount of assistance appropriate for those units;

(6) the costs of the public housing agency associated with anti-crime and anti-drug activities, including the costs of providing adequate security for public housing tenants;

(7) the ability of the public housing agency to effectively administer the Operating Fund distribution of the public housing agency;

(8) incentives to public housing agencies for good management;

(9) standards for the costs of operation of assisted housing compared to unassisted housing; and

(10) an incentive to encourage public housing agencies to increase nonrental income and to increase rental income attributable to their units by encouraging occupancy by families whose incomes have increase while in occupancy and newly admitted families; such incentive shall provide that the agency shall derive the full benefit of any increase in nonrental or rental income, and such increase shall not result in a decrease in amounts provided to the agency under this title; in addition, an agency shall be permitted to retain, from each fiscal year, the full benefit of such an increase in nonrental or rental income, except to the extent that such benefit exceeds (A) 100 percent of the total amount of the operating amounts for which the agency is eligible under this section, and (B) the maximum balance permitted for the agency's operating reserve under this section and any regulations issued under this section.

(c) TRANSITION PROVISION.—Prior to the establishment and implementation of an operating subsidy formula under subsection (b), if a public housing agency establishes a rental amount that is less than 30 percent of the family's monthly adjusted income pursuant to section 3(a)(1)(A)(ii) of the United States Housing Act of 1937, as amended by subsection (a)(1), the Secretary shall not take into account any reduction of or increase in the public housing agency's per unit dwelling rental income resulting from the use of such rental amount when calculating the contributions under section 9 of the United States Housing Act of 1937 for the public housing agency for the operation of the public housing.

SEC. 103. MINIMUM RENTS FOR PUBLIC HOUSING AND SECTION 8 PROGRAMS.

The second sentence of section 3(a)(1) of the United States Housing Act of 1937 is amended—

(1) at the end of subparagraph (B), by striking ''or'';

(2) in subsection (C), by striking the period and inserting ''; or''; and

(3) by inserting the following at the end:

''(D) $25.

Where establishing the rent or family contribution based on subparagraph (D) would otherwise result in undue hardship (as defined by the Secretary or the public housing agency) for one or more categories of affected families described in the next sentence, the Secretary or the public housing agency may exempt one or more such categories from the requirements of this paragraph and may require a lower minimum monthly rental contribution for one or more such categories. The categories of families described in this sentence shall include families subject to situations in which (i) the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program; (ii) the family would be evicted as a result of the imposition of the minimum rent requirement under subsection (c); (iii) the income of the family has decreased because of changed circumstance, including loss of employment; and (iv) a death in the family has occurred; and other families subject to such situations as may be determined by the Secretary or the agency. Where the rent or contribution of a family would otherwise be based on subparagraph (D) and a member of the family is an immigrant lawfully admitted for permanent residence (as those terms are defined in sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) and 8 U.S.C. 1101(a)(20)) who would have been entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, notwithstanding any other provision of this section, a public housing agency shall exempt the family from the requirements of this paragraph.''.

SEC. 104. PUBLIC HOUSING CEILING RENTS.

(a) Section 3(a)(2)(A) of the United States Housing Act of 1937, as amended by section 402(b)(1) of The Balanced Budget Downpayment Act, I, is amended to read as follows:

''(A) adopt ceiling rents that reflect the reasonable market value of the housing, but that are not less than—

''(i) for housing other than housing predominantly for elderly or disabled families (or both), 75 percent of the monthly cost to operate the housing of the agency;

''(ii) for housing predominantly for elderly or disabled families (or both), 100 percent of the monthly cost to operate the housing of the agency; and

''(iii) the monthly cost to make a deposit to a replacement reserve (in the sole discretion of the public housing agency); and''.

(b) Notwithstanding section 402(f) of The Balanced Budget Downpayment Act, I, the amendments made by section 402(b) of that Act shall remain in effect after fiscal year 1997.

SEC. 105. DISALLOWANCE OF EARNED INCOME FROM PUBLIC HOUSING AND SECTION 8 RENT AND FAMILY CONTRIBUTION DETERMINATIONS.

(a) IN GENERAL.—Section 3 of the United States Housing Act of 1937 is amended—

(1) by striking the undesignated paragraph at the end of subsection (c)(3) (as added by section 515(b) of Public Law 101-625); and

(2) by adding at the end the following new subsection:

''(d) DISALLOWANCE OF EARNED INCOME FROM PUBLIC HOUSING AND SECTION 8 RENT AND FAMILY CONTRIBUTION DETERMINATIONS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the rent payable under subsection (a) by, the family contribution determined in accordance with subsection (a) for, a family—

''(A) that—

''(i) occupies a unit in a public housing project; or

''(ii) receives assistance under section 8; and

''(B) whose income increases as a result of employment of a member of the family who was previously unemployed for one or more years (including a family whose income increases as a result of the participation of a family member in any family self-sufficiency or other job training program);may not be increased as a result of the increased income due to such employment during the 18-month period beginning on the date on which the employment is commenced.

''(2) PHASE-IN OF RATE INCREASES.—After the expiration of the 18-month period referred to in paragraph (1), rent increases due to the continued employment of the family member described in paragraph (1)(b) shall be phased in over a subsequent 3-year period.

''(3) OVERALL LIMITATION.—Rent payable under subsection (a) shall not exceed the amount determined under subsection (a).''.

(b) APPLICABILITY OF AMENDMENT.—

(1) PUBLIC HOUSING.—Notwithstanding the amendment made by subsection (a), any tenant of public housing participating in the program under the authority contained in the undesignated paragraph at the end of the section 3(c)(3) of the United States Housing Act of 1937, as that paragraph existed on the day before the date of enactment this Act, shall be governed by that authority after that date.

(2) SECTION 8.—The amendments made by subsection (a) shall apply to tenant-based assistance provided by a public housing agency under section 8 of the United States Housing Act of 1937 on and after October 1, 1998, but shall apply only to the extent approved in appropriation Acts.

SEC. 106. PUBLIC HOUSING HOMEOWNERSHIP.

Section 5(h) of the United States Housing Act of 1937 is amended—

(1) in the first sentence, by striking ''lower income tenants,'' and inserting the following: ''low-income tenants, or to any organization serving as a conduit for sales to such tenants,''; and

(2) by adding the following two sentences at the end: ''In the case of purchase by an entity that is an organization serving as a conduit for sales to such tenants, the entity shall sell the units to low-income families within five years from the date of its acquisition of the units. The entity shall use any net proceeds from the resale and from managing the units, as determined in accordance with guidelines of the Secretary, for housing purposes, such as funding resident organizations and reserves for capital replacements.''.

SEC. 107. PUBLIC HOUSING AGENCY PLAN.

The United States Housing Act of 1937 is amended by inserting after section 5 the following new section:

''SEC. 5A. PUBLIC HOUSING AGENCY PLAN.

''(a) CONTENTS OF PLAN.—(1) Each public housing agency shall submit to the Secretary a public housing agency plan that shall consist of the following parts, as applicable—

''(A) A statement of the housing needs of low-income and very low-income families residing in the community served by the public housing agency, and of other low-income families on the waiting list of the agency (including the housing needs of elderly families and disabled families), and the means by which the agency intends, to the maximum extent practicable, to address such needs.

''(B) The procedures for outreach efforts (including efforts that are planned and that have been executed) to homeless families and to entities providing assistance to homeless families, in the jurisdiction of the public housing agency.

''(C) For assistance under section 14, a 5-year comprehensive plan, as described in section 14(e)(1).

''(D) For assistance under section 14, the annual statement, as required under section 14(e)(3).

''(E) An annual description of the public housing agency's plans for the following activities—

''(i) demolition and disposition under section 18;

''(ii) homeownership under section 5(h); and

''(iii) designated housing under section 7.

''(F) An annual submission by the public housing agency consisting of the following information—

''(i) tenant selection admission and assignment policies, including any admission preferences;

''(ii) rent policies, including income and rent calculation methodology, minimum rents, ceiling rents, and income exclusions, disregards, or deductions;

''(iii) any cooperation agreements between the public housing agency and State welfare and employment agencies to target services to public housing residents (public housing agencies shall use best efforts to enter into such agreements); and

''(iv) anti-crime and security plans, including—

''(I) a strategic plan for addressing crime on or affecting the sites owned by the agency, which shall provide, on a development-by-development basis, for measures to ensure the safety of public housing residents, shall be established, with respect to each development, in consultation with the police officer or officers in command for the precinct in which the development is located, shall describe the need for measures to ensure the safety of public housing residents and for crime prevention measures, describe any such activities conducted, or to be conducted, by the agency, and provide for coordination between the public housing agency and the appropriate police precincts for carrying out such measures and activities;

''(II) a statement of activities in furtherance of the strategic plan to be carried out with assistance under the Public and Assisted Housing Drug Elimination Act of 1990;

''(III) performance criteria regrading the effective use of such assistance; and

''(IV) any plans for the provision of anti-crime assistance to be provided by the local government in addition to the assistance otherwise required to be provided by the agreement for local cooperation under section 5(e)(2) or other applicable law.

Where a public housing agency has no changes to report in any of the information required under this subparagraph since the previous annual submission, the public agency shall only state in its annual submission that it has made no changes. If the Secretary determines, at any time, that the security needs of a development are not being adequately addressed by the strategic crime plan for the agency under clause (iv)(I), or that the local police precinct is not complying with the plan, the Secretary may mediate between the public housing agency and the local precinct to resolve any issues of conflict. If after such mediation has occurred and the Secretary determines that the security needs of the development are not adequately addressed, the Secretary may require the public housing agency to submit an amended plan.

''(G) Other appropriate information that the Secretary requires for each public housing agency that is—

''(i) at risk of being designated as troubled under section 6(j); or

''(ii) designated as troubled under section 6(j).

''(H) Other information required by the Secretary in connection with the provision of assistance under section 9.

''(I) An annual certification by the public housing agency that it has met the citizen participation requirements under subsection (b).

''(J) An annual certification by the public housing agency that it will carry out the public housing agency plan in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990, and will affirmatively further fair housing.

''(K) An annual certification by the public housing agency that the public housing agency plan is consistent with the approved Consolidated Plan for the locality.

''(2) The Secretary may provide for more frequent submissions where the public housing agency proposes to amend any parts of the public housing agency plan.

''(b) CITIZEN PARTICIPATION REQUIREMENTS.—In developing the public housing agency plan under subsection (a), each public housing agency shall consult with appropriate local government officials and with tenants of the housing projects, which shall include at least one public hearing that shall be held prior to the adoption of the plan, and afford tenants and interested parties an opportunity to summarize their priorities and concerns, to ensure their due consideration in the planning process of the public housing agency.

''(c) PERFORMANCE REPORTS.—The Secretary shall require the public housing agency to submit any information that the Secretary determines is appropriate or necessary to assess the management performance of public housing agencies and resident management corporations under section 6(j) and to monitor assistance provided under this Act. To the maximum extent feasible, the Secretary shall require such information in one report, as part of the annual submission of the agency under subsection (a).

''(d) STANDARDS FOR DETERMINATION OF NONCOMPLIANCE.—After submission by a public housing agency of a public housing agency plan under subsection (a), the Secretary shall determine whether the plan complies with the requirements under this section. The Secretary may determine that a plan does not comply with the requirements under this section only if—

''(1) the plan is incomplete in significant matters required under this section;

''(2) there is evidence available to the Secretary that challenges, in a substantial manner, any information provided in the plan;

''(3) the Secretary determines that the plan does not comply with Federal law or violates the purposes of this Act because it fails to provide housing that will be viable on a long-term basis at a reasonable cost;

''(4) the plan plainly fails to adequately identify the needs of low-income families for housing assistance in the jurisdiction of the agency;

''(5) the plan plainly fails to adequately identify the capital improvement needs for public housing developments in the jurisdiction of the agency;

''(6) the activities identified in the plan are plainly inappropriate to address the needs identified in the plan; or

''(7) the plan is inconsistent with the requirements of this Act.

''(e) WAIVER AUTHORITY.—The Secretary may waive, or specify alternative requirements for, any requirements under this section that the Secretary determines are burdensome or unnecessary for public housing agencies that only administer tenant-based assistance and do not own or operate public housing.''.

SEC. 108. PHMAP INDICATORS FOR SMALL PHA'S.

Section 6(j)(1) of the United States Housing Act of 1937 is amended by—

(1) redesignating subparagraphs (A) through (I) as clauses (i) through (ix);

(2) redesignating clauses (1), (2), and (3) in clause (ix), as redesignated by paragraph (1), as subclauses (I), (II), and (III) respectively;

(3) in the fourth sentence, inserting immediately before clause (i), as redesignated, the following new subparagraph:

''(A) For public housing agencies that own or operate 250 or more public housing dwelling units—''; and

(4) adding the following new subparagraph at the end:

''(B) For public housing agencies that own and operate fewer than 250 public housing dwelling units—

''(i) The number and percentage of vacancies within an agency's inventory, including the progress that an agency has made within the previous 3 years to reduce such vacancies.

''(ii) The percentage of rents uncollected.

''(iii) The ability of the agency to produce and use accurate and timely records of monthly income and expenses and to maintain at least a 3-month reserve.

''(iv) The annual inspection of occupied units and the agency's ability to respond to maintenance work orders.

''(v) Any one additional factor that the Secretary may determine to be appropriate.''.

SEC. 109. PHMAP SELF-SUFFICIENCY INDICATOR.

Section 6(j)(1)(A) of the United States Housing Act of 1937, as amended by section 108 of this Act, is amended at the end by adding the following new clause:

''(x) The extent to which the agency coordinates and promotes participation by families in programs that assist them to achieve self-sufficiency.''.

SEC. 110. EXPANSION OF POWERS FOR DEALING WITH PHA'S IN SUBSTANTIAL DEFAULT.

(a) IN GENERAL.—Section 6(j)(3) of the United States Housing Act of 1937 is amended—

(1) in subparagraph (A)—

(A) by amending clause (i) to read as follows:

''(i) solicit competitive proposals from other public housing agencies and private housing management agents which, in the discretion of the Secretary, may be selected by existing public housing residents through administrative procedures established by the Secretary; if appropriate, these proposals shall provide for such agents to manage all, or part, of the housing administered by the public housing agency or all or part of the other programs of the agency;'';

(B) by redesignating clause (iv) as clause (v) and amending it to read as follows:

''(v) require the agency to make other arrangements acceptable to the Secretary and in the best interests of the public housing residents and families assisted under section 8 for managing all, or part, of the public housing administered by the agency or of the programs of the agency.''; and

(C) by inserting a new clause (iv) after clause (iii) to read as follows:

''(iv) take possession of all or part of the public housing agency, including all or part of any project or program of the agency, including any project or program under any other provision of this title; and''; and

(2) by striking subparagraphs (B) through (D) and inserting in lieu thereof the following:

''(B)(i) If a public housing agency is identified as troubled under this subsection, the Secretary shall notify the agency of the troubled status of the agency.

''(ii) Upon the expiration of the 1-year period beginning on the later of the date on which the agency receives notice from the Secretary of the troubled status of the agency under clause (i) and the date of enactment of the Public Housing Management Reform Act of 1997, the Secretary shall—

''(I) in the case of a troubled public housing agency with 1,250 or more units, petition for the appointment of a receiver pursuant to subparagraph (A)(ii); or

''(II) in the case of a troubled public housing agency with fewer than 1,250 units, either—

''(aa) petition for the appointment of a receiver pursuant to subparagraph (A)(ii); or

''(bb) appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project

or program of the agency), provided the Secretary has taken possession of all or part of the public housing agency (including all or part of any project or program of the agency) pursuant to subparagraph (A)(iv).

''(C) If a receiver is appointed pursuant to subparagraph (A)(ii), in addition to the powers accorded by the court appointing the receiver, the receiver—

''(i) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the receiver's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default, but only after the receiver determines that reasonable efforts to renegotiate such contract have failed;

''(ii) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 18, including disposition by transfer of properties to resident-supported nonprofit entities;

''(iii) if determined to be appropriate by the Secretary, may seek the establishment, as permitted by applicable State and local law, of one or more new public housing agencies;

''(iv) if determined to be appropriate by the Secretary, may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies; and

''(v) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the receiver's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default.

''(D)(i) If the Secretary takes possession of all or part of the public housing agency, including all or part of any project or program of the agency, pursuant to subparagraph (A)(iv), the Secretary—

''(I) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the written determination of the Secretary (which shall include the basis for such determination), substantially impedes correction of the substantial default, but only after the Secretary determines that reasonable efforts to renegotiate such contract have failed;

''(II) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 18, including disposition by transfer of properties to resident-supported nonprofit entities;

''(III) may seek the establishment, as permitted by applicable State and local law, of one or more new public housing agencies;

''(IV) may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies;

''(V) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the Secretary's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default; and

''(VI) shall, without any action by a district court of the United States, have such additional authority as a district court of the United States would have the authority to confer upon a receiver to achieve the purposes of the receivership.

''(ii) If the Secretary, pursuant to subparagraph (B)(ii)(II)(bb), appoints an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency), the Secretary may delegate to the administrative receiver any or all of the powers given the Secretary by this subparagraph, as the Secretary determines to be appropriate.

''(iii) Regardless of any delegation under this subparagraph, an administrative receiver may not seek the establishment of one or more new public housing agencies pursuant to clause (i)(III) or the consolidation of all or part of an agency into other well-managed agencies pursuant to clause (i)(IV), unless the Secretary first approves an application by the administrative receiver to authorize such action.

''(E) The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as the Secretary determines in the discretion of the Secretary is necessary and available to remedy the substantial deterioration of living conditions in individual public housing developments or other related emergencies that endanger the health, safety, and welfare of public housing residents or families assisted under section 8. A decision made by the Secretary under this paragraph is not subject to review in any court of the United States, or in any court of any State, territory, or possession of the United States.

''(F) In any proceeding under subparagraph (A)(ii), upon a determination that a substantial default has occurred, and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of all or part of the public housing agency in a manner consistent with this Act and in accordance with such further terms and conditions as the court may provide. The receiver appointed may be another public housing agency, a private management corporation, or any other person or appropriate entity. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.

''(G) The appointment of a receiver pursuant to this paragraph may be terminated, upon the petition of any party, when the court determines that all defaults have been cured or the public housing agency is capable again of discharging its duties.

''(H) If the Secretary (or an administrative receiver appointed by the Secretary) takes possession of a public housing agency (including all or part of any project or program of the agency), or if a receiver is appointed by a court, the Secretary or receiver shall be deemed to be acting not in the official capacity of that person or entity, but rather in the capacity of the public housing agency, and any liability incurred, regardless of whether the incident giving rise to that liability occurred while the Secretary or receiver was in possession of all or part of the public housing agency (including all or part of any project or program of the agency), shall be the liability of the public housing agency.''.

(b) EFFECTIVENESS.—The provisions of, and duties and authorities conferred or confirmed by, subsection (a) shall apply with respect to actions taken before, on, or after the effective date of this Act and shall apply to any receivers appointed for a public housing agency before the date of enactment of this Act.

(c) TECHNICAL CORRECTION REGARDING APPLICABILITY TO SECTION 8.—Section 8(h) of the United States Housing Act of 1937 is amended by inserting after ''6'' the following: ''(except as provided in section 6(j)(3))''.

SEC. 111. PUBLIC HOUSING SITE-BASED WAITING LISTS.

Section 6 of the United States Housing Act of 1937, as amended by section 306(a)(2) of this Act, is amended by inserting the following new subsection at the end:

''(q) A public housing agency may establish, in accordance with guidelines established by the Secretary, procedures for maintaining waiting lists for admissions to public housing developments of the agency, which may include a system whereby applicants may apply directly at or otherwise designate the development or developments in which they seek to reside. All such procedures must comply with all provisions of title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other applicable civil rights laws.''.

SEC. 112. COMMUNITY SERVICE REQUIREMENTS FOR PUBLIC HOUSING AND SECTION 8 PROGRAMS.

Section 12 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

''(c) COMMUNITY SERVICE REQUIREMENTS FOR PUBLIC HOUSING AND SECTION 8 PROGRAMS.—

''(1) IN GENERAL.—A public housing agency shall encourage each adult member of each family residing in public housing or assisted under section 8 to participate, for not less than 8 hours per month, in community service activities (not to include any political activity) within the community in which that adult resides.

''(2) EXEMPTIONS.—The requirement in paragraph (1) shall not apply to any adult who is—

''(A) at least 62 years of age;

''(B) a person with disabilities who is unable, as determined in accordance with guidelines established by the Secretary, to comply with this subsection;

''(C) working at least 20 hours per week, a student, receiving vocational training, or otherwise meeting work, training, or educational requirements of a public assistance program other than the program specified in subparagraph (E);

''(D) a single parent, grandparent, or the spouse of an otherwise exempt individual, who is the primary caretaker of one or more—

''(i) children who are 6 years of age or younger;

''(ii) persons who are at least 62 years of age; or

''(iii) persons with disabilities; or

''(E) in a family receiving assistance under the Temporary Assistance for Needy Families program under part A of title IV of the Social Security Act.''.

SEC. 113. COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM STREAMLINING.

(a) Section 14(d) of the United States Housing Act of 1937 is amended to read as follows:

''(d) No assistance may be made available under subsection (b) to a public housing agency that owns or operates fewer than 250 public housing units unless the agency has submitted a comprehensive plan in accordance with subsection (e)(1) and the Secretary has approved it in accordance with subsection (e)(2). The assistance shall be allocated to individual agencies on the basis of a formula established by the Secretary.''.

(b) Section 14 (f)(1) is repealed.

(c) Section 14 (g) is amended by striking ''(d)(3)'' and inserting ''(d)''.

(d) Section 14(h) is repealed.

(e) Section 14(i) is repealed.

(f) Section 14(k)(1) is amended by striking ''$75,000,000'' and inserting ''$100,000,000''.

SEC. 114. FLEXIBILITY FOR PHA FUNDING.

(a) EXPANSION OF USES OF FUNDING.—Section 14(q)(1) of the United States Housing Act of 1937 is amended—

(1) in the first sentence, by inserting after ''section 5,'' the following ''by section 24,'';

(2) in the first sentence, by inserting after ''public housing agency,'', the following: ''except for the provision of tenant-based assistance,''; and

(3) by inserting at the end the following: ''Notwithstanding the foregoing, (i) a public housing agency that owns or operates fewer than 250 units may use modernization assistance provided under section 14, development assistance provided under section 5(a), and operating subsidy provided under section 9, for any eligible activity authorized by this Act or by applicable appropriations Acts for a public housing agency, except for assistance under section 8, and (ii) any agency determined to be a troubled agency under section 6(j) may use amounts not appropriated under section 9 for any operating subsidy purpose authorized in section 9 only with the approval of the Secretary and provided that the housing is maintained and operated in a safe and sanitary condition.''.

(b) MIXED-FINANCE DEVELOPMENT.—Section 14(q)(2) of such Act is amended to read as follows:

''(2) MIXED FINANCE PUBLIC HOUSING.—

''(A) AUTHORITY.—The Secretary may, upon such terms and conditions as the Secretary may prescribe, authorize a public housing agency to provide for the use of capital and operating assistance provided under section 5, 14, or 9, assistance for demolition, site revitalization, or replacement housing provided under section 24, or assistance under applicable appropriation Acts for a public housing agency, to produce mixed-finance housing developments, or replace or revitalize existing public housing dwelling units with mixed-finance housing developments, but only if the agency submits to the Secretary a plan for such housing that is approved pursuant to subparagraph (C) by the Secretary.

''(B) MIXED-FINANCE HOUSING DEVELOPMENTS.—

''(i) For purposes of this paragraph, the term 'mixed-finance housing' means low-income housing or mixed-income housing for which the financing for development or revitalization is provided, in part, from entities other than the public housing agency.

''(ii) A mixed-finance housing development shall be produced or revitalized, and owned—

''(I) by a public housing agency or by an entity affiliated with a public housing agency;

''(II) by a partnership, a limited liability company, or other entity in which the public housing agency (or an entity affiliated with a public housing agency) is a general partner, is a managing member, or otherwise participates in the activities of the entity;

''(III) by any entity that grants to the public housing agency the option to purchase the public housing project during the 20-year period beginning on the date of initial occupancy of the public housing project in accordance with section 42(l)(7) of the Internal Revenue Code of 1986; or

''(IV) in accordance with such other terms and conditions as the Secretary may prescribe by regulation.

This clause may not be construed to require development or revitalization, and ownership, by the same entity.

''(C) MIXED-FINANCE HOUSING PLAN.—The Secretary may approve a plan for development or revitalization of mixed-finance housing under this paragraph only if the Secretary determines that—

''(i) the public housing agency has the ability, or has provided for an entity under subparagraph (B)(ii) that has the ability, to use the amounts provided for use under the plan for such housing, effectively, either directly or through contract management;

''(ii) the plan provides permanent financing commitments from a sufficient number of sources other than the public housing agency, which may include banks and other conventional lenders, States, units of general local government, State housing finance agencies, secondary market entities, and other financial institutions;

''(iii) the plan provides for use of amounts provided under subparagraph (A) by the public housing agency for financing the mixed-income housing in the form of grants, loans, advances, or other debt or equity investments, including collateral or credit enhancement of bonds issued by the agency or any State or local governmental agency for development or revitalization of the development; and

''(iv) the plan complies with any other criteria that the Secretary may establish.

''(D) RENT LEVELS FOR HOUSING FINANCED WITH LOW-INCOME HOUSING TAX CREDIT.—With respect to any dwelling unit in a mixed-finance housing development that is a low-income dwelling unit for which amounts from the Operating or Capital Fund are used and that is assisted pursuant to the low-income housing tax credit under section 42 of the Internal Revenue Code of 1986, the rents charged to the residents of the unit shall be determined in accordance with this title, but shall not in any case exceed the amounts allowable under such section 42.

''(E) CARRY-OVER OF ASSISTANCE FOR REPLACED HOUSING.—In the case of a mixed-finance housing development that is replacement housing for public housing demolished or disposed of, or is the result of the revitalization of existing public housing, the share of capital and operating assistance received by the public housing agency that owned or operated the housing demolished, disposed of, or revitalized shall not be reduced because of such demolition, disposition, or revitalization after the commencement of such demolition, disposition, or revitalization, unless—

''(i) upon the expiration of the 18-month period beginning upon the approval of the plan under subparagraph (C) for the mixed-finance housing development, the agency does not have binding commitments for development or revitalization, or a construction contract, for such development;

''(ii) upon the expiration of the 4-year period beginning upon the approval of the plan, the mixed-finance housing development is not substantially ready for occupancy and is placed under the annual contributions contract for the agency; or

''(iii) the number of dwelling units in the mixed-finance housing development that are made available for occupancy only by low-income families is substantially less than the number of such dwelling units in the public housing demolished, disposed of, or revitalized.

The Secretary may extend the period under clause (i) or (ii) for a public housing agency if the Secretary determines that circumstances beyond the control of the agency caused the agency to fail to meet the deadline under such clause.''.

(c) CONFORMING AMENDMENTS.—Section 14(q) of such Act is amended—

(1) in paragraph (3), by striking ''mixed income'' and inserting ''mixed-finance''; and

(2) in paragraph (4), by striking ''mixed-income project'' and inserting ''mixed-finance development''.

(d) APPLICABILITY.—Section 14(q) of the United States Housing Act of 1937, as amended by this section, shall be effective with respect to any assistance provided to the public housing agency under sections 5 and 14 of the United States Housing Act of 1937 and applicable appropriations Acts for a public housing agency.

SEC. 115. REPLACEMENT HOUSING RESOURCES.

(a) OPERATING FUND.—Section 9(a)(3)(B) of the United States Housing Act of 1937 is amended—

(1) at the end of clause (iv), by striking ''and'';

(2) at the end of clause (v), by striking the period and inserting ''; and''; and

(3) by inserting at the end the following:

''(vi) where an existing unit under a contract is demolished or disposed of, the Secretary shall adjust the amount the public housing agency receives under this section; notwithstanding this requirement, the Secretary shall provide assistance under this section in accordance with the provisions of section 14(q)(2) (relating to mixed-finance public housing).''.

(b) COMPREHENSIVE GRANT PROGRAM.—Section 14(k)(2)(D)(ii) of such Act is amended to read as follows:

''(ii) Where an existing unit under a contract is demolished or disposed of, the Secretary shall adjust the amount the agency receives under the formula. Notwithstanding the preceding sentence, for the five-year period after demolition or disposition, the Secretary may provide for no adjustment, or a partial adjustment, of the amount the agency receives under the formula and shall require the agency to use any additional amount received as a result of this sentence for replacement housing or physical improvements necessary to preserve viable public housing.''.

SEC. 116. REPEAL OF ONE-FOR-ONE REPLACEMENT HOUSING REQUIREMENT.

Section 1002(d) of Public Law 104-19 is amended by striking ''and on or before September 30, 1997''.

SEC. 117. DEMOLITION, SITE REVITALIZATION, REPLACEMENT HOUSING, AND TENANT-BASED ASSISTANCE GRANTS FOR DEVELOPMENTS.

Section 24 of the United States Housing Act of 1937 is amended—

(1) by amending the heading to read as follows: ''**DEMOLITION, SITE REVITALIZATION, REPLACEMENT HOUSING, AND TENANT-BASED ASSISTANCE GRANTS FOR DEVELOPMENTS**'';

(2) by amending subsections (a) through (c) to read as follows:

''(a) PURPOSE.—The purpose of this section is to provide assistance to public housing agencies for the purposes of—

''(1) reducing the density and improving the living environment for public housing residents of severely distressed public housing through the demolition of obsolete public housing developments (or portions thereof);

''(2) revitalizing sites (including remaining public housing dwelling units) on which such public housing developments are located and contributing to the improvement of the surrounding neighborhood;

''(3) providing housing that will avoid or decrease the concentration of very low-income families; and

''(4) providing tenant-based assistance in accordance with the provisions of section 8 for the purpose of providing replacement housing and assisting residents to be displaced by the demolition.

''(b) GRANT AUTHORITY.—The Secretary may make grants available to public housing agencies as provided in this section.

''(c) CONTRIBUTION REQUIREMENT.—The Secretary may not make any grant under this section to any applicant unless the applicant supplements the amount of assistance provided under this section (other than amount

provided for demolition or tenant-based assistance) with an amount of funds from sources other than this Act equal to not less than 5 percent of the amount provided under this section, including amounts from other Federal sources, any State or local government sources, any private contributions, and the value of any in-kind services or administrative costs provided.''';

(3) by amending subsection (d)(1) to read as follows:

''(1) IN GENERAL.—The Secretary may make grants under this subsection to applicants for the purpose of carrying out demolition, revitalization, and replacement programs for severely distressed public housing under this section. The Secretary may make a grant for the revitalization or replacement of public housing only if the agency demonstrates that the neighborhood is or will be a viable residential community, as defined by the Secretary, after completion of the work assisted under this section and any other neighborhood improvements planned by the State or local government or otherwise to be provided. The Secretary may approve grants providing assistance for one eligible activity or a combination of eligible activities under this section, including assistance only for demolition and assistance only for tenant-based assistance in accordance with the provisions of section 8.'';

(4) in subsection (d)(2)(B)—

(A) by striking ''the redesign'' and inserting ''the abatement of environmental hazards, demolition, redesign''; and

(B) by striking ''is located'' and inserting ''is or was located'';

(5) in subsection (d)(2), by redesignating subparagraphs (C) through (I) as subparagraphs (D) through (J), respectively, and inserting the following new subparagraph after subparagraph (B):

''(C) replacement housing, which shall consist of public housing, homeownership units as permitted under the HOPE VI program (as previously authorized in appropriations Acts), tenant-based assistance in accordance with the provisions of section 8, or a combination;'';

(6)(A) in subsection (G), as redesignated by paragraph (5), by inserting before the semicolon the following: ''and any necessary supportive services, except that not more than 15 percent of any grant under this subsection may be used for such purposes.'';

(B) by inserting ''and'' at the end of subsection (H), as redesignated by paragraph (4); and

(C) by striking the semicolon at the end of subsection (I), as redesignated by paragraph (4), and all that follows up to the period;

(7) in paragraph (3), by striking the second sentence;

(8) by amending subsection (d)(4) to read as follows:

''(4) SELECTION CRITERIA.—

''(A) APPLICATIONS FOR DEMOLITION.—The Secretary shall establish selection criteria for applications that request assistance only for demolition, which shall include—

''(i) the need for demolition, taking into account the effect of the distressed development on the public housing agency and the community;

''(ii) the extent to which the public housing agency is not able to undertake such activities without a grant under this section;

''(iii) the extent of involvement of residents and State and local governments in determining the need for demolition; and

''(iv) such other factors as the Secretary determines appropriate.

''(B) APPLICATIONS FOR DEMOLITION, REVITALIZATION, AND REPLACEMENT.—The Secretary shall establish selection criteria for applications that request assistance for a combination of eligible activities, which shall include—

''(i) the relationship of the grant to the comprehensive plan for the locality;

''(ii) the extent to which the grant will result in a viable development which will foster the economic and social integration of public housing residents and the extent to which the development will enhance the community;

''(iii) the capability and record of the applicant public housing agency, its development team, or any alternative management agency for the agency, for managing large-scale redevelopment or modernization projects, meeting construction timetables, and obligating amounts in a timely manner;

''(iv) the extent to which the public housing agency is not able to undertake such activities without a grant under this section;

''(v) the extent of involvement of residents, State and local governments, private service providers, financing entities, and developers, in the development of a revitalization program for the development;

''(vi) the amount of funds and other resources to be leveraged by the grant; and

''(vii) such other factors as the Secretary determines appropriate.''

''(C) APPLICATIONS FOR TENANT-BASED ASSISTANCE.—Notwithstanding any other provision of this subsection, the Secretary may allocate tenant-based assistance under this section on a non-competitive basis in connection with the demolition or disposition of public housing.'';

(9) by amending subsection (e) to read as follows:

''(e) LONG TERM VIABILITY.—The Secretary may waive or revise rules established under this Act governing the development, management, and operation of public housing units, to permit a public housing agency to undertake measures that enhance the long-term viability of a severely distressed public housing project revitalized under this section; except that the Secretary may not waive or revise the rent limitation under section 3(a)(1)(A) or the targeting requirements under section 16(a).'';

(10) in subsection (f)—

(A) by striking ''OTHER'' and all that follows through ''(1)'';

(B) by striking paragraph (2); and

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2);

(11) by striking subsections (g) and (i) and redesignating subsection (h) as subsection (j);

(12) by inserting the following new subsections after subsection (f):

''(g) ADMINISTRATION BY OTHER ENTITIES.—The Secretary may require a grantee under this section to make arrangements satisfactory to the Secretary for use of an entity other than the public housing agency to carry out activities assisted under the revitalization plan, if the Secretary determines that such action will help to effectuate the purposes of this section.

''(h) TIMELY EXPENDITURES.—

''(1) WITHDRAWAL OF FUNDING.—If a grantee under this section or under the HOPE VI program does not sign the primary construction contract for the work included in the grant agreement within 18 months from the date of the grant agreement, the Secretary shall withdraw any grant amounts under the grant agreement which have not been obligated by the grantee. The Secretary shall redistribute any withdrawn amounts to one or more applicants eligible for assistance under this section. The Secretary may grant an extension of up to one additional year from the date of enactment of this Act if the 18-month period has expired as of the date of enactment, for delays caused by factors beyond the control of the grantee.

''(2) COMPLETION.—A grant agreement under this section shall provide for interim checkpoints and for completion of physical activities within four years of execution, and the Secretary shall enforce these requirements through default remedies up to and including withdrawal of funding. The Secretary may, however, provide for a longer timeframe, but only when necessary due to factors beyond the control of the grantee.

''(3) INAPPLICABILITY.—This subsection shall not apply to grants for tenant-based assistance under section 8.

''(i) INAPPLICABILITY OF SECTION 18.—Section 18 shall not apply to the demolition of developments removed from the inventory of the public housing agency under this section.'';

(13) by amending subsection (j)(1), as redesignated by paragraph (11)—

(A) in subparagraph (C), by inserting after ''nonprofit organization,'' the following: ''private program manager, a partner in a mixed-finance development,'';

(B) at the end of subparagraph (B), after the semicolon, by inserting ''and''; and

(C) at the end of subparagraph (C), by striking ''; and'' and all that follows up to the period;

(14) by amending subsection (j)(5), as redesignated by paragraph (11)—

(A) in subparagraph (A)—

(i) by striking ''(i)'';

(ii) by striking clauses (ii) through (iv); and

(iii) by inserting after ''physical plant of the project'' the following: '', where such distress cannot be remedied through assistance under section 14 because of inadequacy of available funding'';

(B) by amending subparagraph (A), as amended by subparagraph (A) of this paragraph (14), by striking ''appropriately'' and inserting ''inappropriately''; and

(C) by amending subparagraph (B) to read as follows:

''(B) that was a project as described in subparagraph (A) that has been demolished, but for which the Secretary has not provided replacement housing assistance (other than tenant-based assistance).'';

(15) by inserting at the end of subsection (j), as redesignated by paragraph (11), the following new paragraph:

''(6) SUPPORTIVE SERVICES.—The term 'supportive services' includes all activities that will promote upward mobility, self-sufficiency, and improved quality of life for the residents of the public housing development involved, including literacy training, job training, day care, and economic development activities.''; and

(16) by inserting the following new subsection at the end:

''(k) TECHNICAL ASSISTANCE AND PROGRAM OVERSIGHT.—Of the amount appropriated for any fiscal year for grants under this section, the Secretary may use up to 2.5 percent for technical assistance, program oversight, and fellowships for on-site public housing agency assistance and supplemental education. Technical assistance may be provided directly or indirectly by grants, contracts, or cooperative agreements, and may include training, and the cost of necessary travel for participants in such training, by or to officials of the Department of Housing and Urban Development, of public housing agencies, and of residents. The Secretary may use amounts under this paragraph for program oversight to contract with private program and construction management entities to assure that development activities are carried out in a timely and cost-effective manner.''.

SEC. 118. PERFORMANCE EVALUATION BOARD.

(a) ESTABLISHMENT.—There is hereby established a performance evaluation board to

assist the Secretary of Housing and Urban Development in improving and monitoring the system for evaluation of public housing authority performance, including by studying and making recommendations to the Secretary on the most effective, efficient and productive method or methods of evaluating the performance of public housing agencies, consistent with the overall goal of improving management of the public housing program.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The board shall be composed of at least seven members with relevant experience who shall be appointed by the Secretary as soon as practicable, but not later than 90 days after enactment of this Act.

(2) APPOINTMENTS.—In appointing members of the board, the Secretary shall assure that each of the background areas set forth in paragraph (3) are represented.

(3) BACKGROUNDS.—Background areas to be represented are—

(A) major public housing organizations;

(B) public housing resident organizations;

(C) real estate management, finance, or development entities; and

(D) units of general local government.

(c) BOARD PROCEDURES.—

(1) CHAIRPERSON.—The Secretary shall appoint a chairperson from among members of the board.

(2) QUORUM.—A majority of the members of the board shall constitute a quorum for the transaction of business.

(3) VOTING.—Each member of the board shall be entitled to one vote, which shall be equal to the vote of each other member of the board.

(4) PROHIBITION OF ADDITIONAL PAY.—Members of the board shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the board.

(d) POWERS.—

(1) HEARINGS.—The board may, for the purpose of carrying out this section, hold such hearings and sit and act at such times and places as the board determines appropriate.

(2) ASSISTANCE FROM FEDERAL AGENCIES.—.

(A) INFORMATION.—The board may request from any agency of the United States, and such agency is authorized to provide, such data and information as the board may require for carrying out its functions.

(B) STAFF SUPPORT.—Upon request of the chairperson of the board, to assist the board in carrying out its duties under this section, the Secretary may—

(i) provide an executive secretariat;

(ii) assign by detail or otherwise any of the personnel of the Department of Housing and Urban Development; and

(iii) obtain by personal services contracts or otherwise any technical or other assistance needed to carry out this section.

(e) ADVISORY COMMITTEE.—The board shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

(f) FUNCTIONS.—The board shall, as needed—

(1) examine and assess the need for further modifications to or replacement of the Public Housing Management Assessment program, established by the Secretary under section 6(j) of the United States Housing Act of 1937;

(2) examine and assess models used in other industries or public programs to assess the performance of recipients of assistance, including accreditation systems, and the applicability of those models to public housing;

(3) develop (either itself, or through another body) standards for professional competency for the public housing industry, including methods of assessing the qualifications of employees of public housing authorities, such as systems for certifying the qualifications of employees;

(4) develop a system for increasing the use of on-site physical inspections of public housing developments; and

(5) develop a system for increasing the use of independent audits, as part of the overall system for evaluating the performance of public housing agencies.

(g) REPORTS.—

(1) Not later than the expiration of the three-month period beginning upon the appointment of the seventh member of the board, and one year from such appointment, the board shall issue interim reports to the Secretary on its activities. The board shall make its final report and recommendations one year after its second interim report is issued. The final report shall include findings and recommendations of the board based upon the functions carried out under this section.

(2) After the board issues its final report, it may be convened by its chair, upon the request of the Secretary, to review implementation of the performance evaluation system and for other purposes.

(h) TERM.—The duration of the board shall be seven years.

(i) FUNDING.—The Secretary is authorized to use any amounts appropriated under the head Preserving Existing Housing Investment, or predecessor or successor appropriation accounts, without regard to any earmarks of funding, to carry out this section.

SEC. 119. ECONOMIC DEVELOPMENT AND SUPPORTIVE SERVICES FOR PUBLIC HOUSING RESIDENTS.

The United States Housing Act of 1937 is amended by adding the following new section after section 27:

"SEC. 28. ECONOMIC DEVELOPMENT AND SUPPORTIVE SERVICES FOR PUBLIC HOUSING RESIDENTS.

''(a) IN GENERAL.—To the extent provided in advance in appropriations Acts, the Secretary shall make grants for the purposes of providing a program of supportive services and resident self-sufficiency activities to enable residents of public housing to become economically self-sufficient and to assist elderly persons and persons with disabilities to maintain independent living, to the following eligible applicants:

''(1) public housing agencies;

''(2) resident councils;

''(3) resident management corporations or other eligible resident entities defined by the Secretary;

''(4) other applicants, as determined by the Secretary; and

''(5) any partnership of eligible applicants.

''(b) ELIGIBLE ACTIVITIES.—Grantees under this section may use grants for the provision of supportive service, economic development, and self-sufficiency activities conducted primarily for public housing residents in a manner that is easily accessible to those residents. Such activities shall include—

''(1) the provision of service coordinators and case managers;

''(2) the provision of services related to work readiness, including education, job training and counseling, job search skills, business development training and planning, tutoring, mentoring, adult literacy, computer access, personal and family counseling, health screening, work readiness health services, transportation, and child care;

''(3) economic and job development, including employer linkages and job placement, and the start-up of resident microenterprises, community credit unions, and revolving loan funds, including the licensing, bonding and insurance needed to operate such enterprises;

''(4) resident management activities, including related training and technical assistance; and

''(5) other activities designed to improve the self-sufficiency of residents, as may be determined in the sole discretion of the Secretary.

''(c) FUNDING DISTRIBUTION.—

''(1) IN GENERAL.—After reserving such amounts as the Secretary determines to be necessary for technical assistance and clearinghouse services under subsection (d), the Secretary shall distribute any remaining amounts made available under this section on a competitive basis. The Secretary may set a cap on the maximum grant amount permitted under this section, and may limit applications for grants under this section to selected applicants or categories of applicants.

''(2) SELECTION CRITERIA.—The Secretary shall establish selection criteria for applications that request assistance for one or more eligible activities under this section, which shall include—

''(A) the demonstrated capacity of the applicant to carry out a program of supportive services or resident empowerment activities;

''(B) the amount of funds and other resources to be leveraged by the grant;

''(C) the extent to which the grant will result in a quality program of supportive services or resident empowerment activities;

''(D) the extent to which any job training and placement services to be provided are coordinated with the provision of such services under the Job Training Partnership Act and the Wagner-Peyser Act; and

''(E) such other factors as the Secretary determines appropriate.

''(3) MATCHING REQUIREMENT.—The Secretary may not make any grant under this section to any applicant unless the applicant supplements every dollar provided under this subsection with an amount of funds from sources other than this section equal to at least twice the amount provided under this subsection, including amounts from other Federal sources, any State or local government sources, any private contributions, and the value of any in-kind services or administrative costs provided. Of the supplemental funds furnished by the applicant, not more than 50 percent may be in the form of in-kind services or administrative costs provided.

''(d) FUNDING FOR TECHNICAL ASSISTANCE.—The Secretary may set aside a portion of the amounts appropriated under this section, to be provided directly or indirectly by grants, contracts, or cooperative agreements, for technical assistance, which may include training and cost of necessary travel for participants in such training, by or to officials and employees of the Department and of public housing agencies, and to residents and to other eligible grantees, and for clearinghouse services in furtherance of the goals and activities of this section.

''(e) CONTRACT ADMINISTRATORS.—The Secretary may require resident councils, resident management corporations, or other eligible entities defined by the Secretary to utilize public housing agencies or other qualified organizations as contract administrators with respect to grants provided under this section.''.

SEC. 120. PENALTY FOR SLOW EXPENDITURE OF MODERNIZATION FUNDS.

Section 14(k)(5) of the United States Housing Act of 1937 is amended to read as follows:

''(5)(A) A public housing agency shall obligate any assistance received under this section within 18 months of the date funds become available to the agency for obligation. The Secretary may extend this time period by no more than one year if an agency's failure to obligate such assistance in a timely manner is attributable to events beyond the

control of the agency. The Secretary may also provide an exception for de minimis amounts to be obligated with the next year's funding; an agency that owns or administers fewer than 250 public housing units, to the extent necessary to permit the agency to accumulate sufficient funding to undertake activities; and any agency, to the extent necessary to permit the agency to accumulate sufficient funding to provide replacement housing.

''(B) A public housing agency shall not be awarded assistance under this section for any month in a year in which it has funds unobligated, in violation of subparagraph (A). During such a year, the Secretary shall withhold all assistance which would otherwise be provided to the agency. If the agency cures its default during the year, it shall be provided with the share attributable to the months remaining in the year. Any funds not so provided to the agency shall be provided to high-performing agencies as determined under section 6(j).

''(C) If the Secretary has consented, before the date of enactment of the Public Housing Management Reform Act of 1997, to an obligation period for any agency longer than provided under this paragraph, an agency which obligates its funds within such extended period shall not be considered to be in violation of subparagraph (A). Notwithstanding any prior consent of the Secretary, however, all funds appropriated in fiscal year 1995 and prior years shall be fully obligated by the end of fiscal year 1998, and all funds appropriated in fiscal years 1996 and 1997 shall be fully obligated by the end of fiscal year 1999.

''(D) A public housing agency shall spend any assistance received under this section within four years (plus the period of any extension approved by the Secretary under subparagraph (A)) of the date funds become available to the agency for obligation. The Secretary shall enforce this requirement through default remedies up to and including withdrawal of the funding. Any obligation entered into by an agency shall be subject to the right of the Secretary to recapture the amounts for violation by the agency of the requirements of this subparagraph.''.

SEC. 121. DESIGNATION OF PHA'S AS TROUBLED.

(a) Section 6(j)(1)(A) of the United States Housing Act of 1937, as amended by sections 108 and 109, is further amended—

(1) in subparagraph (A), by inserting the following after clause (x):

''(xi) Whether the agency is providing acceptable basic housing conditions, as determined by the Secretary.''; and

(2) in subparagraph (B)—

(A) by redesignating clause (v) as clause (vi); and

(B) by inserting the following after clause (iv):

''(v) Whether the agency is providing acceptable basic housing conditions, as determined by the Secretary.''.

(b) Section 6(j)(2)(A)(i) of such Act is amended by inserting the following after the first sentence: ''Such procedures shall provide that an agency that does not provide acceptable basic housing conditions shall be designated a troubled public housing agency.''.

(c) Section 6(j)(2)(A)(i) of such Act is amended in the first sentence—

(1) by inserting before ''the performance indicators'' the subclause designation ''(I)''; and

(2) by inserting before the period the following: ''; or (II) such other evaluation system as is determined by the Secretary to assess the condition of the public housing agency or resident management corporation, which system may be in addition to or in lieu of the performance indicators established under paragraph (1)''.

SEC. 122. VOLUNTEER SERVICES UNDER THE 1937 ACT.

(a) IN GENERAL.—Section 12(b) of the United States Housing Act of 1937 is amended by striking ''that—'' and all that follows up to the period and inserting ''who performs volunteer services in accordance with the requirements of the Community Improvement Volunteer Act of 1994''.

(b) CIVA AMENDMENT.—Section 7305 of the Community Improvement Volunteer Act of 1994 is amended—

(1) in paragraph (5), by striking ''and'' after the semicolon;

(2) in paragraph (6), by striking the period and inserting ''; and''; and

(3) by inserting the following paragraph after paragraph (6):

''(7) the United States Housing Act of 1937.''.

SEC. 123. AUTHORIZATION OF APPROPRIATIONS FOR OPERATION SAFE HOME PROGRAM.

There are authorized to be appropriated to carry out the Operation Safe Home program $20,000,000 for fiscal year 1998 and such sums as may be necessary for fiscal years 1999, 2000, 2001, and 2002.

TITLE II—SECTION 8 STREAMLINING AND OTHER PROGRAM IMPROVEMENTS

SEC. 201. PERMANENT REPEAL OF FEDERAL PREFERENCES.

(a) Notwithstanding section 402(f) of The Balanced Budget Downpayment Act, I, the amendments made by section 402(d) of that Act shall remain in effect after fiscal year 1997, except that the amendments made by sections 402(d)(3) and 402(d)(6)(A)(iii), (iv), and (vi) of such Act shall remain in effect as amended by sections 203 and 116 of this Act, and section 402(d)(6)(v) shall be repealed by the amendments made to section 16 of the United States Housing Act of 1937 by section 202 of this Act.

(b) Section 6(c)(4)(A) of the United States Housing Act of 1937, as amended by section 402(d)(1) of The Balanced Budget Downpayment Act, I, is amended by striking ''is'' and all that follows through ''Act'' and inserting the following: ''shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment under this subparagraph, under section 5A(b), and under the requirements of the approved Consolidated Plan for the locality''.

(c) Section 8(d)(1)(A) of the United States Housing Act of 1937, as amended by section 402(d)(2) of The Balanced Budget Downpayment Act, I, is amended by striking ''is'' and all that follows through ''Act'' and inserting the following: ''shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment under this subparagraph, under section 5A(b), and under the requirements of the approved Consolidated Plan for the locality''.

SEC. 202. INCOME TARGETING FOR PUBLIC HOUSING AND SECTION 8 PROGRAMS.

(a) Section 16 of the United States Housing Act of 1937 is amended by revising the heading and subsections (a) through (c) to read as follows:

''SEC. 16. ELIGIBILITY FOR PUBLIC AND ASSISTED HOUSING.

''(a) PUBLIC HOUSING.—

''(1) PROGRAM REQUIREMENT.—Of the public housing units of a public housing agency made available for occupancy by eligible families in any fiscal year of the agency—

''(A) at least 40 percent shall be occupied by families whose incomes do not exceed 30 percent of the median income for the area; and

''(B) at least 90 percent shall be occupied by families whose incomes do not exceed 60 percent of the median income for the area; except that, for any fiscal year, the Secretary may reduce to 80 percent the percentage under this subparagraph for a public housing agency if the agency demonstrates to the satisfaction of the Secretary that such reduction would be used for, and would result in, the enhancement of the long-term viability of the housing developments of the agency.

''(2) DEVELOPMENT REQUIREMENT.—At least 40 percent of the units in each public housing development shall be occupied by families with incomes which are less than 30 percent of the median income for the area, except that no family may be required to move to achieve compliance with this requirement.

''(b) SECTION 8 ASSISTANCE.—

''(1) TENANT-BASED, MODERATE REHABILITATION, AND PROJECT-BASED CERTIFICATE ASSISTANCE.—In any fiscal year of a public housing agency, at least 75 percent of all families who initially receive tenant-based assistance from the agency, assistance under the moderate rehabilitation program of the agency, or assistance under the project-based certificate program of the agency shall be families whose incomes do not exceed 30 percent of the median income for the area.

''(2) PROJECT-BASED ASSISTANCE.—Of the dwelling units in a project receiving section 8 assistance, other than assistance described in paragraph (1), that are made available for occupancy by eligible families in any year (as determined by the Secretary)—

''(A) at least 40 percent shall be occupied by families whose incomes do not exceed 30 percent of the median income for the area; and

''(B) at least 90 percent shall be occupied by families whose incomes do not exceed 60 percent of the median income for the area.

''(c) DEFINITION OF AREA MEDIAN INCOME.—The term 'area median income', as used in subsections (a) and (b), refers to the median income of an area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than the percentages specified in subsections (a) and (b) if the Secretary determines that such variations are necessary because of unusually high or low family incomes.''.

(b) Section 16 of the United States Housing Act of 1937, as amended by this section, is further amended by inserting the following new heading after subsection designation (d): ''APPLICABILITY.—''.

SEC. 203. MERGER OF TENANT-BASED ASSISTANCE PROGRAMS.

(a) Section 8(o) of the United States Housing Act of 1937 is amended to read as follows:

''(o) RENTAL CERTIFICATES.—(1) A public housing agency may only enter into contracts for tenant-based rental assistance under this Act pursuant to this subsection. The Secretary may provide rental assistance using a payment standard in accordance with this subsection. The payment standard shall be used to determine the monthly assistance which may be paid for any family.

''(2)(A) The payment standard may not exceed the FMR/exception rent limit. The payment standard may not be less than 80 percent of the FMR/exception rent limit.

''(B) The term 'FMR/exception rent limit' means the section 8 existing housing fair market rent published by HUD in accordance with subsection (c)(1) or any exception rent approved by HUD for a designated part of the fair market rent area. HUD may approve an

exception rent of up to 120 percent of the published fair market rent.

''(3)(A) For assistance under this subsection provided by a public housing agency on and after October 1, 1998, to the extent approved in appropriations Acts, the monthly assistance payment for any family that moves to another unit in another complex or moves to a single family dwelling shall be the amount determined by subtracting the family contribution as determined in accordance with section 3(a) from the applicable payment standard, except that such monthly assistance payment shall not exceed the amount by which the rent for the dwelling unit (including the amount allowed for utilities in the case of a unit with separate utility metering) exceeds 10 percent of the family's monthly income.

''(B) For any family not covered by subparagraph (A), the monthly assistance payment for the family shall be determined by subtracting the family contribution as determined in accordance with section 3(a) from the lower of the applicable payment standard and the rent for the dwelling unit (including the amount allowed for utilities in the case of a unit with separate utility metering).

''(4) Assistance payments may be made only for:

''(A) a family determined to be a very low-income family at the time the family initially receives assistance, or

''(B) another low-income family in circumstances determined by the Secretary.

''(5) If a family vacates a dwelling unit before the expiration of a lease term, no assistance payment may be made with respect to the unit after the month during which the unit was vacated.

''(6) The Secretary shall require that:

''(A) the public housing agency shall inspect the unit before any assistance payment may be made to determine that the unit meets housing quality standards for decent, safe, and sanitary housing established by the Secretary for the purpose of this section, and

''(B) the public housing agency shall make annual or more frequent inspections during the contract term. No assistance payment may be made for a dwelling unit which fails to meet such quality standards.

''(7) The rent for units assisted under this subsection shall be reasonable in comparison with rents charged for comparable units in the private unassisted market. A public housing agency shall review all rents for units under consideration by families assisted under this subsection (and all rent increases for units under lease by families assisted under this subsection) to determine whether the rent (or rent increase) requested by an owner is reasonable. If a public housing agency determines that the rent (or rent increase) for a unit is not reasonable, the agency may not approve a lease for such unit.

''(8) Except as provided in paragraph (2) of this subsection, section 8(c) of this Act does not apply to assistance under this subsection.''.

(b) In Section 3(a)(1) of the United States Housing Act of 1937, the second sentence is revised as follows:

(1) by striking ''or paying rent under section 8(c)(3)(B)''; and

(2) by striking ''the highest of the following amounts, rounded to the nearest dollar:'' and inserting ''and the family contribution for a family assisted under section 8(o) or 8(y) shall be the highest of the following amounts, rounded to the next dollar:''.

(c) Section 8(b) of the United States Housing Act is amended—

(1) by striking ''Rental Certificates and Other Existing Housing Programs.—'' and inserting ''(1)''; and

(2) by striking the second sentence.

(d) Section 8 of the United States Housing Act of 1937 is amended—

(1) by striking subsection (c)(3)(B);

(2) in subsection (d)(2), by striking subparagraphs (A), (B), (C), (D) and (E); and by redesignating subparagraphs (F), (G) and (H) as subparagraphs (A), (B) and (C) respectively;

(3) in subsection (f)(6), as redesignated by section 306(b)(2) of this Act, by striking ''under subsection (b) or (o)''; and

(4) by striking subsection (j).

SEC. 204. SECTION 8 ADMINISTRATIVE FEES.

(a) Section 202(a)(1)(A) of the Departments of Veterans Affairs and Housing and Urban Development, Independent Agencies Appropriations Act, 1997 is amended by—

(1) striking ''7.5 percent'' and inserting ''7.65 percent'';

(2) striking ''a program of'' and inserting ''one or more such programs totaling''; and

(3) inserting before the final period, ''of such total units''.

(b) The amendments made by this section shall be effective as of October 1, 1997.

SEC. 205. SECTION 8 HOMEOWNERSHIP.

(a) AMENDMENTS TO SECTION 8(y).—Section 8(y) of the United States Housing Act of 1937 is amended—

(1) in paragraph (1), by striking ''A family receiving'' through ''if the family'' and inserting the following: ''A public housing agency providing tenant-based assistance on behalf of an eligible family under this section may provide assistance for an eligible family that purchases a dwelling unit (including a unit under a lease-purchase agreement) that will be owned by one or more members of the family, and will be occupied by the family, if the family'';

(2) in paragraph (1)(A), by inserting before the semicolon the following: '', or owns or is acquiring shares in a cooperative'';

(3) in paragraph (1), by amending paragraph (B) to read as follows:

''(B)(i) in the case of disabled families and elderly families, demonstrates that the family has income from employment or other sources, as determined in accordance with requirements of the Secretary, in such amount as may be established by the Secretary; and

''(ii) in the case of other families, demonstrates that the family has income from employment, as determined in accordance with requirements of the Secretary, in such amount as may be established by the Secretary;'';

(4) in paragraph (1)(C), by striking ''except as'' and inserting ''except in the case of disabled families and elderly families and as otherwise'';

(5) in paragraph (1), by inserting at the end the following: ''The Secretary or the public housing agency may target assistance under this subsection for program purposes, such as to families assisted in connection with the FHA multifamily demonstration under section 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997.'';

(6) by amending paragraph (2) to read as follows:

''(2) DETERMINATION OF AMOUNT OF ASSISTANCE.—The monthly assistance payment for any family shall be the amount determined by subtracting the family contribution as determined under section 3(a) of this Act from the lower of:

''(A) the applicable payment standard, or

''(B) the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, of the family.'';

(7) by redesignating paragraphs (6), (7), and (8), as paragraphs (9), (10), and (11), respectively;

(8) by striking paragraphs (3), (4), and (5) and inserting the following after paragraph (2):

''(3) INSPECTIONS AND CONTRACT CONDITIONS.—Each contract for the purchase of a unit to be assisted under this section shall provide for pre-purchase inspection of the unit by an independent professional and shall require that any cost of necessary repairs shall be paid by the seller. The requirement under section 8(o)(5)(B) for annual inspections of the unit shall not apply to units assisted under this section.

''(4) DOWNPAYMENT REQUIREMENT.—Each public housing agency providing assistance under this subsection shall require that each assisted family make a significant contribution, from its own resources, determined in accordance with guidelines established by the Secretary, to cover all or a portion of the downpayment required in connection with the purchase, which may include credit for work by one or more family members to improve the dwelling (''sweat equity'').

''(5) RESERVE FOR REPLACEMENTS.—The Secretary shall require each family to pay an amount equal to one percent of the monthly amount payable by the family for principal and interest on its acquisition loan into a reserve for repairs and replacements for five years after the date of purchase. Any amounts remaining in the reserve after five years shall be paid to the family.

''(6) APPLICATION OF NET PROCEEDS UPON SALE.—The Secretary shall require that the net proceeds upon sale by a family of a unit owned by the family while it received assistance under this subsection shall be divided between the public housing agency and the family. The Secretary shall establish guidelines for determining the amount to be received by the family and the amount to be received by the agency, which shall take into account the relative amount of assistance provided on behalf of the family in comparison with the amount paid by the family from its own resources. The Secretary shall require the agency to use any amounts received under this paragraph to provide assistance under subsection (o) or this subsection.

''(7) LIMITATION ON SIZE OF PROGRAM.—A public housing agency may permit no more than 10 percent of the families receiving tenant-based assistance provided by the agency to use the assistance for homeownership under this subsection. The Secretary may permit no more than 5 percent of all families receiving tenant-based assistance to use the assistance for homeownership under this subsection.

''(8) OTHER PROGRAM REQUIREMENTS.—The Secretary may establish such other requirements and limitations the Secretary determines to be appropriate in connection with the provision of assistance under this section, which may include limiting the term of assistance for a family. The Secretary may modify the requirements of this subsection where necessary to make appropriate adaptations for lease-purchase agreements. The Secretary shall establish performance measures and procedures to monitor the provision of assistance under this subsection in relation to the purpose of providing homeownership opportunities for eligible families.'';

(9) in paragraph (10)(A)), as redesignated by paragraph (7) of this section, is amended—

(A) by striking ''dwelling, (ii)'' and inserting ''dwelling, and (ii)''; and

(B) by striking '', (iii)'' and all that follows up to the period; and

(10) by inserting after paragraph (11), as redesignated by paragraph (7) of this section, the following:

''(12) SUNSET.—The authority to provide assistance to additional families under this subsection shall terminate on September 30,

2002. The Secretary shall then prepare a report evaluating the effectiveness of homeownership assistance under this subsection.''.

(b) FAMILY SELF-SUFFICIENCY ESCROW.—Section 23(d)(3) of the United States Housing Act of 1937 is repealed.

SEC. 206. WELFARE TO WORK CERTIFICATES.

(a) To the extent of amounts approved in appropriations Acts, the Secretary may provide funding for welfare to work certificates in accordance with this section. ''Certificates'' means tenant-based rental assistance in accordance with section 8(o) of the United States Housing Act of 1937.

(b) Funding under this section shall be used for a demonstration linking use of such certificate assistance with welfare reform initiatives to help families make the transition from welfare to work, and for technical assistance in connection with such demonstration.

(c) Funding may only be awarded upon joint application by a public housing agency and a State or local welfare agency. Allocation of demonstration funding is not subject to section 213 of the Housing and Community Development Act of 1974.

(d) Assistance provided under this section shall not be taken into account in determining the size of the family self-sufficiency program of a public housing agency under section 23 of the United States Housing Act of 1937.

(e) For purposes of the demonstration, the Secretary may waive, or specify alternative requirements for, requirements established by or under this Act concerning the certificate program, including requirements concerning the amount of assistance, the family contribution, and the rent payable by the family.

SEC. 207. EFFECT OF FAILURE TO COMPLY WITH PUBLIC ASSISTANCE REQUIREMENTS.

Section 3(a) of the United States Housing Act of 1937, as amended by section 103, is amended by inserting the following after paragraph (3):

''(4)(A) If the welfare or public assistance benefits of a covered family, as defined in subparagraph (G)(i), are reduced under a Federal, State, or local law regarding such an assistance program because any member of the family willfully failed to comply with program conditions requiring participation in a self-sufficiency program or requiring work activities as defined in subparagraphs (G)(ii) and (iii), the family may not, for the duration of the reduction, have the amount of rent or family contribution determined under this subsection reduced as the result of any decrease in the income of the family (to the extent that the decrease in income is the result of the benefits reduction).

''(B) If the welfare or public assistance benefits of a covered family are reduced under a Federal, State, or local law regarding the welfare or public assistance program because any member of the family willfully failed to comply with the self-sufficiency or work activities requirements, the portion of the amount of any increase in the earned income of the family occurring after such reduction up to the amount of the reduction for noncompliance shall not result in an increase in the amount of rent or family contribution determined under this subsection during the period the family would otherwise be eligible for welfare or public assistance benefits under the program.

''(C) Any covered family residing in public housing that is affected by the operation of this paragraph shall have the right to review the determination under this paragraph through the administrative grievance procedures established pursuant to section 6(k) for the public housing agency.

''(D) Subparagraph (A) shall not apply to any covered family before the public housing agency providing assistance under this Act on behalf of the family receives written notification from the relevant welfare or public assistance agency specifying that the benefits of the family have been reduced because of noncompliance with self-sufficiency program requirements and the level of such reduction.

''(E) Subparagraph (A) shall not apply in any case in which the benefits of a family are reduced because the welfare or public assistance program to which the Federal, State, or local law relates limits the period during which benefits may be provided under the program.

''(F) This paragraph may not be construed to authorize any public housing agency to limit the duration of tenancy in a public housing dwelling unit or of tenant-based assistance.

''(G) For purposes of this section—

''(i) The term 'covered family' means a family that—

''(I) receives benefits for welfare or public assistance from a State or other public agency under a program for which the Federal, State, or local law relating to the program requires, as a condition of eligibility for assistance under the program, participation of a member of the family in a self-sufficiency program or work activities; and

''(II) resides in a public housing dwelling unit or receives assistance under section 8.

''(ii) The term 'self-sufficiency program' means any program designed to encourage, assist, train, or facilitate the economic independence of participants and their families or to provide work for participants, including programs for job training, employment counseling, work placement, basic skills training, education, workfare, money or household management, apprenticeship, or other activities.

''(iii) The term 'work activities' means—

''(I) unsubsidized employment;

''(II) subsidized private sector employment;

''(III) subsidized public sector employment;

''(IV) work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;

''(V) on-the job training;

''(VI) job search and job readiness assistance;

''(VII) community service programs;

''(VIII) vocational education training (not to exceed 12 months with respect to any individual;

''(IX) job skills training directly related to employment;

''(X) education directly related to employment, in the case of a recipient who has not received a high school diploma or certificate of high school equivalency;

''(XI) satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate; and

''(XII) the provision of child care services to an individual who is participating in a community service program.''.

SEC. 208. STREAMLINING SECTION 8 TENANT-BASED ASSISTANCE.

(a) REPEAL OF TAKE-ONE, TAKE-ALL REQUIREMENT.—Section 8(t) of the United States Housing Act of 1937 is hereby repealed.

(b) EXEMPTION FROM NOTICE REQUIREMENTS FOR THE CERTIFICATE AND VOUCHER PROGRAMS.—Section 8(c) of such Act is amended—

(1) in paragraph (8), by inserting after ''section'' the following: ''(other than a contract for tenant-based assistance)''; and

(2) in the first sentence of paragraph (9), by striking ''(but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (o))'' and inserting '', other than a contract for tenant-based assistance under this section''.

(c) ENDLESS LEASE.—Section 8(d)(1)(B) of such Act is amended—

(1) in clause (ii), by inserting ''during the term of the lease,'' after ''(ii)''; and

(2) in clause (iii), by striking ''provide that'' and inserting ''during the term of the lease,''.

(d) REPEAL.—Section 203 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 is hereby repealed.

SEC. 209. NONDISCRIMINATION AGAINST CERTIFICATE AND VOUCHER HOLDERS.

In the case of any multifamily rental housing that is receiving, or (except for insurance referred to in paragraph (4)) has received within two years before the effective date of this section, the benefit of Federal assistance from an agency of the United States, the owner shall not refuse to lease a reasonable number of units to families under the tenant-based assistance program under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenants as families under that program. The Secretary shall establish reasonable time periods for applying the requirement of this section, taking into account the total amount of the assistance and the relative share of the assistance compared to the total cost of financing, developing, rehabilitating, or otherwise assisting a project. Federal assistance for purposes of this subsection shall mean—

(1) project-based assistance under the United States Housing Act of 1937;

(2) assistance under title I of the Housing and Community Development Act of 1974;

(3) assistance under title II of the Cranston-Gonzalez National Affordable Housing Act;

(4) mortgage insurance under the National Housing Act;

(5) low-income housing tax credits under section 42 of the Internal Revenue Code of 1986;

(6) assistance under title IV of the Stewart B. McKinney Homeless Assistance Act; and

(7) assistance under any other programs designated by the Secretary of Housing and Urban Development.

SEC. 210. RECAPTURE AND REUSE OF ACC PROJECT RESERVES UNDER TENANT-BASED ASSISTANCE PROGRAM.

Section 8(d) of the United States Housing Act of 1937 is amended by inserting at the end the following new paragraph:

''(5) To the extent that the Secretary determines that the amount in the ACC reserve account under a contract with a public housing agency for tenant-based assistance under this section is in excess of the amount needed by the agency, the Secretary shall recapture such excess amount. The Secretary may hold recaptured amounts in reserve until needed to amend or renew such contracts with any agency.''.

SEC. 211. EXPANDING THE COVERAGE OF THE PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION ACT OF 1990.

(a) SHORT TITLE, PURPOSES, AND AUTHORITY TO MAKE GRANTS.—Chapter 2 of subtitle C of title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et seq.) is amended by striking the chapter heading and all that follows through section 5123 and inserting the following:

"CHAPTER 2—COMMUNITY PARTNERSHIPS AGAINST CRIME

"SEC. 5121. SHORT TITLE.

''This chapter may be cited as the 'Community Partnerships Against Crime Act of 1997'.

"SEC. 5122. PURPOSES.

''The purposes of this chapter are to—

''(1) improve the quality of life for the vast majority of law-abiding public housing residents by reducing the levels of fear, violence, and crime in their communities;

''(2) broaden the scope of the Public and Assisted Housing Drug Elimination Act of 1990 to apply to all types of crime, and not simply crime that is drug-related; and

''(3) reduce crime and disorder in and around public housing through the expansion of community-oriented policing activities and problem solving.

"SEC. 5123. AUTHORITY TO MAKE GRANTS.

''The Secretary of Housing and Urban Development may make grants in accordance with the provisions of this chapter for use in eliminating crime in and around public housing and other federally assisted low-income housing projects to (1) public housing agencies, and (2) private, for-profit and nonprofit owners of federally assisted low-income housing.''.

(b) ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—Section 5124(a) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11903(a)) is amended—

(A) in the matter preceding paragraph (1), by inserting ''and around'' after ''used in'';

(B) in paragraph (3), by inserting before the semicolon the following: '', including fencing, lighting, locking, and surveillance systems'';

(C) in paragraph (4), by striking subparagraph (A) and inserting the following new subparagraph:

''(A) to investigate crime; and'';

(D) in paragraph (6)—

(i) by striking ''in and around public or other federally assisted low-income housing projects''; and

(ii) by striking ''and'' after the semicolon; and

(E) by striking paragraph (7) and inserting the following new paragraphs:

''(7) providing funding to nonprofit public housing resident management corporations and resident councils to develop security and crime prevention programs involving site residents;

''(8) the employment or utilization of one or more individuals, including law enforcement officers, made available by contract or other cooperative arrangement with State or local law enforcement agencies, to engage in community- and problem-oriented policing involving interaction with members of the community in proactive crime control and prevention activities;

''(9) programs and activities for or involving youth, including training, education, recreation and sports, career planning, and entrepreneurship and employment activities and after school and cultural programs; and

''(10) service programs for residents that address the contributing factors of crime, including programs for job training, education, drug and alcohol treatment, and other appropriate social services.''.

(2) OTHER PHA-OWNED HOUSING.—Section 5124(b) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11903(b)) is amended—

(A) in the matter preceding paragraph (1)—

(i) by striking ''drug-related crime in'' and inserting ''crime in and around''; and

(ii) by striking ''paragraphs (1) through (7)'' and inserting ''paragraphs (1) through (10)''; and

(B) in paragraph (2), by striking ''drug-related'' and inserting ''criminal''.

(c) GRANT PROCEDURES.—Section 5125 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11904) is amended to read as follows:

"SEC. 5125. GRANT PROCEDURES.

''(a) PHA'S WITH 250 OR MORE UNITS.—

''(1) GRANTS.—In each fiscal year, the Secretary shall make a grant under this chapter from any amounts available under section 5131(b)(1) for the fiscal year to each of the following public housing agencies:

''(A) NEW APPLICANTS.—Each public housing agency that owns or operates 250 or more public housing dwelling units and has—

''(i) submitted an application to the Secretary for a grant for such fiscal year, which includes a 5-year crime deterrence and reduction plan under paragraph (2); and

''(ii) had such application and plan approved by the Secretary.

''(B) RENEWALS.—Each public housing agency that owns or operates 250 or more public housing dwelling units and for which—

''(i) a grant was made under this chapter for the preceding Federal fiscal year;

''(ii) the term of the 5-year crime deterrence and reduction plan applicable to such grant includes the fiscal year for which the grant under this subsection is to be made; and

''(iii) the Secretary has determined, pursuant to a performance review under paragraph (4), that during the preceding fiscal year the agency has substantially fulfilled the requirements under subparagraphs (A) and (B) of paragraph (4).

Notwithstanding subparagraphs (A) and (B), the Secretary may make a grant under this chapter to a public housing agency that owns or operates 250 or more public housing dwelling units only if the agency includes in the application for the grant information that demonstrates, to the satisfaction of the Secretary, that the agency has a need for the grant amounts based on generally recognized crime statistics showing that (I) the crime rate for the public housing developments of the agency (or the immediate neighborhoods in which such developments are located) is higher than the crime rate for the jurisdiction in which the agency operates, (II) the crime rate for the developments (or such neighborhoods) is increasing over a period of sufficient duration to indicate a general trend, or (III) the operation of the program under this chapter substantially contributes to the reduction of crime.

''(2) 5-YEAR CRIME DETERRENCE AND REDUCTION PLAN.—Each application for a grant under this subsection shall contain a 5-year crime deterrence and reduction plan. The plan shall be developed with the participation of residents and appropriate law enforcement officials. The plan shall describe, for the public housing agency submitting the plan—

''(A) the nature of the crime problem in public housing owned or operated by the public housing agency;

''(B) the building or buildings of the public housing agency affected by the crime problem;

''(C) the impact of the crime problem on residents of such building or buildings; and

''(D) the actions to be taken during the term of the plan to reduce and deter such crime, which shall include actions involving residents, law enforcement, and service providers.

The term of a plan shall be the period consisting of 5 consecutive fiscal years, which begins with the first fiscal year for which funding under this chapter is provided to carry out the plan.

''(3) AMOUNT.—In any fiscal year, the amount of the grant for a public housing agency receiving a grant pursuant to paragraph (1) shall be the amount that bears the same ratio to the total amount made available under section 5131(b)(1) as the total number of public dwelling units owned or operated by such agency bears to the total number of dwelling units owned or operated by all public housing agencies that own or operate 250 or more public housing dwelling units that are approved for such fiscal year.

''(4) PERFORMANCE REVIEW.—For each fiscal year, the Secretary shall conduct a performance review of the activities carried out by each public housing agency receiving a grant pursuant to this subsection to determine whether the agency—

''(A) has carried out such activities in a timely manner and in accordance with its 5-year crime deterrence and reduction plan; and

''(B) has a continuing capacity to carry out such plan in a timely manner.

''(5) SUBMISSION OF APPLICATIONS.—The Secretary shall establish such deadlines and requirements for submission of applications under this subsection.

''(6) REVIEW AND DETERMINATION.—The Secretary shall review each application submitted under this subsection upon submission and shall approve the application unless the application and the 5-year crime deterrence and reduction plan are inconsistent with the purposes of this chapter or any requirements established by the Secretary or the information in the application or plan is not substantially complete. Upon approving or determining not to approve an application and plan submitted under this subsection, the Secretary shall notify the public housing agency submitting the application and plan of such approval or disapproval.

''(7) DISAPPROVAL OF APPLICATIONS.—If the Secretary notifies an agency that the application and plan of the agency is not approved, not later than the expiration of the 15-day period beginning upon such notice of disapproval, the Secretary shall also notify the agency, in writing, of the reasons for the disapproval, the actions that the agency could take to comply with the criteria for approval, and the deadlines for such actions.

''(8) FAILURE TO APPROVE OR DISAPPROVE.—If the Secretary fails to notify an agency of approval or disapproval of an application and plan submitted under this subsection before the expiration of the 60-day period beginning upon the submission of the plan or fails to provide notice under paragraph (7) within the 15-day period under such paragraph to an agency whose application has been disapproved, the application and plan shall be considered to have been approved for purposes of this section.

''(b) PHA'S WITH FEWER THAN 250 UNITS AND OWNERS OF FEDERALLY ASSISTED LOW-INCOME HOUSING.—

''(1) APPLICATIONS AND PLANS.—To be eligible to receive a grant under this chapter, a public housing agency that owns or operates fewer than 250 public housing dwelling units or an owner of federally assisted low-income housing shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may require. The application shall include a plan for addressing the problem of crime in and around the housing for which the application is submitted, describing in detail activities to be conducted during the fiscal year for which the grant is requested.

''(2) GRANTS FOR PHA'S WITH FEWER THAN 250 UNITS.—In each fiscal year the Secretary may, to the extent amounts are available under section 5131(b)(2), make grants under this chapter to public housing agencies that own or operate fewer than 250 public housing dwelling units and have submitted applications under paragraph (1) that the Secretary

has approved pursuant to the criteria under paragraph (4).

''(3) GRANTS FOR FEDERALLY ASSISTED LOW-INCOME HOUSING.—In each fiscal year the Secretary may, to the extent amounts are available under section 5131(b)(3), make grants under this chapter to owners of federally assisted low-income housing that have submitted applications under paragraph (1) that the Secretary has approved pursuant to the criteria under paragraphs (4) and (5).

''(4) CRITERIA FOR APPROVAL OF APPLICATIONS.—The Secretary shall determine whether to approve each application under this subsection on the basis of—

''(A) the extent of the crime problem in and around the housing for which the application is made;

''(B) the quality of the plan to address the crime problem in the housing for which the application is made;

''(C) the capability of the applicant to carry out the plan; and

''(D) the extent to which the tenants of the housing, the local government, local community-based nonprofit organizations, local tenant organizations representing residents of neighboring projects that are owned or assisted by the Secretary, and the local community support and participate in the design and implementation of the activities proposed to be funded under the application.

In each fiscal year, the Secretary may give preference to applications under this subsection for housing made by applicants who received a grant for such housing for the preceding fiscal year under this subsection or under the provisions of this chapter as in effect immediately before the date of the enactment of the Housing Opportunity and Responsibility Act of 1997.

''(5) ADDITIONAL CRITERIA FOR FEDERALLY ASSISTED LOW-INCOME HOUSING.—In addition to the selection criteria under paragraph (4), the Secretary may establish other criteria for evaluating applications submitted by owners of federally assisted low-income housing, except that such additional criteria shall be designed only to reflect—

''(A) relevant differences between the financial resources and other characteristics of public housing agencies and owners of federally assisted low-income housing; or

''(B) relevant differences between the problem of crime in public housing administered by such authorities and the problem of crime in federally assisted low-income housing.''.

(d) DEFINITIONS.—Section 5126 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11905) is amended—

(1) by striking paragraphs (1) and (2);

(2) in paragraph (4)(A), by striking ''section'' before ''221(d)(4)'';

(3) by redesignating paragraphs (3) and (4) (as so amended) as paragraphs (1) and (2), respectively; and

(4) by adding at the end the following new paragraph:

''(3) PUBLIC HOUSING AGENCY.—The term 'public housing agency' has the meaning given the term in section 3 of the United States Housing Act of 1937.''.

(e) IMPLEMENTATION.—Section 5127 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11906) is amended by striking ''Cranston-Gonzalez National Affordable Housing Act'' and inserting ''Public Housing Management Reform Act of 1997''.

(f) REPORTS.—Section 5128 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11907) is amended—

(1) by striking ''drug-related crime in'' and inserting ''crime in and around''; and

(2) by striking ''described in section 5125(a)'' and inserting ''for the grantee submitted under subsection (a) or (b) of section 5125, as applicable''.

(g) FUNDING AND PROGRAM SUNSET.—Chapter 2 of subtitle C of title V of the Anti-Drug Abuse Act of 1988 is amended by striking section 5130 (42 U.S.C. 11909) and inserting the following new section:

''SEC. 5130. FUNDING.

''(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this chapter $290,000,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002.

''(b) ALLOCATION.—Of any amounts available, or that the Secretary is authorized to use, to carry out this chapter in any fiscal year—

''(1) 85 percent shall be available only for assistance pursuant to section 5125(a) to public housing agencies that own or operate 250 or more public housing dwelling units;

''(2) 10 percent shall be available only for assistance pursuant to section 5125(b)(2) to public housing agencies that own or operate fewer than 250 public housing dwelling units; and

''(3) 5 percent shall be available only for assistance to federally assisted low-income housing pursuant to section 5125(b)(3).

''(c) RETENTION OF PROCEEDS OF ASSET FORFEITURES BY INSPECTOR GENERAL.—Notwithstanding section 3302 of title 31, United States Code, or any other provision of law affecting the crediting of collections, the proceeds of forfeiture proceedings and funds transferred to the Office of Inspector General of the Department of Housing and Urban Development, as a participating agency, from the Department of Justice Assets Forfeiture Fund or the Department of the Treasury Forfeiture Fund, as an equitable share from the forfeiture of property in investigations in which the Office of Inspector General participates, shall be deposited to the credit of the Office of Inspector General for Operation Safe Home activities authorized under the Inspector General Act of 1978, as amended, to remain available until expended.''.

(h) CONFORMING AMENDMENTS.—The table of contents in section 5001 of the Anti-Drug Abuse Act of 1988 (Public Law 100–690; 102 Stat. 4295) is amended—

(1) by striking the item relating to the heading for chapter 2 of subtitle C of title V and inserting the following:

''CHAPTER 2—COMMUNITY PARTNERSHIPS AGAINST CRIME'';

(2) by striking the item relating to section 5122 and inserting the following new item:

''Sec. 5122. Purposes.'';

(3) by striking the item relating to section 5125 and inserting the following new item:

''Sec. 5125. Grant procedures.'';

and

(4) by striking the item relating to section 5130 and inserting the following new item:

''Sec. 5130. Funding.''.

(i) TREATMENT OF NOFA.—The cap limiting assistance under the Notice of Funding Availability issued by the Department of Housing and Urban Development in the Federal Register of April 8, 1996, shall not apply to a public housing agency within an area designated as a high intensity drug trafficking area under section 1005(c) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1504(c)).

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

SEC. 212. STUDY REGARDING RENTAL ASSISTANCE.

The Secretary shall conduct a nationwide study of the tenant-based rental assistance program under section 8 of the United States Housing Act of 1937 (as in effect pursuant to section 601(c) and 602(b)). The study shall, for various localities—

(1) determine who are the providers of the housing in which families assisted under such program reside;

(2) describe and analyze the physical and demographic characteristics of the housing in which such assistance is used, including, for housing in which at least one such assisted family resides, the total number of units in the housing and the number of units in the housing for which such assistance is provided;

(3) determine the total number of units for which such assistance is provided;

(4) describe the durations that families remain on waiting lists before being provided such housing assistance; and

(5) assess the extent and quality of participation of housing owners in such assistance program in relation to the local housing market, including comparing—

(A) the quality of the housing assisted to the housing generally available in the same market; and

(B) the extent to which housing is available to be occupied using such assistance to the extent to which housing is generally available in the same market.

The Secretary shall submit a report describing the results of the study to the Congress not later than the expiration of the 2-year period beginning on the date of the enactment of this Act.

TITLE III—''ONE-STRIKE AND YOU'RE OUT'' OCCUPANCY PROVISIONS

SEC. 301. SCREENING OF APPLICANTS.

(a) INELIGIBILITY BECAUSE OF PAST EVICTIONS.—Any household or member of a household evicted from federally assisted housing (as defined in section 305) by reason of drug-related criminal activity (as defined in section 305) or for other serious violations of the terms or conditions of the lease shall not be eligible for federally assisted housing—

(1) in the case of eviction by reason of drug-related criminal activity, for a period of not less than three years from the date of the eviction unless the evicted member of the household successfully completes a rehabilitation program; and

(2) for other evictions, for a reasonable period of time as determined by the public housing agency or owner of the federally assisted housing, as applicable.

The requirements of paragraphs (1) and (2) may be waived if the circumstances leading to eviction no longer exist.

(b) INELIGIBILITY OF ILLEGAL DRUG USERS AND ALCOHOL ABUSERS.—Notwithstanding any other provision of law, a public housing agency or an owner of federally assisted housing, or both, as determined by the Secretary, shall establish standards that prohibit admission to the program or admission to federally assisted housing for any household with a member—

(1) who the public housing agency or the owner determines is engaging in the illegal use of a controlled substance; or

(2) with respect to whom the public housing agency or the owner determines that it has reasonable cause to believe that such household member's illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol would interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(c) CONSIDERATION OF REHABILITATION.—In determining whether, pursuant to subsection (b)(2), to deny admission to the program or to federally assisted housing to any household based on a pattern of illegal use of a controlled substance or a pattern of abuse of alcohol by a household member, a public housing agency or an owner may consider whether such household member—

(1) has successfully completed an accredited drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable);

(2) has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable); or

(3) is participating in an accredited drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).

(d) AUTHORITY TO DENY ADMISSION TO THE PROGRAM OR TO FEDERALLY ASSISTED HOUSING FOR CERTAIN CRIMINAL OFFENDERS.—In addition to the provisions of subsections (a) and (b) and in addition to any other authority to screen applicants, in selecting among applicants for admission to the program or to federally assisted housing, if the public housing agency or owner of such housing, as applicable, determines that an applicant or any member of the applicant's household is or was, during a reasonable time preceding the date when the applicant household would otherwise be selected for admission, engaged in any drug-related or violent criminal activity or other criminal activity which would adversely affect the health, safety, or right to peaceful enjoyment of the premises by other residents, the owner or public housing agency may—

(1) deny such applicant admission to the program or to federally assisted housing; and

(2) after expiration of the reasonable period beginning upon such activity, require the applicant, as a condition of admission to the program or to federally assisted housing, to submit to the owner or public housing agency evidence sufficient (as the Secretary shall by regulation provide) to ensure that the individual or individuals in the applicant's household who engaged in such criminal activity for which denial was made under this subsection have not engaged in any such criminal activity during such reasonable time.

(e) AUTHORITY TO REQUIRE ACCESS TO CRIMINAL RECORDS.——A public housing agency may require, as a condition of providing admission to the public housing program, that each adult member of the household provide a signed, written authorization for the public housing agency to obtain records described in section 304 regarding such member of the household from the National Crime Information Center, police departments, and other law enforcement agencies.

SEC. 302. TERMINATION OF TENANCY AND ASSISTANCE.

(a) TERMINATION OF TENANCY AND ASSISTANCE FOR ILLEGAL DRUG USERS AND ALCOHOL ABUSERS.—Notwithstanding any other provision of law, a public housing agency or an owner of federally assisted housing, as applicable, shall establish standards or lease provisions for continued assistance or occupancy in federally assisted housing that allow a public housing agency or the owner, as applicable, to terminate the tenancy or assistance for any household with a member—

(1) who the public housing agency or owner determines is engaging in the illegal use of a controlled substance; or

(2) whose illegal use of a controlled substance, or whose abuse of alcohol, is determined by the public housing agency or owner to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(b) TERMINATION OF ASSISTANCE FOR SERIOUS LEASE VIOLATION.—Notwithstanding any other provision of law, the public housing agency must terminate tenant-based assistance for all household members if the household is evicted from assisted housing for serious violation of the lease.

SEC. 303. LEASE REQUIREMENTS.

In addition to any other applicable lease requirements, each lease for a dwelling unit in federally assisted housing shall provide that—

(1) the owner may not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, violation of applicable Federal, State, or local law, or other good cause; and

(2) grounds for termination of tenancy shall include any activity, engaged in by the tenant, any member of the tenant's household, any guest, or any other person under the control of any member of the household, that—

(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other tenants or employees of the public housing agency, owner or other manager of the housing,

(B) threatens the health or safety of, or right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises, or

(C) is drug-related or violent criminal activity on or off the premises.

SEC. 304. AVAILABILITY OF CRIMINAL RECORDS FOR PUBLIC HOUSING TENANT SCREENING AND EVICTION.

(a) IN GENERAL.—

(1) PROVISION OF INFORMATION.—Notwithstanding any other provision of law other than paragraphs (2) and (3), upon the request of a public housing agency, the National Crime Information Center, a police department, and any other law enforcement agency shall provide to the public housing agency information regarding the criminal conviction records of an adult applicant for, or tenants of, the public housing for purposes of applicant screening, lease enforcement, and eviction, but only if the public housing agency requests such information and presents to such Center, department, or agency a written authorization, signed by such applicant, for the release of such information to such public housing agency.

(2) EXCEPTION.—A law enforcement agency described in paragraph (1) shall provide information under this paragraph relating to any criminal conviction of a juvenile only to the extent that the release of such information is authorized under the law of the applicable State, tribe, or locality.

(b) CONFIDENTIALITY.—A public housing agency receiving information under this section may use such information only for the purposes provided in this section and such information may not be disclosed to any person who is not an officer, employee, or authorized representative of the public housing agency and who has a job-related need to have access to the information in connection with admission of applicants, eviction of tenants, or termination of assistance. However, for judicial eviction proceedings, disclosures may be made to the extent necessary. The Secretary shall, by regulation, establish procedures necessary to ensure that information provided under this section to any public housing agency is used, and confidentiality of such information is maintained, as required under this section.

(c) OPPORTUNITY TO DISPUTE.—Before an adverse action is taken with regard to assistance for public housing on the basis of a criminal record, the public housing agency shall provide the tenant or applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

(d) FEE.—A public housing agency may be charged a reasonable fee for information provided under subsection (a).

(e) RECORDS MANAGEMENT.—Each public housing agency that receives criminal record information under this section shall establish and implement a system of records management that ensures that any criminal record received by the agency is—

(1) maintained confidentially;

(2) not misused or improperly disseminated; and

(3) destroyed in a timely fashion, once the purpose for which the record was requested has been accomplished.

(f) PENALTY.—Any person who knowingly and willfully requests or obtains any information concerning an applicant for, or resident of, public housing pursuant to the authority under this section under false pretenses, or any person who knowingly or willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term ''person'' as used in this subsection shall include an officer, employee, or authorized representative of any public housing agency.

(g) CIVIL ACTION.—Any applicant for, or resident of, public housing affected by (1) a negligent or knowing disclosure of information referred to in this section about such person by an officer or employee of any public housing agency, which disclosure is not authorized by this section, or (2) any other negligent or knowing action that is inconsistent with this section, may bring a civil action for damages and such other relief as may be appropriate against any public housing agency responsible for such unauthorized action. The district court of the United States in the district in which the affected applicant or resident resides, in which such unauthorized action occurred, or in which the officer or employee alleged to be responsible for any such unauthorized action resides, shall have jurisdiction in such matters. Appropriate relief that may be ordered by such district courts shall include reasonable attorney's fees and other litigation costs.

(h) DEFINITION OF ADULT.—For purposes of this section, the term ''adult'' means a person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law.

SEC. 305. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) FEDERALLY ASSISTED HOUSING.—The term ''federally assisted housing'' means a unit in—

(A) public housing under the United States Housing Act of 1937;

(B) housing assisted under section 8 of the United States Housing Act of 1937 including both tenant-based assistance and project-based assistance;

(C) housing that is assisted under section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act);

(D) housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before enactment of the Cranston-Gonzalez National Affordable Housing Act;

(E) housing that is assisted under section 811 of the Cranston-Gonzalez National Affordable Housing Act;

(F) housing financed by a loan or mortgage insured under section 221(d)(3) of the National Housing Act that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act;

(G) housing with a mortgage insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; and

(H) for purposes only of subsections 301(c), 301(d), 303, and 304, housing assisted under section 515 of the Housing Act of 1949.

(2) DRUG-RELATED CRIMINAL ACTIVITY.—The term ''drug-related criminal activity'' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

(3) OWNER.—The term ''owner'' means, with respect to federally assisted housing, the entity or private person, including a cooperative or public housing agency, that has the legal right to lease or sublease dwelling units in such housing.

SEC. 306. CONFORMING AMENDMENTS.

(a) CONSOLIDATION OF PUBLIC HOUSING ONE STRIKE PROVISIONS.—Section 6 of the United States Housing Act of 1937 is amended—

(1) by striking subsections (l)(4) and (l)(5) and the last sentence of subsection (l), and redesignating paragraphs (6) and (7) as paragraphs (4) and (5);

(2) by striking subsection (q); and

(3) by striking subsection (r).

(b) CONSOLIDATION OF SECTION 8 ONE STRIKE PROVISIONS.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended—

(1) by striking subsections (d)(1)(B)(ii) and (d)(1)(B)(iii), and redesignating clauses (iv) and (v) as clauses (ii) and (iii); and

(2) by striking subsection (f)(5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(c) CONSOLIDATION OF ONE STRIKE ELIGIBILITY PROVISIONS.—Section 16 of the United States Housing Act of 1937 is amended by striking subsection (e).

TITLE IV—TREATMENT OF AMOUNTS

SEC. 401. REQUIREMENT OF APPROPRIATIONS.

Notwithstanding any other provision of this Act, any provision of this Act or of any amendment made by this Act that otherwise provides amounts or makes amounts available shall be effective only to the extent or in such amounts as are or have been provided in advance in appropriation Acts.

Mr. LAZIO of New York. Mr. Chairman, pursuant to discussions I have had with the gentleman from Massachusetts, I ask unanimous consent that a time limitation be set on the substitute amendment that is offered by the gentleman from Massachusetts for a total of 60 minutes, 30 minutes controlled by the gentleman from Massachusetts [Mr. KENNEDY] and 30 minutes controlled by myself, with no amendments thereto.

The CHAIRMAN pro tempore. Without objection, the gentleman from Massachusetts [Mr. KENNEDY] will control 30 minutes and the gentleman from New York [Mr. LAZIO] will control 30 minutes.

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this substitute, I think, gets to the cause and the hopes and the dreams of so many of the tens of thousands of very low-income Americans that public housing and assisted housing is designed to protect and provide basic shelter to.

Sponsors of H.R. 2 are trying to portray the choice between the bill that has been proposed by the other side of the aisle and the Democratic substitute as status quo versus reform; between policies which doom the very poor to poverty and despair and policies which give them hope.

It is patently absurd. The Democratic substitute meets all of the goals that the Republicans articulate. It contains all of the reforms that we need in public and assisted housing. The difference between the substitute and H.R. 2 is that H.R. 2 includes a number of radical policies which abandon our commitment to the poor, create more political influence in housing, and create new and unneeded bureaucracies.

The National League of Cities, the very group of people that the sponsors of H.R. 2 claim are going to welcome the block granting of the housing funding, actually oppose the bill because they recognize the terrible and damning results that have occurred as a result of the politicization of housing funds at the local level.

Study after study has been done that indicate that once the funding for housing becomes politicized, once the housing authorities become the dumping grounds of political appointments, that they have, in effect, lost their capabilities of dealing with the housing needs in the local community.

The National League of Cities also urged Members to support the superior substitute bill which is offered by, guess who, JOE KENNEDY. The Clinton administration opposes H.R. 2. The administration formally opposes H.R. 2 and it has listed eight specific provisions that should be amended. All eight administration concerns are met through the provisions of the Democratic substitute.

Public housing groups themselves do not support H.R. 2. If we go through, almost every one of the public housing associations, including NAHRO, have now opposed it.

The substitute eliminates the work disincentives. We have had a perverse situation occurring with regard to public housing over the course of the last several years where, in fact, we have had a disincentive for people in public housing to go to work because, if they do, more of their income would be captured as a result of the elimination of the Brooke amendment. We have continued the Brooke amendment. We have called for flat rents with income disregards and income phase-ins.

The Democratic substitute increases the working poor in public housing. We will hear time and time again that what the Democrats are trying to do is go back to the same-old, same-old policies which ended up with these great monstrosities of public housing where nothing but the poorest of the poor were warehoused. That is not true.

I wish that the Members of this House could listen to this debate without hearing Democrat or Republican, but just listening to the substance of what we are talking about. The difference between the Republican version and the Democratic version is very simple. The Republicans over the next 10 years will throw 80 percent of the very poor out of public housing. Eighty percent of the very poor will be boomed out of public housing. There will not be a requirement that they will be taking single, very low-income people into public housing.

What we will do then is eliminate all the standards with regard to assisted housing. So what we end up with is we end up solving the problems of housing in America by abandoning the poor. That is no solution to the housing problems of our country. That is abandonment of our basic responsibilities. We can look great to the rest of the Congress and to the people all across the country by eliminating all the problems in public housing, but we do it by fundamentally turning our back on the poorest and most vulnerable amongst us. And that is, I think, an abandonment of our basic responsibilities.

This substitutes recognizes the fact we need to have more working families involved in public housing. And over the period of the next 10 years under the bill that we have proposed, 50 percent of the people in public housing would be very, very low-income people and 50 percent of the people would be working families.

What we do not want to do is sentence working families into rental programs. We want, where we can, to encourage home ownership. Families that earn $25 or $30 or $40,000 a year worth of income in every city across America are now eligible for private home ownership programs provided through our banks and insurance companies and others.

That is what Fannie Mae and Freddie Mac and all the rest of the organizations are set up to provide; home ownership. Why sentence people that can afford to own their own homes into becoming tenants? What we are trying to suggest is that there are some very low-income people.

We have cut the housing budget in this country from close to $30 billion, $28 billion, down to just $20 billion. We have cut the homeless budget of America by 25 percent, and then we come back and we say now that we have done that, in order to keep the local housing authorities moving forward, what we really need to do is throw the poor people out of public housing. We need to jack up the rents so that the public housing authorities do not go under and, by the way, we will cut the homeless budget. It is a crazy thing to do. It does not solve the problems of America, but it does solve the problem of the Congress.

So I ask my colleagues to please consider looking at what is actually contained in the substitute, recognizing we have gotten rid of the work disincentives, recognizing we do come up with a much better mix of working families and the poor in low-income housing, and recognizing that if we

want to take a radical approach of block granting the funding, of making additional bureaucratic responsibilities, of telling people they have to come up with personal improvement programs and voluntary mandatory work requirements, then we go ahead and put in and institute what H.R. 2 calls for.

But if we are really interested in fixing up public housing, if we are really interested in making certain that we take care of the very poor, there is nothing wrong with targeting the meager funds we put into public housing. There is nothing wrong with making sure that those meager funds end up serving the poorest and most vulnerable people in America.

So I urge my colleagues to support the substitute amendment to H.R. 2 and oppose the provisions of this radical approach that has been authored by the other side of the aisle.

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

Mr. LAZIO of New York. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I say to my colleagues that they ought not to just be listening to this debate but reading the bill itself, because, clearly, there have been some misrepresentations about what this bill does.

We do not have to go very far. Just read it in black and white where it says, in the bill, that at least 35 percent of all the units in public housing must be reserved for those people below 30 percent of median income, keeping no public housing authority from ensuring that every single unit that it has, if it wants, can go to the poorest of the poor.

But we are saying that if one has a minimum wage job and just happens to be married to someone else who has a minimum wage job, then that individual ought also to be able to participate in it. And under this substitute those individuals would be shut out.

The gentleman from Massachusetts indicates that people would be thrown out. There is absolutely nothing in this bill that would throw out one low-income person from public housing. Not one. Not one.

The gentleman from Massachusetts mentions that the rents will go up. How? Under current law, under current law people's rents are tied to their income in this manner. People must pay 30 percent of their income in rent. They cannot pay less than that. They must pay 30 percent of their income in rent.

Under this bill, under H.R. 2, tenants will have an annual choice to pay either up to 30 percent, and it might be lower, or to choose a flat rent that is predetermined by the housing authority. And in that sense, for many residents who are working, that will be a significantly lower rent than exists under current law. And under no condition, under no condition under this bill will people pay a dime more than they are paying right now.

So the characterizations here on this floor must mesh with the language in the bill. In fact, the Kennedy substitute is nothing more than a watered down version of the administration's bill, which also seeks a very meek, mild, look-the-other-way approach to the failure of public housing in some of our Nation's largest cities.

We cannot afford to look the other way. We cannot afford to condemn another generation of teenagers and young people to the type of public housing that exists in some of our cities where they do not have a chance for hope and opportunity. We say give people a choice, reward work, make sure that families can stay together and protect levels of excellence.

□ 1345

Mr. KENNEDY of Massachusetts. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would just like to point out that this is the first time the gentleman has ever accused me of a meek and mild approach to anything. I would just point out that if Members read not just the big print but the small print of this bill, they will find that under the fungibility rules that have been proposed, there is not a single unit of affordable housing for the very poor that has to go by any public housing authority to the very poor. Second, the way the rents get jacked up is by virtue of the fact that we are going to create an enormous incentive by the local housing authority to go and get wealthier tenants. That means greater amounts of rent are going to be generated because of the incomes of the families. I am not suggesting the individual rents on the people are going to go up, but what we are doing is creating a policy that funnels wealthier and wealthier people into public housing itself. That is what the problem with the bill is.

Mr. LAZIO of New York. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, what the gentleman from Massachusetts calls wealthy are people that are making minimum wage or 50 cents or a dollar more than minimum wage. That is where we have broad disagreement, where the gentleman looks at people who are working for minimum wage in entry-level jobs and sees them as wealthy and able to support rent at a market rate. In fact I look at it and many Members who support these efforts look at this and say that people who are struggling to work, who accept the challenge of a minimum wage job, should not be shut out. They should be helped. This is one of the dividing lines between, I think, our two different perspectives. In fact, under the requirements of this bill, the public housing authority must set aside at least 40 percent of its units for vouchers for the poorest of the poor, at least 35 percent of its units, and yes, it can mix and match between those two, but in either case it must meet the minimum standards of meeting the demands of the poorest of the poor, people making below 30 percent of median income.

Mr. Chairman, I yield 5¼ minutes to the gentleman from Iowa [Mr. LEACH], the distinguished chairman of the Committee on Banking and Financial Services.

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

Mr. Chairman, let me go first to the principle of this bill under the Kennedy amendment that I think is very important. While the gentleman from Massachusetts [Mr. KENNEDY] earlier in the debate in prior days had offered an amendment to increase the funding by 50 percent, his amendment on the floor today, as I understand it, has no increase in funding. So what we are dealing with is the same dollar levels as the committee bill, is that correct?

Mr. KENNEDY of Massachusetts. If the gentleman will yield, there is no funding whatsoever contained in this particular provision. We would be happy, if the chairman wanted to increase it back to the funding levels of last year, to entertain an amendment to our amendment.

Mr. LEACH. I would recapture my time.

I would only stress to the committee and to the Members that these are the same numbers as the committee product.

Mr. KENNEDY of Massachusetts. Mr. Chairman, it is not the same.

Mr. LEACH. There is no effort to raise or decrease in the gentleman's amendment. I just make this clear to the committee.

Mr. KENNEDY of Massachusetts. Mr. Chairman, will the gentleman yield just for a clarification?

Mr. LEACH. I have a limited amount of time. I would like to ask to proceed at my own pace.

Mr. Chairman, we also would stress that the committee's numbers are precisely the same numbers as the Department of Housing and Urban Development, whose secretary is Mr. Cuomo, the gentleman's brother-in-law.

The other point I would like to make here is that it has been my impression as a Member who has been here almost two decades that one of the reasons the total budget has to be out of whack in virtually every area of Federal spending, including housing, is the terrific pressure from each constituency group's perspective that has been brought to bear. When Members establish reputations for always increasing a program, they come to be known as the person that most defends that particular constituency and, therefore, there is a particular appreciation from that constituency that is extended.

But when numbers get out of whack, the fact of the matter is that the sum budget totals can be at times counterproductive. So from a constituency's point of view, there might well be a desire for more numbers, despite the fact that the general public is often disadvantaged. That is why we have these huge deficits and that is one of the reasons why the growth in the economy

has been less impressive than otherwise.

I would stress to the Members of this body that when the Republican Party came into power in 1994, there was an effort to constrain the budget, including housing. When that effort came to pass, and it usually takes about a year for effects to spin out in the economy, it is impressive that American economic growth has increased.

Based on increased American economic growth, there are now more revenues coming into the treasury that have made possible the recent budget agreement between the executive and legislative branches that has just come to pass, based on new projections of more revenue coming in.

If we have budgets that are increasingly out of whack, we are not only being unfair to young people in particular, who will be paying Federal debt obligations back for the next 30 years, but we will have less economic growth and thus fewer jobs in the economy.

Mr. KENNEDY of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. LEACH. I will not yield at this point to the gentleman from Massachusetts [Mr. KENNEDY]. I have been very patient, and the gentleman has interrupted every statement I have made in the last 2 weeks. I would ask for the gentleman's consideration. At the end of a debate it is often considered etiquette to let both sides express their perspective uninterrupted.

I would ask the Chair to be allowed to continue and not to have this time counted against me.

The CHAIRMAN pro tempore [Mr. RIGGS]. The gentleman may proceed.

Mr. LEACH. I would also like to address the issue of compassion. Sometimes it is argued that to have more numbers is extremely compassionate. This side has been accused in this debate earlier of being steely.

The fact of the matter is it can be more compassionate to have more economic growth. There can be philosophical differences that can be meted out on various issues at various points in time. But this side is proceeding under the obligation to be more constrained, to operate within budget agreements, to operate in coordination with the administration under a belief that to increase spending would be uncompassionate, not compassionate.

Finally, let me just say that in my view the gentleman from New York [Mr. LAZIO] has brought to this floor a signally reform-oriented bill that will establish him as one of the great architects of a new housing approach, and I think this entire House should give the gentleman from New York [Mr. LAZIO] a great deal of credit.

In this regard, I would also commend the gentleman from Massachusetts [Mr. KENNEDY] for bringing out an amendment that from the other side's perspective I think is quite credible. I would hope our side would not be persuaded by it.

In this regard, though, I would ask the other side to recognize that this committee has brought out a number 100 percent identical with the administration's request, general precepts largely in symmetry with the administration's request. In that process I would hope that on final passage the other side would give this committee the benefit of the doubt in working with the administration, in coming out with the precise budget numbers. If the committee works with the administration and then is voted against, it is very awkward for Congress to proceed on a reasonable basis.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I yield myself 30 seconds to respond.

Mr. Chairman, I would just like to point out to the gentleman that while he has been showing such great leadership in terms of allowing the housing budget to be cut back, we have not seen that amongst a lot of other chairmen in his party. Other chairmen in his party come in here and request $14 billion more in the defense bill than the Joint Chiefs of Staff required. Not a single penny came out of any of the funds that went to any of the big corporations in America. Eighty percent of the budget cuts which came out of his party affected the very poor and that is who is affected by this bill. That is a shame on this Congress, it is a shame on the gentleman, and it is a shame on the administration that they have not come in with more money for housing.

Mr. LAZIO of New York. Mr. Chairman, I yield 30 seconds to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Chairman, I would only respond briefly. I think perspective has to be applied. The gentleman is correct that a year ago the budget came in less than the prior year. But this budget is precisely the same as the prior year, precisely the same as the administration has requested.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I yield myself 5 seconds. This year's is the same as last year's which was cut by $8 billion.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. GONZALEZ], the former chairman of the committee.

Mr. GONZALEZ. I thank the gentleman from Massachusetts [Mr. KENNEDY] for yielding me this time.

Mr. Chairman, I have a much longer perspective on housing problems than most of my colleagues. As a younger man, I helped develop the first public housing in San Antonio. Today there are thousands of people living in San Antonio, housed in safe, decent, affordable public housing.

My colleagues on the Republican side have drawn a grotesquely distorted picture of public housing in America today.

The truth is that the majority of public housing is safe, it is decent, and it is well-run. Are there problems? Of course there are. But I say to my colleagues that our cities will not be made better by excluding poor families from public housing. The truth is that excluding the poorest from public housing only means that they will live in the meanest neighborhoods, on the meanest streets. To pretend that we are solving the problems of public housing by reinventing Hell's Kitchen is obviously very foolish.

What this bill does is to solve the financial problems of the local housing agencies by encouraging them to get rid of the poorest of the tenants as rapidly as possible, by a variety of means: excluding them from admission in the first place, or making it easier to get rid of them if they are already there.

I say to my colleagues that in the meanest and most miserable of circumstances, people have pride. They want dignity and they certainly want a better life.

In San Antonio, one of the most common types of tenements was a wooden, tin-roof lean-to in the form of a square with an open area in the center. Around that courtyard would be single rooms. The only water was a common tap in the courtyard. There might be only one pit privy serving 50 or more people. It was squalid, unhealthy, disgraceful, and I hate to even recall those episodes. However, that was the only thing affordable.

This is the kind of slum that public housing helped to eradicate. I say to my colleagues that the worst public housing in my city is better, it is cleaner, and it is safer than those that we called corrals, for this is what they were called.

A few years ago, I visited farm worker housing all over America, and some of it was worse than a chicken coop—two of the places I visited had been built to house Nazi prisoners of war. The people who live in such places are not lazy or shiftless, as my Republican friends seem to think. These are in fact people who look desperately for work, and who work desperately hard. One of them cried to me: "Mr. GONZALEZ, I am so ashamed. We do not want to live this way, but this is all we can do."

My friends, the people who live in the worst of public housing do not want to live that way, either. Their choice is to accept what they have, or to go to conditions that are even worse.

The solution to public housing problems is not to throw out the poor, but to build decent housing.

The substitute offered by the gentleman from Massachusetts makes sense. It tries to do the best possible for the greatest possible number.

The substitutes recognizes and rewards work, so that residents of public housing will be able to keep more of what they earn.

The substitute improves crime control programs in public housing, and it allows local housing agencies greater flexibility, while at the same time demanding greater accountability from them.

I remind you: in my city, the very worst of public housing is better than the conditions which that housing replaced. If we want to solve the social problems of the poor, we have

to provide opportunities, and not merely demand that the victims heal themselves.

Support the substitute. It makes sense, and it works better. Before you vote for this bill, think about the people I know, who live in tin sheds with dirt floors and no kitchen or plumbing, and who work hard—and who feel shamed, because they feel the scorn of those who say: ''they deserve their fate.'' My friends, there but for the grace of God, you would be.

Vote for the substitute.

Mr. LAZIO of New York. Mr. Chairman, just before yielding to the gentleman from Nebraska, if I can yield myself 15 seconds and just note, it is very curious in talking about dollars that just 2 weeks ago, over $5 billion of unspent money was uncovered hidden under rocks over at HUD that could have been spent to deal with some of these issues. The issue here is not just money, it is about management, it is about integrity.

Mr. Chairman, I yield 3 minutes to the gentleman from Nebraska [Mr. BEREUTER], a distinguished member of the Committee on Banking and Financial Services.

(Mr. BEREUTER asked and was given permission to revise and extend his remarks.)

□ 1400

Mr. BEREUTER. Mr. Chairman, I thought it might be helpful to explain the kind of reforms that are not contained in the Kennedy substitute. I want to go over those major reforms that are in the legislation but not in the Kennedy substitute.

The Kennedy substitute does not provide for family rent choice. It does not target fungibility between public housing and choice-based programs. It does not provide for the home rule flexibility grant option which we have in title IV. It does not include the accreditation board. It is controversial, but the House has spoken on that issue. It does not provide the Traficant CDBG antipiracy and regional cooperation provisions. It does not include the Jackson-Lee amendment to section 3 regarding resident employment. It does not require consultation with affected areas in settlement of litigation. It does not require the Klink-Doyle consultation with local governments' requirement regarding the building of new public housing. It does not provide for block grant provisions for small PHAs. It does not have improvements in the least in grievance compromise. It does not include technical corrections to legal alien provisions governing public housing. It does not include the prohibition of national occupancy standards. Those occupancy standards, I would suggest, should be a matter of local decisions, local regulations or at most, State law.

Now these are the very important reform elements that are contained in H.R. 2 but which are not contained in the Kennedy substitute. I think they are very important. I think, therefore, these reforms are very necessary for public housing authorities and for the residents that live in them and for the people that attempt to run our public housing agencies and for the governing bodies in those jurisdictions.

Mr. Chairman, we should reject the Kennedy substitute and support the passage of the legislation.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. WATT], my good friend.

Mr. WATT of North Carolina. Mr. Chairman, let me start by saying that we have never postured this as a choice between just the worst possible bill in the world and the status quo. It was my colleagues on the other side who did that. This bill is marginally better than it was last year, and I am going to vote against it because it just has some terrible provisions in it, even though some of the things in it are good.

We should support the substitute, the Kennedy substitute, because it is better, but none of us should talk ourselves into believing that either of these bills is going to solve all the problems of the poor as some of my colleagues seem to be insinuating their bill is going to do. These bills are not even going to solve the housing problems of the poor, much less all of the problems of the poor. But the substitute of the gentleman from Massachusetts [Mr. KENNEDY] is light years better because it puts emphasis on the drug elimination grant program, which is actually the thing I hear the most when I go home: How can we deal with drugs in these public housing units? What help can the Federal Government give us to deal with this problem? We encourage under Mr. KENNEDY's substitute community service, but we do not mandate it. We do not force people to go out there and work for nothing, which is what the main bill does, and we encourage an income mix in both public housing and in the voucher program, and we try to do it in such a way that we do not end up pitting the very poor against the working poor, which is what ends up happening under the main bill here.

All of those things are compelling reasons that this Kennedy substitute is a better alternative than the underlying bill. It is not a choice between doing nothing, maintaining the status quo, but this is a better substitute, and we should support it.

Mr. LAZIO of New York. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Delaware [Mr. CASTLE] the former Governor and member of the Committee on Banking and Financial Services.

Mr. CASTLE. Mr. Chairman, I agree to some degree with the gentleman from North Carolina [Mr. WATT] who just spoke. I do not think either of these bills is going to be the be all and end all in terms of solving the problems with respect to poor people or people in housing in general. But we have to look at which one would do better, and I come down strongly on the side of H.R. 2.

I believe that we should look back to the welfare reform bill last year in which there were dire predictions by many people on this floor that this would be a disaster for the poor; if we pass this piece of legislation, they would be held poor forever and perhaps even poorer, and there would be all manner of problems in this country.

Now I seem to read more and more articles and hear more and more people begin to say it has given hope and opportunity to individuals, and that may not be universally true, and I am sure it is not, and anecdotally there are probably stories against it. But the same thing is true, I think, of this housing bill. I have visited housing in Delaware many, many times, I have spoken to the people running it, and I frankly think they need more flexibility in terms of how they are running housing authorities there and across this country. I believe that a greater mixture of individuals, both by neighborhoods and who lives in particular areas, is extremely important in trying to help with the development of the community. I happen not to be opposed to the community service. I believe that is an opportunity for individuals and so becomes important as well. I think some of the operating formula incentives are going to make housing authorities better than they are now. It is going to make them think a little bit more and, I think, manage better.

And there are a lot of things that we can talk about here, Mr. Chairman, as we look at this bill. We go down and compare details to details, and I give a lot of credit frankly to both sides because I think people care a lot about housing. But I believe that the bottom line is that we truly need to introduce change into the housing programs in this country. They have been without change now for years, in fact decades, and the time has come to provide that opportunity, and I think H.R. 2 does that.

And I think that the minority side has been listened to. There are a lot of amendments in this legislation. Most of them are from the minority side. Most of them I think are good, by the way. They have been adopted and are part of the bill.

So for that reason I would encourage support for H.R. 2 by everybody, once we have taken care of the amendment.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. VENTO], my good friend.

(Mr. VENTO asked and was given permission to revise and extend his remarks.)

Mr. VENTO. Mr. Chairman, I rise in support of the Kennedy substitute, and it is true, I think, that this bill that the committee has presented as representing a better product than last year, but I think there are some fundamental problems with the bill, there are some fundamental problems.

I have, as an example, when we look at the 3,400 public housing authorities

and we talk about a hundred of them having problems, and the fact is that HUD, we wanted HUD to reassert itself and take more control of the public housing authority. But what this bill does is to block grant, send a lot of money back to the same public housing authorities, and as if that were not enough, they have had a lot of autonomy and they have sometimes failed, but most of them have been pretty good.

But if that were not enough, we are sending back a lot more requirements. Because they have trouble running the housing, doing income verification and all the other problems we are saying, and in addition to that we are going to put in place a mandatory community service program. As my colleagues know, the fact is we passed welfare reform. I happen to be someone that voted for it. I think there are a lot of problems with the legal immigrants and some other issues with it, but the fact is we do not have to reinvent it in the housing bill, and we sure do not have to give that responsibility to those public housing authorities to run a whole program on community service.

Mr. Chairman, it does not make any sense, just like it does not make any sense, we have got one HUD, we do not need an accreditation board, we do not need a two-headed HUD. One is enough. But if my colleagues want someone to compete up there, to be fighting and disputing it, that is a problem.

How about income verification? Do we need to raise the incomes in public housing? The average income for a family now is about $6,700. I point out to my subcommittee chairman that the minimum wage pays about 10 grand a year, but this bill does not go just to 17 percent of median, which is $6,500; it goes up to 80 percent. And what we are saying, if our colleagues are worried about minimum wage, that is closer to 25 percent of median than 80. Eighty percent is 2½ times the poverty rate. In some communities that is $40,000. So check the numbers, look at what is being done.

Mr. Chairman, I think that if that is what our colleagues want to do is deal with those in minimum wage and to provide working poor with housing, then we have to deal with it. But we have 16 million people in this country; 16 million families, pardon me, that qualify for public housing, we got about 4 million units. And so we have to differentiate in how we are going to do this. Do they need more flexibility? Do we need to deal with one to one? Yes.

But the Kennedy approach is the right approach. We do not need another HUD. We do not need another reinvention of welfare reform and another job for the public housing authorities. We need to keep HUD in charge and hold them accountable, talk about money under rocks that they found. I will tell my colleagues, go over to the Defense Department and they will find a lot more money under rocks. But the fact is if they are going to reach in and take that money back when trying to hold people accountable in terms of how to use it and then complain about the fact that they are doing that, and they are going to take and spend it, I will tell my colleagues that we are going to end up short when we go to reauthorize the section 8 programs or when we reauthorize some of the other programs.

So I think the Kennedy substitute is the best option we have. I appreciate the fact that the chairman has tried to work through some of these issues, but we have not got there. So I think we better vote for the Kennedy substitute today.

Mr. LAZIO of New York. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I just want to mention in response to the comments of the gentleman from Minnesota that were completely accurate, we are talking about the family with two minimum wage jobs. The gentleman, I think, was referring to families with one minimum wage job, and people with two minimum wage jobs, a family where a husband and wife working at minimum wage, would effectively be shut out of vouchers under this substitute.

Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. BAKER], a distinguished member of the Committee on Banking and Financial Services.

Mr. BAKER. I thank the gentleman from New York for yielding this time to me.

Mr. Chairman, this is indeed a pivotal moment for us. With the consideration of the Kennedy substitute, Members can vote to support it and fight to cling onto what simply has not worked.

There are, in fact, public housing authorities around the country who have used appropriate management skills, and there are public housing units which are well kept, but unfortunately for the vast numbers of people who must live in the very large urban-centered housing authorities of this country, conditions are terrible, and the Kennedy substitute in my opinion will do nothing, if anything at all, to rectify that problem.

Mr. Chairman, if we are able to defeat the Kennedy substitute and move then to final passage in the adoption of the proposal as put forward by the chairman of the subcommittee, amended by 27 amendments from the Democrat side, we will make a significant new approach to public housing in this country. We will say to individuals who do not choose to be there most of the time:

''We're going to help you, but we're going to help you for a while, and we're going to ask you in return for that help to improve your own circumstance in life, get out and try to find work in the community, volunteer as it may be, to learn job skills, people skills. You may even find a job that pays you money while you are out doing this volunteer work''; because taxpayers in this country are saying, ''We don't object to helping people who truly are in need. We will extend a hand to someone who is injured, who is unemployed, who has found difficult times with his wife and family, who wants to help themselves. But we are saying that public housing in this Nation should not become a retirement community for people who will not try for themselves or their own families.''

This is a pivotal change. It is an important change. We cannot continue to pour billions of dollars into programs with 40 years of experience which have proven to fail and, more importantly, take more than decent living conditions away from people. They take their hope, their vision, their opportunity for a future because all they see is poverty. They do not see working dads or moms at home with kids or even businesses at their front door. They see drug dealers, broken-down apartment buildings and no hope, where the police are scared to come.

This is a pivotal decision. It is critical to our Nation's future to give back to the working poor and the poor of this country the belief that if they try, we will help them, and that there is a price to pay if they do not make the effort for their own family. This is an integral part of our overall social services reform, where last year a majority of the Democrats in an almost unanimous Republican vote voted to impose work requirements of 20 hours a week for those who receive social services, soon to go to 80 hours a month, then to 100 hours a month and to increase thereafter.

Mr. Chairman, it is not a new concept, it is not difficult, we know it works, and today we will make the change.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I yield myself 30 second to respond.

Mr. Chairman, first I just want to make certain that people understand that in this bill, in the Kennedy alternative, we have provisions that say if two individuals working in the same family, both of them earn minimum wage, they are eligible for public housing. Check the figures. They earn $25,000 a year, check the figures. In almost every major American city they, in fact, qualify for the public housing targeting amendments that we have today.

My concern is not those individuals in terms of public housing. We ought to have home ownership programs. They can afford it. We ought to get them the homes they need.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Michigan [Ms. KILPATRICK].

□ 1415

Ms. KILPATRICK. Mr. Chairman, I thank the gentleman from Massachusetts [Mr. KENNEDY], our ranking member, for yielding to me as we continue our debate on H.R. 2.

I rise in support of the Kennedy substitute. As was mentioned earlier, in 1937, then Franklin Delano Roosevelt, the President of this great country, signed into law the Public Housing Act. This bill, H.R. 2 before us, will be a total repeal of that act.

What is needed then and is needed today: housing for the least of these. The Kennedy substitute will allow more people to have homes, more children to live in homes. H.R. 2, in its original version, will increase the homeless population in America.

There are 650 laws that are affected by this H.R. 2 implementation, if it passes on this floor today. Someone mentioned earlier two minimum wage jobs. Is that what we want in America, two minimum wage jobs for working families? One cannot live on minimum wage. What people want to do is work in good-paying jobs and to take care of their families.

There are over 16 million people who qualify to live in public housing because they are in that poverty scene and want to get out. We have only 4 million public housing units. So let us not stand here and say how great it is to live in public housing. Most people, including all of us, want better housing than that.

The Kennedy substitute addresses those concerns. It does allow for people who find themselves in poverty. Decent, adequate housing will not increase the homeless population and will allow people to look for work. We need to be talking about work in this legislature. How do you find good-paying jobs for people so that they can work and take care of their families? The Kennedy substitute best meets that.

As was said earlier, this is not a panacea. There is still much work to be done in America, much work to be done in this Congress. Good-paying jobs are what we need, and quality education so people can rise to the level to take care of themselves and live in fine housing. I urge my colleagues to support the Kennedy substitute.

Mr. LAZIO of New York. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Montana [Mr. HILL].

Mr. HILL. Mr. Chairman, I thank the gentleman from New York [Mr. LAZIO] for yielding me this time.

I rise to express my strong support for H.R. 2, and I think when we talk about the substitute we have to think about what is the problem that we are trying to address in this legislation. The first problem, the most apparent problem is that we have had 20 years of misguided policy that has focused on a principle of providing housing and housing alone for the poorest of the poor. The result of that has been destroyed neighborhoods. These are neighborhoods that often do not have stores, they often do not have banks, they generally do not have employers. These are neighborhoods without hope and these are neighborhoods without opportunity.

H.R. 2 is about more than providing housing. It is about creating healthy neighborhoods. It is about creating healthy communities.

The Kennedy substitute stops doing the worst, but the problem with it is that it is incomplete. It does not have a vision for the future. It does not create a mechanism, it does not allow for the flexibility for real change in those neighborhoods. It is like comparing a passive approach with the active approach that is engaged in H.R. 2.

As I say, it is not that it is bad, it is just that it is incomplete because it does nothing to change this culture of dependency. The Kennedy substitute does nothing to ask residents to give something back to their community. It does nothing to create mixed income communities. It does nothing to create opportunity in those communities, as well. Simply speaking, the Kennedy substitute is short on vision, it is short on hope, and it is short on opportunity.

We have a clear choice on this vote. If we vote down the Kennedy substitute and vote for H.R. 2, we are going to create more hope and opportunity in our neighborhoods. Vote ''yes'' on H.R. 2.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I yield 2 minutes and 10 seconds to the gentleman from Illinois [Mr. JACKSON], my good friend who did such a great job on this debate.

Mr. JACKSON of Illinois. Mr. Chairman, let me first congratulate the chairman of the subcommittee, [Mr. LAZIO], who I genuinely believe has made sincere efforts to reform public housing in this country. I also want to congratulate our ranking member [Mr. KENNEDY] for his sincere efforts to reform public housing in this Nation, as well.

Mr. Chairman, our position, however, it occurs to me, is to determine who is sincerely right and who is sincerely wrong. How do we determine, Mr. Chairman, who is right and who is wrong? There is only one standard for which we should implore when we vote on H.R. 2, to determine who is right and who is wrong, and that is the ''do unto others as we would have them do unto us'' standard.

Mr. Chairman, just no Member of Congress, all of us who receive 100 percent of our paychecks from the public, is being asked to give 8 hours of our time per month in exchange for the very real public benefit that we receive; just not one of us who receives a mortgage deduction or any Federal benefit, including mining rights, including farm subsidies or corporate welfare. We tried yesterday in committee to attach to the Import-Export Bank legislation an 8-hour mandatory community service, since it is corporate welfare for corporations doing risky business in other parts of our country. Just no one.

We have tried to attach it to other forms of corporate welfare, and yet the majority consistently rejects adding 8 hours of community service in exchange for their Federal benefit to any particular piece of legislation that comes before this Congress. Defense appropriations, it will be coming up shortly, and at no point in time will we ever mandate of them voluntarism.

Only in this bill for the first time, to the best of my knowledge, since 1865, only in this bill for the first time since 1865 do we treat a different set of Americans any different than we have ever treated another group of Americans.

Mr. Chairman, vote for the Kennedy substitute and against this draconian bill.

Mr. LAZIO of New York. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Florida [Mr. FOLEY].

Mr. FOLEY. Mr. Chairman, I do have to take a moment to congratulate the chairman of the subcommittee, [Mr. LAZIO] for a phenomenal job in trying to reform the public housing policies of this Nation.

A lot of times we have votes on this floor that are partisan, but I can assure my colleagues on this bill, this is a bipartisan effort. Out of 37 amendments adopted at the committee's markup, 29 were from the minority. So clearly, we were willing to negotiate, debate, and prevent this bill from being simply labeled a partisan attack on others.

Clearly, when we have been able to watch communities work on housing initiatives directed at improving people's lives, they have largely been successful. The Federal Government would rather trap people in housing that few Members in this Chamber would dare live in, or visit. The idea of the bill is to give incentives and opportunities. The Kennedy substitute encourages residents to contribute 8 hours a month. Yes, we require it. We do not think anything is wrong in requiring people to perform a community service when they have been given something.

Now, I clearly, and Members of Congress, spend numerous hours in our communities helping the Red Cross, American Cancer Society, Habitat for Humanity, AIDS coalitions, and other groups. Many, many hours we donate and volunteer, even though we are paid by Federal taxpayers.

Clearly in this bill we are trying to give people a part of the American dream, not trap them in rental housing where they cannot grow and develop strong family commitments and bonds. We see in this bill, while not a perfect bill, a chance to reinvigorate inner cities, to give people hope and opportunity, to give them something to strive for and, yes, ask them to participate in voluntarism.

Mr. JACKSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. JACKSON of Illinois. Mr. Chairman, I thank my colleague for yielding who I have enjoyed participating with on this debate over the course of the last 3 weeks.

Mr. Chairman, I want to make it clear that there is a distinction that

should be drawn between our voluntarism because it is innovating from our own will or self-reliance, without coercion and threatening one's eviction, without compensation in exchange for what we are terming a volunteer effort. There is a distinction that should be drawn between mandatory voluntarism and one that is not mandatory.

Mr. FOLEY. Mr. Chairman, reclaiming my time, the one thing I am thrilled about in the bill is that we create so many carve-outs that if someone is in a vocational or technical program, going to school, if they are caring for an aged parent, if you will, if they are sick themselves, there are so many carve-outs that only those that choose to stay home and do nothing are required then to commit 8 hours of service. That is the beauty of this bill, is that we are not telling people if they are physically incapable of working that they have to somehow go clean up streets or clean graffiti off walls.

When I go home to my district and talk to my constituents, many of them earning meager wages, many of them who could qualify for public housing, when I ask them if it is something so onerous to ask them for give 8 hours of service for that housing, they say, ''Mark, that is simple. That is easy. You should do it.''

Mr. KENNEDY of Massachusetts. Mr. Chairman, I yield 2 minutes to my good friend, the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Chairman, the Republican majority claims that H.R. 2 is reform. Tearing down an essential program is not reform. I wonder if my colleagues on the other side of the aisle understand the kind of human misery that their reform will cause.

If they are serious about fixing public housing, they must do so without abandoning the very poor. Congress must ensure that these families still have a decent and affordable place to call home. The problem with the Republican majority is that when something goes wrong and does not work, they want to dismantle it. Well, the American public thinks that this institution does not work. Are we going to dismantle it, too?

Through reasonable targeting requirements, the Democratic substitute continues assisting the most disadvantaged households, while increasing the availability of public housing to the working poor. H.R. 2 will simply deny millions of women and their children shelter.

What is more ironic, the Republicans are fond of claiming that H.R. 2 promotes self-sufficiency. Be honest. How can we expect a family to achieve stability if parents are forced to work without pay? The Kennedy substitute replaces enforced labor with provisions that encourage work, giving families a true chance to achieve the American dream.

Mr. Chairman, instead of addressing the real needs of real families, H.R. 2 offers despair and misery. I urge all of my colleagues to support the Kennedy substitute and guard our commitment to safe and affordable housing.

Mr. LAZIO of New York. Mr. Chairman, I yield myself 30 seconds.

I would just note that we are in the process of trying to overhaul public housing for the first time, at least in any significant sense, in over 60 years; and if we prove in this House that we cannot correct this problem, if we establish that we will continue to look the other way when we see failure, then we certainly will present an opportunity for those people who believe that the Federal partnership in low-income housing is one that is futile to support.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. ROYBAL-ALLARD].

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in strong support of the Kennedy substitute and in strong opposition to H.R. 2.

H.R. 2 is an unprecedented and indefensible retreat from the Federal Government's 60-year commitment to those in greatest need of housing assistance, our Nation's poor. Although proponents argue that the bill promotes local flexibility in the administration of public housing programs, that flexibility is achieved at too high a human cost.

Experts agree that access to affordable housing is the No. 1 problem confronting needy families, yet H.R. 2 will allow housing authorities to replace poor families with those whose incomes are as high as $40,000 a year in some parts of the country.

□ 1430

This will remove a critical safety net for tens of thousands of poor families well into the next millennium as they seek to move from welfare to work. As a result, their only options are to resort to dilapidated, substandard housing, if they can find it, or to join the growing ranks of the homeless. This is a new American tragedy in the making.

The Democratic substitute, however, reforms the public housing system without punishing those in greatest need of our help. It offers local flexibility without sacrificing accountability, and it provides sensible, workable reforms to public housing programs, and most importantly, it reinstates the Brooke amendment that ensures that poor families receive a fair share of housing assistance.

On behalf of poor and working families throughout the Nation, I urge my colleagues to support the Kennedy substitute.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK], originally from my State.

Mr. FRANK of Massachusetts. Mr. Chairman, if the claims being made on behalf of the majority's bill were valid, I would support it. If rhetoric could cure poverty after this debate, there would not be a poor person left anywhere in public housing. But this bill that the majority has brought forward has literally not one thing in it that helps anyone leave poverty, get a job, or improve herself.

It does require you, if you live in public housing, to work 8 hours a month, and despite what was said earlier, inaccurately, even if you are the primary caregiver of someone unable to take care of himself or herself. Someone got carried away and thought the amendment of the gentleman from Illinois had been adopted, but it was not.

So what we say is that if you are a poor person living in public housing and you are even the caregiver to someone, you still have to do the 8 hours a month, even if the housing authority believes that given the conditions in which you live, it really would not be terribly useful.

It says you have to sign a contract promising that some day you will be a richer person. It does not provide you with a single tool to do that. The major way this bill improves public housing is by reducing the number of very poor people in it. I grant that point.

If our unit of worth is an entity known as the public housing authority and if we are measuring not the good we have done for humanity, not the extent to which we have alleviated social problems, not the extent to which we have dealt with our fellow citizens who are deeply embedded in poverty, but if the measure is what does the housing authority look like and what is the average in that housing authority, then you have made it better. But you have made it better at the cost of excluding the poorest people, some of them, from this effort.

If we wanted to really go after the problems in public housing, we would begin by solving the number one problem: inadequate resources. For decades we have caused a problem by trying to take care of the poor too cheaply. We do not alleviate that from the standpoint of humane goals by simply reducing the number of poor people we are trying to help.

My friend, the gentleman from Delaware, said, well, let us look at the welfare bill. We made predictions about the welfare bill that were not coming true. Has he been in some other country for the past month? My recollection is that the first part of the welfare bill that is taking effect, that dealing with legal immigrants, part of the welfare bill that I proudly voted against, is causing such havoc and such pain that the bipartisan leadership agreement substantially repeals that part of the welfare bill.

How can anyone talk about the great success of the welfare bill and ignore the fact, remember, the AFDC part, that is a 5-year time limit. That has not gone into effect yet. But the legal

immigrant parts have been widely considered to be such a disaster that billions of dollars of the bipartisan agreement are going to alleviate that mistake. This is a similar mistake: Resolve the problem by simply legislating the people out of existence, as far as we are concerned. That is not worthy of this House.

Mr. LAZIO of New York. Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from Florida [Mr. SHAW], the chairman of the subcommittee on Human Resources of the Committee on Ways and Means.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding time to me. I had not intended to speak on this particular bill until I saw my friend, the gentleman from Massachusetts, putting forth some information with regard to the welfare reform bill.

I might tell the gentleman that the welfare reform bill has probably been the most single successful piece of legislation that has passed this Congress in decades. Thousands of people, hundreds of thousands of people, are leaving the welfare rolls. Unfortunately, so many of our liberal legislators could not really see that these people had a self-worth, and really all they needed was a little bit of a shove and incentive to go out and do the right thing, and to find a job. We have found that nowhere in our history have we seen the rolls fall as they have, no matter what the prosperity, as they have over the last year and a half. It is absolutely phenomenal.

He says the limitation has not gone into effect. People know that the limitation is in effect in many of the States who are far ahead of the curve. His own State of Massachusetts, as well as Wisconsin and Michigan and Indiana, Delaware, these States have been very progressive in welfare reform, and their rolls, the people on welfare, have dropped considerably.

Mr. Chairman, I would say to have faith in the poor of this country. Just because somebody is poor does not mean that that person is not out there looking for a job. The question is, is welfare reform working. Of course it is working. I do not see how anybody can stand in this Chamber and say it is not working, because it is.

I would say to my friend, have more faith in the poor of this country. Just because someone is poor does not mean that they do not care about their family, they do not care about their future, and there are so many people out there that are finding that there is a real future out there. They can share in the American dream.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, first of all, I want to point out that the gentleman has just eloquently refuted something I never said. I was talking in fact explicitly not about AFDC recipients, because I do not believe that a bill that passed less than a year ago and has not gone into effect yet is the major factor affecting them.

I was talking, as the gentleman quite understandably ignored, about the parts of his bill that I believe victimize legal immigrants, and which contrary to his views, is being repudiated by the Republican leadership and the President. The gentleman totally misstated my remarks.

Mr. SHAW. Reclaiming my time, Mr. Chairman, I would say to the gentleman, the SSI rolls among noncitizens was escalating at roughly 10 times the speed it was for citizens. I would also tell the gentleman that of money spent on the elderly, over 51 percent was being spent on noncitizens.

I would also tell the gentleman that we have reached an accommodation on SSI, and it is my intention to put before my committee a grandfather provision which will be brought to the floor as part of the budget agreement, as the implementation of the budget agreement, that will grandfather in all of those that were here on August 22, 1996.

So from that standpoint, we are solving the problem of both the escalating nature of SSI for noncitizens, which was totally out of control, and we are then showing compassion for the people that were here.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I yield 15 seconds to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, the gentleman from Florida finally addresses the point I was making, as opposed to a point I never made.

What he is acknowledging, of course, is that this grandfathering, et cetera, that he is talking about, it is a substantial repeal of his bill. The bill he is so proud of did damage to the legal immigrants, and the budget agreement, and he is talking about it, is undoing some of what he did to the legal immigrants in the welfare bill.

Mr. LAZIO of New York. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from New York [Mrs. KELLY], a member of the committee.

Mrs. KELLY. Mr. Chairman, I rise in strong opposition to the Kennedy substitute for H.R. 2, the Housing Opportunity and Responsibility Act. With H.R. 2 we are stepping away from old thinking. We are ending the administration's passive approach to problems, and we are going to give communities the power to build strong neighborhoods. It is with this active approach that we can nurture our communities.

The Kennedy substitute does nothing to change the culture of dependency of many who live in public housing, nothing. We can no longer throw large chunks of money at bloated, poorly functioning administrations that produce results that are mediocre, at best. These funds that come down from these administrations have so many strings attached that there is no flexibility to address the different problems that public housing authorities face across the country.

I understand in one of my sick public housing authorities we had a cow butchered in a bathtub. We have to end this kind of public housing administration. One-size-fits-all has to end. We have to allow for a new synergy to be created. That is what H.R. 2 does. That is what the Kennedy substitute seeks to stop.

I would like to emphasize the goals we are moving forward with in H.R. 2. They are simple: Personal responsibility that ends with a mutual obligation between the provider and the recipient, removal of disincentives to work and retention of protections for the residents, and empowerment of the individual and family through the choices that I believe will lead them to economic independence and the pursuit of their own American dream.

I would like to emphasize that everyone has the same shared objective: Clean, safe, affordable housing that empowers the have-nots in our society to become people who can realize their own American dream. That is what we are going to do here with H.R. 2. This is what we will be voting for when we vote against the Kennedy substitute.

I therefore urge all of my colleagues to join me in voting against the Kennedy substitute, that will do nothing for America's communities.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I yield 1 minute to my good friend, the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, I rise in support of the Democratic substitute to H.R. 2 offered by our colleague, the gentleman from Massachusetts [Mr. KENNEDY]. I want Members to know I do not come to this as some partisan reflex. The last time around I voted for the same bill that was passed in the last Congress.

I have been listening very carefully to this bill, hoping, hoping there was some compelling reason to vote for this bill. Unfortunately, there is not. This bill has good intentions, and many of the things that are there I support, but it goes too far. It goes too far in denying the poorest of the poor the opportunity to have public housing. It certainly goes too far in having what we call the fungible funding.

I think the Kennedy substitute is not status quo. It recognizes the problem but it commits itself to the poorest of the poor.

Further, I want to commend and support the gentleman from New York [Mr. LAZIO] in his effort for this, and just would make a comment that neither his bill nor the Democratic substitute has anything in it about rural housing. I would be remiss not to tell the Members, as I stand talking about public housing, and to have this body of Congress ignore the vast need of rural housing.

Mr. Chairman, I rise today, in support of the Democratic substitute to H.R. 2, offered by our colleague Mr. KENNEDY.

Mr. Chairman, I did not come to this decision through impulse, nor did I come to this decision simply by partisan reflex. On the contrary, Mr. Chairman, over the course of the last several days, I have listened closely and intently as this body has vigorously debated the various provisions of H.R. 2—hoping Mr. Chairman—hoping to hear some compelling reasons to vote in favor of the bill.

I believe as do many if not most of my colleagues, that the current state of our Nation's public housing system has fallen into disrepair and neglect. Federal housing policies which have been promulgated over the last decades, have, despite their good intentions, in many instances worked to trap the poorest among us in isolated pockets of poverty, and in some cases contributed to the disintegration of the family structure, which has in turn led to a drastic increase in the crime rate in many of our Nation's highest density public housing projects.

Indeed, Mr. Chairman, I voted in favor of H.R. 2406, the Public Housing Reform bill that passed the House last Congress, only to fall prey to bickering between House and Senate Republicans in the conference committee, because I felt then and continue to feel that this body must act to stop the catastrophic deterioration in our Nation's public housing system.

H.R. 2, as advertised by its proponents, portends to address many of the most outrageous and egregious concerns with the public housing system that we all share. And, quite frankly, Mr. Chairman, to a certain extent the bill does just this. It radically reshapes public housing system. H.R. 2 gives greater flexibility to local housing authorities in setting rents in order to encourage a mix of more working families among public housing tenants. In addition, the bill grants local authorities and owners of federally-assisted housing unprecedented powers to evict drug dealers and criminals, while also empowering them with greater screening powers to prevent dangerous individuals with criminal pasts from becoming residents.

Unfortunately, Mr. Chairman, while H.R. 2 does achieve some laudable objectives—in many aspects, H.R. 2 goes too far in reshaping the Nation's public housing system and gives too much autonomy and authority to local housing authorities.

In particular, I believe that the income targeting provisions of H.R. 2 are so broad as to constitute a complete and total shift away from the fundamental mission of public housing—namely to provide safe, decent, and affordable housing to the poorest among us.

The targeting provisions in H.R. 2, as I understand them, only require public housing authorities to expend 35 percent of Federal housing assistance toward those families earning below 30 percent of the area median income. While this figure is no different than that which was included in the housing bill that passed the House last Congress, and is only 5 percent less than the 40 percent required under the Kennedy substitute, H.R. 2 also carried with it a more deceptive provision that would for all intents and purposes, remove the Federal Government's commitment to providing housing for the very poor.

This is the so called fungible income targeting requirement. Under this provision, local public housing authorities can meet their 35 percent targeting requirement simply by admitting very low-income families to the choice based housing program, rather than admitting them into housing units.

It is conceivable therefore, that under this provision, the Nation's permanent housing stock would be closed to some of the poorest families in the country—many of them elderly and disabled. Instead of being placed in a housing unit, many of these families would be forced to search the section 8 housing market in areas which may be unfamiliar to them, or in locations where mass transit resources and job opportunities are sparse. Or even worse, Mr. Chairman, the fungible income targeting requirements in the bill, may force some families into the streets.

While I agree with the goal of attracting more of the working poor into the public housing system, I believe that the targeting provisions included in H.R. 2 are unnecessarily drastic and requires too little of local public housing authorities in regards to assisting low-income families.

The Democratic substitute which we are debating, achieves the same objectives of creating a better income mix in public housing—which creates more stable and safe communities—without completely disavowing our Nation's commitment to the very poor. The income targeting provisions in the Democratic substitute are 5 percent deeper than that in H.R. 2, requiring local public housing authorities to dedicate 40 percent of their permanent public housing stock to those individuals and families that earn below 30 percent of the area median income. In addition, 90 percent of available housing units would be reserved for families below 60 percent of area median income.

Most importantly, however, the substitute, would protect very low-income families by removing the fungible income targeting requirements in H.R. 2. Under the substitute, local housing authorities, could not meet their income targets for low-income families simply by admitting these families to the choice-based housing program.

Mr. Chairman, the Democratic substitute, represents real reform to our Nation's public housing system. It addresses many of the most egregious and outrageous abuses that are allowed to occur under our present housing laws.

Like, H.R. 2, Mr. Chairman, the Democratic substitute, eliminates obsolete and burdensome Federal regulations such as the ''take-one-take-all'' requirements on landlords and the ''endless lease'' provisions in current law—giving greater flexibility and automony to the local housing authorities. Moreover, the substitute would help to create more stable public housing communities by allowing housing authorities to deny housing assistance to drug and alcohol abusers, while at the same moderately changing the income targeting provisions to allow for a greater number of working poor to have access to public housing resources.

Accordingly, Mr. Chairman, the Democratic substitute represents a clear departure from the current law guiding our public housing system. However, in recognizing the need for local public housing authorities to exercise greater flexibility and autonomy in addressing the particular needs of the communities for which they serve, the substitute maintains the fundamental mission of public housing—namely to assist the very poorest families among us.

Last Congress, Mr. Chairman, I voted in favor of H.R. 2406—the precursor to H.R. 2—because it was the only viable piece of legislation which corrected some of the most egregious shortcomings of the public housing system.

While I commend Mr. LAZIO for his genuine efforts to address many of the concerns that we all share, today I stand in support of the Democratic substitute to H.R. 2 because it too represents real reform and it too changes the culture and focus of our public housing system. However, it does this while protecting the most vulnerable families among us.

Accordingly, I urge all of my colleagues to support the Democratic substitute to H.R. 2.

Nevertheless, Mr. Chairman, although I understand the subcommittee chairman's decision to focus on public housing as a whole, I would be remiss if I did not state my disappointment that neither the substitute nor H.R. 2 includes provisions addressing the housing needs and concerns of rural America.

As I am certain that the chairman is aware, rural areas have some of the highest rates of poverty and more dire housing needs than many other more urbanized areas in the country. According to the 1990 census, there were more than 7.6 million people with incomes below the poverty level in rural America. Moreover, census data also indicate that about 2.8 million rural Americans live in substandard housing.

In county after county of my district of North Carolina, Mr. Chairman, affordable housing is sparse and the dream of owning a home is often times unattainable.

I hope, Mr. Chairman, that as we conclude the debate on H.R. 2, this body will begin to look more seriously at the housing needs and concerns of rural America.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

I first of all want to compliment my good friend, the gentleman from New York [Mr. LAZIO], for the excellent work he and his staff, as well as the staff on this side of the committee, has done on this bill. I sometimes felt like I should be calling my cousin-in-law, Arnold Schwartzeneggar, and telling him to watch Terminator III on the House floor, because that is what it has felt like from time to time on this bill.

I do want to just say to everyone listening that I know we have, I think on both sides of the aisle, tried to make certain we have an open and honest debate on this issue. There are serious differences. I do not believe that we ought to be abandoning the very poor in pursuit of solving our housing problems in this country.

We do have housing problems. We can continue to protect the poor. We can do it within the context of making the changes in public housing policy which will avoid the mistakes of the past, the huge monstrosities where we warehouse the poor, and allow us to have an enlightened view of how we house our vulnerable people into the future of this country.

□ 1445

I look forward to working with the chairman as we get to a conference.

Mr. LAZIO of New York. Mr. Chairman, I yield myself the balance of my time.

I want to return the compliment to the gentleman from Massachusetts and thank him certainly for the working relationship that we have had through the committee process and through markup and finally on the floor of this House.

In the 3 long weeks we have been debating this bill and almost 60 amendments that have been heard, we have been able to dispose of those amendments, not all, I am sure, to the satisfaction of the gentleman from Massachusetts, but at any rate in a way that I think preserves the dignity of this body and this House.

We do have differences. We have differences in perspective. We have differences as to how much we trust local authorities, how much flexibility we ought to give them, how we ought to treat low income people.

My friend from Massachusetts has offered an amendment that I believe would shut out working-class families, would shut out a husband and wife who happen to have low, minimum wage jobs from the possibility of receiving a rental voucher.

We believe in local flexibility. We believe in empowerment. We sweep away the work disincentives that are in current law. I believe under the gentleman's proposition, those work disincentives continue to exist as long as we tie rent to income and do not permit, which we do under H.R. 2, we permit tenants to make that choice, to go to a flat rent so that they work longer, work harder, get a better job. They can keep the fruits of that labor.

We want to empower people to do that. We want to reward work. We want to transform communities. And we know in the end that we cannot legislate an end to poverty. That will only happen if we create the right set of incentives, the right rules so that local individuals and local communities, once empowered, can begin to transform themselves.

That is where the change will take place, because make no mistake about it, H.R. 2 is not just about shelter. It is about creating environments where poverty can be successfully addressed, and it will be only successfully addressed by the people of those same communities.

Mr. BONIOR. Mr. Chairman, I rise in support of the Democratic substitute offered by my friend, JOE KENNEDY from Massachusetts.

He's been a tenacious advocate for real housing reform, so tenacious that he's beginning to set a record for the number of times a bill has been on and off the floor.

Actually, this is a good debate for us to have.

It's a debate about setting priorities, about adopting reform while protecting people, and about giving hard-pressed working families a break.

The Kennedy substitute is a reasonable, balanced approach to housing reform that protects the vulnerable, while giving local housing authorities the flexibility they need to do their jobs.

By contrast, the Republican bill eliminates most Federal regulations affecting low-income housing assistance—including provisions that ensure Federal housing is targeted to those most in need.

H.R. 2 repeals the Housing Act of 1937, and it will push the poorest tenants into homelessness.

The Democratic substitute streamlines our Nation's housing laws, but does not repeal them.

It protects seniors and the vulnerable by retaining current law, limiting rent to 30 percent of your income.

And it encourages local housing authorities to provide mixed income housing, while preserving assistance to those most in need.

The substitute provides the reforms and flexibility that local housing authorities need, but it does not contain the unfunded mandates that are included in the Republican bill.

That's why local housing authorities support the substitute, why the administration supports it, and why I support it.

I urge my colleagues: Oppose H.R. 2; support the Democratic substitute.

Mr. PAUL. Mr. Chairman, we, the Congress, are once again asked to reenact Federal housing legislation that is unconstitutionally, philosophically, economically, and practically unsound.

Prior to the Constitution-circumventing New Deal policies of the Fed-induced Depression era, such redistributionist policies whereby Government takes money from one citizen to pay the housing costs—or some other cost—of another was forbidden. Supreme Court Justice Samuel Chase, in Calder versus Bull, opined that ''a law that takes property from A and gives it to B: It is against all reason and justice, for a people to intrust a legislature with such powers.'' Yet, this redistributionary scheme, rather than the exception, has become the rule as well as the rule of law in this 20th century, special interest state.

But even setting aside the unconstitutionality of Government's 20th century housing policy for the moment, such redistributionary schemes are philosophically bankrupt as well. A right to housing, as espoused by proponents of this legislation, or a right to more than the fruits of one's own labor, by definition must deprive some other the right to keep the fruit of his or her own labor. Moreover, such a right cannot be a right as it is not enjoyable by all simultaneously. For if each is entitled by right to more than the fruit of one's own labor, one must then ask from where this additional production will come. It is this fallacy that prompted Frederic Bastiat, the brilliant 18th century political-economist to remark: ''The State is the great fictitious entity by which everyone seeks to live at the expense of everyone else.'' Bastiat understood that Government was an agreement entered into for the purpose of protecting one's own property rather than the tool by which individuals could collectively band together to deprive others of theirs.

The problems with Government housing extends even beyond these not-so-insignificant barriers. The economic and practical aspects of such a policy warrant serious scrutiny as well. One must not forget that individuals respond to incentives and incremental measures moving this country further in the wrong policy direction must be actively opposed.

There are those in this Congress who concede that there are serious problems with our Federal housing policy but argue that we must reform it to correct these problems. By incrementally moving in the right direction we can look out for those affected—not just the tenants but the others dependent upon the Government miscreant as well.

This incrementalist approach has not worked in the past and will not work in the future. This bill will not move us incrementally in the right direction. The direction in which this legislation will lead us could be referred to as a continuation of mission creep. An idea for a small program or expenditure, no matter how deserving or well meaning, will only feed an ever-growing appetite for more Government money.

This bill will demonstrate yet again the innate nature of a Government subsidy to grow exponentially. Despite the confident assurances of flatlining the HUD budget for a few years, Government subsidized housing will continue to grow. A GAO report points out that there are an additional $18 billion in FHA insured mortgages at risk. While not a part of H.R. 2 directly, the liabilities associated with the subsidized mortgages on the housing projects and other factors virtually assure it, even if it were not the nature of Government's quest to sate its ravenous consumption of our money.

The social reformers of the New Deal era persuaded a pliant Government to address the issue of unemployment and the needs of the slum dwellers. Presumably, no one bothered to address the responsibility issue. John Weicher of the Hudson Institute explains well the logic that brought us the current situation.

The social reformers of that era chose to ignore market forces, human nature, and the nature of Government. If Government spends enough of other people's money, Government can change lives. ''We know better for them than they do—and just how to do it,'' was the condescending implication.

They claimed that poor tenement housing largely caused the social ills of the urban dwellers. These so-identified breeding grounds of crime, delinquency, disease, mental illness, and worse were regarded as the result of the poor living conditions, not the cause. If Government could give them decent housing, Government could eliminate these problems, they dreamed. That dream has become a nightmare for all too many people—both for the people trapped by the constraints of the public dole and those forced through taxation to pay for it.

The erstwhile social reformers thought Government could eliminate the slums, create jobs in a depression and even encourage home ownership. Through Government, they could realize their dreams. They were wrong.

The United States Housing Act of 1937 established public housing, our oldest subsidy program, in order to create affordable, Depression-era housing for those temporarily unemployed or underemployed, eliminate slums, and increase employment through make-work construction jobs. The Great Depression has long been over, but its misguided largesse and Constitution-circumventing redistribution schemes continue. Of course, we are still paying the deficit—with compound interest—for

those jobs despite having institutionalized slum life.

The War on Poverty demonstrated the mission creep. In 1965 government created the Housing and Urban Development [HUD] Agency following the beginning in 1961 of federally subsidized construction of privately owned housing projects. Subsidized housing has now mutated into three forms: public housing, privately owned projects and, section 8 certificates and vouchers for use in privately owned housing. Each of these three forms of Government-subsidized housing makes up roughly one-third of the subsidized housing stock.

Of the public housing projects, over 850,000 of the 1.4 million units were built between 1950 and 1975. Only about 100,000 new units were added to the public housing stock in the last 10 years. These units are built entirely with public funds, and the Federal Government pays part of the cost of operation. Over time, the Federal Government has to pay to modernize these developments too.

However, the local Public Housing Authorities [PHA's] run the projects with such ineptitude in so many cases they are literally run into the ground. Costs to operate the public housing projects are comparable to private housing, according to HUD numbers, only if one does not consider the cost of building the units in the first place—as if the cost of the mortgage on a private housing building should not be a factor in setting the rent.

The Federal Government then picks up the tab for the so-called modernization, or rehabilitation, of the projects as they deteriorate. With this setup, there is no incentive for the local PHA officials to reinvest the rental income back into the units. As a consequence, the local PHA does not maintain them sufficiently, and the tenants suffer a life in substandard housing. Standards that are deemed unacceptable in private housing are somehow good enough in the Government's eyes for those on the lower rungs of the socioeconomic ladder.

The privately owned projects also bilk taxpayers on a grand scale, according to HUD Secretary Andrew Cuomo. He lambastes the fact that the Government is overpaying rents compared to what his department considers Fair Market Rent. HUD is subsidizing rents of $849 a month in Chicago neighborhoods where the market rate is only $435 a month; paying $972 a month in Oakland, CA, against a market rate of $607 a month; and in Boston, Government is paying $1,023 a month vis-a-vis $667 monthly in the private market, he says.

Mr. Cuomo attacks these abuses and decries the State of subsidized housing, but he does not recognize that these abuses are symptomatic of the system he is trying to preserve. ''For years we have been trying to grapple with this issue,'' he tells us and dangles promises of huge future savings if Government tinkers around the edges of an ill-conceived system that tries to cheat the market, tries to circumvent human nature, and ignores the nature of Government subsidies.

His current promises are as false as the promises of his predecessors. One of his successors will 1 day lament the horrible State of subsidized housing he inherited and will promise grandiose reforms that will save billions if Government only passes a future subsidized housing bill.

One of the worst complications of this approach is the builtin disincentives to proper management. Under a convoluted setup, these privately owned projects rely on FHA insurance and a Federal subsidy paycheck to pay for it. Too often, these ill-managed projects deteriorate so quickly that the units are torn down before they pay for their own construction. Under Mr. Cuomo's directives, HUD will decide the market rate concerning its subsidies. The market distortions of the tax code and FHA insurance make the situation worse.

Vouchers and certificates are the best of the inherently flawed approaches. About 80 percent of people with vouchers find suitable housing of their choice—very often at only 40–60 percent of the cost of less desirable public housing. After enacting certificates in 1974 and vouchers in 1983, about 1.5 million households have been served by this approach—1.1 million through certificates and 400,000 through vouchers.

The benefits of the tenant-based approach include the reliance of a quasi-free market competition with the attendant bonuses of lower costs, great efficiency, rewards for personal initiative, and individual choice. Under tenant-based rental assistance, recipients are less likely to live in concentrated poor urban communities that often lack basic necessities: safety, good schools, employment opportunities, access to financial services, and so forth. They have a way out of the trap of project-based public housing units that have become a way of life.

Market incentives through tenant choice put the renters in charge of their housing decisions. They may find the housing of their choice and even keep the difference between the rent and the voucher if they find housing for less than their voucher enabled them. This is not the case with the certificates. Unfortunately, the household remains tied to the State with the contingent constraints and perverse incentives that this arrangement implies.

Unfortunately, H.R. 2 does not address these concerns. It leaves uncertain the ''proper'' approach to subsidizing housing despite the fanfare of a ''new'' approach. While formally repealing the 1937 housing act, the mentality remains along with the compendium of problems inherently associated with it.

The bill leaves uncertain whether a ''tenant-based approach'' or a ''project-based approach'' will be instituted. In the Washington tradition, a compromise is offered. Again, in the Washington tradition, this bill embraces the worst aspects of both approaches and fuses them together.

This bill tries to ''target'' their social reforms now. By this Government's attempts to force social reforms through osmosis by luring better role models into the modern slums. Perhaps the Ellen Wilson housing project in Washington, DC, just blocks away from the Capitol, would reassure us as to the benefits of incrementalism. In a city with a waiting list of 16,000 people, Government is spending about $186,000 per unit to build subsidized housing instead of spending less per unit and housing more people.

One would hope that at least such incredible sums are going to the most needy of the 16,000 people waiting for subsidized housing. Yet even those earning up to $78,000 a year could qualify. Incremental social reform is not cost efficient.

The Washington Post wrote on April 24, 1997, that Valley Green, a Washington, DC, housing project built in early 1960's, was launched ''to house people displaced by 'slum clearance,' [and] soon became a slum itself, poisoned over the decades by a toxic brew of poverty, rampant vandalism, violent drug dealing, and government neglect * * *. The resulting wasteland, which stretches across 20 acres of silent concrete courtyards and rutted city streets, has come to serve in recent years as a convenient backdrop of politicians looking to cast blame for decades of despair.''

This story is very indicative. It is one that has been retold far too many times in too many places. This expenditure has not even provided decent housing to those Government was trying to help. According to HUD inspection general reports, up to 80 percent of the units fail inspections.

It is a story that will be retold again and again if this bill passes. It is a testimony of the effects of Government-engineered social reform of housing. One must not forget the lofty goal of slum elimination of the 1930's that spawned this misadventure. That lofty goal of the 1960's spawned the dreamily named Valley Green. One can only wonder what name Government shall bestow upon the next housing project born under H.R. 2's new legislative regime.

Aside from the simple accounting costs associated with Government subsidized housing, there are other real costs. Unfortunately even this simplicity eludes HUD which routinely demonstrates that it is incapable of understanding basic accounting and accountability. Just this month, a congressionally instigated investigation of section 8 contract reserve accounts discovered $5 billion in addition to the $1.6 billion in excess reserve funds recaptured late last year. I sincerely doubt that the residents of Valley Green, other housing projects and taxpayers think this is a well-run program.

Just since HUD was created, Government has appropriated over $572 billion to the agency. Of course, this figure does not include rents and fees collected by the agency, so that it could be argued that total funding for public housing has been much higher. HUD is budgeted annually around $21.7 billion for each of the next 5 years, but the figure for last year was only $19.4 billion. More money will be wasted.

For fiscal years, 1965–75, the agency's budget authority totaled less than $40 billion. In other words, Government has spent over half a trillion dollars of taxpayers' hard-earned money on subsidized housing in the last 20 years.

Nor has this half a trillion dollars increased the home ownership rates of Americans. The fourth quarter averages of home ownership between 1965–74 averaged 64 percent. Despite such Governmental largesse, fourth quarter rates of home ownership averaged 64 percent between 1965–96. Certainly HUD has not made a significantly positive contribution to the goal of home ownership. They will be able to point to the easily identified few who have been helped at the expense of the less easily identified many who were negatively affected.

One must not forget that the increased Government expenditures derived through taxation have stifled the ability of many would-be homeowners to save for the down payment and purchase the home of their dreams. Instead, they pay the taxes to bankroll the dreams of the social reformers, past and present.

They are paying not only the bills of today but the taxes necessary to pay for the deficit spending dreamed up by previous social reforms. There is a real economic cost to these deficits. The distortions to the free market whereby the most efficient allocations of resources are made. HUD shows us the alternative—and considered enlightened—path to allocating resources better. The HUD bureaucracy consumes valuable resources that are best spent elsewhere. Even the new HUD Secretary concedes very readily that HUD is inefficient and wasteful. Government just needs to give it more time and more money, the Secretary pleads. Of course more time and more money have already cost us too much.

This irresponsible pipe dreaming has contributed to unsound fiscal and monetary policies and introduced new iterations in the business cycle. As the market tries to factor in these Government-spending-induced booms and busts, security against its ravages of higher unemployment and higher interest rates takes their toll. This added cost fuels the cycle which exacerbates the problem.

Not only the taxpayers suffer under this approach. The civil rights of the tenants of subsidized housing are discarded as housing sweeps violative of the fourth amendment are conducted in the name of a misdirected war on poverty and lack of affordable housing.

Of course, it is the middle class and working poor who pay the cost most directly. The rich shelter their money from many income taxes and have their FICA taxes for Social Security capped. This regressive Social Security tax takes an unfair toll on the working poor and middle class. Many more people could afford better housing absent paying for the inefficiencies of the Government's approach to housing.

H.R. 2 is not the solution to our problems. Rather, it is an illustration of the creeping mission of more Government for a longer period of time not fulfilling the dreams of its engineers. This bill is more of the same incremantalism that began in the 1930's. Despite proof that it was not working, we are asked to vote again to throw more money at the problem, give government more control of our lives and reap the rewards.

In the 1960's, Government acknowledged again the failure of the mission and expanded the reach of Government exponentially. With those promises demonstrably unfulfilled, Government find itself again at a crossroads. Continue creeping incrementally towards more Government spending and a loss of civil and economic liberties or the path of freedom. I urge Government to offer liberty.

I do not doubt the compassion and intentions of many of the social reformers, then or now. They are, indeed, well-meaning folks. The problem is that the effects of their good intentions run counter to the aims of their endeavors.

Instead of a safety net that merely prevents a newly unemployed single mother from falling, the public housing project traps her and her family in its net and holds them hostage to the whims of the local Public Housing Authorities. These PHA's are not accountable to her. She has sacrificed her liberty to PHA's that are too often sinecures provided by political cronyism. Tales of their abuse are legendary.

This corrupt scenario produces crime statistics proportionately twice as high in and around subsidized housing projects as in the communities as wholes, according to HUD's Office of Public and Indian Housing. Without the accountability inherent in a market situation, abuses are almost predictable. The public housing projects are but one of the worst examples of flouting the free market and the loss of accountability.

H.R. 2 attempts to improve the lot of those benefiting from subsidized housing and make the bureaucracy less burdensome. Unfortunately, by the time this proposal goes to the floor, so many changes will have been made, compromises accepted and political deals consummated that we end up with a bill in some ways worse than the status quo, as bad as that is.

The end result of this well-meaning attempt to care for those less fortunate is higher taxes, especially on the working poor, slower economic growth, fewer job offers and a reaffirmation of Government's determination to keep tenants trapped in substandard housing whose managers are not accountable to them.

At the same time, those politically astute suppliers of Government housing encourage the continuation of such programs at the expense of the more productive suppliers whose political polish does not place them in he ambit of those doling out the grants.

We should end this misguided approach to such legislation. It punishes all taxpayers with the future additional expense of increased eligibility requirements while limiting further the availability of subsidized housing for those who currently qualify. It rewards special interest favors for the politically connected—both unaccountable subsidized housing managers, department bureaucrats, politically contributing public construction businesses and the landlords cashing above market Government rent checks for substandard housing.

The opportunity that H.R. 2 provides is squandered in an extension of more of the same. While consolidating programs could make oversight easier and bureaucrats and local PHA's more accountable, it is unlikely that this bill will go far enough to address the problems with our subsidized housing programs. New problems resulting from targeting are almost certain. Many of the critics of the left are correct to point out this mean misallocation of funds from the working poor and middle class to tenants with higher incomes than current tenants despite the waiting list.

Only by rewarding individual initiative, choice, responsibility and the resultant accountability can Government reforms better serve the recipients. Of course, only less Government and lower taxes will truly meet those aims.

The CHAIRMAN pro tempore (Mr. LAHOOD). The question is on the amendment in the nature of a substitute offered by the gentleman from Massachusetts [Mr. KENNEDY].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. KENNEDY of Massachusetts. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 163, noes 261, not voting 9, as follows:

[Roll No. 126]

AYES—163

Abercrombie
Ackerman
Allen
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Engel
Eshoo
Etheridge
Evans
Farr
Fazio
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lowey
Maloney (CT)
Maloney (NY)
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schumer
Scott
Serrano
Skaggs
Slaughter
Snyder
Spratt
Stark
Stokes
Strickland
Stupak
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—261

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook

Jenkins	Myrick	Sessions
John	Nethercutt	Shadegg
Johnson (CT)	Neumann	Shaw
Johnson, Sam	Ney	Shays
Jones	Northup	Sherman
Kaptur	Norwood	Shimkus
Kasich	Nussle	Shuster
Kelly	Ortiz	Sisisky
Kim	Oxley	Skeen
King (NY)	Packard	Smith (NJ)
Kingston	Pappas	Smith (OR)
Klink	Parker	Smith (TX)
Klug	Paul	Smith, Adam
Knollenberg	Paxon	Smith, Linda
Kolbe	Pease	Snowbarger
LaHood	Peterson (MN)	Solomon
Largent	Peterson (PA)	Souder
Latham	Petri	Spence
LaTourette	Pickering	Stabenow
Lazio	Pickett	Stearns
Leach	Pitts	Stenholm
Lewis (CA)	Pombo	Stump
Lewis (KY)	Porter	Sununu
Linder	Portman	Talent
Lipinski	Pryce (OH)	Tanner
Livingston	Quinn	Tauscher
LoBiondo	Radanovich	Tauzin
Lofgren	Ramstad	Taylor (MS)
Lucas	Regula	Taylor (NC)
Luther	Reyes	Thomas
Manton	Riggs	Thornberry
Manzullo	Riley	Thune
Mascara	Rogan	Tiahrt
McCollum	Rogers	Traficant
McCrery	Rohrabacher	Turner
McDade	Ros-Lehtinen	Upton
McHugh	Roukema	Walsh
McInnis	Royce	Wamp
McIntosh	Ryun	Watts (OK)
McKeon	Salmon	Weldon (FL)
Metcalf	Sanchez	Weldon (PA)
Mica	Sandlin	Weller
Miller (FL)	Sanford	White
Molinari	Saxton	Whitfield
Moran (KS)	Scarborough	Wicker
Moran (VA)	Schaefer, Dan	Wolf
Morella	Schaffer, Bob	Young (AK)
Murtha	Sensenbrenner	Young (FL)

NOT VOTING—9

Andrews	Flake	Skelton
Crapo	Hefner	Smith (MI)
Fattah	Schiff	Watkins

□ 1508

Mrs. MORELLA and Messrs. HASTERT, MCDADE, BASS, and LUTHER changed their vote from ''aye'' to ''no.''

Mr. WISE changed his vote from ''no'' to ''aye.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. SMITH of Michigan. Mr. Chairman, on rollcall No. 126, I had a malfunction of my pager. Had I been present, I would have voted ''no.''

The CHAIRMAN pro tempore (Mr. LAHOOD). If there are no further amendments to the bill, the question is on the committee amendment in the nature of a substitute, as amended.

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

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

Accordingly the Committee rose; and the Speaker pro tempore (Mr. COMBEST) having assumed the chair, Mr. LAHOOD, 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. 2) to repeal the United States Housing Act of 1937, deregulate the public housing program and the program for rental housing assistance for low-income families, and increase community control over such programs, and for other purposes, pursuant to House Resolution 133, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

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

The amendment was agreed to.

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

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. KENNEDY OF MASSACHUSETTS

Mr. KENNEDY of Massachusetts. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. KENNEDY of Massachusetts. Yes, Mr. Speaker, I am opposed to the bill.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. KENNEDY of Massachusetts moves to recommit the bill H.R. 2 to the Committee on Banking and Financial Services with instructions to reconsider the bill for the purposes of—

(1) improving the income targeting provisions of the bill by reserving more housing assistance for very low-income families of various incomes; and

(2) eliminating provisions in the bill creating unnecessary bureaucracies.

Mr. KENNEDY of Massachusetts (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. KENNEDY] is recognized for 5 minutes in support of his motion to recommit.

Mr. KENNEDY of Massachusetts. First, Mr. Speaker, I want to reach out to my good friend, the gentleman from New York [Mr. LAZIO] for the efforts he and his staff, and the efforts of the Committee on Banking and Financial Services staff have made, and all the members of the Subcommittee on Housing and Community Opportunity have made on this bill over the course of the last 3 weeks. This was, I thought, instead of being a housing bill, it turned into a California desert bill.

I think that the bill before us creates the kind of dilemma that some of us will relish and some of us will recognize its time for a decision about what motivates us to run for the Congress of the United States. One choice before us, the choice to include it in H.R. 2, will in fact in some ways fix public housing. It will fix public housing, all right. It will fix the affordable housing programs in America. It fixes them by one easy sign of a pen. That one easy signing of the pen fixes this problem by simply eliminating the poor from eligibility for these programs.

So if we want to look good before the American people and say, listen, we have eliminated all those monstrosities, all those terrible icons that represent Franklin Delano Roosevelt, whose very act H.R. 2 will eliminate, H.R. 2 eliminates the 1937 Federal Housing Act, the basic fundamental protections for the poorest people in this country.

The question before us is not whether or not we should be turning our back on the very poor, it is not to say that the largest single segment of our population, the largest growing segment of Americans, is the very, very poor people of this country. What this bill does is essentially say that we are going to jack up the income guidelines on the housing programs of America, where currently 75 percent of all the units that go out in public or assisted housing go to people with 30 percent of median income or less. What we are going to do is essentially say that not a single unit of public housing will necessarily go to the very poor.

□ 1515

In terms of the voucher program, 80 percent of those units can now go to people with moderate incomes, people earning 35 or $40,000 a year. I say people earning 25, 35 or $40,000 a year ought to have housing programs. They ought to have homeownership programs. In every city across America, banks and insurance companies are looking around for good loans that they can provide meaningful homeownership to those individuals. We ought not to be using the precious resources that are contained in public housing to go to those needs. We ought to be using the precious resources of public housing and the precious resources in the voucher program to go to the needs of the very, very poor.

People will say that we need to reform how we build public housing and how the people are obtained that live in public housing and how many of them go to the very poor. We are going to hear a lot of rhetoric in the next few minutes saying that the Democrats are simply offering a new way of going back to the old way. They are going to suggest that we have not thought about the reforms that are necessary to get public housing out of the terrible condition it is in. It is in terrible condition in some of the cities of this country.

But let us not forget that there are 3,400 public housing authorities in this country. There are 100 badly run housing authorities. There are badly run

housing projects. We ought to give the Secretary the capability of going after those badly run housing projects and taking them back. We ought to take control of the badly run housing authorities.

This bill, in the Democratic substitute, eliminated the work disincentives. The Democratic substitute increases the working poor in public housing substantially over a period of 10 years. We will have 50 percent of those units going to people with incomes above 50 percent of median income. But it is the terrible conditions that are going to be in place for the very, very poor.

This country has done something unconscionable. We have said that what we are going to do in terms of balancing the budget is go about doing it by cutting the housing budget of America from $28 billion to $20 billion. We turned around and cut the homeless budget by 25 percent. Then we turned to the public housing authorities and said, ''We are going to save you. We are going to save you by allowing you to go out and take some more working families in. We are going to allow you to take up the incomes of the people that come in and charge them more rent.''

That is what we have done, but we have not ever solved the problem. So we turn our back on the very poor, we turn our back on the homeless, and then we talk about the wonderful reforms that we are going to put into place.

I say to my colleagues that we can get the reforms in place, we can allow public housing to go to more working families, but we do not have to do it by abandoning the poor, we do not have to do it by turning our back on the homeless. Let us not vote for an antihousing bill. Let us vote for a pro-Democratic housing bill.

The SPEAKER pro tempore (Mr. COMBEST). Is the gentleman from New York opposed to the motion?

Mr. LAZIO of New York. I am, Mr. Speaker.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. LAZIO of New York. Mr. Speaker, I yield to the gentleman from Iowa [Mr. LEACH], the distinguished chairman of the Committee on Banking and Financial Services who has stood alongside me as we have debated this bill these last 3 weeks.

Mr. LEACH. Mr. Speaker, in considering this motion to recommit I would hope Members on the other side would recognize that the party of liberalism that is doing well in the world is the party of Tony Blair, not parties of extremism that object to free market, to change of programs that fail, to restrained budgets.

Before the House this afternoon is landmark legislation which attempts to balance the need for reform with the needs of the poor. While the authorization number is consistent with the administration's recommendation, some have implied the legislation is skinflinted. Our side would suggest it is an attempt to reform rather than eviscerate public housing; to change a partially failed system without walking away from the needy.

Mr. KENNEDY's approach would knock out of public housing programs most families of four with two parents holding minimum wage jobs. It would make it exceedingly difficult for two single parents in public housing with jobs to consider marriage because they would lose their housing benefits.

In the last century two English political philosophers, Jeremy Bentham and James Mill—the son of John Stuart Mill—advanced a doctrine of utilitarianism—the guide of which was the precept, ''the greatest good of the greatest number.''

Modern day liberals have abandoned 19th century progressive philosophy and replaced it with the notion of constituency politics, of targeting programs to groups without reference to their effect on society as a whole. The effect has been the development of a dependency cycle, which the new majority in Congress is attempting to break, and this bill is part of that effort.

Mr. LAZIO of New York. Mr. Speaker, in these last few minutes of this debate after 3 weeks of having this bill on the floor with over 60 amendments, this body is about to make a choice about the direction in which we are going to begin to address not just shelter but the core issue of poverty. Because the bill that we have before us today is not just about shelter. It is about trusting local communities. It is about ensuring that there is accountability. It is about getting value for our dollars. It is about transforming communities. It is about addressing some of the toughest issues that we have in America today.

Yes, it is absolutely true that we will never be able to legislate an end to poverty from this House. There will be no bill that will be signed that will end poverty. The best that we can hope for is that we will begin to put in place a set of incentives for work, for family, for local control, for responsibility, and for accountability that will begin to mobilize the huge potential of human resources that we have in our own communities. There are those in this body on both sides of the aisle that believe we should tap into that huge human resource, that we should trust local control. In this bill we protect the poorest of the poor, but we also say that local housing authorities ought to have more choice so they can deal with their own problems.

This is one of the public housing projects, not in some third world country but in America today. It is perversely called Desire in New Orleans. Last year when we were debating this bill, out of a score of 1 to 100, HUD gave this public housing authority a score of 27. Can my colleagues imagine if one came back and talked to his family and said to his mom, dad, grandma, or grandpa, I got a score of 27 on my test, year after year after year. They would say, ''I think we ought to sit down and make some changes.''

That is not the worst of it. The worst of it is in the year that has followed to this year, that score has not budged. That means that is another year in which young children are condemned to this situation of despair, this sense of no opportunity, of failure. Today we have something important to say with H.R. 2. We say this: We will end the disincentives to work, we will end the disincentives to families, we will provide flexibility, because we stand with families, we stand with working people, we stand with local control and we stand for ending poverty in all the communities throughout America. Vote for H.R. 2.

The SPEAKER pro tempore. Without objection, the previous question was ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KENNEDY of Massachusetts. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 293, noes 132, not voting 8, as follows:

[Roll No. 127]

AYES—293

Ackerman	Castle	Fawell
Aderholt	Chabot	Foley
Archer	Chambliss	Forbes
Armey	Chenoweth	Ford
Bachus	Christensen	Fowler
Baesler	Coble	Fox
Baker	Coburn	Franks (NJ)
Ballenger	Collins	Frelinghuysen
Barcia	Combest	Furse
Barr	Condit	Gallegly
Barrett (NE)	Cook	Ganske
Bartlett	Cooksey	Gekas
Barton	Cox	Gibbons
Bass	Cramer	Gilchrest
Bateman	Crane	Gillmor
Bentsen	Crapo	Gilman
Bereuter	Cubin	Goode
Berry	Cunningham	Goodlatte
Bilbray	Danner	Goodling
Bilirakis	Davis (FL)	Goss
Blagojevich	Davis (VA)	Graham
Bliley	Deal	Granger
Blunt	DeLay	Green
Boehlert	Deutsch	Greenwood
Boehner	Diaz-Balart	Gutknecht
Bonilla	Dickey	Hall (TX)
Bono	Dicks	Hamilton
Boyd	Doggett	Hansen
Brady	Dooley	Harman
Bryant	Doolittle	Hastert
Bunning	Doyle	Hastings (WA)
Burr	Dreier	Hayworth
Burton	Duncan	Hefley
Buyer	Dunn	Herger
Callahan	Edwards	Hill
Calvert	Ehlers	Hilleary
Camp	Ehrlich	Hobson
Campbell	Emerson	Hoekstra
Canady	English	Holden
Cannon	Ensign	Hooley
Capps	Everett	Horn
Cardin	Ewing	Hostettler

Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kaptur
Kelly
Kim
Kind (WI)
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Luther
Manton
Manzullo
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Molinari
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reyes
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanchez
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stabenow
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Whitfield
Wicker
Wise
Wolf
Young (AK)
Young (FL)

NOES—132

Abercrombie
Allen
Baldacci
Barrett (WI)
Becerra
Berman
Bishop
Blumenauer
Bonior
Borski
Boswell
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Dingell
Dixon
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Foglietta
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Gordon
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E.B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kucinich
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Maloney (CT)
Maloney (NY)
Markey
Martinez
McGovern
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Paul
Payne
Pelosi
Poshard
Price (NC)
Rahall
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Stupak
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Waters
Watt (NC)
Waxman
Weygand
Woolsey
Wynn
Yates

NOT VOTING—8

Andrews
Flake
Hefner
Kasich
Kleczka
Schiff
Skelton
Watkins

□ 1543

Mr. FORD changed his vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. KASICH. Mr. Speaker, on rollcall No. 127, I was inadvertently detained in a budget meeting. Had I been present, I would have voted ''yes.''

GENERAL LEAVE

Mr. LAZIO of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill just passed.

The SPEAKER pro tempore (Mr. COMBEST). Is there objection to the request of the gentleman from New York?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2, HOUSING OPPORTUNITY AND RESPONSIBILITY ACT OF 1997

Mr. LAZIO of New York. Mr. Speaker, I ask unanimous consent that in engrossment of the bill, H.R. 2, the Clerk be authorized to make technical corrections and conforming changes to the bill.

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

There was no objection.

□ 1545

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. COMBEST). 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.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. HULSHOF] is recognized for 5 minutes.

[Mr. HULSHOF addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

RECOGNITION OF CUSTOMS AND INS INSPECTORS AS LAW ENFORCEMENT OFFICERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. REYES] is recognized for 5 minutes.

Mr. REYES. Mr. Speaker, I rise today on behalf of the men and women, officers and inspectors of the Immigration and Naturalization Service and the U.S. Customs Service and ask all of my colleagues to support H.R. 1215 which was recently introduced by my friend and colleague, the gentleman from California [Mr. FILNER]. This bill will grant the same law enforcement status to inspectors of the INS and Customs as all other Federal law enforcement officers. This action is long overdue, in my opinion.

The inspectors of the INS and Customs carry a badge, a gun, and are exposed to the same rigors, challenges, and dangers of any other law enforcement officer in the United States. Last year alone, there were more than 280 million border crossings, all requiring inspection and many escalating into violent conflicts, yet we have not provided our inspectors with the same benefits and security as other law enforcement officers. I know firsthand what these inspectors are asked to deal with on a daily basis.

I spent 4 years as an inspector at the various ports of entry around El Paso, and I can tell my colleagues that I sympathize with these men and women who put their lives on the line each and every day.

In the past 2 years, 140 inspectors have been assaulted along our Nation's borders. During fiscal year 1995, we had 88 assaults on our inspectors. During fiscal year 1996, there were 52. I think it is important, Mr. Speaker, that we recognize that on any given day, our officers, our inspectors at those ports of entry are subject to being attacked and being injured.

It is time that we recognize these courageous men and women and provide them with the benefits that they have earned and rightfully deserve. I urge all of my colleagues to support H.R. 1215. It is time we recognize the inspectors of INS and Customs as law enforcement officers.

Mr. Speaker, at this time I yield 2½ minutes to my colleague, the gentleman from California [Mr. FILNER].

Mr. FILNER. Mr. Speaker, I thank the gentleman for yielding. I am especially honored by his support of this legislation. His stature as a former chief patrol agent in El Paso is recognized around the Nation. The gentleman knows the problems, he has been effective in dealing with them, and I again appreciate joining with him in this legislation.

Mr. Speaker and colleagues, in the spirit of National Police Week, I rise to honor 43 courageous U.S. Customs and Immigration and Naturalization Service inspectors who were killed in the line of duty, and honoring at the same time the inspectors who currently perform the same dangerous work the others died doing. The most recent of these brave officers to fall are Customs Inspectors James Buczel and Timothy

Cal McCaghren, and INS inspectors Reynaldo DeLaGarza and Tammy Aamodt. The inspectors' names are engraved in the wall of the National Law Enforcement Memorial here in Washington, DC. Yes, I said the National Law Enforcement Memorial. Yet, as my colleague stated, while they lived and while they did their job, they were not considered law enforcement officers. Only when they died did they get that honor.

My bill, H.R. 1215, will finally grant the same status to U.S. INS and Customs inspectors as all other Federal law enforcement officers and firefighters.

These inspectors are the country's first line of defense against terrorism and the smuggling of drugs through our borders and our large international airports. My district is home to the busiest port of entry in the world: 200,000 people a day cross the border in San Ysidro, San Diego. The inspectors face daily dangerous felons and disarm people carrying every weapon imaginable. Shootouts with drug smugglers happen all too frequently.

Because of the current lopsided law, INS and Customs lose vigorous, trained professionals to other law enforcement agencies and also lose millions of dollars in training and revenues that experienced inspectors help generate.

It is time we value our INS inspectors and Customs inspectors, both living and dead. I urge the support of H.R. 1215 to correct the unequal treatment of these Federal law enforcement officers.

Mr. Speaker, I yield back to my colleague, the gentleman from Texas [Mr. REYES], who knows all too well the valor of these fine Federal employees.

Mr. REYES. Mr. Speaker, it is indeed an honor and a privilege for me, knowing exactly what these men and women go through each and every day as they carry out their duties at the frontline of defense for this Nation.

I again would like to urge all of my colleagues to support H.R. 1215. It is time we recognize the inspectors of the INS and Customs for the law enforcement officers that they truly are.

STEP 21—RESTRUCTURING OUR HIGHWAY FUNDING SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DELAY] is recognized for 5 minutes.

Mr. DELAY. Mr. Speaker, I rise on an issue that is of great concern to the Nation this year, the restructuring of our system of highway funding.

Earlier this year, with the help of my colleagues, the gentleman from California [Mr. CONDIT], the gentleman from Indiana [Mr. BUYER], the gentleman from Indiana [Mr. HOSTETTLER], and many others, I introduced the ISTEA Integrity Restoration Act, H.R. 674, also known as the STEP 21 proposal.

Our bill has 101 cosponsors and it is very bipartisan. It has strong support in the Senate and has a bipartisan coalition of 20 State departments of transportation behind it. The Southern Governors Association has endorsed STEP 21, and many private sector industries and associations have mobilized behind our bill.

H.R. 674 accomplishes four primary objectives. First, it maintains a strong Federal role in transportation by funding the national highway system as the key responsibility. Under STEP 21, 40 percent of a State's funds must be spent on NHS roads or bridges.

Second, it simplifies and makes more flexible the Federal highway program by consolidating the myriad of existing highway programs into two, the national highway system program and the streamlined surface transportation program. Within these programs, Federal funds may still be spent on all ISTEA activities that are currently allowed. This means CMAQ enhancements, bridges, et cetera. However, removing the mandated Federal setasides gives States and local transportation officials the flexibility and responsibility to decide on what, when, where, and how much to spend to meet the individual and diverse transportation needs.

Third, our bill updates the antiquated Federal funding distribution formulas. Currently, outdated factors such as 1980 census figures and postal route mileage are used to determine each State's share of highway funds. We believe formulas should be based on need.

The Federal Highway Administration issued a scientific study that defines need in a statistically accurate manner to show what factors are related to road maintenance needs. The top three factors are: vehicle miles traveled, annual highway trust fund contributions, and lane miles. H.R. 674 uses these three factors, which demonstrate where highways are actually being used, in allocating resources to the States.

Fourth, our bill creates an objective, simple method of distributing highway funds among the States that strikes a more equitable balance between taxes paid and funds returned. We ensure that all States receive at least 95 percent return on the payments made to the Federal highway trust funds. States like Texas have been shortchanged for too long.

Over the life of ISTEA, Texas taxpayers received 77 cents back for every dollar they contributed to the highway trust fund. Clearly there is a need for greater equity where States like Massachusetts receive $2.41 back for every dollar they put in. However, in order to guarantee that we maintain a strong national road system, our bill also has provisions to ensure an adequate level of resources for highways in low population density States that do not have the tax base to support their needs.

This point leads me to one other issue. Many have characterized supporters of STEP 21 as a southern State coalition or a donor State coalition. Our provisions to protect the current highway funding levels of low population States were included specifically to reach out to nonsouthern and nondonor States such as Montana, Wyoming, and New Hampshire. Further, while the STEP 21 coalition includes many southern States, it also includes nonsouthern and nondonor States such as Wisconsin, Minnesota, and Nebraska.

In sum, we call our bill the ISTEA Integrity Restoration Act because we believe it restores the original intent of ISTEA to promote State flexibility and to direct dollars where the greatest need exists. It strikes the appropriate balance between the national interests in highways and the rights and responsibilities of each State.

I look forward to continue to work with the Committee on Transportation and Infrastructure and the rest of my colleagues on this legislation as it develops.

GENERAL LEAVE

Mr. DELAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

OFFICER BRIAN GIBSON TAX-FREE PENSION EQUITY ACT OF 1997

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, come tomorrow, we will be celebrating the 16th annual National Peace Officers Memorial Day, and the President of the United States is going to be here on the west front. I am sure, regardless of party, many of us are going to be out there to honor slain police officers. It is the culmination of National Police Week, and I come to the floor this afternoon to encourage my colleagues to do something more than mourn slain police officers.

I have sponsored the Officer Brian Gibson Tax-Free Pension Equity Act of 1997. This is a bill that has almost no fiscal consequences, but it would allow the families of officers killed in the line of duty to receive survivor benefits tax-free.

We already allow officers who retire on disability to receive their benefits tax-free. Surely we would want to this year erase the disparate treatment between officers who still live, but are disabled, and survivors of officers who have been killed in the line of duty. Is this small deed merely honorific, or is it necessary?

□ 1600

I got the idea, Mr. Speaker, when Officer Brian Gibson was killed a few months ago. I learned that this officer was only 28 years old and had left infants behind. Then, right after that,

two more officers were killed. Each had young children, ages 5, 3 months, 3 years. Each of them had been on the police force only a few years; 3 years, 4 years.

Even though a slain police officer gets generous treatment because he gets a larger percentage of his pension than he would otherwise get, even getting half of the pension you have earned when you have only been on the force 4 or 5 years is not going to pay the mortgage, it is not going to put the kids through college.

There is going to be a lot of rhetoric tomorrow, as there has been all week, about our officers who have given up their lives to protect us, and well there might be, because in a real sense going out on these streets today is going to war. This is not cops and robbers. It used to be that. They had a gun, you had a gun. Indeed, our police were able to take care of what needed to be done.

Today, as we saw in the shootout in California a few weeks ago, they have outgunned our police officers, or, as in the District in recent weeks, they are so brazen as to engage in execution or assassination of police officers.

What do we say to a young widow? If you go to three funerals in a row, as I have, and you cry and talk about how sorry you are, then what are you going to do? One of the things I am going to do, I assure the Members, with another bill that I have written, is to get the Federal police officers outside of these Government buildings so they give some aid to the D.C. police, who then can go into the high crime areas and perhaps protect policemen like Officer Brian Gibson who was not protected, as he was in the District by himself and alone in a police car.

If Members want to do something besides talk about it, besides mourn about it, let us think of these families and take this bill, which has de minimis cost. I do not think it would even register. I have every reason to believe it would not. I have done some preliminary checking.

Let us move forward and say we are going to do something this 16th Annual National Police Officers Memorial Day. We are not going to come up with remedies that do not work. We will not divide over who is for gun control or who is not for gun control. We are going to lay down our weapons. Our weapons are our debating points.

We are going to come together on the proposition that when a police officer goes out here with his life on the line, and when he gives it for his community, at the very least we are going to stand up on this Congress and we are going to say, we are going to take care of your family. We assure you, we are going to take care of your family.

Since we do not pay for police officers but we do tax them, we promise that as we do not tax officers who retire on disability, we will not tax your wife and your children who are left here by themselves. We will pull back, with almost no cost to this extraordinarily rich Government, and say, this is our contribution to the family that has been left behind.

It is a small, I concede, a small point and a small bill, but for that very reason I think we would want to mark National Police Week this week with this bill that of course is supported by Members. It is bipartisan, and I urge support from both sides of the aisle.

STEP 21 HAS SUPPORT FROM LOCAL GOVERNMENTS AND METROPOLITAN PLANNING ORGANIZATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BUYER] is recognized for 5 minutes.

Mr. BUYER. Mr. Speaker, I appreciate the remarks of the gentlewoman from the District of Columbia [Ms. NORTON], and her comments.

Mr. Speaker, the topic I would like to talk about today is on STEP 21. The main point is specifically that local governments and the metropolitan planning organizations do in fact support STEP 21.

I want to give a special recognition and thank the gentleman from Texas [Mr. DELAY] and the gentleman from California [Mr. CONDIT] for their work on STEP 21. The continuous and bitter battle over transportation funding has caused a great amount of misinformation to be spread all around.

Those who endorse the status quo, whether they are against the flexibility to the States or enjoy the funding inequities of the formula, they have tried to mislead Congress and others into believing that local government and the MPOs, the metropolitan planning organizations, are opposed to STEP 21.

I have letters of support here that I will place into the RECORD from those who support STEP 21, the first being in particular the mayor, Mayor Goldsmith of Indianapolis. His quote is, ''. . . as the mayor of one of the Nation's largest cities, I enthusiastically support the STEP 21 proposal.''

The Association of Indiana Counties say that STEP 21's features will give the ability for them to make ''. . . funding choices that make sense for our counties, not the one-size-fits-all approach of current law.''

The Evansville Urban Transportation Study, which represents the MPO for southern Indiana: ''The STEP 21 legislation continues to support strong planning through the continuation of support for metropolitan planning organizations.''

Mayor Heath of Lafayette, Indiana: ''It is important for you to know that the State of Indiana, in partnership with its local governments, supports the STEP 21 effort.''

The Indiana Metropolitan Council: ''The Indiana MPO Council represents the 12 urbanized areas of the State of Indiana. This letter extends the MPO Council's support of STEP 21 legislation.''

Obviously, Mr. Speaker, the statements that local governments and MPOs are opposed to STEP 21 is false. As a matter of fact, it is an outright lie for those who endorse such a statement. I urge all of my colleagues to look past the misinformation being spread around.

STEP 21 preserves all of the current law's local planning authority. Indiana is just one example of a State where the governments, the organizations, and residents are well-informed and understand that STEP 21 maintains the role of local governments and MPO's in making the transportation decisions that affect their communities.

One of my continuing priorities as a Member of Congress is to pull in the reins of a massive Federal Government to ensure that decision making be returned to the States and local governments. I abhor the Washington-knows-best mentality where the massive Federal Government has control over the decisions that should be made at the local and State levels.

I would not be here this afternoon endorsing the STEP 21 bill if it removed the decision making of our State and local governments. STEP 21 not only brings fairness and equity to the funding distribution formula, it allows the local governments and the MPO's to have control over the decision making process of their own local communities. STEP 21 should pass this House, and it is a worthy cause to bring flexibility to the States, fairness in the equity funding formula. I again salute the gentleman from Texas [TOM DELAY] and the gentleman from California [Mr. CONDIT].

CITY OF INDIANAPOLIS,
Indianapolis, IN, April 18, 1997.

Hon. DAN COATS,
U.S. Senate, Washington, DC.

Hon. RICHARD G. LUGAR,
U.S. Senate, Washington, DC.

DEAR SENATORS COATS AND LUGAR: As the debate moves forward on the reauthorization of federal transportation programs this year, much is being said about the impact on local governments of the Streamlined Transportation Efficiency Program for the 21st Century, or STEP 21 proposal. It is important for you to know that as the mayor of one of our nation's largest cities, I enthusiastically support the STEP 21 proposal.

STEP 21 preserves all of the current law's local planning authority as well as all current funding guarantees for urban areas. In as much as STEP 21 would direct more funding to states like Indiana, urban areas like Indianapolis will be guaranteed more funding for our much needed transportation infrastructure projects. An added bonus of STEP 21's streamlining and flexibility features will be the ability for us to make funding choices that make sense for our community, not the one size fits all approach of current law.

I appreciate your efforts in working toward passage of the STEP 21 program, which finally directs a fair share of transportation funds to our state and its communities.

Sincerely,

STEPHEN GOLDSMITH,
Mayor.

ASSOCIATION OF
INDIANA COUNTIES, INC.,
Indianapolis, IN, April 23, 1997.

Hon. STEVE BUYER,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN BUYER: As the debate moves forward on the reauthorization of federal transportation programs this year, much is being said about the impact on local governments of the Streamlined Transportation Efficiency Program for the 21st Century, or STEP 21 proposal. It is important for you to know that as an association of county officials, the Association of Indiana Counties enthusiastically supports the STEP 21 proposal.

STEP 21 preserves all of the current law's local planning authority and funding guarantees. In as much as STEP 21 would direct more funding to states like Indiana, local governments will be in line for more funding for our much needed road, street and bridge projects. An added bonus of STEP 21's streamlining and flexibility features will be the ability for us to make funding choices that make sense for our counties, not the one size fits all approach of current law.

I appreciate your efforts in working toward passage of the STEP 21 program, finally directing a fair share of transportation funds to our state and its cities, towns and counties.

Sincerely,

BETH O'LAUGHLIN,
Executive Director.

EVANSVILLE URBAN
TRANSPORTATION STUDY,
Evansville, IN, April 25, 1997.

Representative STEVE BUYER,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE BUYER: The Evansville Urban Transportation Study (EUTS) represents the Metropolitan Planning Organization (MPO) for southern Indiana. This letter extends the EUTS Policy Committee's support of the STEP 21 legislation, Streamlined Transportation Efficiency Program for the 21st Century, which is being considered by Congress.

The STEP 21 legislation continues to support strong planning through the continuation of support for metropolitan planning organizations. Additionally, STEP 21 will guarantee state and local governments a minimum return of 95 cents on the dollar (rather than the 82 cents Indiana now receives). STEP 21 provides funding formula guarantees to urban areas of 200,000 plus population, and continued agreement with the Indiana Department of Transportation (INDOT) will allow STEP 21 to benefit the urban areas of less than 200,000 in population. It is important that large and small urban areas continue to be represented through the MPO process.

The EUTS Policy Committee strongly supports the return of more federal funds to local and state uses. STEP 21 provides the people of Indiana with an opportunity to continue their participation in a cooperative planning process and to receive back, in the form of transportation infrastructure, a higher return of the dollars sent to Washington, DC.

Please support the STEP 21 program. The additional revenue would assist Indiana and other donor states in meeting the many challenges it faces in addressing future economic, social and infrastructure needs. I respectfully appreciate your support.

Sincerely,

ROSE M. ZIGENFUS,
Executive Director.

CITY OF LAFAYETTE,
OFFICE OF THE MAYOR,
Lafayette, IN, April 24, 1997.

Hon. ED PEASE,
Cannon House Office Building,
Washington, DC.

DEAR REPRESENTATIVE PEASE, In this year's reauthorization of federal transportation programs I want you to know of my support for getting a fair share of federal highway funds for Indiana. I believe that the STEP 21 (Streamlined Transportation Efficiency Program for the 21st Century) program is the way to accomplish that goal.

It is important for you to know that the State of Indiana, in partnership with its local governments, support the STEP 21 effort. I appreciate your efforts on behalf of the STEP 21 program which will bring a fairer share of our highway taxes back to Indiana communities.

Sincerely,

DAVE HEATH,
Mayor.

MPO COUNCIL
July 16, 1996.

Congressman PETER J. VISCLOSKY,
Cannon House Office Bldg.,
Washington, DC.

DEAR CONGRESSMAN VISCLOSKY: The Indiana Metropolitan Planning Organization (MPO) Council represents the twelve urbanized areas of the state of Indiana. This letter extends the MPO Council's support of the STEP 21 legislation (Streamlined Transportation Efficiency Program for the 21st Century) which is currently being drafted by a consortium of states nationwide, and considered by Congress.

The STEP 21 legislation continues to support strong planning through the continuation of support for metropolitan planning organizations. Additionally, STEP 21 will guarantee state and local governments a minimum return of 95 cents on the dollar (rather than the 82 cents Indiana now receives). STEP 21 provides funding formula guarantees to urban areas of 200,000 plus population. The MPO Council also represents urban areas of under 200,000 in population. It is important that large and small urban areas continue to be represented through the MPO process.

The Indiana MPO Council strongly supports the return of more federal funds to local and state uses. STEP 21, as described in this letter, provides the people of Indiana with an opportunity to continue their participation in a cooperative planning process and to receive back (in the form of better highways) a higher return of the dollars sent to Washington D.C.

Please support the STEP 21 program as described. The additional revenue would assist Indiana in meeting the many challenges it faces in addressing future economic, social and infrastructure needs. We respectfully appreciate your support.

STEP 21, THE NEXT LOGICAL STEP TO ISTEA IN REFORMING TRANSPORTATION FUNDING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. CONDIT] is recognized for 5 minutes.

Mr. CONDIT. Mr. Speaker, as our transportation needs change going into the 21st century, our current funding formula dating back to 1916 needs to be updated. H.R. 647, STEP 21, is a commonsense approach to reforming transportation funding that simplifies and reduces the complex ISTEA program and funding set-aside. STEP 21 is not a substitute bill for ISTEA. It represents the next logical step to ISTEA. Our focus is strictly on highway funding. Our purpose is to create equity among the States. It is time to fix an outdated funding formula. We need to strike a balance between equity and meeting our transportation needs.

STEP 21 ensures a true 95 percent return on States' contributions to the Federal highway trust fund. In California, STEP 21's funding formula would mean an additional $500 million per year over the life of ISTEA. California deserves a better rate of return. When we factor out emergencies and transit funding, California receives 86 cents on the dollar, and that is wrong. The question is one of equity, and it is time for California to receive her fair share.

The argument is not whether the Federal Government should play a role in administrating the highway program, it is how big, how big the Federal role should be. It is time to allow States and local officials the flexibility to solve their own unique set of problems. STEP 21 gives local governments more flexibility without endangering CMAQ or enhancement programs. It allows them to decide how to best spend the money, whether it is in improving the air quality, improving traffic problems, or building more bicycle trails.

It does not change current MPO structures. Under STEP 21, MPO's will continue to receive the same set-aside they receive under ISTEA. It is time for greater equity and more local control. It is time for STEP 21.

Mr. Speaker, I would like to also commend the gentleman from Texas [Mr. DELAY] for his leadership in this area. He has done great work for us. I believe that the country will benefit from us passing STEP 21.

WHY STEP 21 AND ISTEA IS GOOD FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, as a Member from a so-called donor State, I rise in strong support of the STEP 21 program. This program would permit each State to receive a far more equitable return on what is paid into the Federal highway trust fund. My State, Tennessee, has received only 78 cents for every $1 we have contributed over the last few years. This is not fair, and it is not right. With the passage of STEP 21, each State will be assured of at least a 95 percent return on its contribution to the Federal highway trust fund. Not only will STEP 21 benefit Tennessee, but it will benefit the entire Nation by providing a consistent economic benefit for all States.

In addition, STEP 21 lets the States decide where they want to spend their highway trust fund allocation. Tennesseans do not need Washington to

dictate to them what they need and how to spend it. Every State has different needs, and every State is capable of providing for their own funding in this way, making the decisions.

This proposal provides the flexibility, the STEP 21 proposal provides the flexibility to tailor transportation solutions to their particular circumstances by returning the decision-making to the State and local levels. Mayors, county executives, Governors, and other elected officials from around the country have endorsed the flexibility of STEP 21 because they would have the power to determine how transportation dollars are spent.

One area of the present law which needs to be changed is the one dealing with the metric system. Last year I introduced H.R. 3617, which was a bill to amend the National Highway Designation Act relating to metric system highway requirements. Instead of reintroducing this bill, I am going to attempt to add the language of this to the current ISTEA legislation.

This language would repeal the mandate that all Federal-aid highway design and construction be performed in metric. Under this legislation, the choice of whether to use the metric system in design and construction of Government projects would be left to the discretion of the States, as it should be. My proposal could conceivably save hundreds of millions of dollars.

For example, just one medium-sized Tennessee contractor told me that it will cost his company alone more than $1 million to convert forms and equipment and train his employees to comply with these metric mandates. In addition, another company in my State told me that its cost of conversion would be a minimum of $3 million.

When I asked the Congressional Research Service to see if there were any estimates on how much this conversion would cost across the Nation as a whole, the only answer they could come up with was that it could not be determined, but it would be in the billions.

There are companies in every State which face many millions in similar costs if something is not done. Many small- and medium-sized businesses and even a few large American companies are being hard hit by the metric requirements, all for the convenience of a few extremely large multinational companies which do not really need our help.

Some people say we must convert to the metric system of measurement because most of the world has done so. In my opinion, this is simply not a good enough reason to cost American taxpayers and consumers hundreds of millions of dollars. These requirements do not make our roads one bit better. Simply, the benefits of these metric requirements do not outweigh their costs.

Removing this metric mandate will go a long way to help small business. We have never been afraid to be a special and unique Nation in the past, Mr. Speaker. So to say that we must go metric because most other nations have is just not a good reason, either.

Mr. Speaker, I urge my colleagues to support STEP 21. By doing so, they will be supporting fairness and equity in our highway funding system. I urge their support for STEP 21.

I would also like to commend the gentleman from Texas [Mr. DELAY] and the gentleman from California [Mr. CONDIT] for their leadership on this issue. We need the STEP 21 legislation to put fairness and equity back into our highway funding system.

STATEMENT IN SUPPORT OF STEP 21

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. GOODE] is recognized for 5 minutes.

Mr. GOODE. Mr. Speaker, I rise in support of STEP 21, and also commend the gentleman from Texas [Mr. DELAY] and the gentleman from California [Mr. CONDIT] for their leadership and work on this issue.

There is an old saying in the Fifth District of Virginia that the best way to figure out where to build a new sidewalk is to look for the worn path through the grass. That saying applies equally well to the construction of roads.

In my district, which is geographically larger than some States, there are barely 30 miles of interstate highway and what amounts to miles and miles of well-worn paths through the grass and across the creeks and rivers and through the mountains.

Those well-worn paths are the roads that comprise the transportation network of the Fifth District of Virginia, a network that inhibits economic development, endangers our citizens who travel the roads, and were built for far less traffic than they are asked to handle today.

Yet, in this fiscal year, it is estimated that Virginia will receive only 81 cents in transportation funds for every dollar in gas taxes that we pay to Washington. Last year that amount was 74 cents for every dollar paid.

In fact, over the course of ISTEA, Virginia will receive an average of only about 83 cents for every dollar Virginians send to the Federal highway trust fund. And so today I rise in support of STEP 21. STEP 21 is a bipartisan proposal. It adopts a funding formula to more equitably distribute the money that Americans pay as gas taxes. STEP 21 assures that every State will receive at least 95 cents on the dollar. STEP 21 will make ISTEA's promise of funding fairness a reality.

Mr. Speaker, as the House continues to consider ways in which to create an intermodal transportation network that will treat every State fairly, that will increase safety on the highways, and that will create opportunities for economic development, I urge my colleagues to support STEP 21, the ISTEA Integrity Restoration Act.

IN SUPPORT OF STEP 21 PROPOSAL

The SPEAKER pro tempore (Mr. COMBEST). Under a previous order of the House, the gentleman from Texas [Mr. TURNER] is recognized for 5 minutes.

Mr. TURNER. Mr. Speaker, I rise in support of H.R. 647, the STEP 21 proposal, and I join my colleagues in thanking the gentleman from Texas [Mr. DELAY] and the gentleman from California [Mr. CONDIT] for the leadership that they have given on this very important issue. STEP 21 is an effort to bring equity and fairness to the financing of our highway systems in this country.

Each of us have our individual list of highway needs. As I look at the Second District in Texas that I represent, I know we are working hard to try to bring about the Interstate 69 project, which is a vital corridor from mid-America into and through Texas to Mexico to access the markets opened by NAFTA.

We have projects like Interstate 10 that are badly in need of repair, where a very dangerous curve has cost the lives of several individuals. We have projects like loop projects in the city of Cleveland, projects that cannot be funded unless we adequately and fairly fund our highway system.

As a former member of the Texas Senate, I know how important Federal highway funds are to our States; and it is for that reason that I think it is even more important that that funding be fair and equitable.

Since 1992, Texas has received back only 77 cents of every dollar that Texans contributed to the Federal highway fund. That is not fair, that is not equitable, and that is not consistent with the highway needs of Texas or any other State that is short-changed under the current formulas.

This policy is not only bad for Texas, it is bad for the country, because it is true that contributions to the Federal highway trust fund, those gasoline taxes that we all pay, are reflective of highway usage in our States. STEP 21 would ensure that every State gets back at least 95 cents of every dollar that we pay in Federal gasoline taxes to the Federal highway trust fund.

STEP 21 also ensures greater flexibility in the expenditure of funds by our States. Having come from the Texas legislature, I trust Texans to know what is best for Texas highways, and I think this proposal gives our States the kind of flexibility that they need and they deserve to meet their growing transportation needs.

This is not just a question of regional equity. This is a question of national interest. All of us depend upon a good system of transportation. The traffic that flows from Texas to the East

Coast or to the West Coast is equally important to all of us. We cannot build a transportation system that is sufficient to meet the needs of this country unless we are willing to do away with the outdated and inefficient formulas that are in the current law.

Texas and other States who have been contributing more than they are getting back want some relief. And in these times of tight budgets, when we are working hard to balance the Federal budget, and when those Federal dollars are shrinking, it is even more important that the limited dollars that we have be passed out in a fair and equitable manner.

I hope that this Congress will see fit to enact H.R. 647 because it will bring fairness to all of our States by improving the Federal transportation system that we all depend on.

STREAMLINED TRANSPORTATION EFFICIENCY PROGRAM FOR THE 21ST CENTURY (STEP 21)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BOYD] is recognized for 5 minutes.

Mr. BOYD. Mr. Speaker, I also rise and want to thank the gentleman from California [Mr. CONDIT] and the gentleman from Texas [Mr. DELAY] for giving us the opportunity to address this issue of transportation funds.

Twenty-five States have received less than they put into the highway trust fund, and 17 States have gotten back less than 90 cents on the dollar. When that happens, the Federal highway program is clearly broken.

Personally, I am also cosponsoring a piece of legislation called the Transportation Empowerment Act that would return most of the highway program dollars to the States. However, because of our makeup here in Congress and particularly in the Senate, that is a piece of legislation which probably will not move as STEP 21 will. So I am also supporting STEP 21. I think that is the logical mainstream proposal that can fix the existing problems in the current law while still maintaining an appropriate Federal role in highways.

It is intriguing to me that as we stand here, 3 years from the 21st century, that we are dealing with proposals in our Federal highway funding program that uses formulas that date back to 1916. These two particular formula factors that we are talking about, lands area and postal route mileage, come from a time when the national highway system did not exist, for obvious reasons; there were not any cars. In fact, the national highway system did not come into effect until 1956.

Mr. Speaker, I believe that these two factors, land area and postal route mileage, may have made some sense in a time when we were trying to get our horse and buggy out of the mud, but today they have little value at a time when we are trying to get our cars out of traffic. I would just like to remind my colleagues that what we are dealing with here is a gas tax, not a hay tax for horses.

I applaud the fact that the administration has stepped up to the plate and released their own plan for the reauthorization of ISTEA, which is called NEXTEA, but I want to remind you that this proposal is a giant step in the wrong direction.

The proposal maintains a State guarantee payback from the highway trust fund is at 90 cents, 90 percent, 90 cents on the dollar. However, I would like to remind my colleagues that over the last 5 or 6 years, even though we were guaranteed 90 cents return in ISTEA, Florida has averaged 77 cents on the dollar in gas taxes cents to Washington that would come back to Florida to help us with our roads. That is unacceptable.

According to the U.S. Department of Transportation's own calculations, the funding allocation under ISTEA for the State of Florida during the fiscal years 1991 through 1997 was approximately 4.28 percent. Under the NEXTEA proposal, those numbers will move to 4.08 percent. Certainly, that is less money. I am in the situation, Florida is in the situation with many other States in that we will be getting a much smaller slice of a larger pie, and that is not acceptable.

Proponents of NEXTEA have been arguing that 49 States also receive more dollars. But as I said earlier, that is simply because we have more dollars in the pot to carve up and we, in fact, will be getting a smaller slice. As a longtime donor State, Florida has consistently worked to provide greater funding equity in the Federal highway program. This legislation, STEP 21, is a clear step in the right direction, while also giving States more flexibility over how best to meet their individual transportation needs.

STEP 21 is a streamlined, commonsense approach to the current Federal program. It replaces a 40-year-old program, a program which was put in place to build an interstate highway system, and it replaces a system with a more decentralized approach that will allow the States to the respond to changing statewide needs with adequate resources.

STEP 21 streamlines the program's structure, increases State flexibility and provides financial equity. STEP 21 will guarantee a return of at least 95 cents on the dollar back to the States. It does that through allocating 40 percent into a Federal highway pot, and then it takes 60 percent and returns it to the States through a new streamlined surface transportation program.

Many opponents argue that it will derail such programs as congestion mitigation and air quality programs and also transportation enhancement programs, such as bicycle trails and pedestrian trails. That simply is not true. There is nothing in this piece of legislation that prohibits those programs from going on.

I would like to remind my colleagues that the CMAQ, that is congestion, mitigation, and air quality program, is governed by the Clean Air Act, and actually it is the Clean Air Act and not the Transportation Act that governs that.

Mr. Speaker, I would like to remind our colleagues that if we truly believe that we ought to have a government that is closer to the people, that the dollars ought to stay back in our States where they can best be used by local folks.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. DAVIS] is recognized for 5 minutes.

[Mr. DAVIS of Illinois addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. DEAL] is recognized for 5 minutes.

[Mr. DEAL of Georgia addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

BROWNFIELDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. MALONEY] is recognized for 5 minutes.

Mr. MALONEY of Connecticut. Mr. Speaker, I yield to my colleague from Connecticut [Mr. SHAYS] for introductory remarks.

Mr. SHAYS. Mr. Speaker, I thank the gentleman from Connecticut [Mr. MALONEY]. We have collectively between us 10 minutes and we would like to take this opportunity to talk about legislation that the gentleman from Connecticut, the Fifth Congressional District, and I have introduced dealing with old industrial sites, abandoned sites that are not in productive use in urban areas. These sites, called brownfields, are the issue that we intend to address tonight and, in fact, address in our legislation.

There are about 500,000 brownfield sites around the country in urban areas. These sites are old industrial areas that are basically lying fallow. Legislation that the gentleman from Connecticut and I have introduced attempts to address this issue. I would just say before yielding back to my colleague for a longer statement, in the city of Bridgeport, CT, last year the Clinton administration provided a grant of $200,000 for us to inventory all these old industrial sites called brownfields. This $200,000 was leverage for another $2 million that helped us categorize, inventory, and begin to clean up these sites on a unified basis.

This was an initiative primarily of the Clinton administration backed by Congress. Our legislation seeks to add from the $36 million appropriated by

the administration and Congress an additional $50 million to begin to categorize, classify, and clean up these sites.

At the center of this legislation is the gentleman from Connecticut [Mr. MALONEY] who has time now and I will have later so we can have a dialog. I would thank the gentleman for allowing me to make this introduction and tell the gentleman that it is really a pleasure to work with him on a bipartisan basis to begin to help do this very important thing, bring businesses back into urban areas to create jobs and to pay taxes by helping to clean up these sites.

□ 1630

Mr. MALONEY of Connecticut. Mr. Speaker, I thank the gentleman.

I thank the gentleman for his help and cooperation, his partnership with me in bringing forward this legislation. It is deeply appreciated.

Mr. Speaker, breathing new economic life into Connecticut's communities and stimulating growth across our Nation is my top priority in the U.S. Congress. I strongly believe we can stimulate economic growth by cleaning up contaminated industrial sites and returning them to productive use. This process, known as brownfields cleanup, allows a community to turn a barren site, once unusable by business due to concerns of sky-high cleanup costs, into valuable land that can be fruitful for years to come.

What is genuinely attractive about this process is that the entire community shares in the benefits: Area businesses acquire new land for investment. Connecticut families have new jobs. Cities and towns gain tax revenue. Local homeowners enjoy increased property values. And everyone benefits from a cleaner environment.

Turning brownfields into productive properties will have a substantial positive impact on Connecticut's future prosperity and on the prosperity of every other State in the Nation as well.

Currently, due to contamination, hundreds of thousands of industrial properties across the country are idle, and some actually have negative land value because of excessive cleanup costs.

The Naugatuck Valley, located in my district in Connecticut, was known as the Brass Valley because of its tremendous level of metal fabrication industry. Today, however, it is home to 20 percent of the brownfields sites listed by the State of Connecticut Department of Environmental Protection.

While the Naugatuck Valley was once a booming industrial area, it is now the home of a shrinking job base, abandoned industrial sites, and chronic economic challenges with unemployment rate that hovers at nearly 10 percent.

The gentleman from Connecticut [Mr. SHAYS] and I have introduced bipartisan legislation that will aggressively address the situation and help communities like those in Naugatuck Valley thrive again. The Brownfield Economic Revitalization Act of 1997 empowers communities and residents to identify local contamination and provides them with the resources necessary to attract private investment.

By working with the EPA and the Department of Housing and Urban Development, towns and community organizations will have the ability to pay for site assessment, will have access to redevelopment grants and revolving loan funds, and will be able to leverage State, local, and private funds for redevelopment and job creation.

The act will also allow qualified taxpayers and businesses to deduct cleanup costs in the year incurred, a major new tax incentive.

I would like to share with my colleagues the success of the Waterbury Mall cleanup, which is a model of how cleaning up a brownfield is worth each and every dime.

SUCCESSFUL BROWNFIELDS CLEANUP

The SPEAKER pro tempore (Mr. BATEMAN). Under a previous order of the House, the gentleman from Connecticut [Mr. SHAYS] is recognized for 5 minutes.

Mr. SHAYS. Mr. Speaker, I yield to the gentleman from Connecticut [Mr. MALONEY].

Mr. MALONEY of Connecticut. Mr. Speaker, I thank the gentleman.

Following its closing after years of industrial activities of a brass manufacturer, a 100-acre factory site fell into disuse in the city of Waterbury. I worked to secure funding for the environmental cleanup of the site. Once clean, the site was made available to the private sector for reuse. This fall the residents of Waterbury will see the opening of one of the largest retail shopping malls in all of New England.

This new-use, successful brownfields cleanup will add hundreds of millions of dollars to Waterbury's tax base and will create 4,000 new jobs in Connecticut. The brownfield approach can of course also be used for commercial and industrial reuse and even for public recreation.

In Derby, CT, for example, we are working to reclaim an old industrial waste site known as O'Sullivan's Island for a combination waterfront park and marina. The O'Sullivan's Island project will both reclaim a valuable environmental asset and draw thousands of people every year to downtown Derby.

Successes like the Waterbury Mall and the planning now under way for Derby, can and should be replicated across the country. The Shays/Maloney Brownfields Economic Revitalization Act will ensure that that happens. It will ensure that communities and businesses have a more streamlined process which will allow them to stimulate economic growth. It will attract needed investments and stimulate welcome activity. Connecticut's, and America's, businesses, employees, homeowners and families need and deserve this legislation, and I and the gentleman from Connecticut [Mr. SHAYS] are committed to making it a reality for all of us.

Mr. SHAYS. Mr. Speaker, our legislation increasing the funding from $37 million to $87 million would provide a $200,000 maximum grant to each site assessment and redevelopment plan. It enables a community to go out throughout the community and determine what are the brownfields in their community, why these buildings are not being developed.

In some cases they will find the absence of knowledge has led people to stay away. When they come and make a more thorough review of these sites, they realize they do not have the contamination problems they might think they have, and the community is able to promote the development of this land. This money also becomes a leverage to bring in private money as well as State and local money.

It also provides a capitalization revolving loan fund of $500,000 each in addition to the $200,000 grant. We also are providing in our legislation $25 million to HUD for each of the next 4 years to provide for brownfield activity to leverage some of the State and local and private funding.

I think one of the most important features of this is that it provides tax incentives. A business that comes in can expense out in the year of cost the cleanup of the sites, which makes it far more attractive to a business so that they can recoup their costs much earlier and not have to amortize it over 10, 20, 30, 40, or 50 years.

Mr. Speaker, we have seen the success that has happened, that it has provided Bridgeport. We are seeing the kinds of success in cities like Waterbury with cleaning up old industrial sites. We are looking to make brownfields into greenfields. I cannot emphasize enough the need for allowing businesses to see land in urban areas as having a positive land value, not a negative land value.

Mr. Speaker, I yield to the gentleman from Connecticut [Mr. MALONEY].

Mr. MALONEY of Connecticut. Mr. Speaker, I just conclude by making an observation that frequently people have suggested that economic development and environmental protection are inconsistent. What this legislation does is clearly demonstrate that we can accomplish both goals simultaneously. We can in fact take property that has been environmentally degraded, put it back to use, clean it up from an environmental perspective and then, putting that property back to use, stimulate and encourage and expand economic growth.

This is legislation that is good for the environment. It is good for the economy. It is good for the people of this country. I urge my colleagues to support it.

Mr. SHAYS. Mr. Speaker, we are eager to have cosponsors on this legislation. This is bipartisan. It is a Democrat and Republican bill. It has the endorsement of the President of the United States and the cooperation of the EPA. This in fact is legislation they would like to see become law, like to see these additional funds. We are looking forward to seeing it become law.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. PEASE] is recognized for 5 minutes.

[Mr. PEASE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BRADY] is recognized for 5 minutes.

[Mr. BRADY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. SESSIONS] is recognized for 5 minutes.

[Mr. SESSIONS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. CANADY] is recognized for 5 minutes.

[Mr. CANADY of Florida addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

DISASTER INSURANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MCCOLLUM] is recognized for 5 minutes.

Mr. MCCOLLUM. Mr. Speaker, I take this time today to talk about a couple of issues. The first one is disaster insurance and the problems that most of the States that I am familiar with, Florida, California, have with the fact that today we cannot get reinsurance in terms of casualty and property insurance for those kinds of disasters and catastrophic events that occur in our States.

Many of the States along the coast particularly of this country, whether that be the Gulf of Mexico or the Atlantic Ocean, have tremendous exposure to hurricanes. Hurricanes can do tremendous damage. In Florida a couple of years ago we had a hurricane known as Andrew. Andrew caused $16 billion worth of damage by going through a section south of Miami known as Cutler Ridge. If that hurricane had gone through Fort Lauderdale, we are told by experts that that hurricane would have caused $40 or $50 billion worth of damage. If it had gone through Miami downtown, Lord knows how much it would have cost, but it would have been a lot.

In California within a couple of weeks of Hurricane Andrew they had a relatively mild earthquake but serious enough to cause about $12 billion worth of damage. We are likely to see hurricanes and earthquakes, particularly big earthquakes, in California that will be staggering in total losses in terms of the entire damage done in the next few years in these cataclysmic events that occur, hopefully, only once in a lifetime or once in a century. But when they occur they do enormous damage.

There is a need because the insurance capabilities of private insurance and the States are not capable of dealing with it. There is a need to have Federal involvement. That is why I introduced legislation known as H.R. 230, which would address this problem by providing a national form of reinsurance for those who provide the kind of catastrophic coverage and property and casualty coverage in hurricanes and earthquakes and other natural disaster situations.

The way this legislation would work would be that first of all there would have to be a $10 billion or greater total loss in the natural disaster to trigger the involvement of the Federal interest. Then, when that occurred, there would be a trust fund set up in the Treasury Department, and that trust fund would be created by the sale of reinsurance contracts to insurance companies who do this kind of business at an auction, an auction set by a commission which would be developed under this legislation.

Mr. Speaker, that auction would result in premiums for the contracts being paid yearly by the insurance companies into this trust fund. Then, when we had a disaster of $10 billion or greater all together, for the next $25 billion in losses up to a $35 billion disaster, the trust fund moneys would come into play and the Treasury would pay out of the trust funds on a pro rata basis to the insurance carriers the reinsurance proceeds.

This would enable a more orderly process to take place in States and in localities where these catastrophic events take place, and would eventually allow, I believe, for there to be a lowering of the insurance premiums that are now going through the roof for homeowners and business owners in these affected States. I think that it is very important that our colleagues take a look at this legislation. I would invite cosponsorship of it.

I would hope that we could move a bill of this nature or something similar to it through this Congress this session. The gentleman from New York [Mr. LAZIO], chairman of the Housing Subcommittee, has been on the floor a lot the last few days as this bill and a similar product that he has introduced and cosponsored, as he has cosponsored mine in his committee. We are looking forward to the kind of support that will allow us to proceed to get this type of law enacted.

I might say that every State is affected by this because, if we get a pool of insurance moneys for reinsurance like this in the Treasury that is accumulated by premiums being paid by insurers, it is going to save the taxpayer money in the event of major losses.

We are talking about a supplemental appropriation now for disasters in flood prone areas and so forth. We are always going to have Federal money being spent when you have a major disaster.

If we can have an insurance pool like this that is stimulated to fill a void in the market since there is no private reinsurance to speak of for this purpose now and could lower insurance premiums for individual homeowners and businesses at the same time, we will have done two things: One, we will have helped people get insurance and afford insurance in States where catastrophic incidents and disasters occur. We will also have protected the taxpayers from losses that will occur when disasters occur and somebody comes knocking on our door for assistance.

Last but not least, in the few remaining moments I have, I would like to point out that in the Subcommittee on Courts and Intellectual Property, where I serve, a hearing is going on now dealing with the subject of judicial activism. That is a somewhat controversial topic, but a few weeks ago there was a publication, an article in Human Events, which is a known periodical, on the subject of the constitutionality of impeaching judges for going too far, for not performing in good behavior, a very scholarly work.

I do not know what that line should be. I will include for the RECORD the article from Human Events that I am referring to to be incorporated:

[From Human Events, Apr. 11, 1997]

CONGRESS SHOULD THROW THE BUMS OUT

(By Robert J. D'Agostino and George S. Swan)

House Majority Whip Tom DeLay (R.–Tex.) recently gave voice to what many conservatives all across America have been thinking for years: Judges who flout the Constitution should be impeached, through the means provided in the Constitution itself, by a majority vote in the House followed by a two-thirds vote in the Senate. ''As part of our conservative efforts against judicial activism,'' DeLay said, ''we are going after judges.''

But Senate Majority Leader Trent Lott (R.–Miss.) poured cold water on the fire DeLay had lit when he told the Washington *Times* that he would not consider impeaching a judge who had not committed a crime. ''Not me,'' said Lott.

But it is DeLay, not Lott, who understands what the Framers intended to be the true constitutional role of Congress in curbing abuses of power by federal judges.

The impeachment of federal judges is a matter of congressional will. Article III, section one, of the Constitution provides that federal judges, including the Justices of the Supreme Court, ''shall hold their Offices during good behavior.'' This is in addition to the right of Congress to remove ''all civil officers'' for ''treason, bribery, or other high crimes and misdemeanors.''

The phrase ''good behavior'' commonly is associated with the English Act of Settlement of 1701. That act granted judges tenure for as long as they properly comported themselves. The historical basis and the current perceptions of this language (good behavior) alike signal that the standard applying to federal judges ''is higher than that constitutionally demanded of other civil officers,'' according to Harvard Law School Professor Laurence H. Tribe in this treatise ''American Constitutional Law.''

Justice Joseph Story, who served on the Supreme Court from 1811 to 1845, was of a similar view and expressed concern about judges yielding ''to the passions, and politics, and prejudices of the day.'' It may be inferred that good behavior means fidelity to the Constitution, although Prof. Tribe might have a noninterpretive definition of fidelity.

As U.S. House of Representatives Minority Leader Gerald R. Ford (R.–Mich.) told the House on April 15, 1970, regarding a bid to impeach Supreme Court Justice William O. Douglas:

''What, then, is an impeachable offense? The only honest answer is that an impeachable offense is whatever a majority of the House of Representatives considers it to be at a given moment in history; conviction results from whatever offense or offenses two-thirds of the other body considers to be sufficiently serious to require removal of the accused from office. Again, the historical context and political climate are important; there are few fixed principles among the handful of precedents.''

An energetic Congress can make sufficient time to impeach errant federal judges. In 1989 the House impeached and the Senate removed both U.S. District Judges Alcee L. Hastings and Walter Nixon.

In a decision resulting from a procedural challenge by Walter Nixon to his impeachment, the Supreme Court stated, ''A controversy is non-justiciable—i.e., involves a political question—where there is a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it.'' (*Nixon* v. *United States*, 1135 Ct 732 [1993]) In other words, there is no judicial review of the impeachment process.

Impeachment is, in fact, the Court said, ''the only [effective] check on the Judicial Branch by the Legislature.'' To suggest as some have that a legislative check on the judiciary (for other than criminal acts) would eviscerate the principal of separation of powers is absurd. The presidential veto allows the executive to check the legislative branch; the two-thirds override and the power of the purse allow the legislative to check the executive; and the Article III jurisdictional control of federal courts by the legislative and the legislative impeachment powers allow a check on the judiciary.

Founding Father Alexander Hamilton in ''Federalist Paper No. 81'' envisions Congress' impeachment power as a check on legislating from the bench. While discussing the reasons for considering the judicial the weakest of the three branches of government, he wrote: ''And this inference is greatly fortified by the consideration of the important constitutional check which the power of instituting impeachments in one part of the legislative body [the House], and of determining upon them in the other [the Senate], would give to that body upon the members of the judicial department. This is alone a complete security. There can never be danger that the judges, by a series of deliberate usurpations on the authority of the legislature, would hazard the united resentment of the body intrusted with it, while this body was possessed of the means of punishing their presumption by degrading them from their stations. While this ought to remove all apprehensions on the subject, it affords, at the same time, a cogent argument for constituting the Senate a court for the trial of impeachments.''

Of course, Hamilton was wrong when he said that judges would never usurp the powers of the legislature. Perhaps this is because Congress has refused the employ that check on the judiciary which he explicitly considered it to possess.

What then is good behavior? It is what Congress decides. There is no textual limitation in the Constitution, and thus its meaning must be left to the branch of government, the Congress, charged with the responsibility to apply it. Certainly, disregard of the plan meaning of the Constitution and the usurpation of the legislative authority are examples of misbehavior. Prof. John Baker of Louisiana State University Law Center suggests that a usable guide for deciding whether a judge has violated standards of good behavior is ''if on matters pertaining to the Constitution he or she has regularly rendered decisions which can be reasonably characterized as based on 'force' or 'will' rather than merely judgment. A judge exercises 'force' or 'will' rather than judgment on an issue . . . if his or her decision is not reasonably based on the explicit text of the Constitution, one of the Amendments or evidence of the intent of the Framers and ratifying bodies of the pertinent part of the Constitution or Amendment.''

In other words, Prof. Baker suggests that if a judge behaves arbitrarily and capriciously, that is, without the constraint of law, he ought to be impeached. We concur.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

[Mr. DREIER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. METCALF] is recognized for 5 minutes.

[Mr. METCALF addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. FOLEY] is recognized for 5 minutes.

[Mr. FOLEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. CUNNINGHAM] is recognized for 5 minutes.

[Mr. CUNNINGHAM addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

AN ISSUE RELATIVE TO H.R. 1469

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. OLVER] is recognized for 5 minutes.

Mr. OLVER. Mr. Speaker, tomorrow this House is going to take up H.R. 1469, which in its major part is an emergency appropriation bill to help the flood victims in the western part of the States, particularly North Dakota, deal with a very tragic situation.

Within that bill, in title I of that bill, section 601 of that legislation makes a major change in the procurement policy under which our Bureau of Engraving and Printing operates which has never been considered by either the Committee on Government Reform and Oversight under the leadership of the gentleman from Indiana [Mr. BURTON] nor the Committee on Banking and Financial Services under the leadership of the gentleman from Iowa [Mr. LEACH].

☐ 1645

Neither of the authorizing committees dealing with this subject has held so much as a single hearing on the issue that is before us and, therefore, it has no place in an appropriations bill and is clearly not an emergency matter related to the victims of national emergencies.

Now, the provision involved in section 601 requires that the Treasury Department must give capitalization subsidies to companies that are interested in becoming new suppliers of currency paper to the Bureau of Engraving and Printing. Capitalization subsidies, Mr. Speaker, are cash payments for new equipment or new facilities in order to manufacture paper. The amount of such cash payments could reach as much as $100 million.

The manner in which this change in our law would be imposed, a change, remember, that has never been considered by either of the authorizing committees, the Committee on Government Reform and Oversight nor the Committee on Banking and Financial Services, the law would apply special provisions of our longstanding procurement laws of this Nation that were designed to induce proposals where there is no willing supplier of a commodity or a product that the Government needs and provide these cash subsidies, these capitalization subsidies, in order to induce such suppliers.

Well, there are and have been over the years willing suppliers. There is a willing supplier now and there have been on other occasions other willing suppliers. So we do not have the circumstances of the Government not having a willing supplier, and so the proposal to change the law is before us.

Section 601 also makes another change. It changes the Conte rule that had been promoted and established in 1989, under my predecessor in the first district in Massachusetts, which set the foreign ownership that could be involved in the manufacture of the American currency at 10 percent and changes that so that it can be anything up to 50 percent.

Now, our American currency is right at the very core of our national security and, actually, our sovereignty.

And most Americans, I think, believe that we should be very careful about how we deal with our currency. Well, what is the purpose of a change in the Conte law? Well, it is not as has been suggested, that no American company can vie for the contracts because they have greater than 10 percent of foreign ownership.

There is absolutely no evidence that a change in the Conte law is necessary for American paper companies to qualify as Bureau of Engraving and Printing suppliers based on their own percentage of foreign stockholders. There have been no hearings held on that. There has been no evidence taken before either the Committee on Government Reform and Oversight or the Committee on Banking and Financial Services to suggest such a thing and, in fact, the latest RFP to go out from the Treasury Department on this point has said 56 American manufacturing companies have been invited to make bids on the next set of contracts on American currency paper. All of our U.S. currency paper contract solicitations are already open solicitations and anyone can bid.

In fact, what the change in the Conte law would do is allow joint ventures with foreign national currency maker paper suppliers to get into the American currency manufacturing business.

Mr. Speaker, I ask unanimous consent for 2 additional minutes.

The SPEAKER pro tempore (Mr. BATEMAN). The Chair is not permitted to entertain the gentleman's request. The rules do not permit me to do that.

VIRGINIA IS PARTICIPANT IN STEP 21 COALITION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. GOODLATTE] is recognized for 5 minutes.

Mr. GOODLATTE. Mr. Speaker, I rise today to speak in favor of H.R. 674, also known as the STEP 21 proposal. Like the 21 other States participating in the STEP 21 Coalition, Virginia is what is called a donor State. That means Virginia gets back less than $1 in highway funding for every dollar we send to Washington each year in gas taxes; only 79 cents for each dollar we contribute, to be exact.

Other States are given the rest of Virginia's contributions because of an unfair funding formula set forth in the current Intermodal Surface Transportation Efficiency Act, or ISTEA. This unfair formula costs the State of Virginia and other donor States hundreds of millions of dollars each year.

Under the current formula, some States receive more than double the money they contribute to the trust fund. Massachusetts, for example, receives $2.49 for each dollar it collects in taxes at the pumps. Connecticut has a nearly 168 percent return on its tax payments to Washington. As a result, Virginia families are forced to subsidize transportation projects in these States and many others. While States with large areas and small populations may need to receive more money than they contribute, many of the States on the receiving end of the current ISTEA funding formula are there because of politics and not because of fairness.

Every week, as I drive back and forth from Washington to the Sixth Congressional District of Virginia, I see many unmet transportation needs. In the sixth district, road projects, such as widening Interstate 81, building Interstate 73, and improving Route 29, all need funding.

Building and maintaining a system of roads is vital to creating jobs and continuing economic development in our region. The STEP 21 proposal will improve Virginia's ability to maintain and improve its transportation system by ensuring that all States, not just Virginia, are guaranteed at least 95 cents return for every dollar sent to the highway trust fund.

STEP 21 would also guarantee the integrity of the National Highway System, recognizing the ongoing Federal interest in interstate mobility, economic connectivity, and national defense.

The other major component of STEP 21, besides the NHS, would be a streamlined surface transportation program which would provide flexible funding to allow States to respond to their specific State and local surface transportation needs without the current unnecessary Federal restrictions. By ensuring a return of at least 95 cents of every dollar for Virginia, STEP 21 would enable important transportation projects across the commonwealth to move along at a faster pace.

Ending an unfair funding formula and giving State and local governments more flexibility in transportation issues are critically important steps for this Congress to take. I urge my colleagues to join the STEP 21 Coalition and support a more equitable, flexible, and streamlined Federal transportation program that benefits the vast majority of States across the Nation.

TEXAS PARTICIPATES IN STEP 21 COALITION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. GRANGER] is recognized for 5 minutes.

Ms. GRANGER. Mr. Speaker, I rise today to join my colleagues in support of increased funding equity for donor States in the new ISTEA legislation.

Most parties agree the 1991 ISTEA law has been successful, and there is strong support for ISTEA reauthorization. The current ISTEA's major strengths are its balance of national priorities with State and local decision-making and its emphasis on the interaction between the different modes of transportation. The current ISTEA's major weaknesses are the funding inequities between the States and the complexity of the program formulas.

My State, Texas, is one of the States that does the worst in the current highway funding formulas. For every dollar we send to Washington in gasoline tax we receive only 77 cents back for new roads and bridges. In fact, Texas is currently tied with Indiana, Kentucky, and Florida for the third worst return on our highway investment.

The reason for this is that the basic ISTEA funding formulas are ultimately not based on need or equity; rather the formulas are based on historic highway funding shares from the days when the United States was focused on completing the Interstate Highway System. These antiquated formulas are significantly favoring the northeastern States and need to be revised.

The committee's challenge will be to balance the needs of restructuring and refining ISTEA and making its formulas more equitable for all States while preserving many of the best qualities. I have joined the gentleman from Texas [Mr. DELAY], our majority whip, and 104 Members of the House of Representatives as cosponsor of the STEP 21 plan to ensure that every State receives at least 95 percent of its Federal contribution back from Washington.

The STEP 21 plan creates a national highway system program which is apportioned on a need-based formula, and a streamlined surface transportation program which is apportioned according to a State's contribution to the highway trust fund.

The STEP 21 plan is a bold proposal. It presents a challenge to Congress to produce legislation that simplifies the programming's structure and increases funding equity but still allows funding to be spent on environmental quality, safety, and enhancements. Transit is not affected by the STEP 21 plan.

If this Congress is going to move our Nation's transportation infrastructure into the 21st century, the new ISTEA bill needs to form a partnership between the Federal Government, the States and local planning organizations that makes it easier and faster to construct highway and transit projects. This means building on ISTEA to make the highway and transit funding categories more flexible so that States, metropolitan areas, and transit authorities can make the most of their limited Federal resources.

My colleagues may ask why is funding equity so important to Texas and other donor States. When most people think of transportation, they think in terms of its impact on their daily commute, the errands they run, and the traffic on the way to their kids' school. But the quality of the transportation infrastructure and transportation systems in our communities really have a much greater impact on our lives than we realize.

Transportation and transportation-related activities account for one-sixth

of the national economy each year. That is over $1 trillion a year. For every $1 billion spent on highways, 42,000 jobs are created. These quality jobs range from highway construction to construction service and supply to retail businesses. The condition of the transportation infrastructure in our communities has an enormous impact on whether businesses decide to locate in that area, what products are available and job creation.

Inadequate roads cost businesses and motorists thousands of dollars each year. In the Nation's 25 largest urban areas, traffic congestion costs motorists a staggering $43 billion annually. Moreover, driving on substandard roads costs Americans an additional $21.5 billion annually in extra vehicle costs, including wasted fuel, excess tire wear, and extra maintenance and repairs. In short, areas with strong transportation networks tend to be growing areas; places with neglected and decaying infrastructure tend to be places that businesses and people are leaving.

That is why it is so important to keep our national transportation network strong as we approach the 21st century. This is why the Federal Government must play a major role in transportation. Neither the States nor the private sector alone can produce the efficient system of infrastructure that assures the efficient movement of goods, services, and people.

Given the importance of transportation to our economy, Congress must challenge itself to find ways of increasing the amount of Federal resources available for transportation infrastructure improvements, even at a time when the need to balance our budget is so critical. As the only Republican from Texas who serves on the Committee on Transportation and Infrastructure, I am committed to making funding formula fair for all States.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1053

Mr. PALLONE. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill H.R. 1053.

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

There was no objection.

HEALTH INSURANCE FOR THE NATION'S CHILDREN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. OLVER].

AN ISSUE RELATIVE TO H.R. 1469

Mr. OLVER. Mr. Speaker, I am very grateful to the gentleman from New Jersey for allowing me to finish the statement that I was doing earlier under his time.

As I was saying, under the section 601 of the bill, H.R. 1469, the emergency appropriation bill which we will deal with tomorrow, there is a change in the law proposed and promoted by my predecessor Silvio O. Conte which would allow the American currency to be made by a joint partnership that had up to 50 percent foreign ownership, rather than the original law, as it was, that would allow only 10 percent ownership.

□ 1700

The reason for that is that it would allow joint ventures with foreign national currency paper suppliers. The provision in section 601 has been specifically designed to give the currency production for our American currency over to the most likely foreign player, Thomas De La Rue, the British currency maker. De La Rue is more than a billion dollar a year business that has a monopoly on the supply of currency paper to the British Government. By policy of the British Government, no American company nor even another British company is allowed to bid and compete on the British currency paper contracts.

A capitalization subsidy to such a new supplier is particularly unfair because it is a foreign manufacturer who has a monopoly in their own market. It is actually unfair for any new supplier where there is already a willing supplier, and it is certainly outside our present procurement law. It is especially unfair when it is being given to a very large company, a goliath of paper companies.

These are American taxpayer dollars we are talking about for these capitalization subsidy payments, and it is hardly the way to use our taxpayer dollars when we are trying to balance the budget.

In a final irony, we tomorrow will vote on a so-called Buy American amendment which is offered by the gentleman from Ohio [Mr. TRAFICANT]. All of us will vote for that amendment, and then in very short order we will be asked to use American taxpayer dollars to subsidize turning over the manufacture of the American currency to the monopoly in their own market British currency maker.

American taxpayers deserve better than to be asked to pay for massive capitalization subsidies for foreign companies to make our currency, and I hope that tomorrow we will not adopt section 601 of H.R. 1469 when the matter comes up before us.

Mr. PALLONE. Mr. Speaker, at this point what I would like to do is to move into the issue of kids' or children's health care. Before I do that, I just wanted to say that Democrats in general have been concerned for almost 2 years now, and have put forth as part of their families first agenda an effort and a program to try to cover the 10 million children in these United States that do not have health insurance coverage at this point.

We have been very upset, I would say, over the fact that the Republican leadership really has not made an effort to address the concern of children's health care. In fact, over the last 2 weeks what we have seen sort of on the opposite end is an effort to cut money for the Women, Infants and Children's Program, the WIC Program, which hopefully will be addressed tomorrow when the supplemental appropriation bill comes up but still has not been adequately addressed by the Republican leadership.

Just by way of background, last month the Republicans on the Committee on Appropriations, largely along party lines, voted to limit the funding for the WIC Program. For those who do not know, the program provides milk, formula, and other nutritional benefits for our Nation's children. It is short about $76 million for this fiscal year. Most of the request, actually, for this funding to make up for the cut, most of the request came from the Governors of our 50 States, many of whom, the majority of whom actually are Republican.

Today when the supplemental appropriations bill came up on the floor to be debated for the first time and the rule was being considered, we saw the Republican leadership essentially playing a shell game with the fate of approximately 180,000 children who need the WIC Program and are not going to be funded if we do not get this additional money. What the Republican leadership did, basically, was to tie additional funding to WIC to this controversial rule and effectively gag all debate on any further amendments to meet these Governors' requests for additional WIC funding.

I cannot emphasize enough how important this WIC Program is. There are certain States like Nebraska and Arizona who have already begun to cut off nutritional assistance to many children because they are not getting this money that is needed. Believe me, more States are going to be following suit very soon if we do not have some action on the WIC Program.

I think it is important because, again, WIC is a priority. The Republican leadership has not made it a priority any more than they have made the issue of children's health care a priority. Many of us in our Democratic task force on children's health care have been complaining now for several months about the fact that the Republicans have not addressed this issue.

Last summer, Democrats began beating sort of a drum on the need to provide assistance to working families with uninsured children. This is primarily a concern of working families, because if they are of very low income, then they are eligible for Medicaid for their children. But if they are not, if they are above the Medicaid threshold, and in that case most of the people are

working, then they are not eligible for Medicaid and they are not able many times to cover health insurance for their children.

About a month ago, the Democrats finally called on the Republican leadership to move forward with a health care proposal by Mother's Day. Mr. Speaker, Mother's Day passed and the Republicans still have not produced anything. So our Democratic task force basically developed a plan of our own.

I would like to go into some of the details of this plan but I am just going to briefly, if I could, mention some of the important points. Then I would like to yield to the gentlewoman from Oregon [Ms. FURSE] because she has developed a very important part of this overall package.

Let me just say that the Democratic proposal consists of, first, an outreach program to cover the 3 million kids eligible for Medicaid who are not currently enrolled. Of the 10 million children that are not covered by health insurance right now in the Nation, approximately 3 million are actually eligible for Medicaid but for one reason or another are not enrolled, so we have an outreach program to cover them.

Second, we are expanding Medicaid to make sure kids are covered year round when they are enrolled. What happens now is oftentimes, every 3 months or so, there will be a review of the child to see whether or not they are eligible for Medicaid. That has created a lot of disruption and caused a lot of kids to not be covered by health insurance. What we are saying is that if they are eligible for Medicaid, that the child stays in the program for at least 1 year.

Then we have a Medikids grant to help cover more children in working families beyond the Medicaid Program. We are estimating that this could help working families up to $48,000 a year in income for a family of four.

Then we have the insurance reforms to provide access to children-only health insurance policies. The gentlewoman from Oregon will explain that in more detail. Basically what that involves is, for those who cannot afford private health insurance, to make sure that they have access to it for their children.

Lastly I wanted to mention that what the Democrats are putting forward as part of our health care proposal for kids guarantees that the funds in the balanced budget agreement go directly to covering as many kids as possible. I want to commend the President. The proposed budget agreement which we will probably consider next week on the House floor does provide for a certain amount of money, I think it is estimated to be about $17 billion over the next 5 years, to provide expanded coverage for children's health care. But we as Democrats want to make sure that this money goes directly to cover as many of these 10 million children as possible.

With that, I yield to the gentlewoman from Oregon.

Ms. FURSE. I thank the gentleman for yielding.

It is an enormous shock, is it not, to realize that 10 million American children have no health insurance? To me it just feels like that is a big national security issue. We are very, very keen to create weapons systems. But, my goodness, what about those children who if they do not get health insurance early will really suffer from a lot of diseases and conditions that could have been easily met? Where I want to congratulate the gentleman on having pulled together the task force and to work with the gentleman is terrific, because we are trying to reach those 10 million children.

What my bill does, and it comes, as always, out of constituents who have called and told me what is going on in their lives. What my bill does is it makes sure, it requires insurance companies who handle medical insurance to offer a package that is affordable and is a kids-only policy. What is affordable? We could all talk about what is affordable, but what is not affordable is a family plan that is $400, $500 a month for a family who maybe have lost a job, who cannot use their COBRA benefits because they cannot afford it. But what is affordable is a policy that we have in Oregon which is $34 a month. That will cover a child from birth to 18 years in Oregon. That is the way it goes. It is $34 a month. That allows for the family like the family who called me and said,

> Congresswoman, we cannot allow our children to have a normal childhood. We don't let them climb trees because we're afraid if they fell out of a tree and got hurt, we wouldn't be able to afford to take them to a doctor. I raise my kids out in the country.

I cannot imagine what it must be like to be a parent and say to your kid that they cannot do normal kid things because we do not have health insurance for them.

Part of our Democratic package, and I think the gentleman is absolutely right, the Democrats decided this was a crisis, this was an issue that we had to deal with and that was, take care of those 10 million children. Part of those 10 million could be covered under this health insurance policy that we would require insurance companies to create. It would mean that those children whose parents, and 62 percent of the children without health insurance are children whose parents are working people. They go to work every day. They are not sitting on their couches watching television. They are going to work, but their employer does not provide them with health insurance or they just cannot afford it but they are not eligible for Medicaid. They would be able to buy this $34 or $35, whatever we could make available.

My bill, the part we have included in the Democratic package, will also provide that you cannot say, Well, this child has a preexisting condition, we're not going to cover them. We are building on the Kennedy-Kassebaum bill which we passed, bipartisan bill, last year, saying it is not fair to say to people, Because you have a preexisting condition, you can't get insurance. Those are the people who need insurance. Think of the children with diabetes who need to have good medical attention, and they would be covered, because these families could afford that affordable care but they are not eligible for Medicaid.

I am pleased that we are going to be able to offer something from the Democratic Caucus that will provide for those 10 million children. Again I think what we are dealing with is a national security issue. If we do not have healthy children, we do not have healthy adults, we do not have people who can be the best and the brightest that they could be. That is a real loss to this country, it seems to me, and that is why we must step forward, we must say this is a priority, we are going to fund these things. Of course my bill does not require any government funding. It just makes available to those families who really want to look after their kids, they want to do the best for their kids. I am very pleased it is in the package and I am very pleased that we have stepped forward and said we as Democrats are going to take care of kids.

Mr. PALLONE. I wanted to say that what the gentlewoman is saying about this being perceived as a national security issue I think is very legitimate because the bottom line is that the number of uninsured children is growing. I keep pointing out to my colleagues, my constituents as well that a few years ago when the President took up the issue of health care and was trying to put together a universal health care plan at the Federal level, he was doing it because he realized that the number of uninsured in general in the country was growing. We had figures then by the year 2000 there were going to be, I do not know how many, I think then it was 30, now it is 40 million uninsured and it would be even higher by 2000. That problem has not gone away. The number of children that are uninsured continues to grow. We had information from the Children's Defense Fund which has been one of the organizations that has been taking a lead on this issue, and they said that back in June 1996, which is when the Democrats first started to put together this families first agenda that they just gave an exponential chart about how the number just continued to grow. Since 1989, the number of children without private health insurance has grown by an average of 1.2 million every year, or 3,300 a day. If this trend continues, there will be 12.6 million children without private coverage by 2000.

What the gentlewoman is saying about this being a national security problem I think is totally legitimate. Of course it is true for a lot of adults as

well, but particularly for children it makes no sense not to cover them because it is their future, it is the future of the country, plus it is very cheap. As the gentlewoman pointed out when she was giving some figures about Oregon and what it takes if you have a children-only policy, it is unbelievable how inexpensive it can be, particularly if you are just covering kids.

Ms. FURSE. As a parent, and I know the gentleman is a parent of small children, I am a grandmother, what we know is that we do not sleep well at night if we know that our children do not have that security. It is security, it is the knowledge that if they should become ill or if we just want to keep them healthy, we have that opportunity to go to.

□ 1715

Mr. Speaker, we have the very best medical system in the world, but if our children cannot access that medical system, it does not matter how good it is. We have got to make sure that it is available to everyone, not just the rich, not just the very poor, but those working families who care so much about their kids and want to do the right thing for them, and they cannot pay the rent and the food and this very, very expensive insurance.

So, if we can provide them something that will take some part of those 10 million, then with our Medigap, Medikids Program that we are going to put forward, and with this outreach that you described so that everybody who is eligible will be able to access Medicaid, I think we could do the responsible thing.

Mr. PALLONE. I agree, and I want to thank you for pointing out in particular how right now the private insurance field does not necessarily allow the people or does not make it affordable enough for people to buy insurance policies just for their children.

Basically, if you look at what our task force has proposed, we are sort of looking at this 10 million children and we are trying to sort of attack it from different points of view because we realize it is a complex problem. It is not something that you can address in just one stroke, so to speak. And as I mentioned before, you do have about 3 million who actually are eligible for Medicaid, and I know that when we tried to get a little information about why those 3 million are not on Medicaid, we got different reactions. We found out, first of all, that the people, many cases the parents of those 3 million, are both working because of the bureaucracy, perhaps of not knowing how to, either not having the information or not having the time or not thinking it is worthwhile, they are just not knowledgeable enough or do not have enough time to enroll their kids. Plus, people are very proud.

Mr. Speaker, Medicaid, unfortunately I think, is viewed by many people as sort of a welfare program handout, and so in many ways it has a negative connotation that people think that they should not apply for it if they are working, that somehow it is a handout. And I think that is wrong, but you know it takes a certain amount of education to make people understand that it should not be viewed that way. So then you have that component.

Then you have the expansion of Medicaid; in other words, right now there are many States that take Medicaid up to a certain percentage of poverty but do not take it beyond that in order to attract Federal funds. So what we like to do is expand the Medicaid Program to higher levels to take in more people at higher levels of poverty or percentage of poverty.

And then with the Medikids Program, we are giving the States the matching grants to capture people up to 48,000 in income. Now some people would say to themselves, well, gee that is high, 48,000, but surprisingly I think the estimate was that there are something like 1½ million children out of that 10 million that are not covered that are with parents who make above that 48,000, above the 300 percent of poverty. So the only way that we are going to attract those people is essentially what you have put forward, which is to make some changes in the private insurance program so that we can attract some people who just have not been able to afford it for whatever reason.

And I know that in New Jersey, 48,000 may sound like a lot of money, but it is not if you have two children or more and, you know, if maybe only one parent is working and the other one is staying home with the kids. It is not unusual for people to find out that they cannot afford health insurance.

Ms. FURSE. Or if you have two people working at minimum wage. You know, my goodness. We struggled so hard last year to get a minimum wage increase, you know, against so much opposition to that; but just think if you are working on minimum wage, yes, you might feel like, or well, I should not ask for something from the Government because I am working. But you know it is the best investment we make in this country is any time we invest in our kids. What a return we get on it.

And I know that there are single moms and single dads out there who are trying to keep rent and food and day care and all those things and just do not feel and do not know that they could turn to Medicaid. So we need to bring them in, and then those others who are making just a little bit more, but it would not be a lot more, to still want to have their own insurance policy, a kids only insurance policy.

Mr. PALLONE. I just, if I could, I just wanted to talk a little bit about the matching grant program because I know that that is one that has received a lot of press attention both in the Senate as well as in the House in terms of what we are doing. As I said, we are trying with our proposal to expand Medicaid and bring it to higher levels of poverty or percentages of poverty, but the matching grant program is a little different, and we call it Medikids because what it does is it targets those families basically who make between approximately 16,000 and 48,000. Those are the ones who make too much to be eligible for Medicaid right now but still we feel need some help from the Federal Government with matching money from the States.

But there is a lot of flexibility in this program, just to mention that how this additional money can be used. States can form public or private partnerships, they can use the money to build upon existing State programs. You mentioned Oregon. I know New Jersey has an existing State Program. New York; there are a number of States. Or they can just create a new initiative, if they want to, and it is totally voluntary to the States. If they do not want to do it, they do not have to, but hopefully they will.

Now in order for States to qualify for this Medikids matching grant, they have to provide Medicaid coverage for pregnant women up to 185 percent of the poverty level and children through age 18 and families up to 100 percent of the poverty level, or 16,000 a family of four. Gets a little bureaucratic here, but basically there are about 30 States right now that meet this first requirement.

But just for my own State of New Jersey, for example, we only cover kids up to 13 now; OK? So we would have an incentive, if you will, to take advantage of this matching grant program, but we would have to raise the threshold up to 18 at 100 percent of poverty.

So it is basically creating an incentive, if you will, for the States to expand the Medicaid Program, and then they get this additional money beyond that to take to include people that would not be eligible for Medicaid under any circumstances.

I think that that is sort of a good way to go about it, because again what we are trying to do is to capture some Federal moneys, get some State moneys, and then at the same time implement the changes in the private insurance market, or COBRA, that you have suggested, and if you think about it, between the outreach, between expanding Medicaid, between the matching grant program and the private insurance changes, I think we can go pretty far. I mean certainly all of the 10 million children who are not now covered by insurance could be covered under one of those various factors that we are putting forward, and at the same time it can be fit into the budget proposal, which is coming up next week and presumably over the next month or so. So our goal is to have this included as part of that process.

Mr. Speaker, I just want to thank the gentlewoman from Oregon again for all her help in this.

Ms. FURSE. Mr. Speaker, I thank the gentleman for caring about the kids of

America. We really must keep them front and foremost in our minds.

Mr. PALLONE. Thank you.

Mr. Speaker, I just wanted to take a little more time, if I could, to talk about some of the reasons why we need a plan like the Democratic proposal with regard to children's health insurance.

As I mentioned before, Democrats have been talking about this as part of our family first agenda at least since June 1996, and the reason again is because the number of kids or children who do not have health insurance continues to grow. But I wanted to stress, if I could for a few minutes, how this is essentially a problem for working parents and that our task force and our Democratic proposal was essentially trying to craft a program that would primarily address the concerns of working parents.

Right now, 9 out of 10 children without health insurance have parents who work, and nearly two and three have parents who work full time during the entire year, and these parents either do not get health insurance benefits through their employer, they get the benefits for themselves but not for their kids, or they get such a small contribution towards their kids' insurance that they cannot afford to make up the difference.

As I said before, Medicaid helps the poorest children, and families who are well off can afford private coverage, but there are millions of working parents who are trapped in the middle, unable to afford health insurance for their kids. A family health insurance policy can cost $6,000 or more, which frankly is out of reach for many working families. We talked about possibly families up to $48,000 a year for a family of four. Six thousand dollars is a lot of money for a family that is making up to $48,000 a year.

Now even for families who do get health insurance for their kids through their employer, insurance has gotten very expensive. In 1980, 54 percent of employees at medium and large companies had employers who paid the full cost of family coverage. By 1993 more than 79 percent of these employees were required to pay for their insurance. And the average employee now pays over $1,600 a year for family coverage, and employees of small businesses are paying an average $1,900 a year.

Mr. Speaker, some people say well, you know, so what? You know this is a capitalist society; the Federal Government cannot do everything for everyone. But there are severe consequences of children not having health insurance. This is highlighted by cities that show that uninsured children tend to receive significantly fewer health care services than insured children.

If I could just provide some facts regarding the consequences of children not having health insurance:

First of all, reduced care when sick. Uninsured children are less likely to have their health problems treated and less likely to receive medical care from a physician when necessary. For example, uninsured children obtain care half as often for acute earache, recurring ear infections and asthma as do children with public or private coverage.

Reduced care for injuries. Children with no insurance are less likely than those with insurance to receive care for injuries.

Reduced medical visits. Uninsured children are 2.3 times less likely to have obtained a medical care visit in the past 12 months than are insured children.

Reduced well child visits. During the course of a year, fewer than half, or 44.8 percent, of uninsured preschool children have any well child visits, and fewer than one-third receive their age-appropriate recommended scheduled visits.

And finally, no regular source of care. Uninsured children are seven times as likely as insured children to be without a source of routine health care, and when they obtain health services, they are far more likely than insured children to utilize high-cost hospital emergency rooms as their usual source of care.

So what are we talking about here? We are essentially saying that these children do not get preventive care, and when they do not get preventive care, they get sicker, and in the long run the costs of providing for their medical care goes up, and much of that cost ends up coming back to the Government or ends up being passed on to people who are paying for their health insurance through uncompensated care costs.

The main thing we are trying to emphasize here is that it makes no sense whether it is as Ms. FURSE said from her national security point of view or from a cost point of view or from a preventive point of view nothing—it does not make sense to not try to insure these 10 million children, and we believe that with our health care task force and our Democratic proposal we have a plan that can provide for insurance for most, if not all, these 10 million children within the confines of the balanced budget proposal that the House will be considering over the next few weeks or over the next month.

And at this time I yield to the gentlewoman from Texas [Ms. JACKSON-LEE] who again has been on the forefront of this issue and has come to the floor many times to argue for the need to cover the 10 million uninsured children.

Ms. JACKSON-LEE of Texas. I thank the gentleman from New Jersey [Mr. PALLONE], and certainly I want to thank him for his leadership. I would like to thank him for his victory because that is what he is working toward, and that is why I am joining you, because I would really much prefer us being able to say in the next couple of weeks, before the summer session or recess, district recess break, that what we have done is that collectively and in a bipartisan manner we have stood up for 10 million uninsured children.

I think that is why we are all here. I think that is why your committee and the committee that I have joined you on, the task force, has intently worked on creating something that makes sense. It is important to come to the floor of the House and do the people's business and make sense, and I do not think that we can stand much longer for 10 million uninsured children.

I went home this past weekend and interacted with several of my constituents and physicians, and they brought it to my attention again. Texas has 1 million uninsured children, and if I might just share with you another crisis with respect to this matter, and that is that in my community today we have just heard that Medicaid dollars that come from the Federal Government and then to the State government have been denied my Harris County hospital district.

What does that mean? There are applications under the block grant process for HMO's. The Harris County hospital district applied for such, and they were denied it. There is another instance where children in our community may go underserved, if you will.

And so I think it is very important that the legislation dealing with uninsured children also impacts on raising the level of those who can be served, and when I say that it means that this impacts poor working parents. We have already got a crisis in many of our communities about how Medicaid is utilized, and your proposal and the proposal we have joined in on says that we want to increase or find all the Medicaid-eligible children so that they can be on Medicaid.

I have a crisis where my Harris County district, hospital district, may suffer and not get the Medicaid dollars that they need because someone selected another group to run that system other than the very entity that serves poor children.

□ 1730

But if I might say that we need to focus on uninsured children of working parents, along with the crisis of those who are the poorest of the poor, and I think it is important to make these notations.

Most children without health care coverage are in that position because their parents work for companies who have cut health coverage for children or who offer no health coverage at all. We need to be aware of that so people will not say, why do they not get a job. Each year since 1989, 900,000 fewer children have received private health insurance. In other words, every 35 seconds one less child is privately insured. In America as a world power, I do not think that that is something that we want to be known for.

Without private insurance, millions of working parents who have labored on behalf of this country and their

families cannot afford health insurance for their children. So while Medicaid, and as I said, we have a crisis there, covers the poorest of children, and we are working to make sure that eligible children get covered as well, millions of children of working parents do not have any coverage at all.

Insurance coverage is critical to the health of our children, because children without health insurance, as the gentleman said, often do not receive the necessary treatment services or even the most basic service. A charitable group went into one of my schools in my district and found out that 60 children had not ever been tested or had their eyes tested and any number of them needed glasses. The reason? These are poor working families who have no choice. Medical expenses are sufficiently high and those financially burdened parents will simply opt to not take their children to the doctor, forgo needed pediatric preventive care because of the vastness of their burdens.

For example, studies have shown that the majority of uninsured children with asthma, and we talked about this in committee, never see a doctor. Many of these asthmatic children are later hospitalized with problems that could have been averted with earlier intervention.

Those of us in communities that see and share pollution know those stories full well. We know when at the Texas Children's Hospital there is a drive-by. Is it a drive-by shooting? No, it is a drive-by of the emergency room because they cannot take any more children in the emergency room because the parents who come there are poor, without any coverage whatsoever, and they are working parents and they use the emergency room as their doctor. Now is the time when our Texas Children's Hospital, one which prides itself in caring for children, says, ''No more.''

One-third of uninsured children with recurrent ear infections do not see the doctor and some later develop permanent hearing loss. Many children with undiagnosed vision problems cannot even read a blackboard, and they sit in school and become diagnosed as slow learners when actually they have a physical problem.

Finally, studies show that children without insurance do not receive adequate immunization, have higher rates of visits for illness care, and have more frequent emergency room visits.

I would like to engage the gentleman in a little dialog, because I know we often talk about how young we are, and I will continue to emphasize our youth. I do think, however, that the gentleman may have, like me, come through a period when all we could hear was ''Get your polio vaccination, get your polio vaccination.'' Every parent was making sure they ran somewhere, and of course when medical costs were reasonable, to make sure their child, that was the one thing that was instilled in them that they would do for their child, was to make sure they had their polio vaccination. What a difference it made in our lives.

Now today there are children entering school who do not have a proper immunization record because they have not been able to access medical care and preventive medical care. I just want to engage the gentleman in a colloquy as to whether or not he has seen circumstances where hard-working parents cannot get the basic minimum, which is certainly the immunization record and package that we most think our children should have, those early immunization shots that prevent terrible diseases such as polio, such as the time when the Nation was instructing all parents, ''Get your polio vaccine.'' Do does the gentleman know today that there are some parents that have not been able to get their polio vaccine for their children?

I yield to the gentleman.

Mr. PALLONE. Mr. Speaker, I know the gentlewoman from Texas [Ms. JACKSON-LEE] is right, and I know for a fact that there are people in that category. I think it is a twofold problem, and I think it relates to the issue of health insurance for kids in general.

On the one hand there is the fact that there are a lot of people increasingly who do not even realize that they need to do this, and then of course, once they do, not having the access, because as we know, vaccination is not as widespread as it once was, particularly in urban areas or certain rural areas where people just either are not aware or they do not have access any more.

I wanted to just mention, if I could, the gentlewoman talked about enrolling, and we mentioned before there are 3 million children of the 10 million who are eligible for Medicaid and who are not enrolled. We spent some time with the task force, as the gentlewoman knows, trying to figure out how to deal with this, because outreach is not really something that oftentimes is effectively done on the Federal level.

What we have in our bill is grants to States to help local communities to develop outreach programs with maximum flexibility to employ community resources. There again, I know it is a little different from what the gentlewoman was saying, but I think it is the same thing, that we need to motivate these community groups, regardless of the nature of the group, that will do the kind of outreach and get them the grant so that they can go out and find kids that are eligible for Medicaid or, as the gentlewoman says, kids that have not been vaccinated, kids that have not been able to either access preventive health care or whose parents are not knowledgeable of it. That is a big problem today. A lot of people are not aware of it, and obviously the gentlewoman is aware of it. I yield back.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman.

I think the package that we have worked on is truly a bipartisan package. When I say that I mean I cannot imagine why this legislation would not be attractive to our colleagues on both sides of the aisle. The reason is because we have an aspect that gives to the States incentives for outreach to help get the word out and to help bring down the lack of information for those who are not getting their children immunized.

In addition, it enhances outreach to eligible children not yet enrolled in Medicaid. So what it says is, there are eligible children, the funds are there, let us not waste the dollars by creating more dollars, let us make sure we get all the eligible children enrolled. That is a positive stopgap measure.

Then we have that it provides the grants, as the gentleman said, to States and territories to assist families with children with incomes up to 30 percent of poverty to purchase health insurance. That is a creative idea.

This, I think, brings people from both sides of the aisle around to this issue. It requires insurers to offer group-rated policies for children only. I think we remember in the last Congress where we debated and said, if we want to do business with the U.S. Government, we should put an incentive on those insurers who insure the U.S. Government to create child-related policies, and that is the direction in which we are going, and give families who qualify to continue health insurance coverage under COBRA, but cannot afford the premium for the entire family, the option to purchase the child-only policy.

I do not see where we can leave this session and not give an answer to those 10 million uninsured children. Particularly, I do not see how we cannot create child-directed health insurance policies so that we do not have to hear the stories about parents telling their children, ''Do not climb that tree, do not ride that bicycle. No, you cannot go swimming with your Boy Scout troop. Why? Because I am fearful of what may happen to you, and I have no health insurance to protect you.''

So I would just encourage our colleagues, really, let me get a little bit more stronger on this. We need this on the floor of the House now. We need this legislation passed now. There are too many children who are being harmed, who are not being protected. In a country as wealthy and as prosperous and as successful as this country, there are too many of our children who do not have adequate health insurance.

I yield to the gentleman.

Mr. Speaker, I rise today to voice my concern for the 10 million children in our Nation who are without health care insurance. I believe that strengthening and expanding health care coverage for all of America's children must be our first priority. We have heard many of the statistics surrounding this health insurance crisis before. Some of these figures are so striking, however, that I would like to bring them to your attention.

Nine out of ten children who are without health coverage have parents who work.

Nearly two in three of these children have parents who are employed full time during the entire year. Two-thirds of these children live in families with income above the poverty line and more than three in five live in two-parent families.

Most children without health care coverage are in that position because their parents work for companies who have cut health coverage for children or who offer no health coverage at all. Each year since 1989, 900,000 fewer children have received private health insurance coverage. In other words, every 35 seconds one less child is privately insured.

Without private insurance, millions of working parents who labor to support their families cannot afford to provide health coverage for their children. The cost of health insurance when not purchased through an employer is often prohibitive. So while Medicaid helps our poorest children, and more-affluent families can afford private coverage, millions of working parents in the middle cannot provide coverage for their children.

Insurance coverage is critical to the health of our children. Children without health insurance coverage often do not receive necessary treatment services or even the most basic care. Medical expenses are sufficiently high that financially burdened parents will often delay or forgo needed pediatric preventative or medical care.

Some examples—studies have shown that the majority of uninsured children with asthma never see a doctor. Many of these asthmatic children are later hospitalized with problems that could have been averted with earlier intervention. One-third of uninsured children with recurrent ear infections do not see the doctor and some later develop permanent hearing loss. Many children with undiagnosed vision problems cannot even read a blackboard. Finally, studies show that children without insurance do not receive adequate immunization, have higher rates of visits for illness care, and have more frequent emergency room visits.

It is obvious that to deny children health care coverage, denies them the opportunity to lead healthy lives and to reach their fullest potential. We, in the Democratic Party, have worked hard to draft legislation that will address the plight of many of these uninsured children. This legislation will: first, enhance outreach to eligible children not yet enrolled in Medicaid; second, encourage and provide additional funds to States and territories to expand the Medicaid floor for health insurance for low-income children; third, provide for grants to States and territories to assist families with children with incomes up to 300 percent of poverty to purchase health insurance; fourth, require insurers to offer group-rated policies for children only; and fifth, give families who qualify to continue health insurance coverage under COBRA but cannot afford the premium for the entire family, the option to purchase a child only policy.

I encourage my colleagues to support this legislation. We, in this Congress, should commit ourselves to providing every child the chance to reach his or her fullest potential. We should provide health insurance coverage for every American child and promise to leave no child behind.

Mr. PALLONE. Mr. Speaker, I want to thank the gentlewoman for pointing these things out, because if we think about it, there is really no reason why this should be a partisan issue at all. I think that hopefully we are moving in the direction of trying to get our Republican colleagues and leadership on the Republican side to join with us.

I think that the fact that they agreed with the President to at least include a pot of money for children's health care in the proposed balanced budget agreement which will come to the floor in some fashion over the next few weeks, shows that we have been making some progress, and I guess, if I could just emphasize that again, that this Democratic proposal can all be achieved within the context of the balanced budget agreement.

I believe, and I think it is only fair to say, that it was because of the consistent and strong pressure from the Clinton administration and congressional Democrats that funding for the Children's Health Care Initiative was included in the bipartisan budget agreement that was announced on Friday, May 2. Including funding for this initiative was a victory for the congressional Democrats who have been saying for the last year that this program needs to be included as one of our priorities, one of our budget priorities.

I should say that the budget agreement leaves the details of the children's health insurance initiative undefined. The agreement simply states that it assumes $16 billion in funding over the next 5 years to extend health insurance to up to 5 million uninsured children. Under the agreement, the expanded coverage may be achieved by extending Medicaid and providing cap grants to the States.

So basically the agreement lends itself to the Democratic proposal that our task force has put together, in that the pot of money is there and it has the Medicaid expansion as well as the matching grant program to the States. But we believe very strongly, the way we put this package together, that we can capture a lot more than 5 million uninsured children; that we can, through a combination of going after those who are not currently enrolled but eligible for Medicaid, as well as the expansion of Medicaid, as well as the matching grants, as well as changes to the private insurance, in the private insurance area, that we can capture almost all, if not all, of the 10 million children that are not insured.

Let me just say, Mr. Speaker, in closing, that I believe very strongly the Democrats will continue to move forward on this issue because we understand the nature of the problem. We understand that 9 out of 10 children without health insurance are in working families. We understand that children without health insurance are less likely to receive the care that they need when they are injured or they are sick, and I have to say that as a parent myself, I would hate to have to worry about my child getting hurt at the playground because I do not have the health insurance coverage for him or for her. Families should not have to worry about whether or not they can afford to take their child to the doctor if their child becomes sick.

Mr. Speaker, I do not think that the Republican leadership sees this issue in these terms. If they did, I believe that they would be more aggressive in trying to develop a solution for America's uninsured children. Democrats want to help the average American family, and we believe that our plan will do just that. We are going to continue to speak out on the House floor and by whatever means we have, in our districts, until such time as a plan is put forward, is marked up in committee and comes to the floor of the House that will address the problem of these 10 million uninsured children.

IMPORTANT COMPONENTS OF THE BALANCED BUDGET AGREEMENT

The SPEAKER pro tempore (Mr. JENKINS). Under the Speaker's announced policy of January 7, 1997, the gentleman from Ohio [Mr. BOEHNER] is recognized for 60 minutes as the designee of the majority leader.

Mr. BOEHNER. Mr. Speaker, tonight over the next hour, I and my colleagues in the Republican leadership here in the U.S. House will be discussing our agreement with the White House to balance the Federal budget over the next 5 years, the permanent tax cuts that will be part of this plan, our efforts to protect and preserve Medicare, and other important parts of this agreement.

We expect that the Speaker will be here to talk about what is in the agreement and what is not. The gentleman from Texas [Mr. ARMEY] we expect will come and discuss why tax cuts in this agreement are so important. How this agreement saves Medicare I will deal with in a few minutes myself, and why the critics are wrong will be covered by the majority whip, the gentleman from Texas [Mr. DELAY]. How this agreement maintains a strong defense will be covered by the gentleman from California [Mr. COX], the chairman of our policy committee; and how this agreement reflects Republican principles will be handled by the gentlewoman from Washington [Ms. DUNN], who is the Secretary to the Republican Conference. Why balancing the budget is important for our future and our children's future will be discussed by the gentlewoman from New York, the vice chair of the Republican Conference [Ms. MOLINARI]; and how this agreement makes Government smaller and smarter will be covered by the chairman of our leadership, the gentleman from New York [Mr. PAXON].

When it comes to the issue of Medicare, more than 2 years ago we sent out our warning to the American people that Medicare is going broke. It was not our warning, it was the warning from the bipartisan Medicare board of trustees. We took action 2 years ago to preserve, protect, and strengthen Medicare.

□ 1745

The liberal special interests, more concerned with winning elections and solving a crisis, made sure that our reforms never became law.

Since President Clinton vetoed our bill the trust fund has lost tens of billions of dollars, and now we know that unless we act, the fund which provides hospital coverage for nearly 40 million seniors will be broke by the year 2001, one year earlier than we thought just a year ago.

This agreement preserves the trust fund for 10 years, until the year 2007. I think this should be an enormous relief for all seniors and soon-to-be-seniors that are concerned about the health of this program. This plan will not solve the problems with the baby boomers when they begin to retire in about 15 years, but we can lay the groundwork for our reforms through our actions this year, and in this agreement that we reached with the White House.

What will these reforms be? The committees have a lot of work to do to fill in the details of the agreement, but we do know what the outline will be and we know what our goals, most importantly, will be as we go through this. We know that prevention saves lives and saves dollars, so our reforms will cover mammography, diabetes self-management, immunizations, and colorectal cancer screening. Medicare will now catch up to the private sector and provide coverage for these important items.

We know that the vast majority of seniors have to pay hundreds of dollars a year for MediGap coverage. That is why we will fight to give seniors the same choice of coverage that people in the private sector have today. Why should seniors not have the same choices in health care delivery that their children and grandchildren have available to them?

That is really what we did in 1995, and we will work toward it again, to give seniors and their doctors the freedom to choose the types of coverage that they believe are best for them. There is good reason to modernize Medicare, because it is the only way to ensure that the program will be there when baby boomers begin to retire.

Perhaps most important for seniors is the assurance that we will provide in our agreement that spending will keep pace with their needs. Spending grows every year over the next 5 years in this agreement. There are no cuts. There were no cuts 2 years ago, in spite of what many people said, and there are no cuts this time.

Over the 5 years Medicare spending will increase 34 percent, which is about 6 percent a year, which we believe is about twice the rate of inflation that we are seeing today. Despite all the politics and the scare tactics, the demagoguery, the difference in spending between our package today and our reforms 2 years ago is $5 billion over 5 years.

The chart that I have to my left and to Members' right indicates Medicare spending over the 5 years in this agreement. Under the balanced budget act from 2 years ago, we were proposing spending over these 5 years $1 trillion, 252 billion. Of course, we all heard the ads. We all heard how Republicans were attempting to cut Medicare, and all of the scare tactics that were used. In the agreement that we reached with the White House several weeks ago, we are proposing and have an agreement to spend $1 trillion, 247 billion over the next 5 years; actually, $5 billion less than what we proposed to spend 2 years ago.

Our agreement means that Medicare spending per senior citizen will increase from nearly $5,500 this year, in 1997, to more than $6,900 in the year 2002. We can increase spending and save Medicare because our structural reforms will make Medicare more efficient for seniors and their children and grandchildren who subsidize this very important program.

We know what works in the private sector. Only by beginning to implement these reforms will Medicare be preserved, protected, and strengthened for today's and tomorrow's seniors. I am proud that we put the partisan politics aside to accomplish this effort in Medicare, and frankly, the entire effort that we have come to an agreement with the White House on, again, to balance the Federal budget over the next 5 years, to strengthen and preserve Medicare, and to provide tax relief, permanent tax relief, for the American people.

My colleague, the gentleman from Texas [Mr. DELAY], the majority whip, is going to talk to us about how this agreement is good, and why the critics are wrong.

Mr. Speaker, I turn over my time to the gentleman from Texas [Mr. DELAY].

WHY THE CRITICS OF THE BUDGET AGREEMENT ARE WRONG

The SPEAKER pro tempore [Mr. JENKINS]. Under the Speaker's announced policy of January 7, 1997, the gentleman from Texas [Mr. DELAY] is recognized for the remainder of the time as the designee of the majority leader.

Mr. DELAY. Mr. Speaker, I really appreciate the gentleman from Ohio [Mr. BOEHNER], the distinguished chairman of the Republican Conference, for taking out this special order on this agreement. There is a lot that has been said about this agreement. It is fascinating to me that some people came out in opposition to the agreement before the agreement was even announced by the President or by the House or by the Senate. I think that is really unfortunate, that someone would be against the agreement before they even knew the facts. I just really appreciate my colleague's taking out this special order on the balanced budget agreement.

In my view, any agreement that balances the budget and cuts taxes for working families is good for the American people. This agreement does both. How long have we dreamed about bringing fiscal responsibility to this Federal Government and to Washington, DC.? We have dreamed it for a long, long time. In my entire adult life I have dreamed that some day we could balance the budget and actually start paying down the debt, so that my daughters would not end up paying for my generation's fiscal irresponsibility.

I am really pleased to support the budget agreement. It is amazing that this agreement not only balances the budget and cuts taxes, but it includes long-needed entitlement reforms that will preserve and protect such programs as Medicare, and it is intended to weed out waste and fraud from the Medicaid Program.

Is this a perfect agreement? Of course not. Frankly, if it were, President Clinton would probably veto it. We need to face the fact that Bill Clinton is the President of the United States, Mr. Speaker. Our Republican candidate lost. If our Republican candidate, Mr. Dole, had won the election, we would not have this problem. We would probably have the perfect agreement. But Bill Clinton was reelected by the American people. We have to recognize that fact, and we also recognize that he is a President that loves to spend more money. That means that we have to negotiate.

This agreement is the end result of those negotiations. Let me correct that. It is not the end result, it is the beginning of a lot of negotiations that will have to go on for the rest of this year, because we start with the agreement on the budget resolution, and then after the budget resolution we will have to pass the bills that implement the policy set out by the budget resolution, and we will have to pass all 13 bills, all 13 of the appropriations bills, and all of that will have to be in consultation not only with the President, but with the Democrats in the House and in the Senate.

So this is just the beginning, and it is a work in process. In my view, it reflects the principles, the agreement reflects the principles that Republicans have long campaigned on. Several questions have been raised about the agreement, good questions that I think need to be answered. I will take just a moment to respond to these questions point by point.

Does this agreement use phony numbers? Many people wondered about the $225 billion that all of a sudden appeared when the Congressional Budget Office revised their projected revenues to adjust for a growing economy. They thought it was just another effort by Washington politicians to avoid making those hard decisions. But the whole budget is based on economic assumptions, many of which turn out to be wrong, and we can go back almost 20 years and find out that in only one year out of 20 years of budgets written by this House have the assumptions

been right. They have either been overestimated or underestimated. Assumptions are just as the name implies, assumptions as to what we think might happen to the economy in the future.

Indeed, since 1993 the Congressional Budget Office's 5-year deficit projections have overstated the actual deficit by an average of $279 billion. This particular budget agreement is based not on rosy economic assumptions, but on the best economic data available today. Given their track record over the last 4 years, CBO's new projections are not only defensible, they are a reasonable correction.

Another question that has been asked by some of our critics: Does this agreement dramatically increase spending? Some have questioned, is it the biggest spending increase in history? The answer is an emphatic no. Spending for nondefense discretionary spending, money that keeps the Government running outside of defense and entitlement programs, will only increase at an average rate of 1 percent a year.

Let us put this in perspective. This is 8 times better than the historical average of 8.1 percent per year stretching all the way back to 1969, which is, by the way, the last year we had a balanced budget.

We have agreed to fund some of the President's spending priorities. This President loves to spend money. He loves to grow the spending of government. We had to give him some of his spending requests, but we have also agreed to restrain the overall growth of spending. I think this is a significant victory for fiscally responsible Republicans. Particularly if we look at past history, past habits, past traditions of Democrat-controlled Congresses, even with sometimes Republican Presidents, this is a fiscally responsible budget.

Does this agreement fail to reform the entitlement programs? That is another question that is being asked by our critics. Once again, the answer is no. By far the greatest single threat to our Nation's fiscal health is the growth of health care programs. Since 1969, Medicare and Medicaid spending has increased at almost twice the rate of total Federal revenues. Let me repeat that. Since 1969, Medicare and Medicaid spending has increased at almost twice the rate of total Federal revenues. If that trend were to continue, spending on these programs would exceed Federal revenues in the next 30 years.

The budget agreement will reduce the projected growth of Medicare by $115 billion, and of Medicaid by about $16 billion. It will achieve these savings by giving more choices to seniors in Medicare savings, and by enacting reforms of the Medicaid system to weed out waste and fraud. Congress will write the implementing legislation for this agreement, so Members can be assured that there will be real reforms of entitlement programs in that legislation.

We are coming back with our promise. Remember, 2 years ago we promised to protect and preserve and strengthen Medicare by giving senior citizens more choices in the kind of health care plans that are important to them, so that they are empowered, rather than the Government telling them what kind of health care is good for them.

Through competition in those programs we will be able to save money. It is not a theory, it is not a pipe dream, it has happened in the private sector, because health care has been reformed in the private sector for over 10 years. The way it has been reformed in the private sector is empowering the consumer. That is how they have been able to reform the private health care industry, empowering consumers, and people competing for that health care dollar drove down the cost of health care.

We just want to take what we learned in the private sector and apply it to Medicare and Medicaid in the public sector. That is all we are doing. Through that we are able to save the system, preserve the system for seniors, and strengthen it by giving seniors more choice.

□ 1800

Another question that is asked by our critics, does this agreement give insignificant tax relief? Some people have pooh-poohed the idea that we actually are giving tax cuts. I think it is the first tax cuts since 1981, first tax cuts for the American family in 16 years. In a perfect world, we could cut more taxes for America's working families.

In fact, if our candidate had won the election, we probably would have a bigger tax cuts bill. But we do not have that option in this agreement. We have a President that is reluctant to give up his ability to spend money through a tax cut.

People talk about the fact that we ought to balance the budget before we cut taxes. Well, those people do not understand it. Those people that want to balance the budget before cutting taxes are telling you that they want to spend more of America's families' money.

Today, the American family is spending over 50 percent of its income on Government. If you add up local, State and Federal taxes and the cost of regulation and paperwork, over 50 cents of every dollar that the American family makes today, every hard-earned dollar goes to the Government of one level or another.

We think that is immoral. We think the Government is too big, it spends too much, it takes too much out of the American families' pockets. We want to reform Government. We want to cut it down to size and make it work smarter. By doing that, we can allow the American family to hold on to more of its hard-earned money to be spent the way they think is important, rather than some Washington bureaucrat spending that money on what they think is important.

So that is why we are for a tax cut. It has nothing to do with anything else other than giving some tax relief to the American family. But a tax cut signed into law is better than 2 tax cuts that are vetoed. And this agreement provides working families with gross tax cuts of $135 billion, with a net tax cut of $85 billion.

Keep in mind that in the last Congress, the President vetoed net tax cuts of $155 billion, while in this Congress he proposed net tax cuts of only $14 billion. Keep in mind what happened in 1995, when the Republicans first took over this Congress, this House, for the first time in 40 years. People said we could not do it, but we put together a budget that balances, that shrinks the size of Government, that forces Government to work smarter, that saved Medicare and Medicaid and provided $155 billion in tax cuts, wrapped it up in a package, sent it to this President of the United States. He vetoed it and shut down the Government, and we got the blame for it.

We proved to the American people that we can bring good commonsense policies to the Federal Government. We proved to the American people that we could balance the budget, that we could bring fiscal sanity and give tax relief to the American family. Unfortunately, this President did not believe it, or he did believe it but he did not agree with it and vetoed our package.

The $85 billion net tax cuts represents a real victory for Republicans. The best part of this agreement is that the Republicans on the tax writing committees of the Congress get to design those tax cuts. So American families will get a child tax credit, a capital gains tax reduction and relief from that pernicious death tax. I call this a real victory for the American people.

So in summary, Mr. Speaker, I again appreciate the gentleman from Ohio [Mr. BOEHNER] taking out this special order. It is so vitally important that the American people understand what is in this agreement and they understand the spin artists out there trying to negate what we have agreed to or misrepresent what we have agreed to or just be outright against it.

The American people need to understand that this is a grand opportunity that we present to them, and we hope to get it. This agreement is good for the American people. We must not let the perfect be the enemy of the good. We must let this good agreement start the process of balancing the budget, giving tax relief to the American family, and some day pay down the debt.

Mr. BOEHNER. Mr. Speaker, if the gentleman will yield, as the gentleman was saying, there are critics of this plan on both the left and right. Liberals believe that this cuts too much spending, ruins their vision of what the role of the Federal Government should be.

Some on the right are criticizing this plan, and I am yet confused as to why.

You can argue that this plan does not go far enough. You could argue that it could have been better. But I do not think that anybody can argue that this plan moves us in the direction that we have been going over the last two and a half years, that this plan does in fact balance the budget over 5 years honestly, no gimmicks, no smoke and mirrors, that it does provide permanent tax relief, and over the next 5 years will reduce the growth of spending in entitlement programs by some $200 billion, some $600 billion of entitlement reductions over the next 10 years.

Without this plan, the Federal Government over the next 10 years would spend $1.1 trillion more than what will be spent once this plan is enacted into law. So I do not think there is any question that this is a good plan.

Yes, I would have like to have balanced the budget sooner. I would like to have lower taxes. But the fact is that we have learned over the last 2 years that there are two ends of Pennsylvania Avenue. Republicans control one here on Capitol Hill, but Bill Clinton is in the White House. If we are going to do anything on behalf of the American people, we have got to get both ends of Pennsylvania Avenue to work together and talk to one another.

Mr. DELAY. The gentleman from Ohio [Mr. BOEHNER] is absolutely right. I sort of describe it as the Republicans in the House and the Senate are like a sailboat and we are sailing against the wind and we are sailing down Pennsylvania Avenue and the wind is coming from the White House, a very strong wind is blowing in our direction.

In a sailboat, you can either turn it around and go with the wind, and that is something we absolutely refuse to do, or you can tack toward the wind, always moving forward, but in some cases you have to make an agreement with the wind. Sometimes you have to make an agreement with someone else, but always keeping your eye on the future and the forward. And that is where we are moving.

If you put it in perspective, this is an incredible budget compared to, say, the big budget of 1990, when George Bush was President. There were huge tax cuts, huge spending increases.

Mr. BOEHNER. Tax increases.

Mr. DELAY. Tax increases. I thank the gentleman very much for the correction, tax increases. Tax increases is not even in the jargon of this place anymore. It is hard to even say.

But tax increases, spending increases. Look at the budget that the President passed with the Democrat Congress in 1993 that they are so proud of, huge tax increases, once more taking more money out of the middle-income America's pocket and spending it on Government programs that we all know 9 times out of 10 are very wasteful.

That is the kind of thing that we have been going for. Even when we did not get the President signing our balanced budget in 1995, the things we are able to do in tacking back and forth, moving forward, in eliminating over 270 programs, in cutting over $53 billion in real Washington spending, in moving forward and making sure that we are bringing this country into fiscal responsibility is very, very important that the people realize that, sure, if the gentleman from Ohio [Mr. BOEHNER], and I were writing this legislation, it would appear to be much different. But on balance, we are getting more than we are giving up, and I am very proud of that.

Mr. BOEHNER. Mr. Speaker, if the gentleman would yield, there has been a lot of discussion about who wins and who loses in this. I really do not think there are any losers in this, but the real winners in this agreement are not Republicans or Democrats, it is the American people who are the big winners.

We all know that we have accumulated some $5½ trillion worth of national debt. I went to the fifth grade class of Liberty Elementary School in my district on Monday and explained to each of these fifth-graders and asked them, how much do you think your share of the national debt is? How much do you think you owe Washington? Some thought it was a dollar. Some thought it was $10. One even thought it was $300. I had to explain to them that their share of the national debt was $22,000 that every man, woman and child today owes to those who have lent this money to the Federal Government.

If we do not do something about stopping any additional debt from growing, we are imprisoning our children and theirs. We know that a child born today will pay almost $200,000 in taxes over the course of their lifetime just to pay the interest on the national debt. That is no money for education or the environment or roads or anything else that the Federal Government does.

So the American people win with this agreement. Do we have to do more? I think we all understand we do. We have got to balance the Federal budget so we are not adding any more debt there. In the year 2002, or hopefully sooner, we ought to begin to pay off the national debt.

If we want to give our children and theirs the shot at the American dream that all of us grew up having, we need to make sure that they do not have this debt on their back, or their chances of succeeding, their chances of having the American dream available to them just is not going to be there.

Mr. DELAY. Mr. Speaker, the gentleman from Ohio [Mr. BOEHNER] is so right. I just want to expand on what he is talking about, what the children of tomorrow will owe.

It is really interesting, when the President was running for reelection, he made in his State of the Union that famous statement, ''The Arabic government is over.'' And then when he came back and got reelected this year and made his State of the Union Message, his penchant for big spending was back, because in his State of the Union, he talked about all these new spending programs; and he said something at the end of that speech that I do not think I will ever forget. Not many people picked up on it. Certainly the press did not pick up on it. But the President said, ''You know, a child born tonight will not long remember this century.''

Once again, the President was wrong, because a child born that night will never forget this century because that child, as the gentleman has said owes so much money, not just in paying off the debt but in paying off the interest on the debt, that it is immoral. We are committed, with this President or without this President, to bring fiscal sanity to this Government for those children that were born that night.

I would be glad to yield to the distinguished leader of the freshman class from North Dakota, who has been working very, very hard on seeing that the supplemental appropriations bill becomes law so that his disaster relief, much needed disaster relief, goes to North Dakota. I appreciate the gentleman for showing up.

Mr. THUNE. I want to thank the gentleman from Texas, but will remind him that it is South Dakota.

Mr. DELAY. South Dakota, I apologize.

Mr. THUNE. And in Dakota territory, that is an important distinction to make because we have had our share throughout this last year, the most disastrous winter in our State's history and in North Dakota's history, as well, and we are in the process now of trying to come up with the assistance that we need. Hopefully, in very short order, tomorrow, we will have that bill on the floor, in hopes that we can get the assistance to those who are in such desperate need of it in my State, in North Dakota, and Minnesota and many other States like it.

But I do want to comment this evening, if I might, on the subject at hand, and that is the discussion that you and our friend from Ohio [Mr. BOEHNER] were having about the budget agreement that has been reached.

Mr. DELAY. Mr. Speaker, before the gentleman gets started, if I could, I would like to ask unanimous consent that the gentleman be given my time.

BALANCED BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from South Dakota [Mr. THUNE] is recognized for the remainder of the time as the designee of the majority leader.

Mr. THUNE. Mr. Speaker, I too want to this evening touch, if I might, on what I believe is an historic event in this country; and that is what we have seen and witnessed in the last few weeks, the agreement between a divided Government, a White House that is in control of the Democrats, the

Congress that is in control of the Republicans, on a balanced budget, something that has not happened since 1969.

If I can take you back just a little bit to 1969 for those who perhaps were not around and I was a small child in a little town of 600 people in western South Dakota at that time, but in 1969, the last time we balanced the budget, believe it or not, the Mets won the World Series. And it was at that time on my grandmother's black and white screen that I was watching Neal Armstrong take a giant step forward for mankind on the Moon.

Yet, since that time, we, as a country and as a Congress and as those who are guardians of the public trust and guardians of the next generation, the future of our kids and grandkids, have been taking a step backward in the way that we manage our fiscal affairs. I would suggest that it is high time that we took a step forward. I believe that the agreement that has been reached, the plan that has been presented, does just that.

Most of us would agree that this is not a perfect thing. I think that if you look at the plan, and all of us are going to find its flaws, but I think you have to look on it on balance. As I walked up and down the main streets of my home State of South Dakota last year campaigning for this office, for this position, I heard repeatedly, ''Why cannot you in Washington, DC, why cannot the Republicans and Democrats, the White House and the Congress, work together in a fashion that will benefit the future of this country?''

As I listened and commented, it was my observation at the time that this is really true. As I campaigned last fall, I think that, in spite of the fact that the people of this country elected a divided Government, they essentially elected the same message, because I think many of the things that the President campaigned on and many of the things that those of us who were campaigning for Congress were talking about were essentially the same issue.

□ 1815

I maintained at that time that, if we were willing to govern like we campaigned, we had some enormous opportunities to accomplish some good things for the future of this country. I think it is a testament as well to the way that the debate has moved in the past few years. Bob Dole reminded us last evening of something that was said sometime back by former Prime Minister Margaret Thatcher. That is that the measure of success of a political party is how much you change the opposing party.

Today we are here talking about things that I think we have had a part in bringing about a dialog on issues that previously were not a part of this debate. Today when we talk about a balanced budget, when we talk about tax relief for American families and individuals, businesses, we talk about a smaller government that is more efficient, that works better and costs less. Those are all themes that I believe in the course of the debate of the last several years we have moved that discussion.

Mr. Speaker, I think that this budget is a product of that movement. Granted, it may not be everything and we have to make steps a little at a time, but it certainly is a step forward for the future of this country. For those who would argue that it does not do enough in one area or another, and I recognize full well that there are things, if this were a dictatorship, there are things in that budget that I would change. There are things that I would like to do differently. But we have to accept on balance the fact that we are working in a process that constitutionally provides for a White House, executive branch, and a legislative branch. And whether they are in control of different political parties, those two parties and those two branches of government have to work together in a way that is constructive and that benefits the future of this country.

So as I have listened to the discussion and those who would say that this is not good enough, it probably is not good enough by a lot of people's standards, but it is, I believe, a step in the right direction. It takes us down the road to addressing many of the issues that certainly I campaigned for, many of those who came in with me as freshman Members of this body campaigned in favor of, one being a balanced budget, two being a smaller government, three being lower taxes. And then finally, something that I think we are all very concerned about, and that is the future of programs that are important in this country, programs like Social Security and Medicare. And in agreement we have for the first time, I think, addressed what is going to be a shortfall in the Medicare trust fund, something that we are consistently reminded by the trustees is in desperate need of attention.

So I think that this balanced budget agreement, the plan that has been laid out and is now in the process of hopefully in the course of the next few weeks and months we will be implementing that in the form of legislation, but I do believe that it takes us in the right direction. I think the effect, we have to remember that this discussion really is not about the Republicans or the Democrats, the Congress or the White House or any one personality. It is really about the future of this country. It is about our kids and our grandkids, what are we doing to make this a better place for the next generation.

As I think about how this balanced budget agreement applies to those whom we are responsible for in making this a better place for them, I think about my children first and foremost. The fact, as has been alluded to earlier, that we in this country over the course of the last 30 years, since we last balanced our budget, have accumulated a debt of over $5 trillion, which amounts, as was mentioned earlier by the gentleman from Ohio, to $20,000 for every man, woman, and child in America.

Mr. Speaker, I can give a perfect example of why we have to do something and we have to do it now that gets us moving in the right direction with respect to balancing this budget. That is $250 billion annually in interest on the debt, 250 billion that cannot be used for any other good purpose like roads or bridges or education or any other national priority. It simply goes to pay the interest on the amount of money that we have borrowed and that someday has to be repaid. Every year we put off, and I think it is important, too, because sometimes we do not make a distinction between the deficit and the debt. A lot of people think that they are one and the same, and they really are not.

Inasmuch as we are making progress on reducing the deficit, every year that we spend more than we take in, we add to the national debt. So every year our debt continues to grow. As it continues to grow, the amount of interest that we have to pay to service that debt continues to grow.

At $250 billion today I would argue over the course of the next few years, if nothing is done it will continue to go up to $300 billion and $250 billion today, just to put it in terms everybody can understand, is the amount of tax dollars that are generated to the personal income tax by every taxpayer west of the Mississippi River. That is an enormous amount of money that goes toward no good purpose other than to pay interest on the debt.

Now, it is somewhat important, I believe, too, in the context of what we have seen this last week, because last week we recognized, as we do annually in this country, tax freedom day. May 9 was tax freedom day in America. That is the average in this country today on which people quit paying Federal taxes, local taxes, State taxes; and actually start paying themselves in the jobs, in the income that they generate in those jobs.

In my State of South Dakota, for example, we are a little bit better off because we have a low tax structure at the State level. Our tax freedom day comes on April 30. But if we look at the average, across this country, May 9, or 129 days into the year, before the average individual, the average family actually starts working for themselves and quits working for different levels of government.

That is a staggering, staggering thought, when we think about how much time in this country each on a daily, you reduce that to the per day, the per week, and then the number of days in the year that we actually spend just to pay the Government. I think it is a staggering fact that something that should alarm us and hopefully that we will become more cognizant of as we evaluate the kind of return that

we are getting on our tax dollar in this country. So 129 days into the year this year.

It might interest my colleagues to note that since 1939 that has increased by about 6 days. The last time that we raised taxes in this country in 1993, we saw the tax burden go up, taxpayers in this country and the tax freedom day continues to move further and further out. So it is very important that we address that issue and that we address the uncontrollable rate at which Government in this country continues to grow.

Now, just a final thought, if I might, and I see my distinguished friend here, I believe, has some comments to make, the gentleman from Illinois [Mr. HASTERT]. But I would say in closing that as we evaluate this plan and we listen to all the rhetoric that is out there, it is important to remember, I think, to try and personalize the effect that it has not only on each individual taxpayer in this country but on their families, grandparents, on their grandkids. And as I look at it myself, I think about my kids and the fact that for the first time we are doing something that will help make this a better place for them, will give them a brighter future where they are not saddled with and burdened with a debt that will deprive them of access to the American dream, something for which my grandfather moved to this country back around the turn of the century from Norway.

If we can get to where we have done something that is meaningful and significant for their future, we will have accomplished something in this debate and in this process. Think of yourself, if you are like I am and you are raising kids, trying to think about how to pay the bills, and the average person in this, in America, who is trying to put aside a little bit for retirement, thinking about college education, a lower tax burden. The fact that there is incorporated in this plan a per child tax credit will put more money in the pockets of working men and women in America who are trying to make ends meet for their families.

If you think about our parents, and my parents happen to be in their late seventies, approaching 80 years old, they depend very heavily upon programs like Social Security and Medicare. This plan will in fact add 10 years to the lifespan of Medicare, and it gets us into a position where we start making the structural changes, the adjustments in these entitlement programs that will put us on a track to fiscal responsibility in this country and to making those programs workable, not just for those who are currently depending upon them like my parents are but also for those in the next generation, for our kids and grandkids.

I would suggest as well that for those who would say that, again, it does not incorporate everything we would like to have in it, that, and I heard this statement the other day and I think it is very significant, that change is not an event, it is a process. We are making progress in this body by working in a bipartisan way to arrive at an agreement which is historic in terms that we have not done something like this since 1969 that brings about profound and fundamental changes in the way that we do business, that shrinks the size of the Federal Government, that saves Medicare, and that lowers the tax burden on American families and individuals.

Mr. Speaker, I would close by saying, and I will yield the balance of my time, whatever that might be, by simply saying again that I believe that we need to get behind this. We need to have the support of the Members of this body and the American public. For those who are interested and have been following this debate, this is something that is definitely a step forward. And in going back 30 years to 1969, when we took a giant step forward for mankind, this, again, is a step forward for mankind and for the next generation.

BUDGET AGREEMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Illinois [Mr. HASTERT] is recognized for the balance of the time as the designee of the majority leader.

Mr. HASTERT. Mr. Speaker, I thank the gentleman from South Dakota, who has made a great impact in his freshman year here in this Congress, and we certainly appreciate the good work he has done.

The gentleman is right, this Congress is making history. I think the 104th Congress made history when we had the contract, and we started to do the things that people said, there is some commonsense things that Congress ought to do. We ought to make government a little bit smaller and smarter. We need to start cutting our cost of government.

And, of course, the 104th Congress was the first Congress that spent less than any other Congress before it, I think which goes back 40 years. As a matter of fact, we saved $53 billion, but we could not pass a balanced budget amendment in that Congress, did not get it through the Senate and may not get a balanced budget amendment through this Congress. We certainly hope so, and we will come back and work at it again.

But one of the things we need to do is balance the budget. That is what it is all about. And we have worked hard to do that. That is one of our goals.

I think the American people, first of all, expect Congress to balance the budget. They also expect us to do the job and, if we cannot pass an amendment, then we will have to do it the hard way; that is, get down.

And, of course, one of the things that we have had problems over the years is that the amount of money that Congress actually appropriates is just a fraction of what the amount of money that Congress actually spends. What Congress spends are the entitlements.

Over the last 50 years, entitlements, that is money that never passes through the Committee on Appropriations, that is money that is never actually voted on by the Congress, it just is spent. It is the debt. It is farm programs. It is Medicaid and Medicare and other things out there. Those are the entitlements that have gone awry. They have had an increased inflation rate of about 15 percent per year.

Any time that you have a 15 percent per year inflation rate, we find out that all of a sudden the money we have spent every 5 or 6 years doubles and that is what has happened to the debt. We find ourselves with a debt of over $5 trillion, a huge debt out there, and, as a matter of fact, $1 out of every $4 that the Federal Government brings in just goes to interest on the debt.

One of the things we have also found out is that what we have done is saddle our children, the gentleman talked about his kids and he worries about his kids, we have saddled our children with a debt that they are going to have to pay off unless we do something now. And now is the time. We cannot pass it off for another year or another decade or into the next century. We have to do it now, if we are going to affect the future for our children.

As a matter of fact, a child that is born today will have to go out and earn $168,000 or some huge number like that just to pay his or her share of the interest on the debt.

So what has Congress decided to do? What have we tried to lay out? What are our parameters here? Well, we want to balance the budget of this year, 1997, in a bipartisan blueprint. And we have. We have worked with the other side of the aisle. That is what the American people want us to do. They elected the President and they elected this Congress. So we need to come out together and find a way to work together. And we have.

So we have a bipartisan blueprint for the future in order to get Washington's fiscal house in order in the next 5 years. So by the year 2002, we have balanced that budget.

So the four principles that I think that we talk about when we have tried to work on that budget agreement, budget plan, is that we are balancing that budget by the year 2002, and we have to keep it in balance. We cannot just balance it once and say we have done that. We need to keep it in balance. And if we have any kind of growth at all, if we have the kind of growth that we had in JFK's term of office, economic growth, we have certainly seen the stock market go up, we have seen job expansion, we see the lowest unemployment rate in this country that we have seen in decades, so the economy is expanding.

□ 1830

If we have the kind of expansion that JFK had, we could balance the budget

in a year. We could actually balance the budget and start to bite in and take out that debt.

If we have the kind of expansion we had during the Reagan years, we could start to balance that budget in 2 years and start to dig in to that debt and pay off that debt and get it down so our kids do not have to pick it up.

And if we have regular growth that we have had, the average growth that this country has had, around 2.3 percent, something like that, then we could start to balance that budget.

It will take a little longer, maybe 4 or 5 years, but we are in exceptional times. And certainly if we can get the budget agreement together and have some type of exceptional growth that we are certainly experiencing, we can do a phenomenal thing and try to balance the budget and do away with that huge debt we have.

So that is the first principle we have to keep in mind. Then, one of the things that I think we owe to the American people is tax relief. It is something the Republicans have talked about for a long, long time. We have talked about it in the Contract With America and then we talked about it as we came into this election year and through the election, and now here we are, we are back in Congress.

Tax relief. What does that mean? Is it special groups of people? Some say we are just giving tax relief to special groups, but it is the American workers, the family, the middle-class Americans that need help.

A fellow in my district who is a schoolteacher talked to me and said, I earned $35,000 last year. I wanted to do something for my wife and my kid, and I wanted to buy a computer so they had something at home to work on and enjoy this, so I went out and got a part-time job.

He made $5,000. Just about $5,000. He said, by the time I ended up paying the taxes on that extra $5,000 that I earned, it was not hardly worth going out and doing it. It put me in a higher tax bracket. It changed the contributions that my wife had to make.

All this problematic situation that he got into was a disincentive. It is a disincentive for people to go out and be productive. He said, I would probably have been better off if I had stayed home and did not do it. But he did do it. And he is a hardworking American, proud of his family, proud of being self-sufficient and taking care of his family and buying a home and being part of the American dream.

So I said, well, one of the things that we are talking about is the child tax credit, a $500 tax credit per child. If there are two kids at home, it means that that family, for every child they have at home under the age of 21, there would be a deduction for $500. If a family has three children, it is $1,500 credit.

That takes off the tax responsibility that a family has on their taxes. That is for people who work. That is something that is great for people who are providing for their family, buying a home, keeping the kids in school, working a couple of jobs to make things work. Those are the types of things we can provide for the American family, is that type of tax credit, that type of help.

Also, one of the things we have certainly talked about in tax relief, we have a lot of seniors in my district and people who have bought and made an investment from time to time throughout their life, hopefully to save for their future. Well, their future is here.

Those people are 65 or 70 years of age, maybe 72, and the house that they bought, the tenant house they bought, or the starter house themselves, they kept it for a tenant house and built a new house for themselves in the 1960's or 1970's, and that tenant house they bought for $25,000 or $30,000 back then, today is worth $150,000, $160,000. And then they start to figure the capital gains, the penalty they have to pay because they made an investment for their future to take care of themselves.

Instead of worrying about Government or some agency or some Government handout program to take care of them, they provided for their own future. But what is the penalty? It is such a huge penalty on capital gains, they say I am not going to hand that money over to the Federal Government, I will not sell that tenant house, or I will not sell that stock, or I will not hold back the 40 acres we bought a couple of years ago because I cannot afford to sell it.

So capital gains have stopped people from cashing in on those investments they made for their future because there is such a penalty. We will change that. The capital gains treatment we have in this bill will allow our senior citizens in this country to be able to start to sell some of those assets off so they can provide for their own future, something that they worked on for 25 or 30 or 40 years to make a difference.

Certainly we can start moving those assets around in this country. We can talk about the development that we have. Certainly a positive thing. And, of course, the death tax that people have to live under. A small family business, the family farms that we have; people are afraid that if they die they cannot pass their farm on or they will not be able to pass their business on to the next generation.

Mr. Speaker, we are talking about the tax treatment out there, the death tax, so that people do not have to give up their small businesses or sell everything off on the farm for them to pass it on to their children. That is a very, very important issue and something that we provide in this bill.

Mr. THUNE. If the gentleman would yield, I see our distinguished leader here on the floor, and we all want to make room because, of course, I am sure he will have some very pithy commentary that we can enjoy listening to, but I would just like to make one observation about something the gentleman said. I think it is an important point.

A lot of the time it has been suggested that the capital gains issue has been depicted as something that only benefits those in the higher income brackets and on the death tax as well. I talk to a lot of people, I do not come from a State where we have a lot of high incomes. We are a resource-, capital-poor State, and yet we have a lot of small businesses in my home State and we have a lot of farms and we have a lot of homeowners.

And what people I think fail to realize is that those are the things that the capital gains tax relief that we have talked about, the death tax relief, those are the things that benefit the small towns, the Main Streets, the businesses, the person who wants to pass on their farming operation to the next generation, the person, as the gentleman noted, who might be approaching their older years and wants to sell a house. These are things that are very mainstream issues; they are mainstream America. They benefit, I believe, the working people of this country who have worked hard and saved and now want an opportunity to realize some of the benefits of that effort.

Mr. HASTERT. Mr. Speaker, I agree with the gentleman. What has happened, Uncle Sam has been penalizing folks who want to put the free enterprise system to the test and save for the future. Americans should be able to keep more of their hard-earned money, and that is what this bill would allow them to do.

Mr. Speaker, I would recognize our majority leader in the House, the gentleman from Texas [Mr. ARMEY], for anything he may have to say.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding, and let me thank the gentleman from South Dakota [Mr. THUNE], for engaging in this special order.

I also want to take a moment, Mr. Speaker, to express my appreciation for the Speaker's kind indulgence, the gentleman from the First District of Tennessee, Mr. BILL JENKINS, who is in the Speaker's chair presiding this evening, who has ably succeeded and working in a place that was held for so many years by our beloved colleague, Jimmy Quillen, and who represents my mother and father-in-law.

If I could talk about this agreement on the budget for a moment, beginning with my mother and father-in-law. We all love our parents, my folks being on Social Security and, of course, to some degree also dependent upon Medicare for their health and the needs of health in their life. There are folks that as we approach this very historic budget agreement, on behalf of their grandchildren we have done this in such a way to ensure that in fact there will be financial viability of Medicare in particular and Social Security sometime in the future for their children and grandchildren.

This is an enormous comfort for senior Americans, especially those who have come to a point in their life where they have come to where they have pretty well come to depend on Medicare being there. For 3 years now, we have had recurring reports from the Medicare trustees that the system faced solvency problems, and for 3 years we have tried to reach an agreement with the White House by which we could address this solvency question so we could give peace of mind and comfort and a certain sense of assuredness to our senior citizens.

So when I look at this agreement and realize that one of the first things we have done in this agreement, and thanks largely to the persistence and the thoughtful work of the gentleman from Illinois [Mr. HASTERT], who has dealt with this problem in the greatest of detail, is we have assured that solvency of Medicare. Mom and dad do not have to worry. Their health care needs will be there, preserved.

That is very important. And yet we have done that in a manner that is respectable to their desire and their concerns about their grandchildren, our grandchildren.

We have a budget that clearly drives consistently to balance no later than the year 2002. Why do I say no later than the year 2002? By virtue of the manner in which we account for things in Washington, this is the least optimistic estimate we could make about when we get that arrival date for balance. We do that with real permanent and immediate reforms in all entitlement spending programs that assures that the great compassion of the American people will be there and available to the most vulnerable of our American citizens, particularly the elderly and the children that depend upon the programs of the Federal Government for food and clothing and shelter.

But as we reform those programs and make them more responsible and more responsive to the needs of the truly needy, we also make room for budget savings in the future, and then we are able to couple that with tax relief.

We were talking here a little bit about tax relief, and I would like to talk about that one tax relief that people do not always identify as a family tax benefit: the reduction in the capital gains tax. As the gentleman from Illinois knows, I am an economist by training and, of course, the first testament of the discipline of economics is Adam Smith's wonderful work ''The Wealth of Nations,'' written, incidently, in 1776, where Adam Smith laid out a principle that has been known and respected by economists ever since. Never has it come into doubt in the development of the discipline of our field that the road to economic progress, economic growth, is through abstinence and capital formation, savings, and the building of productive capacity. And that, immediately, in the person of a family, translates into more, better jobs with better chances of promotion.

And what is that heightens the heart of a mom or a dad, or for that matter even more so a grandma and a grandpa, than to see their young ones finish their education, their schooling and their training and find themselves able to launch into a career where they can begin to develop their own family with the confidence that the jobs are there, the promotion will be there, the pay raise will be there.

As we do that, and we have that economic growth, and we have so much room for a larger growth rate for the American economy, just to get up to the historic average we could grow by at least a percentage point more than we do, that means so much in the lives of our children and our grandchildren.

People do not understand that. They think of the capital gains tax reduction as something that is done for business. It is not that at all. It is done for these youngsters finishing college and looking for a job and looking for a promotion when the first baby comes along, looking for a raise when the time comes for the braces.

☐ 1845

That is what capital gains tax reduction is all about.

The other aspect of this agreement that I think heightens the heart of our senior citizens especially is after a lifetime of hard work, and let us face it, we work for our children each and every day of our life.

I remember when I was a youngster, I sort of implored to my dad, I said, ''Now, Dad, they've got a Mother's Day and they've got a Father's Day. Why don't they have a kids day?''

He said, ''Well, son, every day is kids day.'' I think he was right. Every day of his life was worked in devotion to me and my needs as we do for our children, and then for us to be able as we come along to more able take the accumulation of our life's work and our savings and our investment and the business that we built or the farm that we created and be more able to leave that to our children. We find that our life's work has that enormous payoff. Can you imagine what that means in the life of grandma and grandpa, mom and dad, and then again in the life of those children.

This is a good budget agreement, Mr. Speaker. I want to thank the gentleman from Illinois again for yielding.

Mr. HASTERT. I thank the distinguished majority leader from Texas. He certainly speaks words of wisdom. We listen to those all the time. I thank the gentleman very much for being here.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1469, EMERGENCY SUPPLEMENTAL APPROPRIATIONS BILL FOR FISCAL YEAR 1997

Mr. MCINNIS (during the special order of the gentleman from Illinois, Mr. HASTERT) from the Committee on Rules, submitted a privileged report (Rept. 105–97) on the resolution (H. Res. 149) providing for consideration of the bill (H.R. 1469) making emergency supplemental appropriations for recovery from natural disasters, and for overseas peacekeeping efforts, including those in Bosnia, for the fiscal year ending September 30, 1997, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PLIGHT OF ECUADORAN PRISONERS

The SPEAKER pro tempore (Mr. JENKINS). Under the Speaker's announced policy of January 7, 1997, the gentlewoman from Florida [Ms. BROWN] is recognized for 60 minutes.

Ms. BROWN of Florida. Mr. Speaker, I am here tonight to talk about my recent trip to Ecuador. I met many people who have been in prison for years, sleeping on dirty floors and eating unsanitary foods. There is no hope for a trial. The problem, Mr. Speaker, is that the laws of these countries do not work unless there is a justice system to administer them.

Let me begin by quoting from the State Department 1996 human rights report on Ecuador:

> The most fundamental human rights abuses stem from shortcomings in the politicized and ineffective legal and judicial system. People are subject to arbitrary arrest. Once incarcerated, they may wait years before going to trial unless they resort to paying bribes. Other human rights abuses included isolated instances of killings, torments and other mistreatment of prisoners by the police; poor prison conditions; government failure to prosecute and punish human rights abuses; discrimination against women, Afro-Ecuadorans and poor people in general.

Last month I traveled to Ecuador to visit American prisoner Jim Williams in the Guayaquil Penitentiary. I have a picture here of Jim and his wife. Jim has been in prison at this time for 9 months. When I traveled, I carried his wife. For the first time in 8 months, she and her husband saw each other.

Jim Williams is an American. He is a businessman from Jacksonville, FL, and he has been held in this prison for the past 8 months.

Several months ago, Mrs. Robin Williams, wife of Jim Williams, along with Charlie Williams, brother of Jim Williams, came to my office in Jacksonville to discuss the imprisonment of Jim Williams. They asked if I would travel to Ecuador to help investigate his situation.

After I arrived in Ecuador, two factors became apparent. First is that the Ecuadoran judicial system, including the courts and prisons, is in a shambles, in a country where poverty is the norm and a typewriter is a luxury.

The second is, the United States officials in Ecuador have an overriding role to combat drug trafficking, particularly of Colombian cocaine. Officials related to me that because of the United States pressure for drug suspects to be apprehended, there is a

focus by an overwhelmed local police force to bring in anyone suspected of drug use, drug trafficking or money laundering.

Local police lock up persons who are associated with even suspected drug dealers. Hence, prisoners and prisons are overcrowded with suspect drug usage, drug dealers, or money laundering. They are all lumped together. But because of the rampant corruption and bribery, the most dangerous narcotics offenders and traffickers are able to buy their freedom.

Within this corrupt system, there are 40 Americans in prisons. Most of the people in Ecuadoran prisons have never had a trial and may never have one. They go to a jail where there is no public phones and there are no public toilets. In fact, there are no toilets.

I met one prisoner who had been in jail for 4 years on charges that he had a single marijuana cigarette. I want to repeat that. I met one prisoner who had been in jail for 4 years on charges that he had a single marijuana cigarette. In fact, this turtle that I got from this prisoner so I could remember him, is this not a waste of human talent, human resources? This person that carved this turtle has been in prison for 4 years without a trial, and he may never get one. He has never seen a judge.

The country has only 6 public defenders. Let me repeat that. The country has only 6 public defenders for 10 million people. Most prisoners are hopelessly lost in a broken judicial system.

The cost to Ecuadorans in terms of human capital is enormous. I witnessed children growing up in prison. This is an example of the children in prison with their mothers and their fathers, growing up in the conditions that are some of the worst in the world.

This is a picture of some of the children who live in prisons in Quito with their mothers. They have nowhere else to go. I witnessed fathers who cannot work and who are separated from their families.

There is another cost, the cost of an inefficient system in which lost cases may be lying on the floor in the courtroom and police reports are not filed for months. In other words, if a person is arrested, the judges tell me, it could take 2 or 3 months before the police get the information to the judicial system. So each lingering case represents a person and a family that might linger for years without knowledge of their case or their crime.

I visited a prison with 2,500 prisoners. Only 400 have received a trial. Let me repeat that. I visited a prison with 2,500 prisoners. Only 400 have received a trial.

Jim Williams from Jacksonville got caught in this system. He is a fisherman who has fished in international waters for tuna and other large fish. Jim Williams got caught in this system, Jim Williams from Jacksonville.

Jim is not just a prisoner. He is a person. I met Jim's mother, his brother Charlie Williams, and his wife Robin. He has a wonderful family here in America who are doing everything they can to help Jim get a fair trial. I will not mention the word speedy trial or timely trial.

As far as I know, there is no substantial evidence linking Jim Williams to any drug deals or any money laundering. Nevertheless, when a large Drug Enforcement Agency net went out to several countries, Jim Williams was in Ecuador and was arrested by local police. He has been in prison now for 9 months, and he and his family have been trying to find their way through the fragmented Ecuadoran judicial system.

Before my visit, Jim Williams was in an overloaded court system. During my visit, I learned that a person suspected of a drug crime will face not just one trial, which is almost impossible to get, but a series of trials because of a harsh counternarcotics law. If suspected drug offenders are fortunate enough to get through the trial and are found innocent, their verdicts are automatically appealed to two more courts. They must stay in jail during these appeals because there is no bail for drug violations.

Because of the extensive bribery system, simply getting a trial can cost a prisoner up to $30,000. Wealthy people simply buy their way out. But Jim Williams has insisted on proving his innocence. Unfortunately, those who plead innocent spend more time in the system battling the charges than if they had pleaded guilty to the crime and had served their time.

I would like to talk about another Floridian, Sandra Chase. She is 53 years old and has been in jail for 1½ years and still has not had a trial. Mrs. Chase, on her first trip out of the country, went to Ecuador last December. Mrs. Chase is another person arrested on this counternarcotics law.

In March when I went to Ecuador is the first time she finally gave her statement to the police. Mrs. Chase has a circulatory disease and her feet are black and blue. I met her daughter, Tammi Chase from California, last week. She has the following to say:

> My mother is a good person who has never been in trouble. Now she is in prison in Ecuador. I don't know who to turn to. My mother will probably get 10 years and serve 5. I have a problem with that. I want to help my mother. I've already sent $20,000 to pay for a trial, and the money went nowhere. I send her food and clothes which other prisoners steal from her and beat her up. I am scared for her life. Why is there no one to help me?

□ 1900

Mr. Speaker, Mrs. Chase remains in jail today.

I would like to talk about another prisoner, Mr. Richard Parker. Mr. Parker of New York State was arrested in May 1995. He waited 15 months before his trial, 15 months. The judge found him innocent.

Now I want to read that again. Mr. Parker of New York, May 1995; he waited 15 months before his trial. The judge found him innocent; his case was appealed to another court.

They asked for an additional $20,000. The next court asked for $30,000. Richard refused to pay the court. They reversed the sentence, and he received 8 years.

Let me tell you, Mr. Parker now has tuberculosis, and let me read a letter from his father:

> I visited Richard for several hours each of the four days I was there. I had the occasion to see the food which was distributed twice each day. Always it was a vat of weak watery broth from which feather heads and yellow feet of chicken stuck out. To obtain edible food prisoners had to buy food which for a payoff guards allowed to be brought in and which for another payoff was prepared in facilities by prisoners who sold it. The cost to support Richard in this environment has been several hundred dollars per month.
>
> Richard was allowed to take me on a tour of the prison, with a guard of course. I met a man from Cuba who had befriended Richard earlier but who could not afford to be moved. Last year another prisoner killed him. I also met a man who had only half of one arm which was still bandaged. He had been disarmed by a prisoner with a machete.

Mr. Parker now has tuberculosis and is still in prison.

During the time that I visited Ecuador, Mr. Parker was in the hospital. If you are in the hospital, it costs your family $70 a day. So you see that poor people have no way out of the system.

During a meeting with advisers to the Supreme Court, I listened as they explained the most serious need of Ecuadoran judicial system, and I vowed to return to the United States to find assistance. Since returning to Washington, I have learned of the $10 million World Bank loan package now approved for assistance to Ecuador's judicial system, and I am working to expedite the process.

This certainly should help with reform, but there is an important need for the U.S. oversight. There is a need for accountability.

Like my colleagues on both sides of the aisle, I am committed to fight the drug flow into the United States. Let me say that I am committed to fighting the drug flow to the United States. I agree that drugs are the poison destroying our homes and our children. But we cannot ignore the fact that the war on drugs has helped create casualties in South America and allowing others to buy their way out of prisons. Wealthy people and the poor and innocent are suffering for years imprisonment; it just cannot go on, and they are being treated like animals.

I pray for safety, good health and justice for Jim Williams, Sandra Chase, Richard Parker and thousands of other prisoners in Ecuador who see no end to their injustices. I hope they will soon be reunited with their families. They have already lingered much too long in a broken criminal justice system.

Let me now yield to my colleague who has been very, very supportive,

who is from Georgia, who is the Representative of Jim Williams' family.

Mr. KINGSTON. I appreciate the gentlewoman, my friend from Jacksonville, for yielding. I think it is very important the point that you are making about the war on drugs. It does have to be an international battle as drugs are grown in one country, manufactured in another, sneaked into other countries; it does take a cooperative effort. But as you pointed out, one of the main legs of this has to be good judicial systems.

And you have already mentioned that in the prison that you visited, of 2,500 prisoners only 400 have been to trial and that the costs per trial is $30,000. Now, that is the hard costs. You and I know there is other costs that are under the table that cannot be reported. But it is a reality down there, and we know about this.

Ms. BROWN of Florida. Let me say that the $30,000 is not on the table, it is under the table.

Mr. KINGSTON. Well, that is just to get you a place in line, and sometimes, if you want to pay more, it can influence the verdict. And the gentlewoman has pointed out that the families back home, the spouses and the children who are waiting while the loved ones locked up in Ecuador or somewhere in South America, they do not know what is going to happen.

This is an American's worst nightmare. It is bad enough being in jail, innocent; bad enough certainly when you are guilty, but at least in America you know you are going to have a fair trial. But when you are in a foreign country, you do not have that assurance.

You made the statement, and I agree with you completely, that drug laws cannot be adequately or fairly addressed without judicial improvements, including training for police and judges, because we do not want to go and impose our will on other countries, but at the same hand when it affects American citizens, then we have an obligation, and that obligation, we want to work through diplomatic channels, and you certainly have done that. But at the same hand you have to have an urgency to you to say, you have got Americans over there, you got to bring them back because the next person could be someone you know.

And I remember when I was young going to Mexico from the Texas border and going into Juarez, and I remember also having an opportunity to go to Tijuana from California, and I remember vividly as a 17-year-old and 18-year-old my parents begging me not to go because my mama would say: ''You don't know,'' and I am not throwing something off on the Mexican Government, but there would be certain law enforcement folks who could possibly plant something on you just to extort money out of you, and you are locked up in a Juarez jail somewhere, and you do not know what is going to happen to you.

And so often Americans decide not to go abroad, and I think it is important for us in terms of our relations with other countries to have a good flow of tourism back and forth. But we are not going to have tourism when people are afraid that if they are caught doing something, innocent or not, then they do not know if they are going to get a fair trial.

Ms. BROWN of Florida. Well, one of the things that is tragic about the system is that if a husband and wife is in the country and family members are picked up, fathers, in-laws, anyone suspected; so I mean you do not have to have proof, and you sit in prison for months, years, waiting on a trial, and if you do not have any money, there is no trial.

And in fact you would come out better if you plead guilty, as opposed to pleading innocent, because you will serve more time in prison if you say that you are innocent. And there is something wrong with a system like this.

Mr. KINGSTON. Now the pictures; you have some good pictures right here, but you also had some smaller pictures which I know you could not blow them all up, but the jail itself that these Americans are in looks like what you would envision a jail looking like maybe 50 or 60 years ago. Odors, stains on the wall, dampness, puddles on the floor, cracked ceilings, paint chipping off, graffiti on the walls, and I think worse, prisoners mingling about the rapists and the murderers with the check bouncers.

Ms. BROWN of Florida. As I said earlier, a person with one stick of marijuana or someone that has a drug problem, they are all lumped together.

But let me say something about the prison because perhaps I have not adequately described it. There is no toilets in the prison, none whatsoever. So all of this filth is right there, right out in the open. It is hard to believe that this condition could exist to our neighbor and the overcrowdedness, and the fact is children are being exposed to these conditions and diseases that run rampant in the prison.

Mr. KINGSTON. Now in the Ecuador prison that you went in, the overcrowdedness, it did look to me like there were too many people. Do you know how many people per cell or how do they do it? How many beds?

Ms. BROWN of Florida. They do not have a cell. It is just like an open barn with dirt floors, and there is an upstairs.

Can you see the picture over there with Mr. Willliams and his wife? Well, this is a good area. And it is like up and down under, is like a dungeon, and that is where most of the prisoners are. And it is a few steps that separate them. But the odor comes up.

But in this prison where you have over 2,500 people, no fresh water, no toilets; they dig holes in the ground, and they sleep on the dirt. It is just hard to describe.

Mr. KINGSTON. Now in that atmosphere where Americans are being——

Ms. BROWN of Florida. Forty Americans to date.

Mr. KINGSTON. Forty Americans are in this atmosphere. Do they have access to pay telephones?

Ms. BROWN of Florida. No phones. There are no phones.

Mr. KINGSTON. No phones.

Do their mattresses have sheets, or do you know?

Ms. BROWN of Florida. There are no mattresses.

Mr. KINGSTON. No mattresses and no sheets.

Ms. BROWN of Florida. That is right.

Mr. KINGSTON. So no linen.

Do they take showers, and, if so, how often are they able to take showers?

Ms. BROWN of Florida. There is no water, and there is no showers. There is lots of diseases.

Mr. KINGSTON. Is there a medical doctor?

Ms. BROWN of Florida. There is no medical doctor, and in fact Mr. Parker from New York that I talked about had to go to the hospital, and that would be another discussion because it is not a hospital. But the families, the American families, have to pay for that, and it costs $70 a day.

Mr. KINGSTON. Now, when you find a place to sleep on the floor, do you have the same spot every night, or do you have to kind of push to find a dry warm area?

Ms. BROWN of Florida. It is if you do not have any money, you know your life is at risk every single moment that you are there.

Mr. KINGSTON. How about insects and bugs? South America, Ecuador; I always think you and I are from Georgia and Florida. We have our share of mosquitoes. What is it like down there?

Ms. BROWN of Florida. Well, the conditions is the worst. In fact, the human rights groups indicated that Ecuadoran prisons, and I am sure this may be true in most of the South American countries, but Ecuador, No. 1, is one of the worst human rights violations in the whole world.

And you know I feel kind of responsible in the sense that it is our drug policy, and their system was not set up that there is misdemeanors and you know. So small offenses, all of them, are treated the same, and this is where we can help as far as providing assistance to the judicial system to set up misdemeanors or to set up bail for small offenses.

I mean this is a travesty, a human travesty, and it is the waste of not just the children but the family. But it costs the system just to keep these people in prison.

Mr. KINGSTON. Now you keep talking about if one joint of marijuana is found on you, you might as well have a whole truck.

Ms. BROWN of Florida. That is right.

Mr. KINGSTON. And these prisoners are all mixed together.

What is the prison violence like? Is there a lot, or you know is there a pecking order among the inmates

where, you know, those who are wealthier have better facilities than the poor ones?

Ms. BROWN of Florida. Unless you have some money you have no, no facilities.

Mr. KINGSTON. So if you are an American and your family does not have money or if you do not have a family and you are in this situation, you are just stuck in a rat hole in South America.

Ms. BROWN of Florida. That is right. Most of the Americans do have some kind of family support, but most of the Ecuadorians are just locked in the system like this young man. It was just in fact the prisoners brought him to me. They wanted me to see this example. Here this young man, a young man, got caught with one stick of marijuana being imprisoned 4 years; not a trial, not seeing a judge, not seeing a public defender, just there and will be there because he has no money and no family.

□ 1915

So that is the case for most of the 2,500 people in this particular prison.

Mr. KINGSTON. And he was Ecuadorian?

Ms. BROWN of Florida. Mr. Speaker, he was.

Mr. KINGSTON. Did he make this turtle?

Ms. BROWN of Florida. He made this turtle.

Mr. KINGSTON. Mr. Speaker, he makes a turtle like that in jail. That means he has a knife, right?

Ms. BROWN of Florida. Absolutely.

Mr. KINGSTON. So how old is this kid?

Ms. BROWN of Florida. Well, Mr. Speaker, if the gentleman heard my testimony, one person, Mr. Richard Parker's father, saw the person who had his arm cut off with a machete. So if one has money, one can buy anything. So one of the things that I found out that if one is a drug user, it is easy to purchase in prison. I mean one can get it and one can get as much as one wants, and one can become an addict in prison.

Mr. KINGSTON. Mr. Speaker, it is bizarre that in 1997 that exists anywhere in the world. It is further bizarre that 40 Americans would be in it.

The human rights organization which the gentlewoman alluded to, have they reported any torture in this prison or in similar prisons?

Ms. BROWN of Florida. Mr. Speaker, they have not only reported torture, but murder. Killings.

Mr. KINGSTON. Mr. Speaker, have any Americans been murdered yet?

Ms. BROWN of Florida. No; no Americans to my knowledge.

Mr. Speaker, one of the things is that I met with the other Embassy and asked for a status of all of the 40 Americans that are in prison. My staff met with five women in prison in Quito. And that is where Mrs. Sandra Chase from Fort Lauderdale, she has been in prison for a year and a half, but there were five women in this particular prison. We met with her and talked with her, and as I said, she has been in prison for a year and a half, had not even given a police report.

Mr. KINGSTON. Mr. Speaker, let me ask the gentlewoman this. She went to this prison and the gentlewoman's visit was fairly well publicized. They knew 2 or 3 weeks in advance that the gentlewoman was coming. The gentlewoman was accompanied by State Department personnel and diplomats, I think. Beyond that, there were professionals and Ambassadors, political-type appointments. They knew the gentlewoman was coming. So did it appear when the gentlewoman was there that the gentlewoman was somewhat insulated from the bare truth?

It sounds to me like the gentlewoman saw things that they would ordinarily want to hide from a visitor such as herself. Did my colleague get the impression things were being hidden beyond this, or did she think that she saw all, and they did not care if she did or did not?

Ms. BROWN of Florida. They did not care. In fact, when I talked to the police and the judges and the public elected officials, one of the things that was said to me was that we need help. We need help, and help is not just financial; judges to come over and help them set up guidelines, workshops, expertise, training to train more judges.

Mr. Speaker, it is a system that is drowning. I went to one of the judge's offices, and it was amazing, papers piled up to the top of the ceiling. No computers, no fax machines. Old typewriters.

So it is an antiquated system that cannot comply.

Mr. KINGSTON. So, Mr. Speaker, they were not telling the gentlewoman, get out, Yankee go home, mind your own business; they were saying, Congresswoman, we are glad to have you here.

Ms. BROWN of Florida. There was none of that, Mr. Speaker. There was none of that. It was a real understanding that we have a problem and we need help with this problem. There was an acknowledgment that bribery, the system, that the system was antiquated, the system was not working, and they just really needed assistance. I hope that we can give them that assistance.

Mr. Speaker, we do a lot of stuff all over the world, but I think we need to start at home, and South America is our neighbor. We need to do something about it. We are all against drugs and drugs coming into our country, but, clearly, our laws have affected their system.

Mr. KINGSTON. Mr. Speaker, let me ask the gentlewoman one more time for the RECORD. What was the name of the prison and what was the city that it was in in Ecuador?

Ms. BROWN of Florida. I visited two prisons, one in Guayaquil and one in Quito. The first one that I visited, 2,500 people in prison, 400 had received a trial. The other prison that my staff visited was a women's facility in Quito, and that is where the five American women were located. I met with about 10 Americans in Guayaquil, and I talked with them. They were husband and wife, and I talked with them about the various cases. And one of the things I have asked our State Department is to look into the status of each one of these cases and give us a report back on it and let us know what stages these are in.

Now, their justice system has several stages. One is the arrest stage, probably the beginning and the end. But then the next stage should be some kind of a statement as to what one has been tried for. Then, one has one judge that decides whether one is guilty or innocent. And if one is found innocent, it automatically goes to like a Supreme Court, which is three judges; and then they rule on it. During this entire period that could take up to 4 years, you are in prison. There is no bail.

Mr. KINGSTON. Mr. Speaker, so that could take 3 or 4 years. Does one ever get to a stage where one has a trial by jury?

Ms. BROWN of Florida. There is no jury whatsoever.

Mr. KINGSTON. At any stage?

Ms. BROWN of Florida. Mr. Speaker, at any stage there is no jury system whatsoever. There is no bail, and there is no misdemeanor.

Mr. KINGSTON. Mr. Speaker, would it be fair to say that these prison systems are revenue-raisers, that often it is a matter of buy your freedom rather than have it heard in a trial?

Ms. BROWN of Florida. Mr. Speaker, I think it is revenue-raising for the bribery and that system, but it certainly does not look like it is revenue-raising for the country. But those people that are working in that system, for example, Sandra Chase, they paid $20,000. Where did that money go to? Richard Parker paid $10,000. Where did that money go to? He was found innocent. However, he was asked to pay another $30,000. The family refused. He was found guilty and given 8 years in these conditions that we just talked about. He has contracted tuberculosis.

Mr. KINGSTON. Mr. Speaker, when an American overseas gets tuberculosis in a foreign jail, is there any kind of intervening rule in diplomacy that says we can give them medical treatment?

Ms. BROWN of Florida. Well, I did learn of something today that may be helpful to us. I met with the second person in charge of our operation there, the State Department, Mr. Curt Struble. He indicated to me that there is a treaty to date, as we speak, over in the Senate waiting for ratification. What that treaty would do is that the Americans over there could be transferred to American prisons in the United States once we expedite the treaty, and that is a ray of hope.

Mr. Speaker, a lot of times we take this great country for granted.

Mr. KINGSTON. Mr. Speaker, that is true. We do that on lots of fronts and a lot of people.

Ms. BROWN of Florida. Mr. Speaker, that is right. I knew when I came home, I was just glad to be home and glad to be an American citizen. At this point I would not recommend going to some of those South American countries, including Ecuador, until we can straighten out this system.

Mr. KINGSTON. Mr. Speaker, I am glad that the gentlewoman has gone, and I am also glad that she has shared her information with other Members of Congress, because we as Members of Congress need to know what is going on, particularly when American citizens are involved. In this case we have a joint constituent; but if it is an American, it is everybody's constituent.

Ms. BROWN of Florida. Mr. Speaker, let me mention one other thing. I have an amendment that I think was ruled in order on the bill that is coming up, and I guess it is going to come up in the foreign bill.

Mr. KINGSTON. Mr. Speaker, it may be postponed, as I understand it now, until maybe in June.

Ms. BROWN of Florida. June, okay. Well, I hope my amendment will still be in order.

Mr. KINGSTON. Mr. Speaker, I do not know for sure, but I do know that it has been postponed.

Ms. BROWN of Florida. Mr. Speaker, let me say about my amendment, it has been ruled in order, and it does a couple of things. One, it gives language to the President when he reports to the Congress on the status of drug trafficking. And we also want to know when he reports to the judiciary reform, we need to know how that is also working, and also appropriate case management that separates misdemeanor from serious offenses and eliminate corruption. In other words, we want to know what they are doing as far as doing away with briberies and other things that is really embedded in these systems.

Also, there is another aspect: Can Americans and other foreign individuals operate businesses in these countries? According to generally accepted business and human rights provisions, without the fear of arbitrary arrest, without criminal evidence, and without legal representation or a trial.

Mr. KINGSTON. Mr. Speaker, that is a sensible approach to better international relations, and I think a positive step, because if one is operating a business there, one needs to know. I had a case in Savannah of two young women who were aspiring actresses and they got a contract to go to South Korea to do a film, and when they got there, the manuscript of the film was switched to a pornographic movie.

Now, they said: This is not the manuscript we have signed a contract on. And they said: It might not be the manuscript, but it is the movie that you signed a contract on; and if you break it, in Korea, it is a criminal offense. Or a civil offense is treated like a criminal offense, and so these two young ladies would be put in jail.

We were able to get the State Department involved and our office intervened. We got them actually out of the country in a very spirited chase like out of a movie itself, but got them home. But it is just ridiculous. Here we have two idealistic young women in their early twenties going overseas, the manuscript gets swapped, and they had the good sense to say no.

But Mr. Speaker, the next group or the group before them may have said: Well, I guess we are stuck, we are going to have to do this. And that is what the film company was hoping on. And these girls somewhat called their bluff but at a great personal risk. I think Americans need to know these dangers before we go overseas, particularly in business settings.

I think if one is a tourist and one stays in kind of the middle of the road, they are probably okay, but if they are trying to do something a little bit different, then they can get in trouble.

In fact, it is interesting, I had another friend whose wife is a legal resident. But she is a British national, lives in Savannah. She is a British national born in Hong Kong and she is Asian. She has lived in Savannah, taught school for 20 years. She goes to Korea on vacation. She is leaving and they will not let her leave because she is Asian, and they decide that she has a counterfeit American passport to get into the country and they will not let her out.

□ 1930

Fortunately, our State Department intervened and they were able to get her out. But again, some of these laws are crazy. Americans can very, very innocently fall into a situation where before you know it they are in jail, they are in some crazy prison, like the ones you have visited, or they are tied up in court, their career is on the line, there are monetary problems, family problems, and so forth.

What the gentlewoman is trying to do with her amendment is say, let us take the uncertainty out of foreign commerce. If we can do that, foreign relations will improve.

Ms. BROWN of Florida. Absolutely. I want to thank the gentleman for his help and leadership on this matter, also. It is just such a vicious cycle as far as the whole criminal justice system in Ecuador. It is very unfair, particularly to the Ecuadorans. We are talking about the 16 Americans, but it is harsh on the Ecuadorans who have no money, so they just sit in prison.

Mr. KINGSTON. And make turtles. I thank the gentlewoman for inviting me to join her tonight, and I appreciate everything she is doing.

Ms. BROWN of Florida. I thank the gentleman very much.

Mr. Speaker, as I come to the close of this special order, I just want to think about these children that I met. The children are innocent. In many cases the families, the male or female, could be innocent, but this system does not distinguish the innocent from the guilty, or the misdemeanors from the major. So we have the responsibility to do what we can to make the system better.

As Americans, we may be thinking tonight, well, what does that have to do with me? Do Members know, this is a global world. We used to think the world was big, but the ship is very small. We are all in the ship together. We are going to sink and swim together, so I am going to do all I can, working with my colleagues, to make things better for the children here on this side of the border, and the children that live in the Third Congressional District of Florida.

Mr. Speaker, I include for the RECORD a letter to me from James Gordon Williams.

The letter referred to is as follows:

PENITENCIARIA, GUAYAQUIL, ECUADOR,
Thursday, May 8, 1997.

Hon. WILLIAM CLINTON,
President of the United States of America, Washington, DC.

DEAR PRESIDENT CLINTON: I am writing from my cell in the penitentiary in Guayaquil, Ecuador. Writing the President of the United States was never something I imagined that I would do, but then again neither was spending eight months in a South American jail. I am charged with money laundering for a Colombian that I did business with for a number of years. This man, Jose Castrillon is the target of an FBI investigation in the US. I am an innocent man. If Mr. Castrillon was involved in drug trade, I never saw any evidence of it during the years that I did business with him. The charges against me in Ecuador are based on lies and fabrications by the Ecuadorian National Police. My case would be thrown out of any real court of law in the world. My arrest along with seventeen other persons was documented as the number one accomplishment in the United States Department of State, Bureau for International Narcotics and Law Enforcement Affairs, in their International Narcotics Control Strategy Report, dated March 1997. In this publication, it states that with the help of the US Government, the Ecuadorian National Police dismantled a band of narcotics traffickers led by Castrillon. The persons mentioned in this report are workers, accountants, maids, fishermen, lawyers and businessmen. No evidence of drugs has been related to any of these persons in Ecuador. This US State Department report also contains lies and fabrications.

I would like to relate several facts that have been primarily obvious to me by this experience.

1) Judges, Policemen and Politicians in Latin America can not live on the salaries that they are paid. Corruption is a way of life within these institutions. It has been this way for many years. This knowledge is sine qua non for doing business in Latin America. If drug trafficking and money laundering is a form of corruption in one of these countries then look first to the above institutions for the real culprits. If funds are given to these institutions to fight corruption it would be analogous to giving Al Capone funds to help fight corruption in the US seventy years ago.

2) The US Agencies that are responsible for US drug enforcement in Latin America seem

to have become more concerned with funding than enforcement. At least some of the reports produced by these Agencies are erroneous and misleading.

3) The pressure that is being applied to Latin American Countries by Certification does not hinder drug traffickers who have no interest in that country's real economy, but it definitely creates strong anti American feelings and distrust among the citizens of these Countries.

4) The ''War on Drugs'' is not a winnable war as it is being fought today. Billions of US tax dollars are being squandered. In Latin America, thousands of innocent persons are being killed, tortured and illegally detained by corrupt forces that are supported by the US. Meanwhile, drugs continue to flow at an ever increasing rate. The suffrage from drug use in the US is a result of the addicts lack of education. If we can not blame the addict then we must blame our society. The torture and killing of innocent persons in Latin America is also the result of ignorance, but not of these tortured citizens nor of their society.

I have lost my business, and my life's savings because of mistakes made by Ecuadorian and US Law Enforcement Agencies. Congresswoman Corrine Brown recently made a trip to visit me in Ecuador. She is doing her best to help me get a fair and expedient trial in Ecuador. The stigma associated with the words ''drugs'' and ''Colombian'' scared other US representatives away from my case. Congresswoman Brown was able to see first hand some the results of police brutality and injustice in Ecuador. I beg of you, for the sake of tortured souls in Latin America and for the integrity of our Great Nation, please reconsider your policies on the ''War on Drugs''.

Respectfully,

JAMES G. WILLIAMS.

Mr. LANTOS. Mr. Speaker, I rise today to join my distinguished colleague from Florida, Congresswoman CORRINE BROWN, in expressing concern for the human rights situation in Latin America and the Caribbean. I congratulate Congresswoman BROWN for her leadership in requesting time so that we can have the opportunity to address these issues.

As my colleagues know, my commitment to human rights around the world has often focused on the Americas, whether by pushing for declassification of our own Government's documents with regards to Guatemala and Honduras, or inquiring into our own end-use monitoring capabilities with regards to Mexico, or even monitoring human rights conditions in the Brazilian Amazon and its link to our contributions to the World Bank. So I welcome this opportunity to remind all of my colleagues that our human rights task in the Americas, while headed more or less in the right direction, is far from over.

Indeed, we have much work ahead of us. We must remain ever vigilant to ensure that the fragile peace that was won in Guatemala, El Salvador, and Nicaragua does not revert to the tempest of human rights violations. We must lend Mexico a helping hand to prevent that government from heading down the slippery slope of increasing human rights violations and to reinforce attempts at institutional reform. We must strengthen the resolve of Hondurans who are prosecuting those who tormented their society through illegality. We must support efforts in Haiti to ensure accountability in its newly trained police forces. And whether we are dealing with Chile or Venezuela, Brazil or Peru, we must unequivocally support all efforts to obtain justice for the countless victims and survivors of some of our neighbor's darkest periods of their history. Justice is a human right and as such is the birthright of every man, woman, and child on the face of the Earth. We must not forget that human rights are not luxuries or privileges. They are birthrights which I am proud to support.

I would also like to take this opportunity to salute those courageous men and women who strive to make the respect for human rights a part of the everyday reality of their communities and their nations. These human rights defenders unfortunately are under attack in many areas of the Americas. But it is these same people who are our early warning systems in times of trouble. They are the ones on the front lines who can tell us whether or not a situation will worsen. The Colombian human rights defenders have been warning us—and dying while they do so—and we have all witnessed in horror as the paramilitaries in that nation have committed massacre after massacre, often in a preannounced fashion.

Mexican defenders have warned us of the deterioration in basic respects and we have witnessed attack upon attack, while the defenders themselves are subjected to death threats, harassment, and even deportation. In Peru, defenders have received funeral wreaths from the same type of cowardly anonymous thugs who torment defenders elsewhere and in Honduras, not even the children are spared of attacks because of the work their parents do to protect those in need. Clearly this pattern of attacks against defenders must be reversed and we must do all we can to highlight the importance of defenders and our support for what they do. Our Nation must use all of its available resources and occasions to voice support of their courageous work. Indeed it is ironic that those who become involved in protecting the rights of others themselves become subject to attack and having their rights violated.

Finally, we must not forget our role in this equation. We are members of the most powerful Government on this Earth. Every wink, every nod, every transfer of money and every piece of military hardware we send is interpreted as supporting one policy or another. Our silence is equally scrutinized so that when we remain silent in the face of human rights violations, those who commit them think that our Government does not care what happens. We can use this power for good or for ill and an important step is assuming our responsibility for our actions and becoming aware that our intentions must often be followed by our deeds and our words lest what we do or what we fail to do be misinterpreted. By siding with human rights and with its defenders, we assume this responsibility and face this challenge and ensure that the next generations will inherit a better world than what we inherited.

A LEGITIMATE DEBATE: HOW WILL AMERICA GET TO A BALANCED BUDGET?

The SPEAKER pro tempore (Mr. LATHAM). Under the Speaker's announced policy of January 7, 1997, the gentleman from Georgia [Mr. KINGSTON] is recognized for 60 minutes.

Mr. KINGSTON. Mr. Speaker, the importance of the budget agreement is that we are saying that America is no longer going to debate having a balanced budget. We are going to have a balanced budget.

Now that we have answered that question, the next part of it is how are we going to get that. I think that is a legitimate debate: What is the role of government going to be; what are the roles of these bureaucracies; is the expenditure something that the private sector could do better? Is it something a nonprofit organization could do, or is it something that the government should do, but on a State or local level, or is it the domain of the Federal Government? These are all relevant questions as we fight to balance our budget.

The vision of America is what the actual debate is about. It is not just a matter of liberals versus conservatives or urban versus rural, it is a matter of what is it that we think the Federal Government should be doing, should be offering. Should it be involved with your life to the Nth degree, or should it kind of stand back, and so forth. All this ties into the money debate.

As we have it right now, the gentleman from Ohio [Mr. KASICH], the gentleman from Georgia [Mr. GINGRICH], and Mr. DOMENICI and Mr. Clinton and the various players in the House and Senate and the White House have agreed that we will balance the budget by 2002. We have agreed on a number. We have agreed on a downward slope toward it.

The beneficiaries of this will be the American families. When the budget is balanced, interest rates, according to Alan Greenspan, will go down. When interest rates go down that means we will have less interest that we will have to pay on our home mortgages. A 2 percent interest rate on a $75,000 home mortgage could mean over a 30-year period of time that you pay $37,000 less; on a $15,000 car loan, it could mean that you are paying $900 less. On student loans, anything else you want to borrow, that would be a benefit to the American families.

The other thing about the benefit of a balanced budget to the American family is it would give tax relief. Mr. Speaker, right now we are taxed higher than any generation of Americans in the history of our country. The average tax burden in America today is 38 percent. When you have a tax burden of 38 percent, if you look at this figure just roughly, a two-income family with a combined income of $55,000, one spouse is making $22,000, that means that that income is going to pay taxes. That means that that spouse is working for the Federal Government. We might not call it the Federal Government, we might call it a shoe store, we might call it the insurance agency, we might call it clerking at a law firm or working at a hospital, but the fact is that 100 percent of that income goes to pay taxes.

That is higher than what the average Americans are paying for food, shelter, clothing, and transportation. It is an

astronomical figure. In the 1950's the average American family was paying 5 percent Federal income tax. Today they are paying 24 percent Federal income tax. I am only talking about income tax, not all the other taxes combined.

If we balance the budget, Americans can move toward tax relief and lower taxes. In the balanced budget agreement there is capital gains tax relief. The capital gains works like this. If you are an elderly couple and you bought your house 20 years ago, and the husband, let us say, because this is very common where I live, the husband is dead and the woman lives on Whitmarsh Island, or Wilmington Island, because we have a lot of waterfront property in the area that I represent in Savannah, the house they paid for in the 1970s, they paid $30,000, today it is worth $400,000.

But she is living alone. She is on a fixed income of maybe $10,000, maybe $15,000 a year. If she sells that house, because she may need the money for long-term health care, or for medical reasons or whatever, if she sells that house she is taxed as if she makes $400,000 a year. Capital gains tax relief will help that widow. It will also give death tax relief.

Death tax relief works this way, Mr. Speaker. If you have saved all your money and you have a good, frugal lifestyle, and you bought IBM stock in the 1960's, in the 1970's, and even the 1980s, and today the value of that stock has tripled, and you have foregone nice vacations or boats or fancy clothes because you are a saver, not many left in America but there are still a lot of them out there, but you have saved your money and now you want to sell that IBM stock or pass it on to your children, if you try to sell it you have a capital gains tax problem. If you try to pass it on to your children, you are limited to $10,000 per child per year.

So generally what happens is our seniors, our savers, die. Then Uncle Sam makes his move. For the amount of money over $600,000, about 40 percent of it is going to go to Uncle Sam. That is not fair. You have paid taxes on the stock already when you purchased it, and if you have that stock you are not going to be able to pass it on to your children because Uncle Sam is going to get his fair share. That is the death tax. You cannot escape taxes even when you die, in the United States of America.

The final tax that is given in the balanced budget agreement, the tax relief is a $500 per child tax credit. That would help people who have small children.

I have a couple of charts, but just to show this, Mr. Speaker, this chart says so much. Balancing the budget is good for America because it is good for American families. Balancing the budget is not about numbers, it is about people. It is about Dad and Mom and little Jane or little Bob and whoever else, because it is very important that we look after American families.

When was the last time that the budget was balanced? In 1969, and Mr. Speaker, you were a young man back then, and so was I. In 1969 the Beatles had just released Abbey Road, Nixon began the SALT talks with the former Soviet Union, the Smothers Brothers and the Mod Squad were still on TV, and *Apollo 11* had men on the moon in July, 1969. That was 1969.

Pocket calculators were not even on the drawing board in those days, Mr. Speaker. Pocket calculators were not even a pipe dream back then. Computers were not. In 1969 probably not a school in the United States of America had a computer in it. Look at today. We have computers in just about every school.

What does the balanced budget agreement have? It has these components, very important: The budget will be balanced by the year 2002; it will provide tax relief for American families, and we have talked about that; it will provide entitlement reform; it will save Medicare from bankruptcy.

I have already talked about this date, the year 2002. You have to have a deadline on these things. We have talked a little bit about tax relief. Let me talk a little bit about entitlement reform. Entitlements take up about 50 percent of the entire budget. Entitlements are generally known as programs that are automatic. They benefit people. It includes anything from VA to Medicare to Medicaid, Social Security, all types of programs. But if that is where 50 percent of the budget is, or where the expenditures are, we have to know we get the best bang for the buck.

We have a debate going on right now about WIC. WIC stands for women, infants, and children. It is a formula program. It is a program, a nutrition program, that everybody agrees on on a bipartisan basis, generally.

Last year, as Members know, the Republican conference funded WIC at a full $3.7 billion. It passed on a bipartisan basis. Everybody was in favor of it. This year, on the emergency supplemental, Members of Congress decided that WIC needed a little bit more money. WIC has an escrow account of about $100 million, and that has not even been touched. But nonetheless, the gentleman from Louisiana [Mr. LIVINGSTON], chairman of the Committee on Appropriations, increased WIC funding by $38 million. What do some of the liberals do? They turn around and say, you have increased WIC, but not as much as we wanted you to. Therefore, you have cut.

Follow me closely, Mr. Speaker. If we increase a program $38 million and people call it a cut, it is a new assault on truth in debate by the rhetorical terrorists of Congress. We are seeing this over and over again. When it comes to making difficult decisions that involve important programs for seniors, for children, for education or the environment, rhetorical terrorists in Congress parade out the person involved in the benefit and use them as a pawn to increase the size of Government and increase the size of bureaucracy.

Never mind that in this case the USDA has told us that $38 million is sufficient for WIC, and that there is another escrow account, along with the $100 million, of about $40 million that is available. The numbers are already there. Yet, some Members of Congress want to use WIC as a political issue, and have misconstrued the debate one more time in Congress to increase funding, and therefore, most importantly, increase the bureaucracy. Twenty-five percent of WIC goes to the bureaucracy, Mr. Speaker.

It is interesting that the liberals who are pushing this do not want to study the program. I am on the Committee on Appropriations, as the Speaker pro tempore is, and we have recommended, let us study it, because there is genuine concern about this. The concern even was brought up by Democrat Members, liberal members of the committee, about are these numbers real or not.

We had said, let us study it. The same people who say the numbers are wrong refuse to sign off on a study of WIC. I say, if we are going to have entitlement reform, we have to have truth in debate. We have to agree that we can improve programs without being against children or being against the elderly or whatever.

Remember, Mr. Speaker, last year on Medicare funding when the Republican Congress went from $190 to $270 billion, it was called a cut. When we went from $89 to $124 billion in Medicaid funding, it was called a cut.

□ 1945

When we went from $26 to $40 billion in student loans, it was called a cut. If America wants a balanced budget, America has to be mature enough to say this is worth a truthful debate. We can have an honest disagreement and have studies that find better ways to get more money to the children back home.

But I am worried about, Mr. Speaker, a friend of mine. I am going to call her Jane. She is a real person. She has two kids. She is a single mama. Sometimes she gets child support, and sometimes she does not. Our office has been involved in it; and having been involved in child support battles, it is real hard to get child support from somebody who does not want to give it. We have all kinds of deadbeat-dad laws in Georgia, and sometimes they work and sometimes they do not.

Mr. Speaker, Jane is out there with two kids. She is not on public assistance. She is not on WIC. She is not on food stamps. She is not on public housing. Yet, she is paying over and over again for people who are not on public assistance, many who have the financial ability or physical ability to get off of it. She is paying for 25-year-old men who are able-bodied to be on welfare, while she is out busting her tail working 40 and 50 hours a week at her

job to come home and to cook and to sew and to do the dishes and to wash the clothes and drive the car pools.

That woman deserves better than what we are giving her, Mr. Speaker. She is getting abused by the big government crowds who favor bureaucrats over people, and it is time that we change it. So I think on so many of these programs we do have to take a look and find out how we can make the program better. We should be able to do that without crying foul from either side.

Let me show a Medicare chart. In the balanced budget agreement, the 5-year Medicare spending does go up. This is the balanced budget agreement. Medicare is approximately level. I am sure, Mr. Speaker, we are going to be hearing over and over again that balancing the budget will cut Medicare. Do my colleagues know why we are going to hear that? Because it is easy to hoodwink America's seniors. We have people who only have Medicare and Social Security. It is easy to scare them. It is not fair. It is not right. But we have a lot of people who are willing to do that in the U.S. Congress.

Mr. Speaker, I think again, when it comes to seniors, when it comes to the elderly, we owe them truth, but we also owe them good government. And if we can reform Medicare and keep it from going bankrupt by strengthening it and preserving it and protecting it, not for the next election, but for the next generation, then we have served the elderly well.

I am going to touch base on about one more thing, Mr. Speaker, if I could find my chart; and that is one other program that we need to take a very, very close look at, and that is AmeriCorps. AmeriCorps is the program that, at minimum, changes the definition from volunteer, volunteer meaning somebody who works who does something for free, to being a volunteer as somebody who gets paid from a government bureaucracy.

AmeriCorps is President Clinton's domestic Peace Corps. Now who could argue with that? It sounds great, right? Well, consider this. When the President started AmeriCorps in 1993, he said we are only going to give it seed money; this is not going to become a bureaucracy; this is going to become a lean mean venture capital type outfit.

Well, here we are 3 years later, 4 years later. AmeriCorps is $400 million a year. AmeriCorps spends $1.7 million a year on PR, public relations, so that they can get people to write Members of Congress and say keep this important program going. AmeriCorps volunteers costs taxpayers anywhere from $26,000 to $31,000 per child per year. And the child is a 16-, 17-, 18-year-old and they get $1,500. Sometimes they get uniforms. Uniforms cost anywhere from about $150 to as high as a thousand dollars. It is pure waste.

There was one case in Texas along the border that the program issued a $2.8 million grant, and the director of that program received an $85,000 a year salary. Again, Mr. Speaker, what a volunteer. They have cars. They have expense accounts. They go out for lunch on the taxpayers. It is absolutely ridiculous. So Congress says, let us audit AmeriCorps. We cannot do it. The books are too messed up. There are too many different disjointed records. It is in shambles. And AmeriCorps could not be audited.

It is time, Mr. Speaker, that we tell the truth that, look, this program is not working. I have one other story. A friend of mine is volunteering for Habitat for Humanity, and he is a good friend of mine. He does lots of volunteer work for churches, for other churches, for other causes. He is volunteering for Habitat for Humanity, as he always has. And AmeriCorps sends their crew out there, their paid volunteers, to go work side-by-side with the regular, the real volunteers. And he says half the kids are over there listening to the radio talking back and forth, smoking cigarettes, goofing off and playing. And here we have got part-time volunteers, executives that make $200,000 or $300,000 a year. And they are working their tail off. And over here sitting on the floor is a 17-year-old getting paid and he will not even work while he is getting paid.

That is a horrible message because what my friend told me, the Habitat for Humanity real volunteer, he said: I have about had it, and I am not going to go out there and work my tail off while some kid is getting paid for it. He refuses to.

That is the type of program that we have to deal with, Mr. Speaker, and we ought to be able to say: You know, America, we cannot afford to do everything for everybody all the time as we have been doing. It is time to balance the budget.

I close with this, definition of a trillion. We are $5 trillion in debt. If we pulled $65 million in train cars, $65 million per boxcar, how long would the train have to be to have $1 trillion in it? It would have to be 240 miles long.

Mr. Speaker, we have got a debt right now of over $5 trillion. It is time to balance the budget and do something for America's children, America's family, and America's future.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FLAKE (at the request of Mr. GEPHARDT) for today, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. PELOSI, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. WELDON of Florida, for 5 minutes, today.

Mr. ROEMER, for 5 minutes, today.

Mr. BILIRAKIS, for 5 minutes, today.

Mr. MEEHAN, for 5 minutes, today.

Mr. GIBBONS, for 5 minutes, today.

Ms. STABENOW, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and to include extraneous material:)

Mr. FORBES, for 5 minutes, today.

Mr. KNOLLENBERG, for 5 minutes, today.

Mr. POMEROY, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. SANCHEZ, for 5 minutes, today.

Mr. NEUMANN, for 5 minutes, today.

Mr. SANDERS, for 5 minutes, today.

(The following Members (at the request of Mr. TIERNEY) to revise and extend their remarks and include extraneous material:)

Ms. NORTON, for 5 minutes, today.

Mr. REYES, for 5 minutes, today.

Mr. CONDIT, for 5 minutes, today.

Mr. GOODE, for 5 minutes, today.

Mr. TURNER, for 5 minutes, today.

Mr. SANDLIN, for 5 minutes, today.

Mr. BOYD, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mrs. MALONEY of New York, for 5 minutes, today.

(The following Members (at the request of Mr. BUYER) to revise and extend their remarks and to include extraneous material:)

Mr. SNOWBARGER, for 5 minutes, on May 16.

Mr. FOLEY, for 5 minutes, today.

Mr. HANSEN, for 5 minutes, on May 15.

Mr. CUNNINGHAM, for 5 minutes, today and May 15.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. GOODLATTE, for 5 minutes, today.

Ms. GRANGER, 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. BUYER) and to include extraneous matter:)

Mr. WAMP.

Mr. OXLEY.

Mr. SOLOMON.

Mr. BUNNING.

Mr. BLUNT.

Mr. FAWELL.

Mr. GOODLING.

Mr. LAZIO of New York.

Mr. BALLENGER.

(The following Members (at the request of Mr. TIERNEY) and to include extraneous matter:)

Mr. FROST.
Mr. CAPPS.
Mr. SCHUMER.
Ms. STABENOW.
Mr. KUCINICH.
Mr. HAMILTON.
Ms. WOOLSEY.
Mr. VISCLOSKY.
Mr. PAYNE.
Mr. BERMAN.
Mr. LANTOS.
Mr. STARK.
Mr. BORSKI.
Mr. KLECZKA.

(The following Members (at the request of Mr. KINGSTON) and to include extraneous matter:)

Mr. CHRISTENSEN.
Mr. HILLEARY.
Mr. FOGLIETTA in two instances.
Mr. UNDERWOOD.
Mr. SHERMAN.
Mr. PALLONE.
Mr. KILDEE.
Mr. BOB SCHAFFER of Colorado.
Mr. CLAY.
Mrs. MALONEY of New York.

ADJOURNMENT

Mr. KINGSTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 55 minutes p.m.), the House adjourned until tomorrow, Thursday, May 15, 1997, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the speaker's table and referred as follows:

3281. A letter from the Under Secretary for Rural Development, Department of Agriculture, transmitting the Department's final rule—Housing Preservation Grant Program (Rural Housing Service) [Workplan Number 93–015] (RIN: 0575–AB43) received May 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

3282. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Federal Motor Vehicle Safety Standards; Occupant Crash Protection Child Restraint Systems (National Highway Traffic Safety Administration) [Docket No. 74–14; Notice 116] (RIN: 2127–AG14) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3283. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Expansion of Short-Form Registration to Include Companies with Non-Voting Common Equity [Release Nos. 33–7419 and 34–38581; File No. S7–23–96] (RIN: 3235–AG82) received May 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3284. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737–100, -200, -300, -400, and -500 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–150–AD; Amdt. 39–10010; AD 97–09–14] (RIN: 2120–AA64) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3285. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–52–AD; Amdt. 39–10009; AD 97–09–13] (RIN: 2120–AA64) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3286. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospatiale Model ATR42 and ATR72 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–141–AD; Amdt. 39–10007; AD 97–09–11] (RIN: 2120–AA64) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3287. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Model DH 125–1A, -3A, and -400A Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–190–AD; Amdt. 39–10008; AD 97–09–12] (RIN: 2120–AA64) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3288. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 767 Series Airplanes (Federal Aviation Administration) [Docket No. 97–NM–66–AD; Amdt. 39–10012; AD 97–08–51] (RIN: 2120–AA64) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3289. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Jetstream Model BAe ATP Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–100–AD; Amdt. 39–10006; AD 97–09–10] (RIN: 2120–AA64) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3290. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–278–AD; Amdt. 39–10003; AD 97–09–07] (RIN: 2120–AA64) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3291. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737–100, -200, -300, -400, and -500 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–151–AD; Amdt. 39–10011; AD 97–09–15] (RIN: 2120–AA64) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3292. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; de Havilland DHC–6 Series Airplanes (Federal Aviation Administration) [Docket No. 93–CE–45–AD; Amdt. 39–10016; AD 97–07–10 R1] (RIN: 2120–AA64) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3293. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company (formerly Beech Aircraft Corporation) Models 58P and 58PA Airplanes (Federal Aviation Administration) [Docket No. 95–CE–89–AD; Amdt. 39–10005; AD 97–09–09] (RIN: 2120–AA64) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3294. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 777 Series Airplanes (Federal Aviation Administration) [Docket No. 97–NM–67–AD; Amdt. 39–10014; AD 97–10–02] (RIN: 2120–AA64) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3295. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model BAC 1–11 200 and 400 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–188–AD; Amdt. 39–10015; AD 97–10–03] (RIN: 2120–AA64) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3296. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Industrie Model A310 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–60–AD; Amdt. 39–10013; AD 97–10–01] (RIN: 2120–AA64) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3297. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class D Airspace; Little Rock AFB, AR (Federal Aviation Administration) [Airspace Docket No. 97–ASW–02] received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3298. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class D Airspace; Dallas Addison Airport, TX (Federal Aviation Administration) [Airspace Docket No. 96–ASW–34] (RIN: 2120–AA66) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3299. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class D Airspace; Victorville, CA (Federal Aviation Administration) [Airspace Docket No. 95–AWP–26] (RIN: 2120–AA66) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3300. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Sacramento, CA (Federal Aviation Administration) [Airspace Docket No. 97–AWP–14] (RIN: 2120–AA66) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3301. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; DeQueen, AR (Federal Aviation Administration) [Airspace Docket No. 96–ASW–37] received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3302. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Clarksville, AR (Federal Aviation Administration) [Airspace Docket No. 96–ASW–43] received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3303. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of

Class E Airspace; Olney, TX (Federal Aviation Administration) [Airspace Docket No. 96–ASW–42] received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3304. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Paragould, AR (Federal Aviation Administration) [Airspace Docket No. 96–ASW–39] received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3305. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Reserve, LA (Federal Aviation Administration) [Airspace Docket No. 96–ASW–38] received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3306. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Killeen, TX (Federal Aviation Administration) [Airspace Docket No. 96–ASW–35] (RIN: 2120–AA66) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3307. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Weslaco, TX (Federal Aviation Administration) [Airspace Docket No. 96–ASW–36] (RIN: 2120–AA66) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3308. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revocation of Class E Airspace; Goffs, CA (Federal Aviation Administration) [Airspace Docket No. 97–AWA–7] (RIN: 2120–AA66) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3309. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Donora, PA (Federal Aviation Administration) [Airspace Docket No. 97–AEA–009] (RIN: 2120–AA66) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3310. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Friendly, MD (Federal Aviation Administration) [Airspace Docket No. 97–AEA–15] (RIN: 2120–AA66) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3311. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Kittanning, PA (Federal Aviation Administration) [Airspace Docket No. 97–AEA–011] (RIN: 2120–AA66) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3312. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Mount Oliver, PA (Federal Aviation Administration) [Airspace Docket No. 97–AWA–008] (RIN: 2120–AA66) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3313. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Grants, NM (Federal Aviation Administration) [Airspace Docket No. 96–ASW–41] received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3314. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Nashua, NH, Newport, RI, Mansfield, MA, Providence, RI, and Taunton, MA (Federal Aviation Administration) [Airspace Docket No. 97–ANE–11] (RIN: 2120–AA66) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3315. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; New Haven, CT (Federal Aviation Administration) [Airspace Docket No. 97–ANE–02] (RIN: 2120–AA66) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3316. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28898; Amdt. No. 1795] (RIN: 2120–AA65) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3317. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28897; Amdt. No. 1794] (RIN: 2120–AA65) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3318. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28908; Amdt. No. 1798] (RIN: 2120–AA65) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3319. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28907; Amdt. No. 1797] (RIN: 2120–AA65) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3320. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Restricted Area 2311 (R–2311), Yuma Proving Ground, AZ (Federal Aviation Administration) [Airspace Docket No. 94–AWP–15] (RIN: 2120–AA66) received May 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3321. A letter from the Secretary of Transportation, transmitting the Department's report entitled ''Excerpts From U.S. Coast Guard Regulations and Policies related to the Edible Oil Regulatory Reform Act (P.L. 104–55),'' pursuant to Public Law 104—134, section 1130(b) (110 Stat. 3985); to the Committee on Transportation and Infrastructure.

3322. A letter from the Chief Counsel, Bureau of the Public Debt, transmitting the Bureau's final rule—Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and BONDS [Department of the Treasury Circular, Public Debt Series No. 1–93] received May 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3323. A letter from the Director, Office of National Drug Control Policy, Executive Office of the President, transmitting a draft of proposed legislation to reauthorize the Office of National Drug Control Policy, pursuant to 31 U.S.C. 1110; jointly to the Committees on Government Reform and Oversight, the Judiciary, 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. SOLOMON: Committee on Rules. House Resolution 149. Resolution providing for consideration of the bill (H.R. 1469) making emergency supplemental appropriations for recovery from natural disasters, and for overseas peacekeeping efforts, including those in Bosnia, for fiscal year ending September 30, 1997, and for other purposes (Rept. 105–97). 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. HAMILTON (for himself and Mr. CONYERS):

H.R. 1590. A bill to implement the obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, known as the Chemical Weapons Convention and opened for signature and signed by the United States on January 13, 1993; to the Committee on International Relations and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Texas (for himself, Mr. CONDIT, Mr. ROHRABACHER, Mr. HERGER, Mr. MCINTOSH, Mr. GEKAS, Mrs. CHENOWETH, Mr. BURTON of Indiana, Mr. HOSTETTLER, Mrs. EMERSON, Mr. DEAL of Georgia, Mr. GOODLATTE, Mr. NORWOOD, Mr. CUNNINGHAM, Mr. GALLEGLY, Mr. BOB SCHAFFER, Mr. LEWIS of Kentucky, Mr. PARKER, Mr. PITTS, Mr. THORNBERRY, and Mr. BLUNT):

H.R. 1591. A bill to ensure congressional approval of the amount of compliance costs imposed on the private sector by regulations issued under new or reauthorized Federal laws; to the Committee on Government Reform and Oversight, and in addition to the Committees on Rules, and the Budget, 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. BALLENGER (for himself, Mr. LEVIN, Mr. ROHRABACHER, Mr. JEFFERSON, Mrs. JOHNSON of Connecticut, Mrs. THURMAN, and Mr. RAMSTAD):

H.R. 1592. A bill to amend the Internal Revenue Code of 1986 and Employment Retirement Income Security Act of 1974 in order to promote and improve employee stock ownership plans; to the Committee on Ways and Means.

By Mr. CHRISTENSEN (for himself and Mr. CRAMER):

H.R. 1593. A bill to amend the Internal Revenue Code of 1986 to provide that the look-back method shall not apply to construction contracts required to us the percentage of completion method; to the Committee on Ways and Means.

By Mr. COSTELLO:

H.R. 1594. a bill to require employers to notify workers before health care benefits or retirement benefits are terminated'; to the Committee on Education and the Workforce.

By Mr. FAWELL:

H.R. 1595. A bill to amend the National Labor Relations Act to determine the appropriateness of certain bargaining units in the absence of a stipulation or consent; to the Committee on Education and the Workforce.

By Mr. GEKAS (for himself, Mr. HYDE, Mr. CONYERS, and Mr. NADLER):

H.R. 1596. A bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges, and for other purposes; to the Committee on the Judiciary.

By Mr. GILLMOR (for himself, Mr. SOLOMON, Mr. LIVINGSTON, Mr. ENGLISH of Pennsylvania, Mr. WATTS of Oklahoma, Mr. KING of New York, Mr. CANADY of Florida, Mr. SHAYS, Mr. QUINN, Mr. MCHUGH, Mr. MANZULLO, Mr. DOOLITTLE, Mr. GREENWOOD, Mr. NORWOOD, Mrs. KELLY, Ms. GRANGER, Mr. UNDERWOOD, Ms. NORTON, Mr. EHLERS, Mr. KNOLLENBERG, Mr. FALEOMAVAEGA, Mr. BEREUTER, Mr. KLUG, Mr. SKEEN, Mr. SENSENBRENNER, Mr. GRAHAM, Mr. BOB SCHAFFER, and Mr. BILIRAKIS):

H.R. 1597. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of, and the deduction of contributions to, education savings accounts; to the Committee on Ways and Means.

By Mr. GOODLING:

H.R. 1598. A bill to amend the National Labor Relations Act to require the National Labor Relations Board to resolve unfair labor practice complaints in a timely manner; to the Committee on Education and the Workforce.

By Mr. GUTIERREZ (for himself and Mr. JACKSON):

H.R. 1599. A bill to amend the Immigration and Nationality Technical Corrections Act of 1994 to provide the descendants of female U.S. citizens born abroad before May 24, 1934, with the same rights to U.S. citizenship at birth as the descendants of male citizens born abroad before such date; to the Committee on the Judiciary.

By Mr. KANJORSKI:

H.R. 1600. A bill to amend the Federal Coal Mine Health and Safety Act of 1969 to establish a presumption of eligibility for disability benefits in the case of certain coal miners who filed claims under part C of such act between July 1, 1973, and April 1, 1980; to the Committee on Education and the Workforce.

H.R. 1601. A bill to amend title 32, United States Code, to provide that performance of honor guard functions at funerals for veterans by members of the National Guard may be recognized as a Federal function for National Guard purposes; to the Committee on National Security.

H.R. 1602. A bill to restore the grave marker allowance for veterans; to the Committee on Veterans' Affairs.

H.R. 1603. A bill to amend the Social Security Act to provide, in the case of any person who is a party in interest with respect to an employee benefit plan, that information requested from the Secretary of Health and Human Services to assist such person with respect to the administration of such plan shall be provided at least once without charge; to the Committee on Ways and Means.

By Mr. KILDEE (for himself, Mr. HAYWORTH, and Mr. KENNEDY of Rhode Island):

H.R. 1604. A bill to provide for the division, use, and distribution of judgment funds of the Ottawa and Chippewa Indians of Michigan pursuant to dockets numbered 18–E, 58, 364, and 18–R before the Indian Claims Commission; to the Committee on Resources.

By Mr. KLECZKA:

H.R. 1605. A bill prohibiting the manufacture, sale, delivery, or importation of school buses that do not have seat belts; to the Committee on Commerce.

By Mr. LAHOOD:

H.R. 1606. A bill to suspend temporarily the duty on carbamic acid (U–9069); to the Committee on Ways and Means.

H.R. 1607. A bill to suspend temporarily the duty on rimsulfuron; to the Committee on Ways and Means.

By Mr. LATOURETTE:

H.R. 1608. A bill to authorize the Pyramid of Remembrance Foundation to establish a memorial in the District of Columbia or its environs to soldiers who have died in foreign conflicts other than declared wars; to the Committee on Resources.

By Ms. MOLINARI (for herself, Mr. WELLER, Mr. GEJDENSON, Mr. SOLOMON, Mr. MOAKLEY, Mr. FRANKS of New Jersey, Mr. FRELINGHUYSEN, Mr. BORSKI, Mr. CASTLE, Mr. MCGOVERN, Mr. SHAYS, Mr. PAXON, Mr. BOEHLERT, Mr. QUINN, Mr. NADLER, Mr. KING of New York, Mrs. JOHNSON of Connecticut, Mrs. KELLY, Mr. FRANK of Massachusetts, Mrs. KENNELLY of Connecticut, Mr. MCHUGH, Mr. MARKEY, Mr. ENGEL, Mr. NEAL of Massachusetts, Mr. PASCRELL, Mr. MEEHAN, Mr. MANTON, Mrs. LOWEY, Mr. FORBES, Mrs. MCCARTHY of New York, Mr. WALSH, Mr. FLAKE, Mr. LAZIO of New York, Ms. DELAURO, Mr. GILMAN, Mr. RANGEL, Mr. HINCHEY, Mr. SCHUMER, Mr. SERRANO, Ms. VELÁZQUEZ, Mr. TOWNS, Mr. OWENS, Ms. SLAUGHTER, and Mrs. MALONEY of New York):

H.R. 1609. A bill to reauthorize the Intermodal Surface Transportation Efficiency Act of 1991, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAXON (for himself, Mr. ENGEL, Mr. HOUGHTON, Ms. MOLINARI, Mr. TOWNS, Mr. MANTON, Mrs. KELLY, Mr. KING of New York, Mr. LAZIO of New York, Mr. GILMAN, Mr. SCHUMER, and Mr. WALSH):

H.R. 1610. A bill to waive temporarily the Medicaid enrollment composition rule for certain health maintenance organizations; to the Committee on Commerce.

By Mr. PETRI:

H.R. 1611. A bill to provide for the establishment and maintenance of personal Social Security investment accounts under the Social Security system; to the Committee on Ways and Means, 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 Mr. RIGGS (for himself, Mr. CAPPS, Mr. FAZIO of California, Mr. HOUGHTON, Mr. BONO, Mr. ENGLISH of Pennsylvania, Mr. COX of California, Mr. POMBO, Mr. CALVERT, Ms. SANCHEZ, and Mr. TORRES):

H.R. 1612. A bill to amend the Internal Revenue Code of 1986 to reduce the taxes on wine to their pre-1991 rates; to the Committee on Ways and Means.

By Mr. RIGGS (for himself, Mr. DICKEY, Mr. GOSS, Mr. ENSIGN, Mr. BALDACCI, Mr. RAMSTAD, Mr. SHAYS, Mr. HAYWORTH, Mrs. KELLY, Mr. COBURN, Mr. CHRISTENSEN, Mr. BARRETT of Nebraska, Mr. BEREUTER, Mr. GREENWOOD, Mr. CAMP, Mr. MCCOLLUM, Ms. RIVERS, Mr. LOBIONDO, Mrs. MYRICK, Mr. GANSKE, Mr. DEAL of Georgia, Mr. COLLINS, Mr. PORTER, Mr. MCKEON, Mr. WELDON of Florida, Mr. FOX of Pennsylvania, Mr. KOLBE, Mr. MINGE, Mr. BARRETT of Wisconsin, Mr. WATTS of Oklahoma, Mr. MCHALE, Mr. POMEROY, Mr. BLILEY, Mr. METCALF, Mr. CANADY of Florida, Mr. MILLER of Florida, Mr. SOUDER, Mr. BUYER, Mr. JONES, Mr. HORN, Ms. LOFGREN, Mr. ENGLISH of Pennsylvania, Mr. WATKINS, Mr. HOEKSTRA, Mr. DAVIS of Virginia, Mr. COBLE, Mr. SCARBOROUGH, Mr. SENSENBRENNER, and Mr. LUCAS of Oklahoma):

H.R. 1613. A bill to amend title 5, United States Code, to provide that if a Member of Congress is convicted of a felony, such Member shall not be eligible for retirement benefits based on that individual's service as a Member, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WHITE (for himself, Mrs. MALONEY of New York, Mr. FRANKS of New Jersey, Mr. DINGELL, Mr. HORN, Mr. ANDREWS, Mr. BARCIA of Michigan, Mr. BARRETT of Wisconsin, Mr. BENTSEN, Mr. BLUMENAUER, Mr. BROWN of California, Mr. CASTLE, Mr. CONYERS, Mr. DELLUMS, Mr. DIXON, Mr. DOOLITTLE, Mr. ENGLISH of Pennsylvania, Mr. ETHERIDGE, Ms. ESHOO, Mr. FATTAH, Mr. FRELINGHUYSEN, Mr. GILCHREST, Mr. GONZALEZ, Mr. GREENWOOD, Mr. HAMILTON, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HOUGHTON, Mr. KENNEDY of Rhode Island, Ms. KILPATRICK, Mr. KLECZKA, Mr. KLINK, Mr. KUCINICH, Mr. LIPINSKI, Ms. LOFGREN, Mrs. LOWEY, Ms. MCCARTHY of Missouri, Mr. MCDERMOTT, Mr. MCHALE, Mr. METCALF, Ms. MILLENDER-MCDONALD, Mr. MILLER of California, Mr. MINGE, Mrs. MINK of Hawaii, Mrs. MORELLA, Mr. NADLER, Mr. OWENS, Mr. PETRI, Mr. POSHARD, Mr. RAHALL, Mr. RAMSTAD, Ms. RIVERS, Mr. SAWYER, Mr. SMITH of Michigan, Mr. STRICKLAND, Mr. STUPAK, Mr. TAYLOR of Mississippi, Mrs. THURMAN, Mr. TORRES, Mr. WISE, and Ms. WOOLSEY):

H.R. 1614. A bill to establish the Independent Commission on Campaign Finance Reform to recommend reforms in the laws relating to the financing of political activity; to the Committee on House Oversight, 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. WOOLSEY (for herself and Ms. NORTON):

H.R. 1615. A bill to prohibit a State from penalizing a single custodial parent of a child under age 11 for failing to meet work requirements under the State program funded under part A of title IV of the Social Security Act if the parent cannot find suitable child care; to the Committee on Ways and Means.

H.R. 1616. A bill to make satisfactory progress toward completion of high school or a college program a permissible work activity under the program of block grants to

States for temporary assistance for needy families; to the Committee on Ways and Means.

By Mr. McDADE (for himself and Mr. SAXTON):

H. Con. Res. 79. Concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to mark the 85th anniversary of the dedication of the Tunkhannock Creek Viaduct, now known as the Nicholson Viaduct, in Nicholson, PA; to the Committee on Government Reform and Oversight.

By Mr. FAZIO of California:

H. Res. 148. Resolution designating minority membership on certain standing committees of the House; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

84. The SPEAKER presented a memorial of the Legislature of the State of Arizona, relative to House Concurrent Memorial 2003 urging Congress and the President of the United States to oppose the rules proposed by the Bureau of Land Management to expand its criminal law enforcement authority; to the Committee on Resources.

85. Also, a memorial of the Legislature of the State of Maine, relative to a joint resolution memorializing the President of the United States and the Congress of the United States to provide support for critical highway improvements through northern Maine from Houlton to Fort Kent; to the Committee on Transportation and Infrastructure.

86. Also, a memorial of the House of Representatives of the State of Alabama, relative to House Resolution 415 petitioning the U.S. Congress to repeal estate and gift tax laws; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. KANJORSKI (by request):

H.R. 1617. A bill for the relief of Charmaine Bieda; to the Committee on the Judiciary.

By Mr. MEEHAN:

H.R. 1618. A bill to authorize the Secretary of Transportation to issue a certification of documentation with appropriate endorsement for employment in the fisheries for the vessel *Nawnsense*; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mr. CALLAHAN and Mr. CALVERT.

H.R. 15: Mr. WEYGAND, Mr. HOEKSTRA, Mr. VENTO, Mr. FRANK of Massachusetts, Mr. HILLIARD, and Mr. MORAN of Kansas.

H.R. 27: Mr. FOX of Pennsylvania.

H.R. 40: Mr. DAVIS of Illinois.

H.R. 108: Mr. THOMAS.

H.R. 127: Mr. FLAKE, Mr. FARR of California, and Mr. BAESLER.

H.R. 143: Mr. DOOLITTLE, Mr. GILMAN, Mr. BOUCHER, Mr. PAUL, Mr. WEXLER, Mr. BARTON of Texas, Mr. BONO, Mr. ROGAN, Mrs. TAUSCHER, Mr. DELAHUNT, and Mr. COX of California.

H.R. 192: Mr. BOB SCHAFFER, Mr. DIXON, Mr. SHIMKUS, and Mr. HORN.

H.R. 216: Mr. KLUG.

H.R. 234: Mr. LEWIS of Georgia, Mr. DAVIS of Illinois, and Mr. ENGEL.

H.R. 305: Mr. ENGEL and Mr. PITTS.

H.R. 347: Mr. CALVERT.

H.R. 367: Mr. WAMP.

H.R. 399: Mr. STUMP.

H.R. 402: Mr. FALEOMAVAEGA.

H.R. 409: Mr. MASCARA, Mr. PASCRELL, Mr. FILNER, Mr. HORN, Mr. GUTIERREZ, and Mr. BARCIA of Michigan.

H.R. 414: Mr. BOB SCHAFFER, Mr. DIXON, Mr. GALLEGLY, Mr. SHIMKUS, and Mr. HORN.

H.R. 418: Mr. FARR of California and Mr. BALDACCI.

H.R. 475: Mr. PICKETT, Mr. COMBEST, and Mr. RADANOVICH.

H.R. 483: Mr. CLAY.

H.R. 519: Mr. TALENT.

H.R. 529: Mr. FRANK of Massachusetts, Mr. ENGLISH of Pennsylvania, Mr. BAKER, Mrs. NORTHUP, Mr. BURTON of Indiana, Mr. McCOLLUM, Mr. BARRETT of Nebraska, Mr. DREIER, and Mr. SHIMKUS.

H.R. 530: Ms. DANNER.

H.R. 536: Mr. FRELINGHUYSEN.

H.R. 674: Mr. GRAHAM, Mr. STUMP, and Mr. PACKARD.

H.R. 741: Mrs. CHENOWETH, Mr. WALSH, and Mr. CRAPO.

H.R. 768: Mr. JOHNSON of Connecticut and Mrs. EMERSON.

H.R. 820: Mr. FILNER.

H.R. 836: Mr. SANCHEZ, Mr. DEFAZIO, Mr. WYNN, and Mr. BERMAN.

H.R. 859: Mr. BEREUTER, Ms. DANNER, and Mr. DUNCAN.

H.R. 871: Mr. HOYER.

H.R. 872: Mr. BARTON of Texas, Mr. BOUCHER, Mr. DOOLEY of California, Mr. FALEOMAVAEGA, Mr. GANSKE, Mr. GOODE, Mr. KIM, Mr. LARGENT, Mr. MINGE, Mr. PASCRELL, and Mr. SPRATT.

H.R. 910: Mr. WOLF.

H.R. 921: Mr. STUPAK, Mr. LIPINSKI, Mr. BONIOR, Mr. KLINK, and Mr. RAMSTAD.

H.R. 947: Mr. BONO.

H.R. 964: Mr. PITTS.

H.R. 965: Mr. TRAFICANT and Mr. TIAHRT.

H.R. 983: Mr. HINCHEY.

H.R. 991: Mr. HOLDEN.

H.R. 993: Mr. KIM, Mr. SKEEN, and Mr. BLUNT.

H.R. 1004: Mr. WALSH, Mr. BRADY, Mr. GIBBONS, and Mr. PICKERING.

H.R. 1016: Ms. FURSE.

H.R. 1033: Mr. BACHUS.

H.R. 1037: Mr. WELLER.

H.R. 1054: Ms. ESHOO, Mr. STEARNS, Mr. CALVERT, Mr. STARK, Mr. SHERMAN, Mr. GALLEGLY, and Ms. FURSE.

H.R. 1060: Mr. KIM and Mr. BLUMENAUER.

H.R. 1068: Mr. HASTERT, Mr. HAYWORTH, Mr. MANZULLO, and Mr. WELLER.

H.R. 1069: Mr. BALDACCI, Mr. FOX of Pennsylvania, and Mr. FILNER.

H.R. 1070: Mr. MANTON, Mr. LEWIS of Georgia, and Mr. BALDACCI.

H.R. 1071: Mr. MARTINEZ.

H.R. 1076: Mr. HOYER.

H.R. 1101: Mr. GRAHAM and Mr. PETERSON of Pennsylvania.

H.R. 1104: Mr. DAVIS of Illinois, Mr. BARRETT of Wisconsin, and Ms. CARSON.

H.R. 1118: Mr. ACKERMAN.

H.R. 1134: Mr. HILLIARD and Mr. BISHOP.

H.R. 1164: Mr. CANADY of Florida.

H.R. 1169: Mr. FOX of Pennsylvania, Mr. DEFAZIO, Mr. PASCRELL, Mr. FARR of California, and Mr. KENNEDY of Massachusetts.

H.R. 1172: Mr. CAMP.

H.R. 1175: Mr. McKEON and Mr. BROWN of California.

H.R. 1206: Mr. LAFALCE.

H.R. 1218: Mr. PASCRELL.

H.R. 1220: Mr. PICKERING.

H.R. 1227: Mr. GRAHAM.

H.R. 1231: Mr. FARR of California, Ms. STABENOW, and Mr. BISHOP.

H.R. 1263: Mr. YATES and Ms. CHRISTIAN-GREEN.

H.R. 1279: Mr. BLILEY and Mr. PICKETT.

H.R. 1280: Mr. BOEHNER and Mr. INGLIS of South Carolina.

H.R. 1285: Ms. RIVERS.

H.R. 1288: Mr. GOODLATTE and Mr. DELLUMS.

H.R. 1298: Mr. WEXLER, Mr. BURTON of Indiana, Mr. PAYNE, Mr. PASCRELL, Mr. ENGEL, Mr. McHALE, Ms. ROS-LEHTINEN, Mr. FILNER, Mr. McNULTY, Mr. HILL, Mr. SHERMAN, Mr. HINCHEY, Mr. BENTSEN, Mr. FROST, Mr. GREEN, and Mrs. MALONEY of New York.

H.R. 1301: Ms. DELAURO, Mr. THOMPSON, and Mr. TORRES.

H.R. 1310: Mr. LEWIS of Kentucky.

H.R. 1320: Mr. FARR of California.

H.R. 1336: Mr. FLAKE and Mr. WALSH.

H.R. 1340: Mr. FRELINGHUYSEN.

H.R. 1350: Mr. McCOLLUM and Mr. FOLEY.

H.R. 1352: Mr. FILNER, Mr. BALDACCI, and Mr. FOX of Pennsylvania.

H.R. 1355: Mr. CLEMENT, Mr. CANADY of Florida, Mr. SHAYS, Ms. CARSON, Mr. RANGEL, Ms. LOFGREN, Ms. NORTON, Mr. ACKERMAN, Mr. GONZALEZ, and Mr. TOWNS.

H.R. 1369: Mr. CANADY of Florida.

H.R. 1375: Mr. WATKINS and Mr. SKEEN.

H.R. 1377: Mr. CLAY, Mr. GREENWOOD, Mr. FORD, Mr. OWENS, and Mr. DELLUMS.

H.R. 1379: Mr. GRAHAM.

H.R. 1382: Mr. FROST, Ms LOFGREN, Mr. MASCARA, Mr. SANDERS, and Mr. McDERMOTT.

H.R. 1416: Mr. DIAZ-BALART, Mr. MEEHAN, Mrs. KELLY, Mr. FROST, Mr. MILLER of California, Ms. LOFGREN, Mr. TIERNEY, Mrs. NORTHUP, and Mr. KENNEDY of Rhode Island.

H.R. 1420: Mr. CLEMENT and Mr. ABERCROMBIE.

H.R. 1458: Mr. BAKER and Mr. SKEEN.

H.R. 1462: Mr. LAFALCE.

H.R. 1475: Mr. KASICH.

H.R. 1496: Ms. MOLINARI.

H.R. 1503: Mr. SKEEN.

H.R. 1504: Mr. JEFFERSON, Mr. YOUNG of Alaska, Mr. ETHERIDGE, Mr. PRICE of North Carolina, Mr. BROWN of Ohio, and Mr. MARTINEZ.

H.R. 1509: Mr. CARDIN.

H.R. 1510: Mr. NETHERCUTT, Mr. BEREUTER, Mr. MANZULLO, and Mr. SMITH of Michigan.

H.R. 1515: Mr. GILLMOR, Mr. METCALF, Mr. SHUSTER, Mr. DAVIS of Virginia, Mr. COMBEST, and Mr. SKEEN.

H.R. 1538: Mr. MORAN of Virginia, Mr. COOK, and Mr. STUPAK.

H.R. 1549: Mr. UNDERWOOD.

H.R. 1559: Mr. KINGSTON, Mr. CHAMBLISS, Mr. MANZULLO, Mr. PAUL, Mr. LUCAS of Oklahoma, Mr. ADERHOLT, Mr. CALLAHAN, Mr. NORWOOD, Mr. PICKETT, Mr. POMBO, Mr. WELDON of Pennsylvania, Mr. PAPPAS, Mr. BEREUTER, Mr. DUNCAN, Mr. TIAHRT, Mr. RILEY, Mr. CHABOT, Mr. GEKAS, Mr. GOODLING, Mrs. MYRICK, Mr. SESSIONS, Mr. NEUMANN, and Mr. YOUNG of Alaska.

H.R. 1560: Mr. BARTLETT of Maryland, Mr. HEFLEY, Mr. BUNNING of Kentucky, Mr. BAKER, Mr. SKELTON, and Mr. LIVINGSTON.

H.R. 1572: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FLAKE, Mr. MANTON, and Mr. DELLUMS.

H.R. 1580: Mr. SOLOMON and Mrs. KELLY.

H.J. Res. 75: Mr. BARRETT of Nebraska, Mr. LOBIONDO, Mr. SESSIONS, Mr. SMITH of Texas, Mr. ADERHOLT, Mr. PASTOR, Mr. NEAL of Massachusetts, Mr. BILBRAY, Mr. TIAHRT, Mr. MILLER of Florida, Mr. DUNCAN, Mr. KING of New York, Mr. McDADE, Mr. OXLEY, Mrs. MORELLA, Mr. WHITE, Mr. SPRATT, and Mr. SABO.

H. Con. Res. 65: Mr. ENGEL, Mr. DOOLITTLE, Mr. OLVER, Mr. BAKER, Mr. CUMMINGS, Mr. McDADE, Mr. GALLEGLY, and Mr. McINNIS.

H. Con. Res. 75: Mr. HUTCHINSON and Mr. McCRERY.

H. Res. 15: Ms. DELAURO.

H. Res. 96: Mr. PORTER, Mr. DELLUMS, Mrs. KENNELLY of Connecticut, Ms. ROYBAL-ALLARD, Ms. DEGETTE, Mr. FARR of California, Mr. LAFALCE, Mr. CONYERS, and Mr. LEWIS of Georgia.

H. Res. 144: Mr. BARTLETT of Maryland, Mr. HEFLEY, Mr. BUNNING of Kentucky, Mr. BAKER, and Mr. SKELTON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1053: Mr. PALLONE.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1469

OFFERED BY: MR. GOODLING

AMENDMENT NO. 16: Page 2, after line 23, insert the following new section:

PROHIBITION OF FUNDS FOR NEW NATIONAL TESTING PROGRAM IN READING AND MATHEMATICS

SEC. 3003. None of the funds made available in this or any other Act for fiscal year 1997 or any prior fiscal year for the Fund for the Improvement of Education under the heading ''DEPARTMENT OF EDUCATON—Education Research, Statistics, and Improvement'' may be used to develop, plan, implement, or administer any national testing program in reading or mathematics.

H.R. 1469

OFFERED BY: MR. GOODLING

AMENDMENT NO. 17: Page 2, after line 23, insert the following new section:

PROHIBITION OF FUNDS FOR NATIONAL TESTING PROGRAM IN READING AND MATHEMATICS

SEC. 3003. None of the funds made available in this Act may be used to develop, plan, implement, or administer any national testing program in reading or mathematics.

H.R. 1469

OFFERED BY: MR. GOODLING

AMENDMENT NO. 18: Page 51, after line 23, insert the following new section:

PROHIBITION OF FUNDS FOR NATIONAL TESTING PROGRAM IN READING AND MATHEMATICS

SEC. 3003. None of the funds made available in this Act may be used to develop, plan, implement, or administer any national testing program in reading or mathematics.

H.R. 1469

OFFERED BY MR. KENNEDY

AMENDMENT NO. 19: Page 28, after line 23, insert the following new chapter:

CHAPTER 7A

DEPARTMENT OF HEALTH AND HUMAN SERVICES

NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''National Institute on Alcohol Abuse and Alcoholism'', $2,000,000, to be derived by transfer from the amount provided in this Act for ''Federal Emergency Management Agency—Disaster Relief''.

H.R. 1469

OFFERED BY MR. LAHOOD

AMENDMENT NO. 20: In the item under the heading ''CONSERVATION RESERVE PROGRAM'' in title I of the bill, strike out ''None of the funds'' and all that follows through ''That the Secretary'' and insert ''The Secretary of Agriculture''.

H.R. 1469

OFFERED BY: MS. NORTON

AMENDMENT NO. 21: Page 51, after line 23, insert the following:

SEC. 3003. (a) Chapter 63 of title 5, United States Code, is amended by adding after subchapter V the following:

''SUBCHAPTER VI—LEAVE TRANSFER IN DISASTERS AND EMERGENCIES

''§ 6391. Authority for leave transfer program in disasters and emergencies

''(a) For the purpose of this section—

''(1) 'employee' means an employee as defined in section 6331(a); and

''(2) 'agency' means an Executive agency.

''(b) In the event of a major disaster or emergency, as declared by the President, that results in severe adverse effects for a substantial number of employees, the President may direct the Office of Personnel Management to establish an emergency leave transfer program under which any employee in any agency may donate unused annual leave for transfer to employees of the same or other agencies who are adversely affected by such disaster or emergency.

''(c) The Office shall establish appropriate requirements for the operation of the emergency leave transfer program under subsection (b), including appropriate limitations on the donation and use of annual leave under the program. An employee may receive and use leave under the program without regard to any requirement that any annual leave and sick leave to a leave recipient's credit must be exhausted before any transferred annual leave may be used.

''(d) A leave bank established under subchapter IV may, to the extent provided in regulations prescribed by the Office, donate annual leave to the emergency leave transfer program established under subsection (b).

''(e) Except to the extent that the Office may prescribe by regulation, nothing in section 7351 shall apply to any solicitation, donation, or acceptance of leave under this section.

''(f) The Office shall prescribe regulations necessary for the administration of this section.''.

(b) The analysis for chapter 63 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER VI—LEAVE TRANSFER IN DISASTERS AND EMERGENCIES

''6391. Authority for leave transfer program in disasters and emergencies.''.

H.R. 1486

OFFERED BY: MR. VENTO

AMENDMENT NO. 8: At the end of title XVII insert the following new section:

SEC. 1717. REPORTS AND POLICY CONCERNING HUMAN RIGHTS VIOLATIONS IN LAOS.

Within 180 days after the date of the enactment of this Act, the Secretary of State shall report to the appropriate congressional committees in the appropriate form on the allegations of persecution and abuse of the Hmong and Laotian refugees who have returned to Laos. The report shall include:

(1) An investigation, including documentation of independent monitors of individual cases of persecution forwarded to the State Department, of the Lao Government's treatment of Hmong and Laotian refugees who have returned to Laos.

(2) The steps the State Department will take to continue to monitor any systematic human rights violations by the Government of Laos.

(3) The actions which the State Department will take to ensure the cessation of human rights violations.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

Vol. 143 WASHINGTON, WEDNESDAY, MAY 14, 1997 No. 63

Senate

The Senate met at 9:15 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, in a world of qualified love it is so encouraging to hear the five wonderful words You greet us with as we begin this day: ''I will always love you.'' We are amazed at all the territory that word ''always'' covers. It spans the full spectrum of all that we have ever done or said and extends to difficulties, problems, and even failures of the future. It also includes those times when we forget that You are the source of our strength and we take the glory that belongs to You. Amazing love. Your love keeps.

You come to us at the point of our needs, but You also help us come to the point about our needs. You encourage us to confess our hopes and hurts to You. You wait for us to ask for what You are ready to give. It's a mystery: Your willingness, coupled with our willingness to ask, make for dynamic prayer.

Thus, we commit the deliberations, debates, and decisions of this day to You. Bless the Senators with a profound sense of Your personal care so they can be Your agent of caring for our Nation, for one another, and their families. In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. JEFFORDS. Mr. President, for the information of all Members, today the Senate will resume the IDEA bill under the agreement reached last evening. Following closing remarks on the IDEA amendments, the Senate will begin a series of three rollcall votes, beginning at approximately 9:45 or 9:50 a.m. Senators should be prepared to be on the floor for these stacked votes beginning at 9:45 a.m.

Following the disposition of S. 717, there will be a short period of morning business after which the Senate will begin consideration of the partial-birth-abortion ban. The Senate may also consider the CFE treaty during today's session of the Senate. As always, Senators will be notified as to when any additional votes are scheduled.

I thank my colleagues for their attention.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1997

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 717, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 717) to amend the Individuals With Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gregg amendment No. 241, to modify the provision relating to the authorization of appropriations for special education and related services to authorize specific amounts or appropriations.

Gorton amendment No. 243, to permit State and local educational agencies to establish uniform disciplinary policies.

Smith amendment No. 245, to require a court in making an award under the Individuals With Disabilities Education Act to take into consideration the impact the granting of the award would have on the education of all children of State educational agencies and local educational agencies.

The PRESIDING OFFICER (Mr. ENZI). Under the previous order, the Senator from New Hampshire is recognized.

AMENDMENT NO. 241, WITHDRAWN

Mr. GREGG. Mr. President, I ask unanimous consent to vitiate the yeas and nays and withdraw my amendment which is No. 241.

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

The amendment (No. 241) was withdrawn.

Mr. GREGG. Mr. President, just to clarify the record on this, this amendment was addressing the issue of funding relative to special education which is, I believe, a critical element of the whole issue obviously of special education, especially the fact that the Federal Government has failed to live up to its obligation to fund 40 percent of the cost of special education. It is only funding approximately 7 to 8 percent of the cost.

After discussions with the majority leader, and with members of the Appropriations Committee on which I serve, I think there is a reasonable opportunity that we will receive the type of funding and support we need in order to start on the path toward reaching the 40 percent.

This path was outlined in S. 1, Senate bill 1, which is the Senate Republican position and which commits to having us fund 40 percent over a 7-year period. This year I am hopeful we can increase funding for special ed so we can get up above the $4 billion mark in this account, which would allow us to—under the new bill, if it is passed, as I presume it will be—allow us to kick in the ability of the local communities to use some of this special ed funding which the Federal Government was supposed to be paying for, which presently is being paid for by local taxpayers, to use those local taxpayer dollars for other areas of education and to relieve some of the pressure on the communities and the local taxpayers.

So with that understanding, which is not formal—I appreciate that—but which I believe was made in good faith, I am withdrawing this amendment. I

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

Printed on recycled paper containing 100% post consumer waste

recognize a lot of work has gone into this bill, that there is a great desire to pass this bill without amendments so it will be able to be moved quickly and because it involves an intricate and delicate, delicate compromise. And it is a step forward in the attempt to address the IDEA question and issue of caring for children with disabilities.

This amendment I believe would have had a good chance of passing, but I believe it also would have undermined the desire of those who want to reach an accommodation to make sure to move the process forward and improve the basic special ed bill, and we can do so with this bill, and it would undermine the capacity to do that.

I still believe we can still get to the role of the funding issue which runs on a parallel course without necessarily having to attach this specific language to this bill.

I would note that the law continues to retain in it the 40 percent language. It remains the commitment of the Federal Government and it is a commitment which I and I know the majority, the chairman of the committee, ranking member on the subcommittee, and the majority leader are committed to try to reach.

Mr. JEFFORDS. Will the Senator yield?

Mr. GREGG. I yield to the Senator from Vermont.

Mr. JEFFORDS. I want to thank you for what you have just done. You have provided a way for clear passage of this bill today. But most of all, I want to commend you for your continuous efforts to try to fully fund the 40 percent that we promised the people when this bill was passed some 22 years ago.

I also want to remind Members that your amendment—I think it was on the goals 2000 bill—passed 93 to 0, where we said we would do what JUDD GREGG wants. So I am hopeful that will be kept in mind as the people go forward with the budget. I certainly am going to do all I can to make sure that we live up to the obligations of our own party's promise, which is in S. 1, to do what the Senator from New Hampshire believes we should do.

Mr. GREGG. I thank the Senator from Vermont. I thank him for his courtesy and enjoy working with him.

AMENDMENT NO. 243

The PRESIDING OFFICER. Under the previous order, there will now be 20 minutes of debate equally divided between the Senator from Washington [Mr. GORTON], and the Senator from Vermont [Mr. JEFFORDS], on the pending question, amendment No. 243 by the Senator from Washington [Mr. GORTON].

Mr. GORTON addressed the Chair.

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

Mr. GORTON. Mr. President, the amendment which we are about to vote on is extremely simple, plain, easy to understand and totally logical.

It reads in its entirety:

Notwithstanding any other provision of this Act, each State educational agency or local educational agency may establish and implement uniform policies with respect to discipline and order applicable to all children within its jurisdiction to ensure the safety and appropriate educational atmosphere in its schools.

Mr. President, I have spoken about the fact that this bill imposes a huge unfunded mandate, $35 billion a year, on the schools of this country with no more than 10 percent of that money paid for by the Federal Government.

I have spoken of the huge complexity—327 pages in this bill—imposing identical rules on every school district in the country no matter how large or how small. But the single aspect of this bill that is most questionable and most unjust is the double standard it sets with respect to discipline, response to violence, disorder in the classroom. Each and every school district retains its full and complete authority over all of these questions as they apply to students who are not disabled. They lose almost all of that authority under the present IDEA statute and regain only a modest amount of it under this revision.

This double standard makes it difficult to provide an appropriate education to tens of thousands, perhaps hundreds of thousands of our students around the country. They make it difficult to impose rational disciplinary measures on those students who are denominated disabled. They create a tremendous incentive to seek some ''expert'' who will provide for a given student the title ''disabled.'' We find the decisions that the very disorder, the very violence in classrooms that is to be the subject of discipline is found to be evidence of disability so that the discipline cannot be imposed.

For the educational attainment of all of our students, for the proper protection of all of our students, we should allow each school, each school district, each State to set rules with respect to disorder, to discipline, to violence that are the same for all of the students. Nothing could be simpler.

This amendment will not in any way undercut the right created by this bill for a free and complete education for every student, disabled or not. That remains. What is restored to each school district is the right on its own to make those decisions while looking at the educational atmosphere in which all of its students must learn. The vice of this bill is that it pretends that there are no nondisabled students, only the disabled students count, only their rights count. The rights of all other students and their parents are ignored.

So we ask very simply that this bill be amended to allow each educational agency to establish and implement uniform policies with respect to discipline and order applicable to all children within its jurisdiction in order that they may be safe and have an appropriate educational atmosphere—nothing more, nothing less.

This bill says that the U.S. Senators know more about how to educate students than do their teachers, their administrators, their school board members, people who have spent their lives and careers at this job. We do not know more. They know more. We should permit them to do their jobs.

Mr. JEFFORDS addressed the Chair.

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

Mr. JEFFORDS. I wish to speak in strong opposition to the amendment. I understand the emotionalism that has gone on in our States throughout this Nation over the years, and even up to the point that we speak, about the problems that were created, and which the Senator from Washington is attempting to address.

I point out, first of all, that the bill tries its best to preserve the order in the classroom through uniform policies for all school districts, and to ensure that every child with a disability is treated fairly, but also balances the needs of those in the classroom to have a safe and peaceful, shall we say, learning environment. That is done. The House voted yesterday with only three dissenting votes on this bill, recognizing that those kinds of balances had been reached after an incredible effort on the part of so many to give us a bill that everyone who is deeply involved in this issue can agree with.

I know this body respects the order that is necessary in the classroom and also the ability of local schools to be able to try and accommodate the interests of all, but I believe this bill, by doing this, what it says is, ''notwithstanding any other provision of this act, each State, educational agency or local educational agency may establish and implement uniform policies with respect to discipline and order.''

Now, what does that mean? I do not know. But if it means what it says, it wipes out everything. It would be contrary to what they want to do. That means we could have thousands or hundreds of different ideas on how to bring order to the classroom. It would set back the system.

I know the Senator from Washington speaks sincerely, and I know that Washington had a terrible problem, initially, in the early parts of this decade. Almost half the cases, I believe, went to due process hearings and ended up in court. However, this past year, 96 percent of those cases that were heard in mediation were solved and did not go to court. So his own State, I think, has solved the problems he is trying to deal with.

I hope Members would not vote for this amendment. At the appropriate time I will move to table it. This would create havoc in the whole system.

Mr. President, I yield 3 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise to speak in strong opposition, as well, to this amendment before the Senate, put forth by the Senator from Washington,

an amendment which would instruct local education agencies to set out their own policy, a potentially very different policy, in disciplining students with disabilities. In short, under his amendment, each school district potentially would have its own distinct policy in disciplining disabled children, and with 16,000 school districts, the potential for conflicting policies is very real, and I am afraid this would be a turnback to the pre-1975 era before IDEA.

Is this a double standard? I say ''no.'' Clearly, we have outlined a process whereby students, if there is a manifestation of a disability, would go down one process, and if a discipline problem was not a manifestation of a disability, that student would be treated just like everyone else.

I think this is fair. This is equitable. Remember, if behavior is not a result of that disability, all students are treated the same in this bill. If behavior is secondary to a disability, there is a very clear process, which is outlined in detail. Yes, it does take several pages to outline that, but it sets up a balance between the school, between school boards, between parents, and between children.

Senator GORTON claims this amendment is about local control, and I feel that it will be used, I am afraid, to turn back the hands of the clock to the pre-1975 conditions where we know that children with disabilities were excluded from the opportunity to receive a free and appropriate public education.

I urge my colleagues to vote against this amendment, not just because, as has been pointed out, it will kill our overall bipartisan effort that we brought forward, but that it would, in fact, turn back the clock and lead, potentially, to discrimination that children with disabilities faced before IDEA was enacted 22 years ago.

Mr. JEFFORDS. Could I inquire to the time remaining?

The PRESIDING OFFICER. The Senator from Vermont has 4½ minutes and the other side has 3 minutes, 45 seconds.

Mr. JEFFORDS. I yield 2 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I thank Senator JEFFORDS for his leadership and I thank Senator FRIST for his eloquent comments.

I rise in strong opposition to the amendment proposed by my colleague Senator GORTON.

The amendment drives a stake through the heart of the bipartisan, bicameral, fair, and balanced provisions in the bill relating to disciplining children with disabilities.

The amendment states plain and simple that local school districts can totally ignore every word of the bill if they so choose. In other words, the amendment effectively repeals every protection in the law for disabled children.

Last night, this extreme position was rejected by 420 of my colleagues in the House in favor of the commonsense approach included in the bill.

The bill specifies procedures for the immediate removal to an alternative setting of disabled children who bring weapons to school or who knowingly use, possess, or sell illegal drugs.

The bill also authorizes: The removal to an alternative setting of truly dangerous children; proper referrals to police and appropriate authorities when disabled children commit crimes, so long as the referrals, do not circumvent the school's responsibilities under IDEA.

And, the transfer of student disciplinary records.

Under the amendment, local school districts could cease educational services for any disabled child regardless of whether or not the child's behavior was related to his or her disability. Cessation of services is not only opposed by all disability organizations, but is opposed by the major groups representing general education and the police and prosecutors. That is why the bipartisan bill rejects cessation.

My colleague raised a number of other points in the course of the debate which I would like to respond to at this point.

My colleague constantly refers to IDEA as an unfunded Federal mandate.

According to the Congressional Budget Office, the American Law Division of the Congressional Research Service, and the U.S. Supreme Court, IDEA is not an unfunded mandate.

IDEA is a civil rights statute that implements the equal protection clause of the U.S. Constitution. IDEA helps States and local school districts pay for the costs of implementing their constitutional obligation to disabled children.

My colleague also talks about the high costs of educating disabled children but fails to talk about the savings to society, not to mention the enhanced quality of life for disabled children and their families.

Prior to the enactment of IDEA, 70,655 children were in institutions. Because of IDEA, that number is down to 4,001. The average cost of serving a child in a State institution is $82,256 per person. With 66,654 fewer children institutionalized, the savings to States is $5.46 billion per year.

Danny Piper from Ankey IA, was born with Down's syndrome. He has an IQ of 39. At birth, his parents were told to institutionalize him because he would be a burden and would not benefit from education. The cost to the taxpayers of Iowa over the course of his life would have been $5 million. His parents said no and instead placed him in early intervention and then in an intergrated program at Ankeny High School where he was a manager of the wrestling team.

The cost of special education over his 18 years was $63,000. Was it a good investment? You decide. Today, Danny works, he pays taxes, and he has his own apartment.

My colleague also quotes a parent of a nondisabled child who was told by a lawyer that she has no rights when her child's class is disrupted by a disabled child. I say to that parent she better get a new lawyer.

They have a right to a class environment that is safe and conducive to learning.

That parent has a right to insist that the schools develop positive behavioral approaches and train teachers and provide them with the necessary supports.

What they don't have is the right to kick that disabled kid out of the class just as school systems cannot kick out African-American children when a white child or his parents are uncomfortable around African-Americans.

Can we have school environments that are safe and conducive to learning without kicking disabled kids out? Yes we can. Just ask Dr. Mike McTaggart of West Middle School in Sioux City, IA. In just 1 year, the number of suspensions of nondisabled children went from 692 to 156 of which 7 were out-of-school suspensions. The number of suspensions of disabled children went from 220 to zero. Attendance has gone from 72 percent to 98.5 percent. Juvenile court referrals went from 267 to 3.

His philosophy of discipline for all students is to use discipline as a tool to teach rather than to punish.

In closing, let's reject the Gorton amendment and send a message that we can ensure school environments that are safe and conducive to learning without gutting the rights and protections of disabled children.

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

Mr. GORTON. Mr. President, in a recent article in the National Review, the author, Chester Finn, Jr., made the following comments about the present statute equally applicable to this bill.

> . . . prescriptive federal mandates that create heavy costs and regulatory burdens for local communities; extra benefits for government-protected populations and their exemption from rules that others must obey; ample opportunities for activists and lawyers to hustle taxpayer-financed largesse for their clients; barriers to needed reforms of school quality and discipline; . . . [and above all] the smug assumption that Washington knows best how the nation's schools should be run.

While various professional organizations have more or less been required to endorse this bill because, as I have already said, it is an improvement over present law, just last month, USA Today published the results of a poll of 6,000 principals, 80 percent of whom said Federal law interfered with their ability to create safe schools.

My two friends on this side of the aisle used the word ''balance.'' There is no balance in this bill. There is no balance at all. There is no consideration—no consideration, none—of the rights of nondisabled students. Yes, there are 16,000 school districts in this country. That is the genius of our country, that

we solve our problems locally, and yet as far as these are concerned, we should have one school district, one Department of Education that should set one set of rules applicable to everyone under all circumstances and at all times. That is wrong. Let our teachers and our principals and our school boards make the decisions as to how their schools should be operated.

If all time has been taken on the other side, I yield back the balance of my time.

Mr. JEFFORDS. Mr. President, very quickly, the balance has been reached in this bill. The most critical question is, what can you do with the dangerous child? It is very simple: If it is not a matter involved with the disability, that child could be disciplined like any other child. If it is related to the disability, as determined by a hearing officer, then there can be up to 45 days removal in an appropriate educational setting. If the problem still exists and the school can demonstrate that the child may be substantialy likely to cause harm to himself or others, the child will remain in an interim alternative educational setting for an additional 45 days, et cetera—tremendous balance, tremendous help to the present situation.

Mr. President, I urge the defeat of the Gorton amendment.

The PRESIDING OFFICER. Do both sides yield back their time?

Mr. JEFFORDS. Yes.

Mr. GORTON. Yes.

Mr. JEFFORDS. I move to table the Gorton amendment, 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 to table amendment 243 offered by the Senator from Washington [Mr. GORTON].

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from West Virgina [Mr. ROCKEFELLER] is necessarily absent.

The result was announced—yeas 51, nays 48, as follows:

{Rollcall Vote No. 64 Leg.}

YEAS—51

Akaka	Dodd	Lautenberg
Baucus	Domenici	Leahy
Biden	Durbin	Levin
Bingaman	Feingold	Lott
Boxer	Ford	Mack
Breaux	Frist	McConnell
Bumpers	Glenn	Mikulski
Campbell	Harkin	Moseley-Braun
Chafee	Hutchinson	Moynihan
Cleland	Inouye	Murray
Coats	Jeffords	Reed
Collins	Kempthorne	Robb
Coverdell	Kennedy	Sarbanes
Craig	Kerrey	Snowe
D'Amato	Kerry	Stevens
Daschle	Kohl	Wellstone
DeWine	Landrieu	Wyden

NAYS—48

Abraham	Graham	Murkowski
Allard	Gramm	Nickles
Ashcroft	Grams	Reid
Bennett	Grassley	Roberts
Bond	Gregg	Roth
Brownback	Hagel	Santorum
Bryan	Hatch	Sessions
Burns	Helms	Shelby
Byrd	Hollings	Smith (NH)
Cochran	Hutchison	Smith (OR)
Conrad	Inhofe	Specter
Dorgan	Johnson	Thomas
Enzi	Kyl	Thompson
Faircloth	Lieberman	Thurmond
Feinstein	Lugar	Torricelli
Gorton	McCain	Warner

NOT VOTING—1

Rockefeller

The motion to lay on the table the amendment (No. 243) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. May we please have order so that we can continue the Senate's business.

We have several more votes to go. We have some short debate between them. The quicker we have order, the quicker we can continue. Please take your discussions to the Cloakroom or the hallway.

AMENDMENT NO. 245

The question now recurs on amendment No. 245 offered by the Senator from New Hampshire [Mr. SMITH]. There will be 4 minutes of debate equally divided in the usual form. Who yields time?

Mr. SMITH of New Hampshire addressed the Chair.

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

Mr. SMITH of New Hampshire. Mr. President, could I have order, please. The Senate is not in order.

The PRESIDING OFFICER. Please clear the well. Staff please take their seats.

The Senator deserves to be heard. There are 4 minutes of debate equally divided.

The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Like the previous amendment offered by my colleague from Washington, Senator GORTON, this is a very reasonable amendment. It simply requires the courts, when they make an award under IDEA, to take into consideration what impact that award will have on all of the students in the district or in the particular classrooms. For example, we have cases where a $1,000 IDEA program or plan, educational plan costs $13,000 or $14,000 in legal fees. There are millions of dollars in legal fees spent in all 50 States, all over America, that are taken out of the classroom. These are dollars that you cannot use for teachers, you cannot use for computers, you cannot use for textbooks or, frankly, for infrastructure or schools or buildings.

The issue here is whether or not you want to have these dollars go to the students or go to the lawyers. That is the simple issue. This is a very reasonable amendment. There is nothing unreasonable about it.

I think the process here where we say we cannot amend a bill to strengthen it, to make a better bill is a bad process and one for which I wish we had not set the precedent. I urge my colleagues to think about it because at some point in the not too distant future you are going to have another piece of legislation coming through here, and you are going to be on the other side. You are going to want to offer an amendment and you are going to have to say to yourself, well, when I had the opportunity before, I opposed that opportunity for another colleague. Sure, I can offer the amendment but the deal by the leadership is to oppose the amendment because we have a deal. The answer is very simple. You can vote for my amendment and take dollars out of the pockets of lawyers and put them into the classroom for the students or you can oppose my amendment and favor the lawyers.

I thank the Chair.

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

Mr. JEFFORDS. I yield 30 seconds to the Senator from Tennessee.

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

Mr. FRIST. Mr. President, this amendment would require a court before awarding attorney fees to prevailing parents to do an analysis of the impact of the award on the local school district. The point is that the court already has the discretion to assess the impact of an award on a school district. Thus, this is unnecessary. Awarding fees today is at the court's discretion. This amendment would actually require a formal cost analysis, an additional bureaucratic burden on a school district. It is unnecessary. It is covered in the underlying bill. I urge opposition to the amendment.

Mr. JEFFORDS. I yield 1 minute to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 1 minute.

Mr. HARKIN. Mr. President, I rise in strong opposition to the Smith amendment which adds limitations on the awarding of attorneys fees to parents of disabled children that are unprecedented in any other fees provision.

The provisions in current law relating to attorneys fees were added by our colleague Senator ORRIN HATCH. He modeled the IDEA fees provisions on provisions in other civil rights laws. On final passage of these provisions he explained that they reflected a carefully crafted compromise that provides for reasonable attorneys fees to a prevailing parent while at the same time protecting against excessive reimbursement.

Let's not upset that carefully crafted compromise. Let's retain the parity between the fees provisions in the IDEA

with the fees provisions in other civil rights statutes. It is inappropriate to establish a double standard for parents with disabled children.

Listening to Senator SMITH, one might get the impression that there is a proliferation of litigation under IDEA. The data does not bear out such an assertion. The number of court cases under IDEA is actually declining from 199 in 1992 to 120 last year. This is out of 5.3 million disabled children. The number of due process hearings in New Hampshire last year was 10. In my State of Iowa, the number was four. In the entire State of California, with almost 600,000 disabled children in the IDEA program, the number of due process hearings was 57—1,289 requests for hearings but the overwhelming majority were resolved in mediation.

Let's reject the Smith amendment.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Let me speak to my colleagues very sincerely.

Last year we came almost to the point where we passed a bill similar to this for the disabled community and for the schools. It broke down at the last minute because there was dissension over one issue. You have had your opportunity this time to show your concern about how the bill goes, but if we have one amendment, then it has to go back and there are those out there now who want to disrupt it. Senator LOTT and Dave Hoppe spent hundreds of hours to bring these communities together to agree on this bill which is a tremendous step forward. If you vote no on the motion to table, you could kill this bill and we could start over again.

Mr. President, I move to table.

The PRESIDING OFFICER. Is there a sufficient second?

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

The PRESIDING OFFICER. There is a sufficient second. The yeas and nays are ordered.

The question is on agreeing to the motion to table amendment No. 245 offered by the Senator from New Hampshire. The clerk will now call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

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

The result was announced—yeas 68, nays 31, as follows:

[Rollcall Vote No. 65 Leg.]

YEAS—68

Abraham	Campbell	DeWine
Akaka	Chafee	Dodd
Baucus	Cleland	Dorgan
Biden	Coats	Durbin
Bingaman	Cochran	Feingold
Boxer	Collins	Feinstein
Breaux	Conrad	Ford
Bryan	Coverdell	Frist
Bumpers	Craig	Glenn
Burns	D'Amato	Graham
Byrd	Daschle	Grassley
Harkin	Leahy	Reid
Hollings	Levin	Robb
Hutchinson	Lieberman	Roth
Inouye	Lott	Santorum
Jeffords	Lugar	Sarbanes
Kempthorne	Mack	Smith (OR)
Kennedy	McConnell	Snowe
Kerrey	Mikulski	Stevens
Kerry	Moseley-Braun	Torricelli
Kohl	Moynihan	Wellstone
Landrieu	Murray	Wyden
Lautenberg	Reed	

NAYS—31

Allard	Gregg	Roberts
Ashcroft	Hagel	Sessions
Bennett	Hatch	Shelby
Bond	Helms	Smith (NH)
Brownback	Hutchison	Specter
Domenici	Inhofe	Thomas
Enzi	Johnson	Thompson
Faircloth	Kyl	Thurmond
Gorton	McCain	Warner
Gramm	Murkowski	
Grams	Nickles	

NOT VOTING—1

Rockefeller

The motion to lay on the table the amendment (No. 245) was agreed to.

Mr. BINGAMAN. Mr. President, I would like to take a few moments this morning and talk about this Congress' commitment to education, and special education in particular.

S. 717, the Individuals With Disabilities Education Amendments Act of 1997, is the first piece of major legislation to come out of the Senate Labor Committee since the start of the 105th Congress that directly affects the important issue of education. This piece of legislation before the Senate today is an integral part of providing educational services to over 5 million children across this country. This legislation reminds us of the fundamental importance of the need for strong educational funding at a time when all eyes are focused on budget-balancing.

Mr. President, special education is of critical importance to my home State of New Mexico, in which over 50,000 children receive specialized educational services. In New Mexico over 14 percent of the eligible school age population receive needed educational services from this law. Currently, New Mexico receives over $26 million in Federal funding to assist the educational needs of special education students. This funding is very important to States like New Mexico that have rural and isolated communities and are working to provide specialized educational services at great distances.

Over the past 2 years especially, and throughout my tenure in the Senate, I have heard numerous stories from New Mexico's students, parents, educators, and administrators about the need for added resources and effective programs for special education students.

I have also heard their concerns about the current Federal law, which include: financial incentives to overidentify students as disabled; lack of standards and performance assessments; the difficulty teachers and administrators face in maintaining classroom discipline; and the concerns of parents who are struggling to find the best possible placement for their child and to ensure that educational services are provided.

However, I believe that the legislation before the Senate begins to address these concerns. This bill:

First, includes language that will increase educational accountability and standards for disabled students,

Second, creates new measures to allow parents and Federal agencies to monitor and assure the adequacy of special education programs,

Third, includes language that aims to increase flexibility for State and local school districts and reduces paperwork for school districts,

Fourth, strengthens teachers' and administrators' abilities to control their classrooms, without ceasing educational services to students,

Fifth, includes language that will ensure access to assistive technology for our special education students and provisions to allow blind and visually handicapped students learn Braille,

Sixth, removes past incentives to encourage the overidentification of children with disabilities.

I am especially happy to see statutory language that requires the inclusion of almost all special education students in testing and accountability programs.

Just recently I heard a story from a special education administrator in New Mexico that expressed the importance of integrating standards in special education and how they promote accountability and improved services.

In Kentucky, for many years, some neighborhood schools were sending their special education students to other schools to receive specialized services. However, when Kentucky started to require assessments for special education students and included these scores in school report cards, some of these neighborhood schools started to educate their special education students within their own schools so as to improve the student's academic levels.

Mr. President, the requirement for inclusion of special education students in academic assessments is a key aspect to ensuring that this legislation will be effectively implemented in schools throughout New Mexico and across the United States.

Mr. President, I plan to support this legislation because I believe it strikes a balance between the different views and needs of many of the stakeholders within the special education community. This legislation begins to address many of my concerns and the concerns that I have heard from my constituents in New Mexico. I am especially pleased to see language included in this legislation that allows states and local districts flexibility in the implementation of IDEA.

Just 2 weeks ago, the President and congressional leaders reached a budget agreement that included increased funding for education. It is imperative that Congress remains committed to providing quality education to our Nation's youth.

For these reasons, I urge my colleagues on both sides of the aisle to

take the bipartisan and bicameral commitment to education that has been exemplified in the reauthorization of IDEA and to focus on increased funding and the development of standards that provide educational opportunities to all students. Mr. President, I applaud the efforts of my colleagues both here in the Senate and in the House of Representatives to reauthorize IDEA and I applaud their commitment to education. This is not the time in our Nation's history to waver on our commitment to educate America's students.

Mr. ENZI. Mr. President, first I want to commend the Senators and staff who have committed so much time to the reauthorization of the Individuals With Disabilities Education Act. It is a good bill that incorporates the insights and experiences of the hundreds of groups who have been involved in the development process. I planned to offer my strong support, however, for the amendment that was to have been offered by Senator GREGG because I believe the underlying bill would be better if it contained a strong commitment on Federal funding—for a number of reasons.

I am familiar with education spending at the State level because I come to this process as a former State Legislator. I served the State of Wyoming for 10 years—5 years in the State House and 5 years in the State Senate. During that time, in my tenure as chairman of the Senate Revenue Committee, I felt all of the constraints in the State budget. The most difficult one, however—the one that was always fraught with protestation and controversy—was how we spent money on education, where it came from and where it went. Elementary and secondary education is my State's largest single expenditure.

In the 1995–96 school year, the Wyoming State Government expended $237 million, or 44 percent, of the total amount of money spent on K–12 education in Wyoming. Fifty percent of the funding, or $280 million, came from local sources. I am proud of that commitment. The people in my State invest over $5,800 per student, per year, and that is the second highest amount in the country as a percentage of State income. But let me focus for a minute on the other 6 percent—the Federal contribution.

Federal support for elementary and secondary education is a sensitive issue in Wyoming. Federal dollars always come with Washington strings attached and that is a problem for me and for a great number of my constituents. I believe we should leave more of our tax revenue in the States and let the people who live there make the decisions about education.

Special education is different, however, because the strings are already in place. The distinction is that they don't come with much money. Wyoming's State and local taxpayers spent $58 million for special education last year. That was matched by only $5 million in Federal funds—about 8 percent.

Mr. President, IDEA is a good law. It protects disabled kids from discrimination in public education. It is an issue that needs national attention, coordination, and support. We should recognize why this law exists, why these services are mandated, and understand why there should be an assurance of strong Federal funding. The Gregg amendment would have made that commitment. It would say that we, as a body, believe the Federal Government should pay more for special education.

Why is this amendment so important? Because Congress has failed to support its share of the cost for 20 years. Without this amendment, the States really have no reason to expect that the situation is going to change. To add insult to injury, the bill places a new maintenance of effort requirement on State education agencies. That is a difficult pill to swallow when the Federal maintenance of effort has been so clearly lacking.

I would have objected to the new State maintenance of effort because my State currently pays 85 percent of special education costs. The local relief provided in this bill will do little to offset the State's heavy burden. The bill does, however, allow for a waiver if the State can show it is providing all kids with a free appropriate public education. That is an important consideration and I think it adds enough flexibility to the law to make it acceptable. But it does not solve all the problems.

This legislation will also require States to provide some new services. Without a guarantee of additional Federal funding, the States are going to have to bear that cost. One expense will be the mandate to provide alternative education for kids who are expelled due to disciplinary problems. There is also a requirement to provide State mediation as an alternative to due process. I support these changes. I hope they will actually reduce costs in the long run. But if we cannot even pay the Federal share for current mandates, then we should not be adding new ones. Congress needs to ante up the Federal share. If we are unable to do that, then this bill loses some of its luster.

The Gregg amendment would have made that commitment. I understand the problems a conference might present on this bill. I sympathize with Members who have spent so many hours working to reach consensus, but I believe the Gregg amendment is important enough to deserve conference consideration.

Mr. President, I do support the bill. It makes some sorely-needed improvements to the law—particularly in the areas of discipline, State coordination, and legal fees. We have before us a compromise that will improve current law, but it still lacks a strong funding resolution. That would have been an important part of this legislation that I think members of both parties would have supported.

If we are going to help States live up to their responsibility in providing a free appropriate public education to all kids, then we need to do it. And that means more than just piling on regulations.

Mr. WYDEN. Mr. President, all children should have access to a quality education, regardless of whether they have disabilities. The importance of the Individuals With Disabilities Education Act [IDEA] is that it enables parents to acquire special educational assistance for their children who may be fully capable of becoming productive members of society, but may need some extra help along the way. I am pleased that Members of Congress on a bipartisan, bicameral basis have worked out a compromise that allows us to reauthorize this important piece of legislation.

While I generally support the compromise on the IDEA bill that is before us today, I want to touch briefly on an issue that some school nurses have raised with regard to this legislation.

I have heard from many Oregon school nurses about the importance of including nurses in the individual education program [IEP] development process. Under current IDEA regulations, school nurses are considered qualified health professionals and are considered fully capable of assessing a student's disabilities during the IEP process. The school nurses had asked to be mentioned specifically in the statute as ''related service providers'' in a disabled child's multidisciplinary team. While this could not be worked out, I understand that the committee report addresses this issue, and I want to convey my support for the inclusion of school nurses as part of the IEP process.

In this country we frequently underestimate the excellent quality of care provided by this Nation's nurses. School nurses have the training and provide the supervision to safely deliver specialized health services. For children with chronic or special health care needs, the school nurse is often a crucial member of the multidisciplinary team that enables children with disabilities to participate fully in their educational program. As long as they are fully qualified to make an assessment of a child's disability, there should be no reason that localities should discriminate against nurses.

Again, I complement my colleagues for breaking through the logjam on this important reauthorization, and I want to reemphasize my support for the school nurses who play such an important role in the care of children with disabilities.

PERSONNEL STANDARDS

Mr. HARKIN. Mr. President, there is a new policy with respect to personnel standards in section 612(a)(15)(c) of the bill that sets forth parameters by which a State may deal with a documented shortage of qualified personnel. In that subparagraph, I want to clarify that the reference ''consistent with

state law,'' is intended to be applicable to those State laws governing the profession or discipline. I offer this statement to provide guidance at the U.S. Department of Education to help them in implementing the reauthorization.

Mr. JEFFORDS. I agree with that interpretation and thank the Senator for this clarification.

Mr. GRASSLEY. Mr. President, I rise today in support of S. 717. I support this bill because it has become clear to me that the status quo in special education is not acceptable.

Even though Iowans have done a good job under existing law, it is time to make changes. These changes are necessary in order to keep pace with the challenges facing educators today. Students with a variety of special needs are now in the schools. They have needs we couldn't even imagine when the first special education law was passed.

At this time I will address only two aspects of S. 717 that are sufficient reasons for supporting it. First of all, this bill would give schools and parents additional tools to improve education for all children.

In response to school complaints, clearer guidance is given for actions to assure the safety of all students in the classroom. I believe all of us here today recognize the need to do this.

For parents, the right to participate in decisions about their child's education is given more support. This is done through attendance at evaluation and assessment meetings and at any meeting at which the placement of their child might be decided.

And for students, in this bill we send a clear message that we have high expectations for all students—including students in special education. More accountability for progress on IEP's would be required. Participation in statewide and districtwide measures of school performance would be required. Stronger linkages to the regular education curriculum would be required for these students. We expect success from special education programs under this bill, and we expect that success to be measurable.

The second aspect of S. 717 I want to address is this. This bill clarifies that schools are not the only agencies that should pay for the services special education students need. This proposal does not retreat from the principle that all children have the right to an education, no matter what their needs are. What this bill does is require that Governors work to assure that all sources of funding for services are used to support these students.

This will be of particular importance to schools and families in Iowa.

Last week, I had a visit from a school superintendent in Iowa. His district has about 15,000 students; 2,000 of those students are in special education. Of those students there are about six or seven kids a year who require substantial medical support in order to attend school.

The school district hires nurses and other professionals in order to assure that these students can get an education. But this superintendent has been unable to get other agencies and programs to contribute to the costs of providing health services to these students. And this school year approximately $2 million will be spent by this school system on health services for these few students, some of whom are eligible for Medicaid.

Clearly these costs are beyond what we should be asking schools to pay. And that is one reason why S. 717 is important. It provides clear direction that these costs are not the primary responsibility of educators. They are instead the responsibility of other programs that have been created to support students and families. I am happy to provide such support to that school superintendent in his efforts to secure all the services his students need.

That superintendent represents a strong tradition in Iowa.

Education for students with disabilities in Iowa was mandated 6 years before the predecessor to IDEA was passed by Congress in the 1970's. At that time, when I chaired the Education Committee in the Iowa House, a State mandate for special education was passed. Following that, we developed a system of area education agencies that still serves Iowans today. It took us 2 years to get the area agency legislation passed; we were successful in 1974. That system is still the basis for delivering special education services to students all over Iowa, particularly in rural areas.

Regarding this bill, S. 717, my colleagues have enumerated positive aspects of this compromise proposal other than those I have mentioned. I have followed the progress of the work group closely and now provide my support for this landmark legislation.

Mr. MCCONNELL. Mr. President, since 1966, the Federal Government has supported special education services for America's disabled children. Today, school districts depend on the Individuals with Disabilities Education Act [IDEA] for assistance in assuring that children with special needs receive a comprehensive education in a supportive environment. In Kentucky alone, over 85,000 children benefitted from IDEA during the 1996–97 school year.

Today, the U.S. Senate takes a historic step forward in its consideration of S. 717, a bicameral, bipartisan bill to reauthorize IDEA. Over the last two decades, changes in educational resources and the needs of students have impaired the ability of schools to meet IDEA's goal of a free, appropriate education for disabled students. This measure seeks to ensure that the Federal statute effectively addresses the special education issues of today's classrooms and is prepared for the future needs of educators, parents, and students involved in special education.

This bipartisan, bicameral legislation achieves these objectives by building upon three primary goals: To focus on the successful education of children with disabilities, instead of rote completion of paperwork; to assure increased parental participation; and to give teachers the tools they need in order to teach all children.

S. 717 helps schools improve the delivery of special education services by eliminating unnecessary paperwork, streamlining data collection, and enhancing program flexibility and service integration. Schools also assume greater accountability for the educational progress of special education students through their inclusion in States and district-wide assessments.

S. 717 reduces the financial strain on school districts and parents by including mediation as an option for resolving disputes. The revised funding formula delivers more IDEA dollars directly to local education agencies, and the bill also requires interagency agreements so other responsible agencies pay their fair share of the service delivery costs for disabled students. As a cosponsor of S. 1, I look forward to working with my colleagues in fulfilling its promise of an additional $10 billion for IDEA over the next 7 years.

Further, S. 717 expands the ability of parents to participate in the planning of special education services for their child. The bill seeks to provide parents with the information they need to effectively work with their local school system by improving the preparation and dissemination of school notices and requiring student progress reports.

Teacher preparation for the successful delivery of special education services is also a priority in this legislation. Educators also receive greater freedom to coordinate instruction between special and regular education students. Finally, S. 717 offers a sound compromise solution for managing the disciplinary concerns of educators, parents, and students with disabilities.

I am also pleased that the bicameral, bipartisan working group responded to my request and the request of other committee members that this reauthorization include reforms specifically focused on the braille literacy needs of blind and visually impaired children. Since 1968, the percentage of blind students who lack reading or writing skills grew from 9 to 40 percent. This measure takes a two-pronged approach to this serious educational need by focusing on the importance of including appropriate braille instruction in a qualified student's individual education plan and emphasizing the need to enhance teacher preparation in the use and instruction of braille. I want to thank the Members of the working group for their leadership in addressing this key educational issue for our Nation's blind and visually impaired children.

IDEA's guarantee of a free, appropriate public education for children with disabilities remains one of our Nation's greatest accomplishments in civil rights. After 2½ years of work,

this final legislative proposal demonstrates the firm commitment of America's educators, parents, disability advocates, and this Congress to provide every child with an opportunity for educational success. Mr. President, I am proud to join as an original cosponsor of S. 717, and I encourage my colleagues to vote in favor of this worthwhile education measure.

Mr. HATCH. Mr. President, I am pleased to support the reauthorization of the Individuals With Disabilities Education Act [IDEA]. For over 20 years, IDEA has been assisting children with disabilities overcome obstacles and become successful students who go on to become productive citizens.

I commend the efforts of Chairman JEFFORDS, Senator HARKIN, and Senator FRIST. The Labor and Human Resources Committee has crafted a bill which is the product of hours and hours of consultation and discussion on both a bipartisan and bicameral basis. I also understand that Majority Leader LOTT has taken a special interest in this bill as well, and I appreciate his leadership in the effort to enact this legislation.

I have personally been assisted throughout this process by my Utah Advisory Committee on Disability Policy, and specifically by Dr. Steve Kukic, director of the Utah State Office of Education's Services for Students At Risk. Early on in this process, Dr. Kukic presented testimony to the Senate Labor and Human Resources Committee and identified what I believe is a key factor in this ultimately successful reauthorization which is a balanced system of accountability. Crucial to the success of IDEA is a framework where parents, advocates, school administrators and educators all work together to ensure that children are appropriately served.

I appreciate that parents, advocates, school administrators, and educators may have different and strongly held opinions about how to accomplish the goal of delivering educational services to all children, particularly with regard to disciplinary actions and attorneys fees. I believe that central to the intention of this reauthorization was the attainment of balance between the objective of these interested parties. I also believe that this reauthorization, by and large, achieves this balance.

I concur with several of the points raised by Senator GREGG, particularly the notion that if the Federal Government fulfilled its commitment to funding IDEA at an appropriate amount, then resources would be available on the state level to fund projects deemed necessary by the State.

However, as has often been stated in the Senate, we should not allow the perfect to become the enemy of the good. It is vital that we move ahead with the reauthorization of IDEA. This program makes a tremendous difference in the lives of children with disabilities.

I again want to commend all senators who participated in bringing this legislation to the floor. And, I would also like to single out a couple of staff members for their dedication to this goal. Pat Morrissey with Senator JEFFORDS and Robert Silverstein with Senator HARKIN deserve special kudos for hanging in there for the duration.

I am pleased that both the Senate and House of Representatives have ensured that the services provided under IDEA will continue, and I am pleased to vote in support of final passage. I urge the President to sign it promptly.

Mr. KOHL. Mr. President, I rise in strong support of the Individuals With Disabilities Education Act Amendments.

The bill before us today serves as a shining example of what Congress and the administration can do when working together in a bipartisan basis to address the concerns of diverse interests. In this case, these interests include parents, teachers, disability advocates, and school administrators. Too often these groups have been pitted against one another and have risked losing sight of a goal they all share—providing the best education for children with disabilities. This bill helps clear away problems that have obstructed that goal and reaffirms a child's right to a free appropriate education.

Since the inception of the Education for All Handicapped Children Act in 1975, later changed to the Individuals With Disabilities Education Act [IDEA], our education system has undergone significant changes. Prior to this monumental legislation, children with disabilities were often shunned from traditional schools and relegated to State institutions. Today, special needs children are learning in the classroom side by side with their peers. This would not have been possible without IDEA.

Advances in technology, teaching methods, and understanding of childhood development have changed the way we approach education in general, and special education in particular. But this progress has not been painless. School districts face enormous challenges in meeting the needs of all children. Given the intense resources often required to help keep special needs children in the classroom, schools and states have struggled with rising costs. Along with the financial burden, schools have been faced with growing societal pressures.

I have been troubled by reports from parents, teachers, and administrators in Wisconsin about violence in the classroom. Some of these cases have involved students with disabilities. Although often a reflection of inadequate resources directed to the special needs of the disabled student, disruptions affect the entire classroom. No student should have to learn in a classroom of fear and no teacher should be forced to chose between educating a special needs student and the rest of the class. And Mr. President, no student should be denied an appropriate education.

I am also troubled that despite IDEA, some disabled students are not be getting the education they deserve. Procedures and resources may vary tremendously from State to State and even between school districts within States. Clarification is needed to help schools and States conform with the goals of IDEA. This bill provides that clarification.

The bill makes numerous improvements to the current provisions of IDEA, while maintaining key principles. To address concerns with litigation, the bill encourages use of mediation and parent training centers, which are effective resources that provide low-cost dispute resolution between parents and schools. Paperwork burdens faced by schools and States are also addressed. Although documentation is a necessity, educators should concentrate on teaching, not paperwork. Important, parents rights are maintained and each child is still guaranteed an appropriate education.

I am particularly pleased that this legislation will intensify the focus on early intervention services for infants and toddlers with disabilities. As we know from the growing body of scientific evidence on brain development, the most important time to influence a child's learning capacity is in the zero to 3 age range. This section of IDEA recognizes the need for early intervention and represents one of the very few areas of Federal investment in this critical age group.

Finally, Mr. President, this bill helps resolve two very contentious issues involving special education—discipline and due process. This compromise will ensure that disabled children retain access to special education services while giving school districts greater ability to maintain order and safety in the classroom. If students pose a threat to themselves or others, there is new authority to allow removing the child from the class to an alternative educational setting. But the student cannot be shut out of school doors because of behavioral problems relating to the child's disability. In addition, parents will maintain a key role in their child's education and retain legal rights if a child's education is neglected.

Although these changes may not please everyone, I believe they represent a fair compromise to a very delicate area of law. Overall, this bill is a balanced attempt to enable infants, toddlers, and children with disabilities to receive a high-quality education and helps schools provide that education.

Mr. President, this compromise was a long time coming and will have an impact for a long time to come. I urge my colleagues to support this consensus legislation.

Mr. KEMPTHORNE. Mr. President, I rise today to express my support for S. 717, the Individuals With Disabilities Education Act reauthorization [IDEA].

Over the last 2½ years or so, this body has worked diligently to reauthorize IDEA. I commend Senators JEFFORDS, HARKIN, LOTT, COATS, FRIST, and KENNEDY, and all of the others who

have contributed to the development of this legislation and to the debate here on the Senate floor this week. The education of our children, including those with disabilities, is an important issue, and not one which may be taken lightly. The efforts of the Senators I just mentioned demonstrate the high level of concern which exists on this matter.

I would like to begin by addressing a matter which I have heard discussed several times over the last couple of days. That matter is unfunded mandates. As the author of the Unfunded Mandates Reform Act, I am well aware of this issue. In fact, I have worked on the question of whether or not IDEA, or similar legislation, should fall under the definition of an unfunded mandate since well before my legislation became law.

Early in my work on unfunded mandates legislation, I included specific limitations on the application of such a law. Among those limitations were exceptions for a Federal statute or regulation which establishes or enforces any statutory rights that prohibit discrimination on the basis of race, religion, gender, national origin, handicapped, or disability status. Let me again say, an exception is included to protect the statutory rights of numerous groups, including the handicapped and disabled. Clearly, IDEA is designed to protect the rights of disabled students. Given these two very specific facts, I believe it is inescapably obvious that IDEA is not an unfunded mandate as defined by the Unfunded Mandates Reform Act, Public Law 104–4.

One aspect of the Unfunded Mandates Reform Act which did impact IDEA was the provision which called for the Advisory Commission on Intergovernmental Relations [ACIR] to explore any law which placed an enforceable duty on State or local governments. Among the laws which the ACIR reviewed was IDEA. At the time, many groups contacted me in firm opposition to any consideration of IDEA in ACIR's report. I maintained that we should have no sacred cows, that reviewing IDEA in the report could play an important role in reauthorizing this legislation. While many people expressed numerous concerns about the final ACIR report, I think one aspect of that report was particularly notable. That part mentioned that the Federal Government needed to finally start picking up its fair share of the costs of IDEA, that we should contribute the 40-percent of the costs that were originally promised. I am sure my colleagues would not be surprised to find out that no one expressed any opposition to that specific recommendation.

And I am pleased to note that the ACIR recommendation on funding has not been ignored. From the very beginning of the 105th Congress additional attention has been focused on the need for increased federal funding for IDEA. S. 1, the Safe and Affordable Schools Act of 1997, contained increased authorizations for IDEA to finally reach the 40-percent federal share for which we have aimed. In addition, earlier this year, Senator GREGG took the lead in circulating a letter to President Clinton, later signed by myself and 20 of our colleagues, requesting his cooperation in fully funding special education. Now that the issue of IDEA funding has been raised, I believe the increased consciousness about this issue will result in Congress soon achieving full funding for this important program.

Mr. President, while we may have many different approaches on this issue, I believe we share exactly the same goal—providing our children, regardless of their level of disability, with the best possible education. Does S. 717 reach this goal? Quite honestly, the answer is no. This legislation is not perfect. No bill ever is. But S. 717 gets us closer to our goal. Through untold hours of hard work on the part of Members of Congress and various groups affected by IDEA, a compromise was reached. Because of this effort, we now have before us legislation which will make IDEA better.

I believe S. 717 improves the implementation of IDEA for all affected parties—students, parents, teachers, and school administrators. The bill takes significant steps to reduce the paperwork associated with the current law and to increase the flexibility available to teachers and school administrators, allowing schools to focus on what should be their first priority—educating young people. It improves the ability of schools to discipline disabled students in appropriate circumstances, most notably in any situation involving the possession of a weapon or controlled substance. It requires mediation as an option to taking disputes between parents and schools to the courts. It also enhances the ability of parents to participate in educational decisions which affect their child. All of these things together will help us provide better educational opportunities to students, both the disabled and non-disabled, and will ease some of the burden on schools which exist in the current law.

Mr. President, as I stated before, the bill before us today is the result of a great deal of lengthy and painstaking negotiations. While it is likely that no one would say this is the bill they would choose if the decision was entirely up to them, it is the bill on which often opposing sides were finally able to come to an agreement. After all the work which went in to creating this delicate balance, I believe altering the bill would be detrimental to the fragile agreement which was finally built. With this in mind, I will oppose the amendments which have been offered on this legislation. While I understand the concerns expressed by these amendments, and commend the amendments' sponsors for their concern about the needs of school districts, I cannot support any amendment which could unravel the current consensus which has been forged.

Mr. President, the legislation we have before us today will increase flexibility for schools, improve educational opportunities for students, and encourage parents, teachers and school administrators to work more closely together to address concerns about the education of the disabled. I am pleased to support this bill and urge its passage.

The PRESIDING OFFICER. 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.

The PRESIDING OFFICER. Under the previous order, the clerk will report the House companion bill.

The legislative clerk read as follows:

A bill (H.R. 5) to amend the Individuals With Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. There will now be 4 minutes of debate equally divided between the two managers prior to the vote on passage of the bill.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, first, I thank my colleagues. I understand the difficulties when we are asked to do things that common sense tells us otherwise. I know how hard it is to vote against amendments that are common sense and also express ourselves on how we feel about some of the problems we have had with the special education legislation.

I deeply appreciate the vote on the last amendment to move this bill forward. As my colleagues know, we are now on the House bill which passed with only three dissenting votes yesterday. I hope the Senate will do likewise.

I yield 30 seconds to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, this bill is a clear improvement over present law. Nevertheless, it remains a $35 billion per year almost totally unfunded mandate on the school districts of our country. It takes away control over quality of education that they can provide and, regrettably, in spite of the fact that it is a slight improvement, I am constrained to vote against it.

Mr. JEFFORDS. I yield to Senator KENNEDY.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 30 seconds.

Mr. KENNEDY. Mr. President, I join in paying special tribute to Senator FRIST. As a new Member, he took over the responsibilities in this area and has made an enormous contribution to bringing us where we are; also, Senator COATS, and, in particular, the chairman of the committee, Senator JEFFORDS, who has exercised leadership.

I also thank TOM HARKIN. This act was passed 22 years ago. I remember when 5½ million children were pushed aside and lacked any kind of hope and opportunity. Senator HARKIN has been a giant in the Senate for all those who have been disabled in our country. Today is a victory for children, it is a victory for the parents of these children, and it is a victory for our country. I think, quite frankly, it is the finest moment we have had in this session. I commend those who made it possible to make a difference for disabled children.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank Senator KENNEDY for his kind remarks, for his leadership in this area. I thank Senator JEFFORDS and especially Senator FRIST, who had the first hearing on this 2 years ago, May 9, 1995. It has been a long process. We have worked with all groups.

We worked with all groups, and we have a very balanced, fair, and forward looking bill.

To sum it up, Mr. President, what this bill says is that prior to 1974, almost 1 million kids were totally excluded from not receiving education only because they were disabled. Now they are in school, they are learning, they are becoming productive citizens, they are working. They are taxpayers, not tax consumers. They are not in institutions any longer.

Are there problems out there? Yes, but we are meeting those problems, and we are a better and stronger country because of what we did 22 years ago. This bill moves us into the 21st century by saying that we are going to strengthen this law and we are going to provide that this country meets its obligations to all of our children, including children with disabilities.

Again, this is a bill that reaches out and lifts up everyone in this country. I urge its passage.

Mr. LOTT. Mr. President, we are now going to vote on the Individuals with Disabilities Education Act Amendments of 1997. The Individuals with Disabilities Education Act, referred to as IDEA, has been on the books for 22 years.

The obligation to provide children with disabilities a free and appropriate education is grounded in the 14th amendment to the Constitution, title V of the Rehabilitation Act, the Americans with Disabilities Act, and by the laws of every State. IDEA is one additional civil rights tool that guarantees children with disabilities the right to receive a quality education. IDEA is the only Federal civil rights statute that provides funds to assist States in meeting the obligation to educate all children. This bill is about the educational future of 5.4 million children.

From my perspective, IDEA is a voluntary grant-in-aid program. It provides funds to States to assist them in making available a free appropriate public education to 5.4 million children with disabilities from 3 through 21. If a State elects to take its allotment of funds appropriated for IDEA in any year, it must provide a free appropriate public education to these children as prescribed by the law. Today, every State is participating in the IDEA grant-in-aid program, and 49 States have elected to participate in and comply with IDEA since 1975.

The history of these IDEA amendments precedes the 105th Congress. In the last Congress our colleagues on the Labor and Human Resources Committee attempted to move a bipartisan reauthorization of IDEA through the Senate. Their bill, S. 1578, did not make it to the floor before that Congress ended. Those of us involved in the last minutes of the 104th Congress, especially the distinguished Senator from Tennessee, Dr. FRIST, and Mr. HARKIN from Iowa, the authors of S. 1578, Senator JEFFORDS and myself, pledged to make the reauthorization of IDEA one of our top legislative priorities in this Congress. We are here again with a bipartisan approach. And, actions speak louder than words.

Since January of this year, Senate and House staff, as well as representatives from the administration have been meeting daily to craft our bipartisan bill and to bring this legislation to the floor as quickly as possible. Those involved in crafting this legislation included not only Senators and Labor and Human Resources Committee staff, but also our House counterparts, especially Chairman GOODLING, Mr. RIGGS, Mr. GRAY, and Mr. MARTINEZ. Officials from the U.S. Department of Education, particularly Judith Heumann, Assistant Secretary for Special Education and Rehabilitative Services, and White House representative, Lucia Wyman, also participated in the process. The range of expertise and knowledge brought to bear in developing this bill as well as the spirit of bipartisan, bicameral cooperation demonstrated in writing it is unprecedented. I have seen nothing like this in my 24 years in Congress. In fact, the Senate Labor and Human Resources Committee and the House Committee on Education and the Workforce, unanimously reported out identical legislation, S. 717 and H.R. 5 respectfully, on the same day, May 7, 1997. Moreover, the committees collaborated with each other in developing their respective reports.

The frequency, scope, and type of input we sought and received in putting together this final product was extraordinary. Almost every week for 3 months we held public meetings using a town hall format. This permitted those interested in our progress in drafting the IDEA bill to offer feedback and input. Students, educators, advocates, and parents traveled from all over the country to provide comments on our proposals. Often, more than 100 people would speak at an individual meeting. No effort was made to limit the amount of people that testified or limit the time they could speak. Many told personal stories that were oftentimes both heart warming and heart wrenching. Their recommendations came from the real education front lines. Our inclusive process, although unorthodox, has paid off. As of today, we have heard from over 30 groups that support our moving this legislation without amendment. They view our 5-month effort as worthy of their unequivocal support.

Many of you in this Chamber and your constituents, who are involved in this issue, appreciate the delicate balance this bill represents. It is built on principles, it is built on consensus, and it is built on compromise.

I acknowledge that States need additional Federal funding to fully implement IDEA the way it is intended. We have said in S. 1, the Safe and Affordable Schools Act of 1997, that we will increase funding, from the current $3.2 billion to $13.2 billion in 7 years. More Federal dollars for IDEA is an appropriations issue that we will turn to after we pass this important legislation. I am confident that dollars spent today for the education of children with disabilities is money well spent. When all children are provided a quality education, they stand a better chance of becoming productive and contributing adults in our society. IDEA is an important investment in the future of children with disabilities.

Another benefit that IDEA provides is that it offers everyone one set of rules on how to go about providing an education to children with disabilities. Prior to 1975, 35 States, through Federal courts, State courts, and State legislatures, were grappling with how to define the provision of an education to children with disabilities. Individual States and the country as a whole did not need, did not want 35 interpretations of what constituted an education for children with disabilities. Everyone wanted one rule book. That is why IDEA originally passed. That is why today, with States educating 5.4 million children with disabilities, less than one-half of 1 percent of disagreements between parents and school districts, over a disabled child's education, end up in court. Do we want to step backward? Do we want to reset the clock and create a legal free-for-all? I don't believe we do.

I would like to make another observation. I, as much as anyone else in this Chamber, want Federal IDEA dollars to be spent on educating children with disabilities, not on attorneys' fees. I am convinced that this bill makes that happen. Could we have put more limitations on when attorneys could be used or when parents, who prevail against a school district in a legal dispute, could be reimbursed? You bet. Could we have gotten here today having done so? No. Most of the limitations on attorneys' fees were put in the statute by our colleague from Utah, Senator HATCH in 1986. They are in this bill.

The Individuals With Disabilities Education Act Amendments of 1997 is,

in my view, an important legislative accomplishment. The process we implemented to develop this legislation provides us with a new standard for how we can work together. This bill sends a message to the country that we care about education, that we care about children, that we care about families, and that we care about the future. This is a powerful and positive message. Please join me and the rest of my colleagues who have worked long and hard to get here, in supporting this bill. The President is waiting. He is ready to sign the IDEA.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I thank my colleagues for their tolerance. This is an incredibly important piece of legislation that will do so much to straighten out the problems that we have with respect to special education in our schools. It allows much more flexibility in discipline in the schools. It takes care of the numerous problems that we have had.

I will point out that Senator LOTT and Dave Hoppe spent an infinite number of hours bringing these groups together. Senator FRIST did so much last year to prepare us, but it fell apart at the last minute. Senator COATS also worked very hard on this.

I commend all colleagues for their support. I point out that this passed the House yesterday 420 to 3. I hope we can do even better on this side. I thank all the staff who have helped us.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the bill is considered read three times.

The question is, Shall the bill, H.R. 5, pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 66 Leg.]

YEAS—98

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

NAYS—1

Gorton

NOT VOTING—1

Rockefeller

The bill (H.R. 5) was passed.

Mr. JEFFORDS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. JEFFORDS. Mr. President, I want to thank my colleagues for the tremendous vote and support for the legislation. This has been an incredible endeavor: So much effort, so much time. The vote that we have is certainly, percentagewise, perhaps at least identical to the House, and certainly with only one dissenting vote is a tremendous tribute to all those who worked to put this bill together.

In particular, I wish to thank Senator FRIST, who brought it almost to this point last year, and it fell apart at the last minute. His efforts were so paramount in bringing this bill to us this year.

I thank the majority leader and Dave Hoppe for their help in getting all the groups together, and thank as well the work of both sides of the aisle, Senator HARKIN, Senator KENNEDY, all on my side, certainly Senator COATS and, as I mentioned, Senator FRIST and Senator LOTT, and all who have worked so hard—Senator GREGG in particular on the funding—this past year. We have had a real joint effort. And I am blessed and thank Pat Morrissey and Jim Downing of my staff who also did tremendous work, and also the staff on the majority side and the minority side.

I yield to Senator HARKIN.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Iowa.

Mr. HARKIN. Mr. President, I want to take a couple minutes to thank a lot of people because this has been indeed a long journey and a tough journey.

It started, as I said, 2 years ago, on May 9, 1995, when Senator FRIST had the first hearing on the reauthorization of the bill. And it has taken us 2 long years of working literally, if not every day, every week on this, and lately every day on it for the last several months.

So I want to express my heartfelt appreciation to the people who have made it possible to reach this passage of S. 717. There are many people with a deep commitment to improving educational results for disabled children who stayed the course throughout this very long, tough journey. And today we can now point with satisfaction to a well-balanced, bipartisan bill that makes the kinds of improvements we are seeking in reauthorizing IDEA.

Twenty-two years ago, as we have all said, with the enactment of Public Law 94–142, Congress took steps to ensure children with disabilities would no longer be excluded from school and would be guaranteed access to a free appropriate public education.

Today, we have taken another major step by ensuring that the disabled children will now have the opportunity to enjoy the same expectations in the general curriculum as enjoyed by their nondisabled peers. And that success will be judged by the same high standards applicable to others.

So first I would like to thank Judy Heumann, the Assistant Secretary for the Office of Special Education and Rehabilitative Services. Ms. Heumann, who has polio and herself was excluded from school, has successfully overcome diversity and discrimination. She sued the New York City Board of Education for the right to teach from her wheelchair in that city. She won. And she taught. And she has devoted her adult life to advocating for the rights of disabled persons.

I think it is especially significant to point out in 1975, Judy worked for Senator Harrison Williams, who was one of the sponsors of Public Law 94–142. In her role with the Department of Education, she and Dr. Tom Hehir, Director of the Office of Special Education Programs, together with Secretary Riley, and their respective staffs crafted a reauthorization bill that has served as the framework and foundation for what we have just passed.

So I express my appreciation to Secretary Riley, Ms. Heumann, and Tom Hehir. I want to give special thanks to their respective staffs who continuously provided crucial technical assistance and leadership throughout this entire reauthorization process.

I would especially, Mr. President, like to commend our majority leader, Senator LOTT, for his deep commitment to ensuring passage of the IDEA reauthorization bill as soon as possible in this legislative session. The majority leader demonstrated the extent of his commitment by arranging for his own chief of staff, David Hoppe, to facilitate the bipartisan, bicameral working group that has worked so hard over the last 10 weeks to develop this final bill.

I simply cannot say enough to express my appreciation to Senator LOTT's chief of staff, David Hoppe, for his enormous contribution to this reauthorization process. We would not have had a bill today without his involvement. Mr. Hoppe brought to this process a strong sense of integrity, superb negotiating skills, a sense of humor, and a stick-to-itiveness. It was a continuous exercise of all of these attributes in facilitating the working group that resulted in the bill we passed today.

As I said, Mr. President, it was 2 years ago this week that Senator FRIST, as chairman of the Subcommittee on Disability Policy brought to order the 20th anniversary joint House-Senate informational hearing on IDEA. And following that hearing, Senator FRIST worked diligently to secure passage of the bill before the end of the 104th Congress. Well, although it was not possible to fully meet that goal, the groundwork laid by Senator FRIST, and his unending devotion to making sure we passed it, was of significant help to the working group this year in crafting again the bill we just passed.

It was a pleasure and a privilege for me to work as the ranking minority member on the Disability Policy Subcommittee with Senator FRIST in this effort. I want to thank Senator FRIST for his tireless leadership and contribution to this bill.

Let me pay tribute to a friend of longstanding from House days, and now in the Senate, who now stands across the aisle from me as the chairman of the Committee on Labor and Human Resources, Senator JEFFORDS of Vermont, for his commitment over a lifetime, for developing quality education for all of our children—for all of our children. Senator JEFFORDS has always been in the forefront of the fight. I thank him especially for his leadership in supporting passage of this bill.

Senator JEFFORDS' long commitment, not only to education of all kinds, but especially for kids with disabilities, also played a key role in the enactment of 94–142 in 1975. And I thank him publicly for that lifetime of work and dedication.

I also especially want to thank Senator KENNEDY for the tremendous contribution he made to this. Throughout his tenure with this body, Senator KENNEDY has continually provided the leadership we have needed in championing all civil rights issues. He has consistently worked with me to support various laws ensuring the rights of individuals with disabilities.

Through Senator KENNEDY's diligence, he ensured that stronger enforcement requirements would be added to S. 717 to help ensure that States and local school districts would be in full compliance with IDEA.

Let me pay tribute also to Senator COATS and Senator DODD for their contribution to the successful passage of this bill, and all of my colleagues in the House who worked with us in a very unique arrangement.

I say to my friend from Vermont, it was so successful. We had to spin this off from other bills. We pulled together not only bipartisanship here in the Senate, but it was bicameral. And we worked together with the House Republicans and Democrats, jointly, day after day in developing this bill.

And I would just mention—hopefully without excluding too many people—Representatives GOODLING, of course, and MARTINEZ, Representatives RIGGS and MILLER, CASTLE and SCOTT. So this bill has truly been a bipartisan, bicameral effort. And I am proud to have been a part of that effort.

But now let me also thank all of the staff members of the working group. As I said, they were here every day, all week, weekends, late Fridays, Saturdays. I would get phone calls on Saturday night and Sunday afternoons, and they were still working. I hate to admit it, I was home. They were working.

But I have to first thank Bobby Silverstein for his leadership on this bill, and going back for many, many years, first when he worked for Congressman Williams in the House and then saw the light and came over to the Senate to work on my staff on the Disability Policy Subcommittee in the mid-1980's. And it was through Bobby Silverstein's lifetime, long and deep commitment to ensuring the rights of people with disabilities that we got through the Americans With Disabilities Act in 1990. And it was through his efforts that we were able to finally pull together all of the working people on this bill and the reauthorization of Individuals With Disabilities Education Act. So to Bobby Silverstein, I thank him for many years of service on this committee and for his service for making this country more fair and just for all people. I thank Tom Irvin of my own staff, on detail from the Department of Education. I thank Pat Morrissey, who took over the leadership on the staff in the subcommittee 2 years ago with Senator FRIST. Again, Pat has been a stalwart, always there, always working, no matter what hour, no matter what day. I want to thank Pat again for all of her work in ensuring the passage of this bill. Also, Jim Downing, Senator JEFFORDS' staff, again, Jim, I thank you again for everything you have done. You have always been there. Thank you to Townsend Lang of Senator COATS' staff, Dave Larsen of Senator FRIST's staff, and Kate Powers, Connie Garner, and Danica Petroshius of Senator KENNEDY's staff. I also commend the hard work of the House staff, including Sally Lovejoy and Todd Jones of the House committee majority staff, Alex Nock of the House subcommittee minority staff, Theresa Thompson of Representative SCOTT's staff and Charlie Barone of Representative MILLER's staff.

Finally, Mr. President, most importantly—most importantly —I want to thank all of the members of the disability community and the general education community who stuck with this process through 2 long years. It was up and it was down, up and down, all the time. We thought we had agreements, then it would fall back. We kept bringing them together, bringing them together. It was a deep commitment by those who understand the need for a balance.

I am sympathetic, as I said many times, with teachers who find themselves in a classroom and perhaps they have children there that they do not know how to handle. They are at their wits' end, and principals maybe get to their wits' end. I have a lot of sympathy for them. That is why we have to meet more of our obligations in providing more funds to the States for teacher training and supportive services for those teachers so they can do what is right and proper and meet their obligations.

Well, what those who wanted a bill in the education community did and the disability community did over the last couple of years, they said, ''We will forget all the anecdotes. Everyone has a horror story.'' You can always find a horror story someplace no matter which side you are on. If you are on the disability side, you can find horror stories about teachers or principals who did bad things to kids with disabilities. If you are on the education side, you can find horrible things—maybe somebody claimed they had a disability and they did not. But we cannot legislate by anecdote. We cannot legislate by one, two, or three horror stories. We have to do what is right for the entire Nation. We have to cut through the fog and the haze and the one or two stories that keep cropping up. We have to cut through the misconceptions.

I do not know how many times I keep hearing this is an unfunded mandate when we all know it is not an unfunded mandate. So we have to keep cutting through, cutting through, all the time. That is what some of the leaders in the general education community and the disability community did for the last couple of years.

I thank them, not those who wanted to throw a hand grenade in periodically because they had a horror story, but those who understood that we had to reach a consensus, we had to strike a balance. That is what this bill is.

In closing, I hope and believe the bill we passed today, the Individuals With Disabilities Education Act Amendments of 1997, will clearly enhance equal educational opportunities for all children with disabilities as we enter the 21st century. We promised that in 1975. We have met a lot of those promises—not all of them. We have a lot of promises to keep.

I thank the Senator for yielding me this time.

Mr. JEFFORDS. I will take a moment and thank the Senator from Iowa for his most eloquent statement. I think for those of us who were involved in the original writing of it back in 1975, I think only we, perhaps, had the legal understanding of what has happened over the last 20-odd years now as to improving the lives of individuals with disabilities and to improve the confidence of our educational system in giving an appropriate education to all our students.

I yield to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, I rise very briefly to say that this bill is about

education. This bill is about children. Today we have seen a real victory for the over 40 million individuals with disabilities in this country, but especially the 5 million children, individuals with disabilities, who will benefit—who will benefit—from this modernized, updated Individuals With Disabilities Education Act.

The bipartisan vote of 98–1 shows the Republicans and Democrats are working together, have worked together, and will continue to work together to ensure that individuals with disabilities have the same opportunities that every other American has to achieve the utmost potential for themselves. It was a bicameral bill. I am delighted the House passed it, the exact same bill, just 2 days ago.

I want to thank people from my staff, including Sue Swenson, Dave Egnor, Robert Stodden, Dave Larson, Pat Morrissey, Bob Silverstein, and Tom Irvin from the minority staff who helped me so much over the last 2 years, and once again, I thank Dave Hoppe, Senator JEFFORDS, and Senator HARKIN for their leadership, for their experience, and their wisdom in passing this bill today. It is a victory for education, a victory for children, a victory for all Americans.

Mr. JEFFORDS. Thank you, Senator.

Mr. President, last evening the House adopted H.R. 5 by a recorded vote of 420 to 3. Today we have voted 98–1. In the last week Congress has demonstrated once again, its willingness to invest in human capital—the children of today and the taxpayers of tomorrow, children with disabilities and children, who, if not helped, might develop disabilities. We have said in H.R. 5: children with disabilities will continue to receive a free appropriate public education, we do expect them to succeed in the general education curriculum, and we will be accountable for their progress. That is a clear, simple message, a message of power, potential, and promise.

We invested in human capital in another way in H.R. 5. We recognized the range of decisions and obligations that fall to local school districts on a daily basis. We gave them flexible, practical guidelines on how and when they may discipline children with known disabilities. We gave them greater access to Federal dollars and greater discretion in how those dollars may be used. We directed more resources to personnel preparation and to technical assistance. We reshaped procedural requirements so school personnel may concentrate on children and teaching them.

We invested in human capital through incentives for partnership between State educational agencies and local education agencies, and between parents and professionals. These partnerships will not only foster cooperative planning and problem solving, but innovation and expanded opportunities for children, with and without disabilities, to benefit from school.

The process by which we arrived here today, for this vote, may be unprecedented and never be repeated, but it allowed us to achieve a consensus on a fundamental point. All children are entitled to a good education, we reaffirm that, and make it more likely for children with disabilities in H.R. 5.

Although others may characterize our efforts differently, I would say that we were guided by the premise that special education is not a place but an attitude. It is an attitude that says children need not fail in order to be helped; that communication and partnership with parents is a commitment, not an accident; and that solutions to problems do not come from mandates, but from reaching common ground.

I wish to thank my colleagues for their support in the passage of this historic legislation.

IDEA REAUTHORIZATION

Mr. BURNS. Mr. President, I rise to express my gratitude to all the folks who made possible the passage of the Individuals With Disabilities Education Act reauthorization bill. It's been a real struggle over the last 2 years, but a concerted effort led by David Hoppe of Majority Leader LOTT's staff has resulted in a compromise bill that received near unanimous support in both the House and the Senate. I was among those voting for this bill.

Mr. President, Montana's schools are breathing a sigh of relief that they will have more flexibility in dealing with disruptive students who pose a threat to teachers and other students. At the same time, the bill preserves the right of disabled students to a free appropriate public education.

However, as with all compromises, there is something in this bill for everyone to dislike. I don't think the bill goes far enough in giving local educational agencies the ability to remove and expel dangerous students. I supported Senator GORTON's amendment to allow local agencies to develop their own policies on disciplining students. This amendment was defeated.

I also have serious concerns about the costs of implementing this bill, costs which fall directly on the States and the school districts. Make no mistake: at current Federal funding levels, this bill is an unfunded mandate on the States. The Federal Government funds less than 10 percent of the bill's costs, though it has promised to pay 40 percent. This bill does not set funding levels—it is not an appropriations bill. We will have a separate debate on funding later in the year. But I want to point out that we are mandating that our local schools take specific actions which are very expensive and getting even more so every year. We must take more responsibility for our actions, and I hope we will do that when we debate funding later this year.

Mr. JEFFORDS. Mr. President, I ask unanimous consent S. 717 be returned to the calendar.

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business.

The Senator from Alaska [Mr. STEVENS], is recognized to speak for up to 45 minutes.

R.S. 2447 RIGHTS OF WAY AND ALASKA

Mr. STEVENS. Mr. President, when I came to the Senate, I brought with me a little sign I used to keep on my desk as a lawyer. It was the four-way test of the Rotary Clubs of America. It says, ''Of the things we think, say, or do, is it the truth? Is it fair to all concerned? Will it build good will and better friendships? Will it be beneficial to all concerned?''

A little over 10 years ago, I stood on this floor and I had in my hand a flier that had been issued by the Wilderness Society. It had a picture of Mount McKinley National Park and Wonder Lake—that is in the park—on the front of it, with the word ''sold'' stamped on it. That indicates somehow or other that logging was going on in Mount McKinley National Park near Wonder Lake.

There is another picture that talked about logging 800-year-old hemlock trees in a rain forest. As a matter of fact, those photographs were of redwood logs on trucks in California, on a California highway, and we identified the highway. To his great credit, the former Senator from Wisconsin, Senator Gaylord Nelson, withdrew that pamphlet and called me and told me he was doing that.

Last week, after the debate on the supplemental appropriations bill, I came to the office in the morning and I found on my desk an AP story written by Jim Abrams, Associated Press writer. It started with this line: ''Legislation making it easier to build roads through Federal parks and wilderness area survived a Senate challenge Wednesday and headed toward a possible showdown with the White House. The measure, pushed by Alaska and Utah Senators, inserted in a crucial bill to provide billions to victims of natural disasters, would give the Federal Government less say in what constitutes a valid right-of-way under a 130-year-old law.''

Another AP story came to my attention later that day by Mr. H. Josef Hebert of the Associated Press. It goes further in asserting that we have presented to the Senate a bill that would intrude upon national parks and wildlife refugees. Interestingly enough, issued out of the AP office in Salt Lake City, was this article: ''White House move opponents claimed could block access to rural byways in Utah and Alaska has been narrowly defeated by the Senate.''

It goes on to state the issue from the point of view of someone who knows what he is talking about.

I ask unanimous consent these three articles be printed in the RECORD following my remarks.

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

(See exhibit 1.)

EXHIBIT 1

Mr. STEVENS. We found later that the information in those articles was based on a statement issued by the National Parks and Conservation Association, which in my day when I was with the Interior Department of the Eisenhower administration was a truthful organization, not just a bunch of flacks for the extreme environmental movement.

It is very interesting to read this because this is the source of the claims made here on the floor that assert that there would be hundreds of thousands of miles across wildlife refuges, national parks, and other areas in Alaska—as a matter of fact, the figure of over 900,000 miles was used several times.

Now, Mr. President, nothing is farther from the truth. I am here to ask the people in the Senate and the people who are addressing this issue to come back and face the four-way test. It is not true. The newspapers began repeating over and over again that the provision I authored in this bill that passed the Senate would create new roads and make Swiss cheese of our national parks and other protected areas. Those are false reports that are based on I do not know what kind of research. I am here today to set the record straight.

Mr. President, it is a very simple proposition. Here is a map of Alaska with hypothetical section lines on it. Our State is one-fifth the size of the United States, 586,000 square miles. We became a State, Mr. President, in 1959. In 1969, the whole State was withdrawn from the creation of any rights—no State rights, no native rights, no private rights could be created on Federal lands. At that time, the Federal Government owned almost 90 percent of Alaska land. These hypothetical lines represent section lines, as I said. If the lands were ever surveyed under Revised Statute 2477 as interpreted by my State, it would be possible—possible—for the State to claim the right to build a highway.

The falsity of the statements that were made concerning my amendment are depicted on this map. We, in 1976, as a Congress, with the President's approval, repealed the old Revised Statute 2477. What that did is give the areas in the West where rights-of-way had been created by use or by surveys, the right to use those rights-of-way across Federal lands and they, in fact, ripened into the highway system of the United States. However, those rights had to be created in most of the United States by 1976. We protected only valid existing rights that were created prior to the repeal of the old Revised Statute 2477. At the time Revised Statute 2477 was enacted, there were a little over 10,000 miles of section line in our State, according to the Bureau of Land Management. They were primarily, Mr. President, represented by the surveys that had been made in the metropolitan areas of our State and the cities, Anchorage, Fairbanks, Juneau, what not. They were not out in the rural areas, unless the Government on some unknown occasion surveyed the area nearby a mining claim.

The reason we protected valid existing rights was that so these rural areas of Alaska would have the right to develop access to airports, to rivers, and to one another. That is the reason we are still battling to protect the rights that were created under Revised Statute 2477. But, Mr. President, there are no surveys of the national parks or the wildlife refuges in Alaska. There were none in 1976, except possibly for the area right near a mining claim. To assert that there are 900,000 miles of section line highway potentials in Alaska across national parks is absolutely a lie. It is time that the people who continue to assert that admit it. I hope that the National Parks Association will have the courtesy and the courage that the Wilderness Society did when it withdrew its false statement about our land.

Section lines are created only by surveys. Surveys of section lines could lead to highways if the State claimed the right when they go across Federal lands. But the basic concept is there are no surveys. There will be no surveys of the lands that remain in Federal ownership. The surveys that are taking place in Alaska are the surveys to take out of Federal ownership the lands that were granted to the State, or to the Native people of Alaska by acts of Congress.

That is what this chart shows. It shows the land ownership of Alaska in 1992. The blue land is patented to the State. The orange land is land that is awaiting patents that have been selected by the State. The green land is all Federal conservation areas set aside by an act of Congress. They will not be surveyed. They are, in fact, the national parks and wildlife refuges. The pink land that is shown is the land that Congress has returned to our Native people based upon the land claims settlement of 1971. But for anyone to assert that it is possible to create 900,000 miles of roads across parks and withdrawn areas on section lines is just absolutely false.

Mr. President, we have, as I said, about 10,000 miles of surveyed section lines in Alaska—in an area one-fifth the size of the United States—in 1976. But, again, for Alaska, the rights that are preserved under Federal law are mostly those that occurred when they were created prior to 1969 when the Secretary of the Interior withdrew the whole State. That was done by the Secretary of Interior, Mr. Udall. And it was, in effect, in order to protect the rights of the Alaska Native people until we passed the Land Claims Settlement Act.

But there is no question about it. None of the lands that these people are talking about—the parks, the wildlife refuges, and the wilderness areas—are surveyed and, therefore, there will be no 900,000 miles of section line rights-of-way.

It is an interesting thing to see. There are assertions coming even now from the Department of the Interior, based upon these claims, I take it, of the National Parks Association, that there are 160,000 miles of section lines and national parks. There are none, Mr. President if they were never surveyed. You can't have a section line until it is surveyed. You can draw hypothetical lines on a map like they did here. This map was issued by the Department of Natural Resources of our State. It is what we call a protraction. But a protraction doesn't create section lines, and section lines are absolutely required to have a section line right-of-way claimed by the State.

Mr. President, we did a little research. This might interest the Senate to know that of all the Federal aid highways in the whole United States there are about 900,000 miles today.

These people in their press releases and in their reports to the American people through the Associated Press claim that this Senator was trying to create in one State in national parks and wildlife refuges and other withdrawn areas the same amount of roads that exist for the whole United States that had Federal aid. By definition, Mr. President, all roads in Alaska are built with Federal aid. They cost a lot of money to build. The roads in Alaska are very expensive. It costs $6 million a mile to build roads in Alaska, and we only build them when we come within the scope of the Federal aid highway system.

We have less than 700,000 people in Alaska. No one I have ever known has ever come to me and said we want almost a million miles in this State; that we want to get more miles of Federal aid roads built in this State on section lines than exist in all the rest of the United States. That is absolutely such a wild claim that I can't find, really, the words to answer it, except that it does disturb me a great deal, as may be obvious and was obvious the other day, I am sure.

We will not have section lines across Federal lands. By definition, Federal lands had to be unreserved at the time of the establishment of the R.S. 2477 claim. As I indicated, in 1969 all of these lands in our State that were Federal lands were withdrawn. No claim could be made against them. The basic law under which claims could be made was repealed in 1976. But because of the withdrawal of our land, none of the claims we can assert—and there can be private rights-of-way, not section lines right-of-way, but rights of way established by public use asserted by interested private citizens—across Federal lands where they were perfected before there was a withdrawal.

Mr. President, the great problem that we have in Alaska is this checkerboard land ownership. I urge the Senate to consider this. In our State, we have State lands, Federal lands, Native lands, and private lands in such a checkerboard pattern that literally in order for some of the State lands to be accessed, it is absolutely necessary to go across Federal lands. But we are not trying to access that land by sections lines to go through withdrawn areas that were withdrawn for national parks. There may be some private citizens asserting R.S. 2466 rights there by use. I think that the Department of the Interior is cataloging those now. I know our State is. And we are going to have some disputes over what extent we can have that access.

But I would ask anyone, look at that map. That is the total road system of Alaska today. There is no access by road to any of those 270 villages. They can only be accessed by air. It is true that in some of these areas we are trying to establish roads between the villages so we can have one airport serving four villages instead of one airport per village. But we are not talking about going through the national parks with section lines. We are not talking about going through areas that were already reserved on section lines, because according to Bureau of Land Management, there are no section lines.

Mr. President, I don't know how to deal with issues like this and represent my State without coming here and once again urging that the people involved do some basic research. We have now a Federal judge, Judge Sedwick, who years ago wrote an article about the issue of rights-of-way. I want to put it in the RECORD today, and will read his conclusions.

Mr. President, this is an issue that is going to perplex our State. Again, Mr. President, we have only been a State since 1959. We were a State only 10 years before the whole thing was withdrawn, and no rights could be created until Congress acted. Congress acted in 1971 in the Alaska Native Claim Settlement Act, and then in 1980 on the Alaska National Interest Conservation Lands Act. After that, the rights of the State and Natives could be perfected. We had to wait until 1980 to proceed to get the lands that were awarded to us by Congress in 1958 and awarded the Native people of our State in 1971. The reason we did was because the withdrawal, as I said, was made by Secretary Udall. All Federal lands were withdrawn. As a consequence, the whole subject of where we can build roads to improve the quality of life of our rural people is a very, very intriguing one, but a difficult one for us.

We want to have the roads that will help us get better health care, that will get better education for people who live in rural areas, that will get better communications, particularly to try to see if we can't find a way to deal with the delivery of mail and other packages by some sort of road connection.

This is an unpublished manuscript, but I want to put it in the RECORD.

This is Mr. Sedwick. He was then an attorney. John Sedwick was an attorney practicing law, and he was chairman of the Alaska Bar Association's environmental law section. He is a recognized environmental lawyer, a very good lawyer, and a very good judge. This is his summary. I want to read it into the RECORD:

> The following summary represents the current state of section line easement law in Alaska in 1983, after the 1976 repeal of RS 2477. As the preceding sections of this paper has shown, there are some areas of uncertainty and some differences of opinion which have not yet been resolved. With that warning in mind, the summary is as follows:
>
> A section line easement is an easement for the construction of a public highway, or other facility such as a power line, water line, or sewer line. The maximum width of a section line easement will be 100 feet on State-owned land, or land acquired from the State, and 66 feet on Federal land, or land acquired from the Federal Government. One making use of the section line easement is not, however, automatically entitled to use its maximum width. The user may only take advantage of so much of the section line easement as is reasonably necessary for the construction and maintenance of the facility. Section line easements cannot exist prior to approval of the official survey which creates the section line.

Let me repeat that:

> Section line easements cannot exist prior to the approval of the official survey which creates the section line.
>
> The section line easement exists on all land in Alaska for which an official survey was approved prior to October 21, 1976, except for the following: Land which went into private ownership prior to April 6, 1923; land which went into private ownership prior to approval of the official survey; lands whose official survey was approved on or after January 18, 1949, which, if territorial lands, went into private ownership before March 26, 1951, and which, if Federal lands, went into private ownership before March 21, 1953; Federal land which was reserved for public use prior to April 6, 1923, which remain reserved at least until October 21, 1976; Federal lands reserved for public use prior to approval of the official survey which remain reserved at least until October 21, 1976; Federal lands whose official survey was approved on or after January 18, 1949, which were reserved for public use prior to March 21, 1953, and which remain reserved until at least October 21, 1976.

And the last category is all university lands.

Mr. President, those few exceptions give us some hope for small connections of roads in rural Alaska.

By what is being done now there are some people who want apparently to destroy those rights which exist. They are very few in number, as Judge Sedwick pointed out, very few. They had to be created before 1969 and in many instances before 1923. But the main purpose of it is to determine how we can do the things which must be done to improve the quality of life in rural Alaska.

I call the Chair's attention to this one green line here that goes from Nome to Teller. That is the only improved road that I know of that type. It goes from the city of Nome, which was the gold rush headquarters at the turn of the century, to Teller, which is a small city up on the coastline. That is one connection that was made years ago, and it was made using an old trail that existed. We have not been able to get approval to move forward with the others, and we want to do so.

My State, as I stated on the floor last week, has gone through a whole series of studies trying to find a way to demonstrate to the Department of Interior that the claims that are asserted based on use now—we are not talking about section lines; section lines automatically can be claimed by the State under State law once they are surveyed. But again the key is those people who assert we are going to have 900,000 miles of section line roads know better. They know they are telling a lie because the conservation system units themselves have not been surveyed.

Now, I hope, Mr. President, that when we get back to this issue again people will not come out on the floor and assert that this Senator is trying to build roads across wilderness areas either. We are not trying to determine any kind of rights-of-way across wilderness areas. There are some areas that are candidates for becoming wilderness areas in which there are private rights and public rights that exist now on these Federal lands. That is the issue we are trying to resolve.

I am indebted to my good friend from Arizona, Senator MCCAIN, who suggested that we have some approach to this to get the issue resolved. It is a very vital issue for rural Alaska. It is not an issue that involves putting 900,000 miles of roads across national parks, wilderness areas, wildlife refuges, wild and scenic rivers, whatever.

It might interest the Senate to know we have over 80 percent of those categories. Most of the park land of the whole United States is in our State. But the lands are exterior, have lines that give us their exterior. The parks and other protected areas were never surveyed as such. They are just lines on a map. The surveys will not be made. It costs too much money to survey those lands. They are reserved permanently for national parks. There will be no development that is not authorized by the park service. They do not need any right to build roads within parks. They have that right. There are not going to be any surveys.

I do say for the Chair, only Congress can create a wilderness area. Every time a wilderness area has come before the Senate we have looked at it to see whether or not there are private rights that need protection, and we have had provisions that said valid existing rights are preserved.

Now, that is all we are trying to say, is in 1976 when Congress repealed R.S. 2477, this was done subject to valid existing rights. I had that chart out here. Three times in that act I insisted that Congess say that validated existing rights were preserved, that everything

the Secretary of Interior did in that law was subject to existing rights, and now we have the situation where the Department continues to believe that it has the right to ignore that law.

Mr. President, last year in the Interior Department appropriations bill we asked for a section to be put in there which said that nothing can be done to change the rights-of-way which exist that are valid existing rights on Federal lands by rule or regulation, and they cannot be changed except by authorization from Congress. The Department of Interior now seeks to change the status of some of these existing rights by a new fiat. They call it a policy statement which changes the basis, historical basis that has been developed through a series of court cases for over 100 years. These precedents have been established by law and interpreted by solicitors, and as I said I was one of those solicitors at one time and I know that we have a series of cases that have been decided both by the Interior Department's land section and by the courts which tell States under what conditions they can assert the right to use the R.S. 2477 rights-of-way for improvements for public access which we now call public highways.

If the Congress looks at this map or this other map, it can only come to the conclusion that the problem we have is the problem of determining whether the Federal Government speaks with a forked tongue. The Federal Government when we became a State gave Alaska the right to 103.5 million acres of Federal land. It was our dowry in order to have land that could be developed to sustain our economy. It then in 1971 passed the Alaska Native Land Claims Settlement Act which transferred to Alaska, or gave the right of transfer to approximately 45 million acres of Alaska land to the Native people. Both of those rights were held up until Congress decided the location of the lands it wanted to withdraw, the National Lands Conservation Act of 1980 perfected those withdrawals and enlarged the whole concept. And if anyone will look at the map you will see it is almost impossible to get to the coastline from the Native lands except up in Nome. Access is denied entirely to our lands that were given to us by an act of Congress unless we can perfect the access routes which were in place prior to their conveyance to Alaska and the Native people, prior to the repeal of Revised Statute 2477 unless we can prove in effect they are valid existing rights.

Mr. President, I am hopeful that the people who really run the National Parks Conservation Association will do some basic research and deal with facts. Particularly what brought me here was the assertion of the 900,000 miles of section line roads that we were going to build across Federal parks and wilderness area. We do not propose to build them. They would not be valid under any interpretation of Federal laws. The lands are withdrawn for national parks. They cannot be subject to rights-of-way under the section line concept until those lands would be surveyed, and even then the survey would take place after the reservation, and, with the possible exception of some unknown, ancient government survey of the area near a mining claim, there are no rights from section lines in areas that have already been reserved.

So I do believe it is time for us to return to the concept that I mentioned in the beginning, and that is the four-way test. As I have said, since I have been a Senator, I have tried to be guided by this test and I would like to see the Senate as a whole guided by it.

There were assertions made right here on this floor about this Senator wanting to build roads across national parks on section lines. I know that those Senators who made those statements were misinformed by such people as the National Parks Conservation Association that issued their statement. But above all, I think it is incumbent upon Members of the Senate to look at the facts before they really accuse a fellow Senator of something of that magnitude. Building 900,000 miles of section line roads through national parks was mentioned right here on this floor, and it was not true. I plead with the Senate to be guided by the truth and be guided by the concept of fairness and whether or not what they say will build good will and friendship among Members of the Senate. This Senator finds it very hard to maintain friendship for people who accuse him of some of the things we were accused of last week, Mr. President.

I yield the floor.

EXHIBIT 1

WESTERN SENATORS WIN FIRST ROUND IN ROAD RIGHT-OF-WAY DISPUTES

(By Jim Abrams)

WASHINGTON (AP).—Legislation making it easier to build roads through federal parks and wilderness areas survived a Senate challenge Wednesday and headed toward a possible showdown with the White House.

The measure, pushed by Alaska and Utah senators and inserted into a crucial bill to provide billions of dollars for victims of natural disasters, would give the federal government less say in what constitutes a valid right of way under a 130-year-old law.

Sen. Dale Bumpers, D–Ark., proposed that the road issue be taken out of the disaster relief bill, but lost, 51–49.

Sen. Max Baucus, D–Mont., voted to take the issue out of the bill while Sen. Conrad Burns, R–Mont., was among the 51 that voted for it to remain in the bill.

''It is wrong as a matter of principle to tie controversial issues to flood disaster relief,'' Baucus said. ''We simply should not play politics when people's lives are in the balance.''

The Senate also voted, 89–11, to provide $240 million in the emergency relief bill to extend welfare payments to legal immigrants until the start of the new fiscal year on Oct. 1. Under the new welfare law, legal immigrants were to lose their benefits in August.

The amendment, offered by Sens. Alfonse D'Amato, R–N.Y., and John Chafee, R–R.I, replaced a provision in the bill that set aside $125 million for block grants to the states for immigrants, an idea opposed by the administration.

Lawmakers resolved another sticking point in the bill when they agreed to allow the Census Bureau, with congressional oversight, to go ahead with plans for the use of sampling methods in the 2000 census. Republicans from rural states in particular had sought to ban sampling, which could record greater urban and minority populations and lead to district reapportioning.

Resolution of that issue left two outstanding disputes efforts by Republicans to prevent future government shutdowns and to weaken the Endangered Species Act. The administration has indicated that President Clinton would veto any bill with those provisions.

Sen. Ted Stevens, R–Alaska, used his position as chairman of the Appropriations Committee, which is responsible for the disaster relief bill, to promote the right-of-way measure. He accused opponents of using scare tactics in claiming that it would ''result in roads across our national parks and wilderness. That is simply not true,'' he said.

''What is at stake here for those of us in the West is the preservation of what really amounts to the primary transportation system and infrastructure of many rural cities and towns,'' said Sen. Orrin Hatch, R–Utah.

Interior Secretary Bruce Babbit said the measure would render the federal government powerless to stop the conversion of footpaths, four-wheel-drive tracks and other primitive roads on federal lands into paved highways. He has urged the president to veto the disaster relief bill if the road issue is included.

Baucus said the provision ''could allow roads to be built through spectacular wilderness in Montana.

''Equally disturbing, this section could prevent Montana roadless areas from being designated as wilderness in the future,'' Baucus said.

But Senate Democratic Leader Tom Daschle of South Dakota said he doubted the Senate would sustain a presidential veto and slow action on the disaster relief bill over the road issue.

''I don't know if we've got enough of a strength of conviction to hold up the bill,'' he said.

The bill provides $8.4 billion in new spending, including $5.5 billion for disaster victims and $1.8 billion for U.S. troops in Bosnia and the Mideast.

The Senate, in a voice vote, agreed that no money from this bill should support U.S. troop presence in Bosnia after June 1998, the date the administration has set for the end of the mission there.

Stevens left open the possibility for compromise, saying that when the House and Senate get together to work out differences in their bills he might ask Babbitt for a proposal ''that might set the policy for future realization of these rights of way throughout the West.''

The controversy involves and 1866 law that was repealed in 1976 but then resurrected in part during President Reagan's administration as it began aggressively processing thousands of right-of-way claims it considered still valid.

The Clinton administration has recognized the validity of claims, but has fought with state officials, particularly from Alaska and Utah, about who has final say on their validity.

Babbitt announced a new policy in January that requires states to examine more closely whether a right of way actually once was a significant corridor, which make it a valid site for road building.

Stevens' measure would override Babbitt's new directive and again swing the pendulum to the states.

RIDER TO FLOOD-RELIEF BILL ENRAGES ENVIRONMENTALISTS—ALASKA SENATOR SEEKS TO PAVE WAY FOR U.S. PARK ROADS

(By H. Josef Hebert)

As his Senate Appropriations Committee grappled with how to help victims of floods, chairman Ted Stevens saw an opportunity he couldn't pass up.

Alaska's senior senator tacked onto the must-pass emergency bill a pet piece of legislation to make it easier to build roads through federal parks, refuges and wilderness areas.

Environmental activists were outraged, and Interior Secretary Bruce Babbitt is urging a presidential veto if the provision added last week stays in the bill. It goes before the full Senate today.

The measure, also pushed by fellow Republican Sen. Bob Bennett of Utah, would give the government less say in what constitutes a valid right-of-way for roads built under a 130-year-old law.

''Such a requirement could effectively render the federal government powerless to prevent the conversion of foot paths, dogsled trails, jeep tracks, ice roads and other primitive transportation routes into paved highways,'' Babbitt complained in a letter to Stevens.

Bennett and Stevens have accused Babbitt of overstepping his authority by putting too many restrictions on such right-of-way claims and usurping the states' authority. They contend state law should determine validity of claims.

Road construction in federally protected parks, refuges and wilderness areas has been a growing worry among conservationists, especially in the West. Nowhere has it been an issue more than in Alaska and Utah, where hundreds of claims are pending for rights-of-way over federally protected land.

The controversy involves a law enacted in 1866, repealed by Congress 110 years later, then resurrected in part during President Reagan's administration as it began aggressively processing thousands of right-of-way claims it considered still valid under the defunct Civil War-era statute.

No one disputes valid claims exist, but the Clinton administration has waged a running battle with some state officials-particularly those of Alaska and Utah-over who should have the final say on their validity.

Babbitt announced a new policy in January that requires states to examine more closely whether a right-of-way actually once was a significant corridor, which would make it a valid site for road building.

The measure Stevens inserted into the $5.5 billion emergency relief legislation for victims of floods and other disasters would override Babbitt's new directive and again swing the pendulum to the states.

Stevens defended the measure. In 1976, he argued, Congress ''absolutely stated, without any question,'' that prior claims must be accepted.

''The provision is aimed at preserving historic rights-of-way established at least 20 years ago and creates no new rights-of-way across federal land,'' Stevens insisted.

Many environmentalists see it differently.

''It grants rights-of-way across millions of acres of federal land to virtually any person who asserts a claim,'' asserted William Watson of the National Parks and Conservation Association, a private watchdog group. ''It threatens to carve up our national parks.''

Most claims under the 1866 law are in Alaska and Utah because those states have been the most lenient in considering what constituted a historic pathway. Conservationists say the Stevens legislation may bring old claims boiling to the surface in other states. Rumblings already have been heard in Oklahoma, Nebraska, New Mexico and the Dakotas, said Phil Vorhees of the park association.

Adam Kolton of the Alaska Wilderness League said hundreds of rights-of-way claims are pending in Alaska, including some through the Denali National Park and seven in the coastal plain of the Arctic National Wildlife Refuge.

''Sen. Stevens wants to make Swiss cheese of the Arctic refuge and other wilderness areas by building roads through them,'' Kolton complained.

In Utah, where much of the land also is federal, an estimated 5,000 rights-of-way claims are pending. Many are in federal parks and refuges, as well as in the recently declared 1.7 million-acre Grand Staircase-Escalante National Monument.

WESTERNERS EKE OUT SENATE WIN ON RURAL ROADS

SALT LAKE CITY.—A White House move opponents claimed could block access to rural byways in Utah and Alaska has been narrowly defeated by the U.S. Senate.

Western senators led the revolt, even though Interior Secretary Bruce Babbitt said he would recommend that President Clinton veto the entire emergency flood and disaster relief bill to which the byways measure is attached.

''This is not an issue where the senators from the Western states are trying to do something improper,'' said Sen. Bob Bennett, R-Utah. ''The real issue is that there are a number of roads in rural Utah that the federal government wants closed.''

The vote Wednesday was 51–49.

At issue are rights-of-way created under an 1866 law that allowed counties to put roads on unreserved federal lands. It was repealed in 1976, but existing byways were allowed to continue. But no inventory of them was made.

Congress and the administration have fought for years over proposals by Babbitt to force counties now to prove the byways existed before 1976 and were used for vehicular traffic, not just livestock or horses.

Congress had blocked that move, but in January Babbitt issued administrative rules outlining how until a final compromise is reached counties could gain emergency, permanent recognition on some claims. The status would be granted only for those byways where vehicular traffic and upgrades for them occurred.

Senators from Utah and Alaska, where most of the byways claims are pending, charged the White House was trying to take the first step toward federalizing local roads.

''What is at stake here for those of us in the West is the preservation of what amounts to the primary transportation system and infrastructure of many cities and towns,'' said Sen. Orrin Hatch, R-Utah.

''In many cases, these roads are the only routes to farms and ranches; they provide necessary access for school buses, emergency vehicles and mail delivery.''

Sen. Dale Bumpers, D-Ark., countered that Westerners were really pushing the issue to block wilderness designations by claiming roads in the areas.

He also charged Westerners want to put roads in sensitive areas to foster development.

''Can you imagine anything so insane as allowing states to build roads across public lands, no matter where they may be?'' he said. ''You cut the weeds, it becomes a 'highway.' You move a few rocks, it becomes a 'highway'''

Senate Appropriations Committee Chairman Ted Stevens, R-Alaska, reacted angrily to those claims. He pounded his desk so hard he tipped over this water glass into his documents. He also trembled as he declared the byways ''are our lifeblood.''

Bennett recalled that when Garfield County bulldozed in Capitol Reef National Park to widen the Burr Trail by four feet on a blind curve but still within its right of way the federal government sued.

''It has little or nothing to do with the county maintaining this kind of right of way. What it had to do with is who's going to make the decision and the federal government is determined it will make the decision.'' Bennett said.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—FLANK DOCUMENT AGREEMENT TO THE CFE TREATY

Mr. STEVENS. Mr. President, for the majority leader I ask as in executive session for unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to consideration of the Flank Document Agreement, No. 105–5, to the CFE Treaty which was ordered reported by the Foreign Relations Committee on Thursday, May 8, and, further, the treaty be considered having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, that all committee reservations, understandings, declarations, statements, conditions and definitions be considered and agreed to, with the exception of condition No. 5. I further ask consent that no other amendments be in order to the resolution, other than a modification to condition No. 5 offered on behalf of Senators KERRY of Massachusetts, SARBANES, and ABRAHAM. I further ask consent that overall debate on the resolution be limited to 1½ hours between chairman and ranking member, and an additional 30 minutes under the control of Senator BYRD; and, further, after the expiration or yielding back of that time the Senate proceed to a vote on the resolution of ratification. I finally ask that immediately following that vote, the President be notified of the Senate's action and Senate then return to legislative session.

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

Mr. STEVENS. Mr. President, I want to clarify the unanimous-consent agreement that was just entered into. The amendment is an amendment being offered on behalf of Senators KERRY, SARBANES, and ABRAHAM. The consent agreement could be interpreted otherwise but it is their amendment that is being offered as a managers' amendment.

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

AUTHORIZING USE OF CAPITOL GROUNDS FOR THE SIXTEENTH ANNUAL PEACE OFFICERS' MEMORIAL SERVICE

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of House Concurrent Resolution 66, which is at the desk.

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

The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 66) authorizing the use of the Capitol Grounds for the sixteenth annual national peace officers' memorial service.

The Senate proceeded to consider the concurrent resolution.

Mr. STEVENS. Mr. President, I ask unanimous consent the resolution be agreed to, the motion to reconsider be laid on the table, and any statements relating to the resolution be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. The concurrent resolution, House Concurrent Resolution 66, was considered and agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Vermont is recognized to speak for up to 45 minutes.

JUDICIAL VACANCIES

Mr. LEAHY. Mr. President, I have spoken on the floor many times about the judicial vacancies in our Federal courts. It concerns me. In fact, I believe other than the subject of antipersonnel landmines, I have probably spoken on this subject more than any other. I am concerned that some in the Republican Party are engaging in a court-bashing situation that does not reflect the proud heritage of either the Republican Party or the Democratic Party.

I have spoken about the crisis that has been created by the almost 100 vacancies that are being perpetuated in the Federal courts around the country. We have recently seen a constitutional amendment proposed to remove the life tenure that has been the bedrock of judicial independence from the political branches since the ratification of our Constitution. It is just one of, I think, over 100 constitutional amendments proposed this year alone. It ignores the fact that our independent judiciary is the envy of the rest of the world. We have heard calls for impeachment when a judge rendered a decision with which a Republican House Member disagreed. I have read the Constitution. It speaks of very specific grounds for impeachment. Among those grounds is not that a Republican House Member disagrees with a judge. We would probably have a very difficult time if every judge could be impeached because any Member of the House or Senate disagreed with him.

We have heard demands that the Congress act as a supercourt of appeals and legislatively review and approve or disapprove cases on a case-by-case basis. That is for the same Congress that has not yet even taken up a budget bill, even though the law requires us to do it by April 15.

We are seeing exemplary nominees unnecessarily delayed for months, and vacancies persist into judicial emergencies. We are seeing outstanding nominees nitpicked, probed, and delayed to the point where one wonders why any man or woman would subject themselves to such a process or even allow themselves to be nominated for a Federal judgeship.

Instead of reforming the confirmation process to make it more respectful of the privacy of the nominee, something that we all claim we want to do, the Republican majority in the Senate is moving decidedly in the other direction. They are approaching the imposition of political litmus tests, which some have openly advocated under the guise of opposing judicial activism, even though some of these same Members were the ones who said that nobody should impose a litmus test on judges.

Even conservatives like Bruce Fein, in his recent opinion column in the New York Times, reject this effort. Actually, so do the American people. We have not had a time when any President or any Senate should be asked to impose litmus tests on an independent judiciary.

I recommend my colleagues read the excellent commentary by Nat Hentoff on this new political correctness that appeared in the April 19, 1997, edition of the Washington Post. I have spoken in broad generalities, although each are backed up by dozens of cases. But let me be specific on one. The nomination of Margaret Morrow to be a Federal judge for the Central District of California is an example of the very shabby treatment accorded judicial nominees. The vacancy in this Federal court has existed for more than 15 months, and the people in central California—Republican, Democrat, Independent—are being denied a most needed, and in this case a most qualified, judge.

Ms. Morrow's nomination is stuck in the Senate Judiciary Committee again. I am appalled by the treatment that Margaret Morrow has received before the Judiciary Committee. Ms. Morrow first came before the Judiciary Committee for a hearing and she was favorably and unanimously reported by the committee in June of 1996, almost exactly a year ago—a year ago less a couple of weeks. Then her nomination just got caught in last year's confirmation shutdown and she was not allowed to go through. So she has to start the process all over again this year.

Let me tell you about Margaret Morrow. She is an exceptionally well qualified nominee.

She was the first woman president of the California Bar Association, no small feat for anybody, man or woman. She is the past president of the Los Angeles County Bar Association. She is currently a partner at the well-known firm of Arnold & Porter, and she has practiced law for 23 years. She is supported by the Los Angeles Mayor Richard Riordan, who, incidentally, is Republican, and Robert Bonner the former head of the Drug Enforcement Administration under a Republican administration. Representative JAMES ROGAN from the House joined us during her second confirmation hearing and, of course, she is backed and endorsed by both Senators from California.

Margaret Morrow has devoted her career to the law, to getting women involved in the practice and to making lawyers more responsive and responsible as a profession. The Senate ought to be ashamed for holding up this outstanding nominee, and I question whether the Senate would give this kind of treatment to a man. It sure as heck has been doing it to a woman.

Despite her qualifications, she is being made an example, I am not quite sure of what, but this woman who has dared to come forward to be a Federal judge is being made an example before the Senate Judiciary Committee.

At her second hearing before the committee on March 18, even though she already has gone through a committee hearing and even though the committee last year unanimously voted to confirm her with every single Republican and every single Democrat supporting her, even though she had gone through it once before, she was made to sit and wait until all the other nominees were questioned, as though she were being punished. ''We have these men who want to be heard, and even though you had to do this before, you, woman nominee, sit in the back and the corner.'' She was then subjected to round after round of repetitive questioning.

Then came a series of written questions from several members, and they were all Republican members of the committee. Then came the ''when did you start beating your husband'' type questions to Ms. Morrow, based on her previous questions. I objected when Ms. Morrow was asked about her private views on all voter initiatives on the ballots in California for the last decade. Basically, she was being asked how did she vote in a secret ballot in the privacy of a voting booth on 160 initiatives on the ballot in California over the last 10 years.

I defy any Member of the Senate, if they were given a list of 160 items in their local elections, State elections, that have been on the ballot over the last 10 years, to be able to honestly say how they voted on every single one of those. But even before they got to the question of could they say how they voted, I would stand up and say, ''What has the Senate stooped to when we ask people how they voted in a secret ballot?''

Mr. President, we fought—successfully fought—a Revolutionary War, among other reasons, to maintain the sanctity of the ballot box. We fought a Civil War, among other reasons, to maintain the sanctity of the ballot box. We stood up to fascism, Nazism, World Wars because we were protecting our democracy and way of life. Some of the most remarkable and respected Republicans and Democrats of this country's history, and some of the most responsible and respected Republicans and Democrats in my lifetime, and some of the most responsible and respected Republicans and Democrats of my 22 years in the Senate have stood and fought to maintain the privacy of the ballot box. I, Mr. President, am not going to be a Senator on the Senate Judiciary Committee that allows that sanctity to be destroyed.

When I challenged the question, it was revised so as to demand only her private views on 10 voter initiatives on issues ranging from carjacking to drive-by shootings to medical use of marijuana and the retention election of Rose Bird as chief justice of the California Supreme Court.

Ms. Morrow previously stated she did not take public positions on these voter initiatives, so asking for her private views necessarily asked how she voted on them. We are, thus, quizzing nominees on how they voted in their home State ballot initiatives. Why we need this information, even if we were allowed to follow someone into the ballot box and see how they voted—something none of us would allow anybody to do to us—even if we are allowed, to say while we would not do it to any of us, we would do it to this woman.

Why do we need this information to determine if she is qualified? In fact, she explained to the committee that she is not anti-initiative, and in response to written questions, she discussed an article she wrote in 1988 and explained:

> My goal was not to eliminate the need for initiatives. Rather, I was proposing ways to strengthen the initiative process by making it more efficient and less costly, so it could better serve the purpose for which it was originally intended. At the same time, I was suggesting measures to increase the Legislature's willingness to address issues of concern to ordinary citizens regardless of the views of special interests or campaign contributors. I don't believe these goals are inconsistent.
>
> The initiative process was a reform championed by California Governor Hiram Johnson in 1911 to ensure that the electorate had a means of circumventing the Legislature when it could or would not pass legislation desired by the people because of the influence of special interests. As envisioned by Governor Johnson and others, the initiative was designed to complement the legislative process, not to substitute for it. This is my understanding of the role of the initiative process, and this is what I had in mind when I wrote the 1988 article. The reasons that led Governor Johnson to create the initiative process in 1911 are still valid today, and it remains an important aspect of our democratic form of Government.

I ask, Mr. President, does that response sound like somebody who is antidemocratic? Yet, she has been forced to answer questions about how she views the initiative process in written questions and, again, in revised follow-up written questions over the period of the last month.

Again, I remind everybody, this is a woman who was voted out unanimously last year by the committee. No objective evaluation of the record can yield the conclusion that she is anti-initiative. No fair reading of her 1988 article even suggests that. I might add, parenthetically, and what should be the only really important question, there is nothing in her record that suggests she would not follow the precedents of the court of appeals for her district or the U.S. Supreme Court. There is nothing to suggest that she does not believe in stare decisis or that she would not follow it.

Recently, I received a letter from a distinguished California attorney, and a lifelong Republican, who wrote to protest the unfair treatment being accorded Margaret Morrow. He wrote that he was ''ashamed of [his] party affiliation when [he sees] the people's elected representatives who are Republicans engaging in or condoning the kind of childish, punitive conduct to which Ms. Morrow is being subjected.'' He asks us to stop permitting the harassment of this nominee. I join with this distinguished Republican, and I ask the same thing: Stop harassing this nominee. I don't care if the harassment is because she is a woman, I don't care if the harassment is based on some philosophical difference, the fact of the matter is, she is one of the most qualified people I have seen before the committee in 22 years, Republican or Democrat, and she ought to be voted on and confirmed with pride—with pride—by the U.S. Senate.

We have heard nothing but praise for Ms. Morrow from those who know her and those who worked with her and litigated against her. In fact, the legal community in and around Los Angeles is, frankly, shocked that Margaret Morrow is being put through this ordeal and has yet to be confirmed. The Los Angeles Times has already published one editorial against the manner in which the Senate is proceeding with the Morrow nomination. I ask, to what undefined standard is she being held? What is this new standard —it is kind of hidden—which has never shown up before? It has not shown up for any male nominee that I know of.

In that regard, I ask unanimous consent that a letter signed by a number of distinguished women in support of her nomination be printed in the RECORD.

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

WOMEN LAWYERS ASSOCIATION OF LOS ANGELES,
Los Angeles, CA, May 13, 1997.

Hon. PATRICK LEAHY,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: We write to you to protest the treatment which one of President Clinton's nominees for the Federal District Court is receiving. We refer to Margaret Morrow, who has been nominated for the United States District court in the Central District of California. As of today we have been waiting a full year for her confirmation.

Margaret Morrow has qualifications which set her apart as one uniquely qualified to be a federal judge. She is a magna cum laude graduate of Bryn Mawr College and a cum laude graduate of Harvard Law School. She has a 23-year career in private practice with an emphasis in complicated commercial and corporate litigation with extensive experience in federal courts. She has received a long list of awards and recognition as a top lawyer in her field, her community and her state.

Margaret Morrow is widely respected by attorneys, judges and community leaders of both parties. Many have written to you. Because of her outstanding qualifications and broad support, it is difficult to understand why she has not moved expeditiously through the confirmation process.

Margaret Morrow is a leader and role model among women lawyers in California. She was the second woman President of 25,000 member Los Angeles Bar Association and the first woman President of the largest mandatory bar association in the country, the 150,000 member State Bar of California.

Margaret Morrow is exactly the kind of person who should be appointed to such a position and held up as an example to young women across our country. Instead she is subjected to multiple hearings and seemingly endless rounds of questions, apparently without good reason.

We urge you to send a message that exceptionally well qualified women who are community leaders should apply to the U.S. Senate for federal judgeships. We urge you to move her nomination to the Senate floor and to act quickly to confirm it.

NANCY HOFFMEIER ZAMORA, Esq.,
President, Women Lawyers Association of Los Angeles.

JUDITH LICHTMAN, Esq.,
President, Women's Legal Defense Fund.

KAREN NOBUMOTO, Esq.,
President, John M. Langston Bar Association.

STEVEN NISSEN, Esq.,
Executive Director & General Counsel, Public Counsel.*

SHELDON H. SLOAN, Esq.,
President, Los Angeles County Bar Association.

ABBY LEIBMAN, Esq.,
Executive Director, California Women's Law Center.*

* Title and organization for identification purposes only.

JULIET GEE, Esq.,
President, National Conference of Women's Bar Associations.

(Mr. ROBERTS assumed the chair.)

Mr. LEAHY. Mr. President, that is from the Women's Lawyer Association of Los Angeles.

Last week, at a Judiciary Committee executive business session, I asked her name be added to the agenda and that the committee report her nomination to the Senate for confirmation. All questions have been answered. The Republican Senator who propounded the questions on initiatives said he would not filibuster her nomination and agreed not to hold her up any longer. I thank him publicly and appreciate his forthrightness.

But even though we looked around that room and said, ''Does anybody have any objection to her,'' and I had gotten absolute confirmation from every single Democratic Senator that they were ready to vote positively for her and would vote for her on the floor immediately, her nomination was not called up. My requests that she be called up for a vote before the committee was rejected, and she remains in limbo almost 2 months after her second confirmation hearing and one full year after she was first nominated.

There is now what amounts to a secret hold on this nomination in the Judiciary Committee. Some Senator is holding her up. Some Senator doesn't have the courage to come on the floor of the U.S. Senate and say why this woman is objectionable to him. Some Senator will hold her up secretly because he doesn't want to vote on her publicly, even though I guarantee you, if we had a rollcall vote on her, it would be overwhelmingly positive. We should proceed with the nomination of Margaret Morrow without further delay.

Mrs. BOXER. Mr. President, will my friend yield for about 2 minutes?

Mr. LEAHY. Of course. I am happy to yield to the Senator from California.

Mrs. BOXER. I am appreciative of the Senator taking to the floor today to discuss this entire issue. We all learned growing up that justice delayed is justice denied.

We have these openings. Look, I was told very clearly by the chairman of the Judiciary Committee, ''Senator, you have to come in with nominations that will pass by Republicans and Democrats. You need to bring forward nominees who are supported by Republicans and Democrats.''

Mr. President, I have done just that. I think Senator LEAHY has outlined this magnificently—I have never seen a nominee with such bipartisan support as this woman. This is what is so extraordinary about the kind of treatment she is receiving: a secret hold that has been placed on her.

Mr. President, this is not the way to run the U.S. Senate. Let's allow this woman's name to be placed on the floor and then those who have any objection can express their objections and vote no. But I am so confident that the vast majority of our colleagues will vote for Margaret Morrow.

I say that not only because of her extraordinary bipartisan support, but because of her incredible qualifications. I say to my friend from Vermont how much I appreciate his leadership on this. Sometimes we forget these nominees have private lives. This is a woman who is a law partner in a law firm making preparations for a new career. She is a 45-year-old wife and mother. She has a very loving family. They are very proud of her. They are completely mystified about these questions that keep coming. I have talked to several members of the Judiciary Committee, both Democrats and Republicans, and when I speak with them, I say to you, Mr. President, one on one, I am very confident that Margaret Morrow will get a vote and a fair vote.

I want to quote from one letter that is so important.

H. Walter Croskey, associate justice in the Court of Appeals for the State of California, Second Appellate District, describes himself, Mr. President, as a conservative Republican. He has written to Senator HATCH, and he wrote to Senator HATCH about an article he read that suggested that ''concerns have been raised in the [Judiciary] Committee about judicial activism and noted that there were questions as to whether Margaret would be a judge who would follow the Constitution and the laws as they are written.'' He says, ''Such concerns are not shared by anyone who knows Margaret.'' And he goes on to say, ''Her well known and often expressed reverence for our system of government and justice and her great intellectual integrity provides full assurance that she would be the kind of judge who would follow and apply the laws as written * * *.''

He goes on.

Mr. President, we have Republican after Republican from my State. This particular judge was appointed by George Deukmejian, Republican Governor of the State of California.

Mayor Richard Riordan, Sheriff Sherman Block, a Republican-elected sheriff, supports her nomination.

So it is so difficult, frankly, for this Senator to understand why we would play with the life of a woman like this and not give her her fair chance.

I understand that women's organizations have written to Senator LEAHY and Senator HATCH. They have been very patient. But when you see a panel of people, as Senator LEAHY has described, three men and one woman, and the three men get reported out of the committee—and I venture to say, I know they are all extremely qualified—I would put Margaret's qualifications right up against any of those.

So I am very pleased that my colleague, the ranking member on the Judiciary Committee, has raised this issue. I am hopeful, I say to my friend and the Presiding Officer today, that because Senator GRASSLEY has lifted his objection to bringing the nomination to the floor and others on the committee have done the same, that they will prevail upon that secret hold, they will find who that particular Senator is who has put a hold here. If we start putting holds on each other's nominations and on each other's bills and on each other's amendments, I say to my friend, we are only going to deteriorate in this U.S. Senate. The people expect more.

To reiterate Mr. President, I come to the floor today to urge that Margaret M. Morrow be voted out of the Judiciary Committee and confirmed to sit on the U.S. District Court for the Central District of California.

Margaret Morrow is an outstanding candidate for the Federal bench, who enjoys broad bipartisan support. She has over a dozen support letters from prominent, widely respected Republicans, including judges, elected officials, and others. It has been my honor to recommend such a fine candidate to the President. Her name was submitted to me by my judicial advisory committee for the Central District of California. My committee enthusiastically found her to be a superior judicial candidate.

However, despite her strong bipartisan support and strong credentials, her nomination remains indefinitely stalled in committee. She has had two hearings, and has had several rounds of questions with no end in sight. No Member has come forward to explain why she should not be confirmed.

MARGARET MORROW'S HISTORY

Margaret Morrow was first nominated by the administration on May 9, 1996. She received the first of her nomination hearings before the Senate Judiciary Committee on June 25, 1996, and was reported out of committee just 2 days later without any opposition from the committee.

For several months, Margaret Morrow's nomination sat on the Executive Calendar waiting to be moved, and finally died on the floor of the Senate when we adjourned at the end of the session.

Margaret was then renominated on January 7 of this year because of her impeccable credentials. Her nomination languished for over 2 more months until further action on March 18, when she had yet another hearing.

Twice, now, the Judiciary Committee has reviewed stacks of information she provided to the committee, a full FBI background investigation, and her testimony before the committee. Yet, Margaret still sits in committee, facing repeated rounds of questions with no end in sight.

JUDICIAL VACANCIES

Margaret Morrow's confirmation should not be held hostage for political reasons, Mr. President. According to the U.S. Constitution, the President nominates, and the Senate shall provide advice and consent. It is not the role of the Senate to obstruct the process and prevent numbers of highly

qualified nominees from even being given the opportunity for a vote on the Senate floor.

Today, we have 26 nominations from the President to consider. Every one of these nominations should be voted out of committee and placed on the calendar for consideration on the Senate floor.

MARGARET MORROW'S LIFE IS ON HOLD

The vacancy Ms. Morrow would be filling has been vacant since January 24, 1996. In 2 short months, this vacancy will become a judicial emergency. That will make three judicial emergencies in the ninth circuit courts, and four judicial emergencies in the California district courts. Two of those judicial emergencies will be in the Central District of California. I don't think I need to remind this body that the Central District of California in Los Angeles is one of the busiest courts in the Nation.

To provide some historical context, in 1992, every one of the 66 nominees approved by the Senate Judiciary Committee were approved by the full Senate. Every single person nominated, Mr. President, was under a Republican administration and a Democratic-controlled Senate. Included in those 66 judges were 11 circuit court nominees. In 1992, the Democratic Senate confirmed the highest number of judges of any year of President Bush's term. And the confirmations did not slow as the election approached. During the 4-month period between June and September, the Senate Judiciary Committee favorably reported 32 nominees, including 7 appeals court nominees.

Former Majority Leader Bob Dole spoke of this process himself. In June of last year, he said ''We should not be holding people up. If we need a vote, vote them down or vote them up * * * because [the nominees] probably have plans to make and there are families involved.'' Even then-Majority Leader Dole recognized the necessity to provide resolution for nominees out of fairness to these individuals and their families.

Before I speak about Ms. Morrow's credentials or historical precedent for judicial confirmations, I wanted to make the point that there is also a personal side to the judicial confirmation process. For nominees who are awaiting confirmation, their personal and professional lives hang in the balance.

Margaret Morrow—a 45-year-old mother and law partner—has put her life and her professional practice on hold while she waits for the Senate to approve her nomination. The Senate's delay has affected her ability to assume certain responsibilities at her law practice. Her whole family—particularly her husband and young son—have waited patiently for her confirmation to proceed. Many of us here in the Senate have no idea what kind of strain and stress awaiting confirmation means for these nominees. We owe to her prompt Senate consideration.

Mr. President, I am unaware of any substantive reason why Ms. Morrow's nomination has not been before the full Senate long before today. If another Member of this body has a reason for opposing her confirmation, I want the opportunity to discuss those objections, as does Ms. Morrow, and to move on to Senate consideration.

THREE POINTS

There are three aspects of Margaret Morrow's qualifications, in particular, I want to emphasize:

First, Ms. Morrow's long history and background in the legal profession. Her credentials are impeccable.

Second, Ms. Morrow has the confidence of a broad spectrum of supporters.

Third, Ms. Morrow's qualifications and the broad support she enjoys would make her an exceptionally distinguished addition to the Federal bench.

MS. MORROW'S LONG HISTORY AND BACKGROUND IN THE LEGAL PROFESSION, HER CREDENTIALS ARE IMPECCABLE

Ms. Morrow graduated magna cum laude from Bryn Mawr College, and received her law degree from Harvard University, graduating cum laude. Ms. Morrow has enjoyed 23 years in private practice in commercial and civil litigation, and is now a partner at the prestigious law firm of Arnold & Porter. She is married to Judge Paul Boland of the Los Angeles Superior Court and they have a son, Patrick Morrow Boland.

From 1988 to 1989, Ms. Morrow served as president of the 25,000-member Los Angeles County Bar Association, the second largest voluntary bar association in the country, and created an innovative program in California called Pro Bono Council which calls on members of the association to do pro bono work for the poor. From 1993, she served a 1-year term as president of the largest mandatory bar association in the country, the 150,000-member State Bar of California. Ms. Morrow was the first woman to ever hold this office in that organization.

Ms. Morrow has been recognized several times during her tenure in the legal profession. A few of these include a listing in 1994 as one of the top twenty lawyers in Los Angeles by California Law Business, a weekly publication of the Los Angeles Daily Journal. In 1995 and again in 1996, Ms. Morrow was included in the Los Angeles Business Journal's ''Law Who's Who,'' a list of 100 outstanding Los Angeles business lawyers.

Just this February, Ms. Morrow received the Shattuck-Price Award, the highest honor given by the Los Angeles County Bar Association for individuals with outstanding dedication to the high principles of the legal profession, the administration of justice and the progress of the county bar. Others who have received such distinction include Warren Christopher and Shirley Hufstedler, former U.S. circuit court judge and U.S. Secretary of Education.

MS. MORROW HAS THE CONFIDENCE OF A BROAD SPECTRUM OF SUPPORTERS

I'm not the only one who believes Ms. Morrow has an excellent legal mind and is a credit to the legal profession. Ms. Morrow enjoys the broad support of accomplished persons. Many of California's prominent and conservative Republican lawmakers and elected officials support her confirmation:

H. Walter Croskey, associate justice in the Court of Appeals for the State of California, Second Appellate District, and self-described conservative Republican writes to Senator HATCH about an article he read that:

> . . . suggested that concerns have been raised in the [Judiciary] Committee about judicial activism and noted that there were questions as to whether Margaret would be a judge who would follow the Constitution and the laws as they are written. Such concerns are not shared by anyone who knows Margaret. Her well known and often expressed reverence for our system of government and justice and her great intellectual integrity provides full assurance that she would be the kind of judge who would follow and apply the laws as written with her only agenda to make that system work better and more efficiently. . . . The reservations expressed about her are simply without foundation and should not deter the Judiciary Committee from taking prompt and favorable action on what we here in California regard as a truly inspired choice.

The district attorney of Orange County, Mike Capizzi, writes to Senator LOTT:

> I have absolutely no hesitation in commending her nomination to you as being among the very best ever likely to come before you. * * * Of particular interest to crime victims, law enforcement and public prosecutors are her initiatives and achievement in the fields of juvenile justice and domestic violence, where her efforts have helped focus national attention.

He ends his letter by stating:

> The record of scholarship, citizenship, and dedication to improving the legal system that Margaret will bring with her to the federal bench reveals great promise for a truly exceptional jurist of whom we will all be proud. I sincerely, wholeheartedly and enthusiastically entreat you to confirm Margaret's nomination for appointment to the district court, without delay. We need her.

Los Angeles Mayor Richard Riordan writes in strong support of Ms. Morrow's nomination. He adds that Morrow, ''would be an excellent addition to the Federal bench. She is dedicated to following the law, and applying it in a rational and objective fashion.''

Representative JAMES ROGAN, former Republican assembly leader in the California Legislature, now Member of Congress, who gave a supporting introduction for Margaret Morrow at her second hearing, wrote to Senator TRENT LOTT urging his support of Ms. Morrow's nomination because he believes she would be ''conscientious in applying the law.''

Republican Los Angeles County Sheriff Sherman Block also supports Ms. Morrow's nomination, stating she is an extremely hard worker with impeccable character and integrity.

Republican Robert Bonner, appointed by President Reagan as U.S. attorney for the Central District, later appointed to the U.S. District Court in

the Central District, and former head of the Drug Enforcement Administration under President Bush has also lent his support, stating she is a ''brilliant person with a first-rate legal mind * * * nominated based upon merit, not political affiliation.''

Lod Cook, chairman emeritus of ARCO, and a prominent Republican in the State of California wrote of Ms. Morrow:

I am convinced she is the type of person who would serve us well on the federal bench. I believe she will bring no personal or political agenda to her work as a judicial officer. Rather, her commitment will be to ensuring fairness and openness in the judicial process and to deciding cases on the facts and the law as they present themselves.

Mr. President, I ask unanimous consent that these and additional letters of support be printed in the RECORD.

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

STATE OF CALIFORNIA,
COURT OF APPEAL,
Los Angeles, CA, April 17, 1997.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Russell Senate Office Building, Washington, DC.

Re Nomination of Margaret Mary Morrow.

DEAR SENATOR HATCH: I am pleased to write in support of the nomination of Margaret Morrow to the United States District Court for the Central District of California. I have known Margaret for over 15 years, both professionally and socially. During that period, I have worked with her on many local and state bar activities and committees; I have had repeated opportunities to discuss legal issues with her; and she has appeared before me in both the trial and appellate courts on a number of occasions. Finally, I am very familiar with her reputation in the legal community, both in Southern California and statewide. Based on all of that, I believe that she is the most outstanding candidate for appointment to the federal trial court who has been put forward in my memory.

Yesterday, I read an article in our local legal newspaper about Margaret's second hearing before the Judiciary Committee on March 18, 1997. That article suggested that concerns have been raised in the Committee about judicial activism and noted that there were questions as to whether Margaret would be a judge who would follow the Constitution and the laws as they are written. Such concerns are not shared by anyone who knows Margaret. Her well known and often expressed reverence for our system of government and justice and her great intellectual integrity provides full assurance that she would be the kind of judge who would follow and apply the laws as written with her only agenda to make that system work better and more efficiently. She will be a judge of whom all Americans, Republican or Democrat, can be very proud.

Every now and then we have the opportunity to bring into government service a truly outstanding person, a person whose knowledge, intelligence, integrity and industry are such as to command universal respect and admiration. We have that opportunity with Margaret's nomination. As the second woman to head the Los Angeles County Bar Association, (the second largest voluntary bar association, after the ABA, in the nation), the first woman to be elected president of the California State Bar Association, an attorney who has won every award and accolade which can be bestowed by the California legal community and a practicing lawyer with superlative skills and reputation, she can truly be characterized as an exceptional choice for appointment to the District Court. Indeed, as I mentioned, I can recall none better in my professional experience. The reservations expressed about her are simply without foundation and should not deter the Judiciary Committee from taking prompt and favorable action on what we here in California regard as a truly inspired choice.

As a lifelong conservative Republican, I would be very disappointed to see members of the Committee, whose views I share and admire on so many issues, fail to embrace this exceptionally well qualified nominee. Margaret's nomination should be promptly approved and sent to the Senate floor with a favorable recommendation.

My best to you and your staff. Keep up the good work.

Yours truly,

H. WALTER CROSKEY.

P.S. As a matter of information and convenience, I am enclosing a copy of my resume. My appointment to California's general trial court and subsequent elevation to the Court of Appeal were made by Republican Governor George Deukmejian.

OFFICE OF THE DISTRICT ATTORNEY,
Orange County, CA, August 15, 1996.

Hon. TRENT LOTT
Office of the Majority Leader,
U.S. Capitol, Washington, DC.

DEAR SENATOR LOTT: I am writing to urge you not to lose the opportunity to add someone of Margaret Morrow's stature to the district court bench in Los Angeles.

As the district attorney of one of the nation's most populous counties, I know how important it is that the very best nominees possible be confirmed for judicial office. And knowing Margaret as I do, both on the basis of our professional relationship and association, and by virtue of her outstanding reputation within California's legal community, I have absolutely no hesitation in commending her nomination to you as being among the very best ever likely to come before you.

Margaret's impressive credentials, from *cum laude* graduate of Harvard Law School to President of the State Bar of California, speak for themselves, of course. Of particular interest to crime victims, law enforcement and public prosecutors are her initiatives and achievements in the fields of juvenile justice and domestic violence, where her efforts have helped focus national attention.

The record of scholarship, citizenship, and dedication to improving the legal system that Margaret will bring with her to the federal bench reveals great promise for a truly exceptional jurist of whom we will all be proud. I sincerely, wholeheartedly and enthusiastically entreat you to confirm Margaret's nomination for appointment to the district court, without delay. We need her.

Sincerely,

MICHAEL R. CAPIZZI,
District Attorney.

OFFICE OF THE MAYOR,
Los Angeles, CA, June 17, 1996.

Re Margaret M. Morrow.

Hon. ORRIN G. HATCH.
Chairman, Judiciary Committee,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN HATCH: I write to strongly support the nomination of Margaret M. Morrow for a judgeship on the United States District Court for the Central District of California.

Ms. Morrow has been a particularly active and contributing member of the Los Angeles Legal community for most of the twenty-two years she has practiced in our city. She has worked tirelessly to improve the quality, efficiency and accessibility of the courts proposing and advocating such measures as the consolidation of our two-tier trial court in California, working on efforts to improve our jury system, and promoting greater use of alternative dispute resolution by both the courts and the public.

She has also worked actively to improve life in our community, addressing such problems as domestic violence, child abuse, and juvenile delinquency with specific programs designed to increase public awareness and improve both private sector and governmental responses to these problems.

As the first woman President of the State Bar of California in its 67-year history, Ms. Morrow commissioned a comprehensive review of the attorney discipline systems in California. The study was designed to investigate criticisms from legal consumers that the system unfairly favored lawyers, and criticisms from lawyers that attorneys in certain practice areas were being targeted for selective prosecution. Finally, the study was to evaluate the structure and efficiency of the discipline operation, which at that time cost between $15 and $20 million each year.

The final report found that the system operated fairly for both clients and lawyers. Nonetheless, it recommended important changes to increase responsiveness—streamlined reorganization of the prosecutorial office, stiffer penalties for serious violations, greater public access to information concerning pending complaints, and reduced staffing and better personnel utilization by the State Bar Court. These improvements significantly strengthened what is generally considered to be the best lawyer discipline system in the country. To complement this effort, Ms. Morrow spearheaded the creation of a lawyer-client mediation program to provide a remedy for client complaints outside the scope of the discipline system.

In her earlier tenure as President of the Los Angeles County Bar Association, Ms. Morrow was responsible for the Association's promulgation of a Pro Bono Policy which established an annual goal for pro bono legal service by its members, and ultimately generated an additional 150,000 hours of pro bono time. Her efforts in this regard were designed to ensure that low-income people could access the courts to resolve problems and secure needed services, and thus feel less need to take matters into their own hands. During this period also, Ms. Morrow served as a member of the six-person Commission to Draft an Ethics Code for Los Angeles City Government. It was this body that proposed our city's current ethics law, and helped to increase public trust in our government.

As a lawyer, Ms. Morrow has had extensive federal and state litigation experience at both the trial and appellate levels. She is recognized within the profession as someone who can analyze complex legal problems thoroughly and litigate successfully. Ms. Morrow is perhaps best described as a ''lawyer's lawyer''—someone to whom other practitioners turn for advice and assistance at both the trial and appellate level. Because of her frequent appearances in court, she is also well respected by the state and federal judiciary, who value her intelligence and integrity as well as the quality of her written and oral advocacy.

I believe Ms. Morrow would be an excellent addition to the federal bench. She is dedicated to following the law, and applying it in

a rational and objective fashion. The residents of our community would be extraordinarily well served by her appointment as a Central District Judge.

Sincerely,

RICHARD J. RIORDAN,
Mayor.

ASSEMBLY MAJORITY LEADER,
CALIFORNIA LEGISLATURE,
Sacramento, CA, August 30, 1996.

Hon. TRENT LOTT,
Senate Majority Leader, U.S. Capitol, Washington, DC.

DEAR SENATOR LOTT: I am writing to urge your support of Margaret Marrow's nomination for a United States District Court judgeship in Los Angeles.

Margaret is a former president of the Los Angeles County Bar Association and the State Bar of California. In 1994, we worked together to secure passage of the trial court consolidation measure, and I found her to be tough, thoughtful and fair. She currently is a civil litigation partner with the Los Angeles law firm of Quinn, Kully and Morrow.

A judicial evaluation conducted by the American Bar Association's Judiciary Committee last year gave Margaret its highest rating, ''very well qualified.'' I have every confidence that, as a judge, Margaret would be conscientious in applying the law.

Please give the matter of her nomination every due consideration.

Sincerely,

JAMES E. ROGAN,
Assembly Majority Leader.

COUNTY OF LOS ANGELES,
SHERIFF'S DEPARTMENT HEADQUARTERS,
Monterey Park, CA, June 12, 1996.

Hon. ORRIN G. HATCH,
Chairman, Judiciary Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN HATCH: I would like to take this opportunity to endorse Margaret Morrow, who has been nominated by President Clinton to a United States District Court Judge position in Los Angeles.

Ms. Morrow is currently a partner in the law firm of Quinn, Kully & Morrow. She has established herself as a highly skilled attorney and has served as past president for the State Bar of California, the Los Angeles Bar Association and the Barristers' Section of the Los Angeles County Bar Association. As a Barristers' Committee Chair, she worked closely with the juvenile delinquency and dependency court system, helping administrators at a local detention facility improve the educational program and she published a handbook to help lawyers and the public to better understand the two systems.

She also established the Domestic Violence Counseling Program and held training sessions for lawyers. She involved law enforcement officials in planning and teaching the sessions to ensure focus on the law enforcement perspective on this type of case. Ms. Morrow's extensive professional activities indicates her willingness to be a positive aspect in the jurisprudence field.

Margaret Morrow is an extremely hard working individual of impeccable character and integrity. Her list of credits, both professionally and within the community is extensive.

I would like to recommend that you favorably consider her appointment. I have no doubt that she would be a distinguished addition to the United States District Court.

Sincerely,

SHERMAN BLOCK,
Sheriff.

STATE OF CALIFORNIA,
COURT OF APPEAL,
Los Angeles, CA, June 11, 1996.

Re Judicial Candidacy of Margaret M. Morrow.

Hon. ORRIN G. HATCH,
Chairman, Judiciary Committee, U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: I write to endorse President Clinton's nomination of Margaret Morrow for the United States District Court in Los Angeles. I also recommend that you give priority to her confirmation.

I am a lifelong Republican, some would call me a conservative one. I was born in Utah, am an active member of the LDS Church, and have sent my children to Provo, Utah, for their post-high school education. The Los Angeles Chapter of the J. Reuben Clark Law Society recently named me as ''Outstanding Lawyer 1996.'' As a California Deputy Attorney General in 1981–1984, I successfully prosecuted Angelo Buono for the 1977–78 ''Hillside Strangler'' serial murders in Los Angeles. Since then, Governor George Deukmejian has appointed me to successive judicial positions (municipal and superior courts, and California Court of Appeal). In 1993 Governor Pete Wilson appointed me to my present position as Presiding Justice of my division of the California Court of Appeal. I provide you this background information to give some perspective to my recommendation.

I have known Margaret Morrow for over ten years. I am convinced that she will be a most dedicated and competent United States District Court judge. She presently enjoys the greatest respect from a very broad spectrum of the California judiciary and bar. Her service as President of the California Bar Association was widely applauded, and her professional work as an attorney is considered of the highest caliber. She is representative of the mainstream of California legal and judicial culture.

I have also known her husband, Los Angeles superior court judge Paul Boland, for many years as a colleague and friend. He and Margaret are among the most decent people I know. They are energetic, yet kind and considerate to everyone with whom they come in contact. I also believe they embrace high moral principles and values. This is the one nomination recommended by our California senators that you should readily promote. I am confident that prompt and full consideration of Margaret Morrow's nomination will convince you that any President or Senate would do well to select her as a federal judge. Please feel free to call on me should you desire further information.

Very truly yours,

ROGER W. BOREN,
Presiding Justice.

U.S. COURT OF APPEALS,
Pasadena, CA, June 4, 1996.

Hon. ORRIN G. HATCH,
Chair, Senate Judiciary Committee, Washington, DC

DEAR SENATOR HATCH: At the risk of being an ''officious intermeddler,'' I thought I should formally let you know that I have known Margaret M. Morrow, one of the President's nominees for the Central District of California, for twenty years or so and believe that she will be an outstanding United States District Judge.

Apart from serving the bar in ways too numerous to mention, she is among the ablest advocates in the country. As former Chief Judge Wallace and I remarked after hearing her argue a difficult matter before our panel a few years ago, hers was one of the finest, most thoroughly professional, arguments we had heard.

Ms. Morrow is an intelligent, extremely competent lawyer who has specialized in complex litigation and has the kind of experience and judgment necessary to manage the complicated case load of the federal trial court. I have no doubt that my view of her potential for bringing distinction to the court is shared by my colleagues on the Central District and the Ninth Circuit, as well as by the bar in Los Angeles.

If there is anything further I can add to your Committee's consideration of Ms. Morrow's nomination, I would be happy to talk to any member of your staff.

With best regards,

PAMELA RYMER.

U.S. COURT OF APPEALS,
Boise, ID, August 13, 1996.

Hon. TRENT LOTT,
U.S. Senate, Washington, DC.

Re Margaret Morrow, Judicial Candidate—District Court, Central District of California.

DEAR SENATOR LOTT: Although I am aware of the difficult dynamics of Senate confirmation of judicial nominees during an election year, nevertheless I would hope you would act favorably on the candidacy of Margaret Morrow who is currently on the floor waiting for a vote. She is without a question a superior candidate with bipartisan support whose confirmation would be received favorably by everyone in my old district. We need her in the Circuit to attend to the heavy case load generated in large measure by important legislation enacted by Congress.

Thank you for your consideration.

Sincerely,

STEPHEN S. TROTT,
Circuit Judge.

JUNE 7, 1996.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: I understand that President Clinton has nominated Margaret M. Morrow to serve on the United States District Court for the Central District of California.

I have known Ms. Morrow as a lawyer of great distinction in the Los Angeles Bar. In fact, it is more unusual to find a lawyer who is held in such high esteem by his or her peers as to have been, as has been Margaret, elected President of both the Los Angeles County Bar Association (the largest voluntary bar in the United States) and the State Bar of California.

As a former Judge, and President-Elect of the Los Angeles County Bar Association, I have been in a position to observe Ms. Morrow's ability and demeanor over an extended period of time. As former Chairman of Senators (now Governor) Wilson's and Seymour's Committee on Selection of Federal Judges, U.S. Attorneys, and Marshals for the Central District of California, I certainly believe I have gained an appreciation for what kind of a combination of character, work ethic, demeanor and intelligence is required to fulfill the demanding position of a United States District Court Judge.

As an individual who has had the privilege of helping select so many District Court Judges, I can say without fear of contradiction that to a man and women, I believe the entire Court of this District would welcome her with open arms. She will be a great credit to the bench, and deserve your serious consideration and acceptance.

I recommend Margaret Morrow without reservation.

Sincerely,

SHELDON H. SLOAN.

Mrs. BOXER. Ms. Morrow's qualifications and the broad support she enjoys

would make her an exceptionally distinguished addition to the Federal bench.

Finally, her qualifications and the broad support she enjoys makes her an exceptionally distinguished addition to the Federal bench. Mr. President, the Judiciary Committee has already reviewed Ms. Morrow's background, which is outstanding. To echo the recent words of Republican Judge Pamela Rymer, appointed in 1989 to the Ninth Circuit Court of Appeals by President Bush, I too am looking forward to the day Margaret Morrow sits on the bench of the U.S. Federal District Court in the Central District of California. I am in agreement with Judge Rymer that Ms. Morrow will bring distinction to the district court.

In sum, Mr. President, I continue to strongly support Ms. Morrow's renomination by President Clinton.

I am fully confident that the Members of the Senate when fully informed will agree with me that Margaret Morrow's qualifications are outstanding and she is deserving of expeditious Senate confirmation. Her exceptional experience as an attorney, her professional service, and her deep commitment to justice qualify her to serve our Nation and the people of California with great distinction. And as evidenced by the letters I have read from, she has strong bipartisan support from some of the most prominent and conservative Republicans in my State.

Again, my deep thanks to my friend for yielding.

Mr. LEAHY. I might say to my friend from California, we talk about the secret hold. I mean, if there is a Senator who has some objection to her, let him vote against her.

Mrs. BOXER. Right.

Mr. LEAHY. Let us bring the nomination up.

The irony is, you know and I know, with her qualifications, anybody would be embarrassed to vote against her because there would be no way they could explain back home how a woman, one of the most qualified nominees to come before the Senate for a Federal court nominated by any President, Republican or Democrat, is held up.

I say to my friend from California, who has worked so hard and so diligently, one-on-one with Members to get this moving, it is, unfortunately, part of a picture. I have this chart which shows now we have 99 vacancies. We will have more. The number of judges who have been confirmed in the 105th Congress—when we first put this chart together, we wanted to show the vacancies on this side.

I see my friend from Maryland, too. I will show him, too.

We wanted to show the vacancies confirmed on the other side. We could not see the number that have been confirmed, so we put in this magnifying glass. I feel like Sherlock Holmes with my little magnifying glass going down.

There are 99 vacancies, and down here, two being confirmed. We have had more vacancies this year than we have had judicial confirmations in the U.S. Senate. Maybe we can shave a day off each one of these recesses and confirm some judges during that time. We have not had time to do much else. We ought to at least confirm those.

In fact—and I will share one of these with my friend from Maryland. The distinguished senior Senator from Maryland is on the floor. I thought he might be interested in noting where we stand on this.

You might want to take a look at that, I say to my good friend from Maryland. We came at the beginning of the year with actually 78 vacancies. And then, as often happens, people realize that they have grown older or they're taking senior status, whatever, they start retiring. We go from 78 to 89, to 92, to 94, to 96, to 99.

We go in January, zero confirmed; in February, zero confirmed; in March, two confirmed; and those are the same two listed here. We have not gone above two. So while this list goes up, that stays even. People are used to talking about zero population growth. This is zero population growth in the judiciary.

I understand that Speaker GINGRICH and others felt there was some political gain to shutting down the Federal Government about a year and a half ago. The American people did not think there was, but for some reason they did. It appears to me what they are trying to do is shut down the Federal courts. This is an unprecedented, unprecedented situation.

In the 102d Congress we had a Republican President and a Democratic-controlled Senate. We confirmed 124 judges.

In the 103d Congress we confirmed 129.

Even in the last Congress 75.

Now we confirmed 2 with 99 vacancies.

Chief Justice Rehnquist says:

> The number of judicial vacancies can have a profound impact on a court's ability to manage its caseload effectively.

He says:

> It's hoped that the administration and Congress will continue to recognize that filling judicial vacancies is crucial to the fair and effective administration of justice.

That is what it comes to.

The American taxpayers, Republicans and Democrats alike, pay taxes to have their courts run. The courts do not run if the vacancies are there. You do not have criminal cases handled the way they should. People are forced to plea bargain because they cannot get through. You do not have civil cases that you may want to hear if you are a litigant; you have a case you want heard, you cannot have it heard. This is wrong.

I was in another State the other day, Monday, and somebody was telling me how they have to go out and hire private judges to hear their cases. Now, these are people who are already paying the taxes. They are already paying for courts that are sitting there. But there are no judges to hear the cases. The vacancies cannot be filled so they go out and hire private judges.

I mean, this is sort of like saying I will pay my taxes to have a police officer and a police department, and I paid for it. The money is there. We pay the money for the police department and the police officers, but some person in the community says, ''Well, we're not going to hire any police officers. We're not going to have anybody there. So even though you paid your taxes for that, if you want your property protected, you have got to go out and hire a private police officer.'' Well, we are doing the same thing with the judges.

Mr. President, I think this is an outrageous situation. Let us see what we have here.

In 1980, we did nine appeals courts—these were Presidential election years during the second Senate session, Presidential election years, and we did 9 appeals court judges and 55 district court judges. All the way down through here you can see many times with Republican Presidents and a Democratic Congress we cooperated.

Nothing has happened here.

Mr. SARBANES. Would the Senator yield on that point?

Mr. LEAHY. Of course I will.

Mr. SARBANES. I think the chart the Senator has just put up is a very dramatic chart in demonstrating what has happened here. As I understand it, this chart shows the number of judges confirmed during a second Senate session in Presidential election years. We all know that what happens in a Presidential election year is that there is a slowdown because the party that does not have the White House thinks it may get the White House and then it will be able to effect the appointment of judges.

I ask the Senator from Vermont, as I understand his chart, this shows that in 1996, last year, with a Democratic President and a Republican-controlled Senate, there was this incredible slowdown in the number of judges confirmed, which has continued into 1997.

But in 1996, no court of appeals judges were confirmed and only 17 district judges. Is that correct?

Mr. LEAHY. The Senator is not only correct, but I would ask him to contrast that with the last year of the Bush administration with a Democratic-controlled Senate and the difference in the cooperation of the Democrats with a Republican President than they show the Republicans with a Democratic President.

Mr. SARBANES. The able Senator from Vermont is very perceptive because he anticipated the next point I want to go to, which is to contrast what happened last year with what happened in the last year of the Bush Presidency, 1992, an election year.

The Senate majority was then in Democratic hands, and yet we confirmed 11 judges for the court of appeals nominated—nominated—by

President Bush and 55 judges for the district court nominated by President Bush, for a total of 66 judges.

Last year, a comparable situation, except it was reversed. We had a Democratic President making the nominations; the Republicans controlled the Senate; 17 judges, a total of 17 judges. No court of appeals judges, 17 district judges compared with 66 judges in the last year of President Bush's term.

In fact, the last year of President Reagan's term, again with a Democratic Senate, we confirmed 7 court of appeals judges and 35 district court judges.

Mr. LEAHY. We actually did better with district court judges with the Democrats in charge than President Reagan did at the end of his first term with the Republicans in charge.

Mr. SARBANES. In 1984. The Senator is absolutely correct.

Mr. President, this is an extraordinary slowdown in the confirmation of judges. Then, of course, what happens is none—only two have been confirmed this year thus far.

So in the last virtually year and a half, 19 judges.

I just submit to you this game ought to stop. We ought not to be playing with the Federal courts in this way. If people have a legitimate objection to a particular nominee, they ought to voice that objection and vote against them and try to persuade their colleagues to vote against them. But this is crippling the courts. The Chief Justice of the United States has been driven to the unusual posture of registering his complaint about it.

I am frank to say to you, I think that Members of this body, Democrats and Republicans alike, have a responsibility to ensure that the Federal court system can work in a reasonable fashion. It is not going to work in a reasonable fashion if you slow up the confirmation of judges to this extent.

It has not been done before. I mean, this breaks with all previous patterns and previous precedents. I just submit that we are not going to maintain public confidence in the judicial system, and we ought not to politicize the judicial process the way it is being done.

So I want to commend strongly the senior Senator from Vermont, the ranking member of the Judiciary Committee, for bringing this issue once again to our attention. It is beginning to cripple the Federal courts. There is no question about it.

As my colleague from California pointed out, it is terribly unfair to some very able and dedicated people who have been nominated and then their life simply placed on hold in terms of their normal activities. It is a marked departure from any sense of comity that has heretofore prevailed in this body and a marked departure from the respect that has traditionally been shown to the Federal court system.

I very much hope that we can begin to address this situation, begin to hold hearings, report the people out, confirm them when they come before the Senate. I thank the Senator from Vermont for his forceful leadership on this issue.

Mr. LEAHY. I thank my friend and colleague from Maryland and my friend and colleague from California for their statements.

I ask the Chair how much time remains.

The PRESIDING OFFICER. The Senator from Vermont has approximately 9 minutes and 50 seconds remaining.

Mrs. FEINSTEIN. Mr. President, I rise to join my colleagues in decrying the stranglehold that has been placed on Federal judicial nominations by the Senate, including the Judiciary Committee, of which I am a member.

The numbers bear repeating, because they are simply appalling. Last year, the Republican Senate confirmed an abysmally low number of judges—only 17. And none of these was for the courts of appeals.

Compare this to when the roles were reversed in 1992, the year a Republican President was running for reelection and the Democrats controlled the Senate. That year, the Democratic Senate confirmed 66 Federal judges, including 11 court of appeals judges.

It was thought that, after the election was over, the Senate would return to the normal course of fulfilling its constitutionally-mandated role in the judicial nomination process.

Unfortunately, however, that has not proven to be the case. It is now midway through May, and the Senate has confirmed just two Federal judges. The Judiciary Committee has only held two nominations hearings.

California has been especially hard-hit by this slowdown on Federal judges. More than one-fourth of the judges whose nominations are languishing in the Senate are from California—7 out of 26.

Five of these seven judges were nominated in the last Congress. Let me tell you a little bit about each of them, to put some faces on the nominees whose lives have been disrupted by the Senate's extended failure to act on their nominations:

Richard Paez is already a respected Federal judge on the district court in Los Angeles. He was nominated by the President to the Ninth Circuit Court of Appeals on January 25, 1996. The Judiciary Committee gave him a hearing on July 31, 1996. However, the committee has never taken any further action on his nomination.

Tomorrow, Christina Snyder will have been before the Committee for 1 full year, as she was first nominated by the President to Federal district court in Los Angeles on May 15, 1996. Ms. Snyder is a graduate of one of the top law schools in the country, Stanford Law School, for which she has since gone on to serve on the board of visitors. She is a member of the prestigious American Law Institute, and her nomination has received bipartisan support, including endorsements from the Republican mayor of Los Angeles, Richard Riordan, and the Republican Sheriff of Los Angeles County, Sherman Block. I am not aware of one whit of substantive opposition to her nomination.

And yet, Ms. Snyder has been unable to get even a hearing before the Judiciary Committee. Already this year, the committee has held hearings on the nominations of four men who were nominated after Ms. Snyder, including one who was only nominated for the first time this year, in 1997. I am optimistic that the chairman of the Judiciary Committee will agree to place Ms. Snyder on the agenda for the committee's next nomination hearing, and again urge him to do so.

Margaret Morrow actually was favorably reported by the committee last year, unanimously, but her nomination died on the floor. She was nominated over a year ago, on May 9, 1996. Morrow is a graduate of Harvard Law School, was the first woman president of the State Bar of California, and has received numerous awards for her work as a lawyer and her commitment to public service.

The committee held a second hearing on her nomination this year. But while the three men who were heard along with her have all been favorably reported out of the committee, she has not even been brought up for a vote. Her nomination has been slowed while members of the committee from the other side of the aisle pose round after round of follow-up questions to her, including asking for her view on some of the most controversial issues that have been considered by Californians on the ballot over the last 10 years. This level of scrutiny previously has been reserved for Supreme Court nominees, who shape constitutional interpretation, rather than merely following precedent a district court judge does. In my time on the committee, I have never seen this level of scrutiny applied to a male district court nominee.

Jeffrey Miller is a superior court judge in San Diego, who was appointed to that post by Republican Governor Deukmejian. An accomplished jurist and a veteran of the State attorney general's office, he has been complimented by numerous fellow judges. First nominated last July, his nomination is now on the floor of the Senate. I hope that the majority leader will call up his nomination for action by the Senate.

William Fletcher's nomination to the Ninth Circuit Court of Appeals has been languishing for more than 2 years, having first been made on April 25, 1995. Fletcher is a professor at the Boalt Hall School of Law at the University of California at Berkeley, where he has won the Distinguished Teacher Award. He is a magna cum laude graduate of Harvard; he earned his law degree from Yale Law School; he is a Navy veteran, a Rhodes Scholar, and a former clerk on the U.S. Supreme Court. He was favorably reported by the committee almost a year

ago, on May 16, 1996. However, the committee has taken no action on his nomination this year.

This outstanding group of holdover nominees from the last Congress has been joined this year by two more nominees, Anthony Ishii and Lynn Lasry, who have been nominated to the Federal district courts for the Eastern District and Southern District of California, respectively.

Mr. President, the time has come to act on these nominations. I'm not asking for a rubber stamp; let's hold hearings on those nominees who haven't had them, and vote on all of them, up or down, yes or no.

California needs these judges. The chief judge of the ninth circuit, Procter Hug, Jr., has said,

> our federal courts here in the 9th Circuit, and particularly our court of appeals, are facing a vacancy crisis of serious proportions. We simply do not have enough active district and appellate judges to hear and decide cases in a prompt and timely manner.

While filings in the Ninth Circuit Court of Appeals have increased by over 60 percent since 1985, the court currently has 8 vacancies, more than any other circuit in the Nation.

In the last 5 years, case filings in the Eastern District of California have skyrocketed by 49.7 percent.

In the Southern District of California, case filings have increased by 94.7 percent since 1991—a pace that more than triples the national rate of increase of 27.5 percent.

In an editorial last month, the Los Angeles Times put it well:

> [The Margaret Morrow] case is only one of many in a deplorable situation that has gone on far too long. Justice is not served by an empty bench. Nor is society. Whichever party holds the Congress and the White House, gamesmanship over judicial appointments produces no winners. It only leaves a void . . .
>
> [The Senate's] record of delay, attempts to kill funding for some appellate seats and its harassment of Morrow and other qualified nominees reveals a deeply troubling partisanship.

Last we looked, the U.S. Constitution grants the President the power to nominate and directs the Senate to ''advise and consent,'' not stonewall. The 26 nominations now pending would be a good place to start.

I urge my colleagues, let's end the gridlock on judges. Let's not hold the third branch of government hostage to partisan politics.

Mr. KENNEDY. Mr. President, the Federal courts today suffer from far too many unfilled judgeships. There are at least 99 vacancies for judges in the appeals courts and district courts. Twenty-four of these vacancies—in the appellate courts and in the trial courts—are judicial emergencies according to the definition of the Judicial Conference of the United States. That is, the positions have been vacant for at least 18 months.

As a result, caseloads are backlogged throughout the country, and the victims of this situation are the American people. Justice delayed is justice denied. Thousands of Americans with legitimate grievances cannot get their day in court, because there are few Federal judges to hear their cases. Citizens must wait excessive lengths of time to resolve disputes, answer constitutional questions, and obtain justice.

We need strong courts to combat crime, to put criminals behind bars and make sure they serve their time. We need strong courts to protect families, jobs, and businesses. Where else can Americans go when they are treated unfairly on the job or when their small businesses are run over by larger corporations?

Just this week, I received a letter from a lawyer in San Diego who is concerned that the Federal court serving the city has had two vacancies unfilled for over 2 years.

He writes,

> Our federal court in San Diego is at the breaking point. For more than two years, the Court has valiantly struggled with a burgeoning case load and managed barely to keep its head above water by dedicated and innovative work on the part of our senior and active judges and our magistrate judges. But the system has been stretched as far as it can go. It desperately needs its two judges.

In fact, President Clinton has submitted two qualified nominees to fill these vacancies, but the Senate has yet to take action on them. Jeffrey Miller was nominated last July. In March, he finally had a hearing and was approved unanimously by the Judiciary Committee in April. But his nomination has been languishing ever since, waiting for the Senate to act. The Republican leadership won't let the nomination come up for a vote.

The problems in San Diego are being repeated in communities throughout the United States, and a major cause is the intentional stall by Congress in processing new judges.

So far this year, the Republican-controlled Senate has approved only two judicial nominees. Three more have been approved by the Judiciary Committee, but the Republican leadership has made no effort to put them before the Senate for confirmation.

Last year, in the Republican-controlled Senate, only 17 district court judges were approved, and no appeals court judges were approved—none—zero.

Since 1980, the Senate confirmed an average of 51 judges per year. When measured against this standard of performance, today's Republican Senate gets a failing grade.

Republicans shut down the Federal Government in 1995 and were rightly criticized for that unwise action. They say they will never do it again, and are even trying to pass a law that would put the Government on automatic pilot if a budget agreement is not reached. But at the same time, behind the scenes, there is a Republican scheme to shut down our Nation's courts.

The issue is far more than a numbers game. What we are witnessing today is a direct assault on the President's constitutional power to nominate and appoint judges.

Our Republican friends claim they want to move ahead on nominees. They say the current stall on judicial nominations is not an effort to force President Clinton to apply Republican litmus tests to nominees. We hear that the unwise plans proposed by Senator GRAMM of Texas and Senator GORTON of Washington were defeated in the Republican caucus 2 weeks ago.

But the facts speak for themselves. Republicans have shut down the courts and the American people are suffering the consequences.

Republicans say they want to make sure that no activist judges are appointed to the courts. They've also begun to attack sitting judges. Judge Martha Daughtry of Tennessee is a case in point. She was nominated by President Clinton to the Sixth Circuit Court of Appeals and confirmed by the Senate in 1993 with broad bipartisan support.

Later, a prominent State judge in her circuit was convicted of Federal civil rights offenses involving sexual assaults on court employees, job applicants, and female attorneys. A three-judge panel of the sixth circuit affirmed the conviction. But the en banc court, dominated by Reagan and Bush appointees overturned it. They ruled that the U.S. Constitution does not give Congress the power to protect women from sexual assaults by State officials.

Judge Daughtry dissented. She said that the right of citizens to be free from physical harm by public officials who abuse their authority has been recognized ''since the sealing of the Magna Carta.''

But Presidential candidate Bob Dole attacked Judge Daughtry and placed her in his ''Hall of Shame.'' He cited her as an example of the liberal activist judges that President Clinton appointed to the bench.

Judge Daughtry had the last laugh. Two months ago, the Justices of the U.S. Supreme Court not only reversed the sixth circuit decision, they reversed it unanimously, and cited Judge Daughtry's dissent in their opinion.

Another case in point is Margaret Morrow, whose nomination is pending in the Judiciary Committee. There should be no doubt about her competence and judicial temperament. Her nomination received the American Bar Association's highest rating. She has numerous endorsements from her peers in California—both Democrats and Republicans. She is a corporate lawyer, hardly an activist by anyone's definition. She was the first woman president of the State Bar of California. She is a past president of the Los Angeles County Bar Association. She has received numerous awards from the Los Angeles Bar Association, the California Judicial Council, and other legal associations. In 1994, she was listed as one of the top 20 lawyers in Los Angeles in

California Law Business. The Los Angeles Business Journal named her one of the top 100 business lawyers in Los Angeles in 1995 and 1996.

Probably the greatest test of her temperament for the job is the manner in which she has responded to the Senate Judiciary Committee. Despite the fact that she was held over for a second hearing in the committee and the many questions addressed to her, she has responded thoroughly, professionally, efficiently, and appropriately to each one. That is exactly what we want in a Federal judge.

An extremely well-qualified woman is being held up arbitrarily. There is no justification whatsoever for this unfair delay.

I hope that our Republican friends will reconsider their stall on judicial nominations. The rule of law in America depends on a healthy judiciary.

And if the Republican majority in the Senate does not move ahead to respond to the crisis in the courts, I hope that President Clinton will consider the only alternative he has left. In their wisdom, the Founding Fathers gave the President a useful additional power, the power of recess appointments. If the log jam doesn't break soon—very soon, the President should start using that power. The Memorial Day recess offers the next opportunity to make recess appointments, and the President should not hesitate to use it.

Mr. LEAHY. Mr. President, I ask unanimous consent a letter from the National Women's Law Center be printed in the RECORD.

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

NATIONAL WOMEN'S LAW CENTER,
Washington, DC, May 14, 1997.

Hon. ORRIN G. HATCH,
Senate Russell Office Building,
Washington, DC.

DEAR SENATOR HATCH: We are writing to express our grave concerns regarding the process being followed with respect to the nomination of Margaret Morrow to the district court in the Central District of California. Her original nomination was made one year ago. Yet, her nomination has not been moved through the process.

Ample information has been presented regarding her qualifications. She is a magna cum laude graduate of Bryn Mawr College and a cum laude graduate of Harvard Law School. She has a 23-year career in private practice with an emphasis in complicated commercial and corporate litigation with extensive experience in federal courts. She has received a long list of awards and recognition as a top lawyer in her field, her community and her state. She is a leader and path blazer among women lawyers, as the second woman President of 25,000 member Los Angeles Bar Association and the first woman President of the largest mandatory bar association in the country, the 150,000 member State Bar of California. She has consistently been a voice within the legal community for women and for the disadvantaged. She has received broad support from attorneys, judges and community leaders.

You questioned four nominees on March 18, 1997. The other three, all men, have moved forward toward a Senate vote. Margaret Morrow has not.

No explanation has been provided which in any way justifies this extraordinary and harmful delay. Superb women lawyers should not be given the message that we fear is being sent by the handling of Margaret Morrow's nomination—that no woman need apply unless she is prepared to be singled out for particularly harsh treatment.

We urge you to send her nomination to the Senate floor immediately.

Sincerely,

NANCY DUFF CAMPBELL,
Co-President.
MARCIA D. GREENBERGER,
Co-President.

Mr. LEAHY. Mr. President, I note that over the past 2 weeks I have twice corrected a misstatement with respect to the three nominations pending on the Senate executive calendar. Twice, Republicans have said that some unknown Democrat had a hold on these judicial nominations. This is not so. Every single Democrat in the Senate is ready to vote, and vote today, on all the judicial nominees, the three judicial nominees is all it is, that have been voted out of committee so far. Every Democrat on the Senate Judiciary Committee is prepared to vote at the next Judiciary Committee meeting on all the nominees that are pending there. There is no, no Democrat with a hold on any judicial nominee—I want that very, very clear—neither in the committee nor in the Senate. If we have to have rollcall votes, we are glad to do that. But we should have these people come up.

We received Jeffrey Miller's nomination in July 1996, last Congress. The President renominated him on the first day of this Congress for the same vacancy, a vacancy that has existed since December 1994. We are in 1997 now. This is one of the judicial emergency vacancies we should have filled. He has the support of both Senators. He finally had a confirmation hearing 2½ years, almost, after the vacancy occurred. His nomination was considered. It has been reported to the Senate. We should vote on it.

We first received Donald Middlebrooks' nomination in September of 1996, last year. He was not accorded a hearing last Congress. This is for a vacancy that has been there since 1992, 5 years ago. That is a judicial emergency vacancy, and he has the support of both Senators from his State, one a Democrat, senior Senator, Senator GRAHAM, one a Republican, Senator MACK. This was reported by the Judiciary Committee to the Senate April 17.

Now, here is a vacancy that has existed for 5 years. We have a judge who has gone through the Senate Judiciary Committee, reported to the Senate, supported by the two Senators from his State, one a Democrat, one a Republican. For God's sake, if we cannot vote on it, what in Heaven's name can we vote on? This should be about as noncontroversial as voting to commend the Fourth of July.

We first received Robert Pratt's nomination in August of 1996. We did not get a hearing last Congress. The President renominated him on the first day of this Congress for the same vacancy in the district court for the southern district of Iowa. He had a confirmation hearing on March 18. He was supported by the two Senators from Iowa, Senator HARKIN and Senator GRASSLEY, and was reported to the Senate by the Judiciary Committee on April 17.

Well, why can we not go forward with him? You look at what we have, a distinguished woman who is being shunted aside by somebody who does not have the guts to come forth on the Senate floor and say why that Senator is holding her up. We have distinguished other judges that have gone through the confirmation process, supported by the two Senators, a Republican and a Democrat from their State, they cannot come forward.

I take our advise-and-consent function very seriously, especially when it comes to confirmation of Federal judges who have a lifetime appointment. Our system of government with coordinate branches and separation of powers, that is our responsibility. I voted to confirm some judges who ended up rendering decisions which I strongly disagreed. I voted for some judges to move from one Federal court to another, even though they had also had decisions with which I disagreed. I voted against some who turned out to be better than I predicted. But we voted on them.

If a judge decides a case incorrectly, well, then you have appeal. I remember when I used to prosecute cases, I remember somebody saying, as the juror went out to defense counsel, ''Well, let justice be done,'' and they said, ''Well, if that happens, we will appeal.'' If you lose a case, appeal it. If you think you have bad law, have a legislative change. In fact, the reason the founders included the protection of lifetime appointments for Federal judges was to insulate them from politics and political influence.

Merrick Garland had an 18-month wait for confirmation—a judge virtually everybody in the country that ruled on this, from the right to the left, on the judicial selection, said he was one of the most qualified persons ever to be up for the U.S. Court of Appeals for the District of Columbia. Mr. President, 23 Members of this body, all on the other side of the aisle, voted against Merrick Garland for that judgeship. Not one of them spoke against the nominee. Not one of them spoke against his impeccable credentials. In fact, some who voted against him praised his qualifications. They say they voted against filling an unneeded seat on the court of appeals, in the face of a letter from Chief Judge Silberman, who said they did need the seat, and a statement from Senator HATCH, who said it was needed.

In his concluding remarks, Senator HATCH said, ''Playing politics with judges is unfair, and I am sick of it.'' I agree with the distinguished chairman

of the Senate Judiciary Committee. Let the Senate quit playing partisan politics with judicial nominations. Let us do our constitutionally mandated job and proceed to confirm the judges we need for the Federal system.

EXHIBIT 1

In 1987 I heard from Tom Jipping, a student at the University of Buffalo Law School. The faculty had imposed a speech code that was more contemptuous of the First Amendment than even most of the politically correct gag rules proliferating on campuses around the country.

''Remarks,'' said the code, ''directed at another's race, sex, religion, national origin, sexual preference'' et al. would be severely punished. There was no further definition of ''remarks.'' Also prohibited were ''other remarks''—not defined—''based on prejudice and group stereotype.'' Any prejudice?

Unique to this law school code—unanimously passed by the administration and faculty—was a provision that the administration would provide the rap sheets of any guilty student to the character and fitness committees of any bar association to which the pariah might apply.

Tom Jipping, though vilified by a prominent faculty member and other speech police, fought the code, sending news of it to the outside world. (I wrote about it in The Post, and William Bennett spoke about it.) Eventually, after Jipping was graduated, this embarrassment to the law school faded away.

Jipping is now in Washington, where he directs the Judicial Selection Monitoring Project, an offspring of the Free Congress Foundation.

In his official role, Jipping sent a letter to all 100 senators, demanding they act to purge those ''activist'' federal judges who do not agree with Jipping's interpretations of the Constitution. On Feb. 4 a follow-up letter went to Sen Partick Leahy (D-Vt.).

In the letter, Jipping reminded Leahy that the senator had previously received ''a letter from the largest coalition in history to oppose judicial activism. . . . Please find enclosed an opportunity to express your position on this critical issue.''

He then quoted a resounding call for purges by Orrin Hatch, chairman of the Senate Judiciary Committee: ''Those nominees who are or would be judicial activists should not be nominated by the President or confirmed by the Senate, and I will do my best to see to it that they are not.''

Jipping went on to warn Sen. Leahy that if he did not sign the ''Hatch Pledge''—which Sen. Hatch will not sign because he doesn't sign pledges—the forces of judicial correctness will be unleashed. They will let Leahy's perfidy be known ''to the more than 260 national and state organizations and dozens of talk show hosts in our growing coalition.'' The talk show hosts can surely be depended on the assess Leahy's character and fitness.

Leahy must have enjoyed writing his answer to Jipping: ''I do not take pledges demanded by special interest groups on either the right or the left. Nor do I appreciate your thinly veiled threat that you will employ talk show hosts and national organizations to pressure me into making such a pledge.

''These tactics to force others to adopt your narrow view of political correctness are wrong, and reminiscent of a dark period from our history.''

The ever-vigilant Judicial Selection Monitoring Project should alert the dozens of talk show hosts that a relentless judicial activist, Chief Justice William Rehnquist, insists that ''the idea of an independent judiciary, with authority to finally interpret a written constitution . . . is one of the crown jewels of our system of government.'' Then there was a Founder, Alexander Hamilton, who wrote in the Federalist Papers that ''the complete independence of the courts of justice is peculiarly essential'' because the duty of the courts ''must be to declare void all acts contrary to the manifest tenor of the Constitution. Without this, all the reservations of particular rights or privileges would amount to nothing.''

Copies of the Federalist Papers might well be distributed to members of the Senate, particularly those hunting ''judicial activists'' and demanding their impeachment.

When Gerald Ford (R–Mich.) was in the House, he anticipated the current jihad with a rousing speech calling for the impeachment of Justice William O. Douglas. Ford, not a noted constitutional scholar, said that ''an impeachable offense is whatever a majority of the House of Representatives considers it to be at a given moment in history.''

That was spoken like the stunningly overbroad University of Buffalo Law School speech code. Majority Whip Rep. Tom DeLay (R–Tex.), a leader of the judge-baiters, recently quoted Ford's definition of impeachment approvingly in a letter to the New York Times.

It is a wonder that the Constitution, however battered from time to time, survives the U.S. Congress.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. I ask unanimous consent I be able to speak for 10 minutes as in morning business.

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

Mrs. HUTCHISON. Mr. President, I rise today to talk about Amtrak. I realize we have gone now from judges and we are going into other types of debate, but I want to introduce the Amtrak reauthorization and reform bill.

(The remarks of Mrs. Hutchison pertaining to the introduction of S. 738 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, May 13, 1997, the Federal debt stood at $5,337,494,540,137.51. (Five trillion, three hundred thirty-seven billion, four hundred ninety-four million, five hundred forty thousand, one hundred thirty-seven dollars and fifty-one cents)

One year ago, May 13, 1996, the Federal debt stood at $5,094,151,000,000. (Five trillion, ninety-four billion, one hundred fifty-one million)

Five years ago, May 13, 1992, the Federal debt stood at $3,889,146,000,000. (Three trillion, eight hundred eighty-nine billion, one hundred forty-six million)

Ten years ago, May 13, 1987, the Federal debt stood at $2,272,432,000,000. (Two trillion, two hundred seventy-two billion, four hundred thirty-two million)

Fifteen years ago, May 13, 1982, the Federal debt stood at $1,061,721,000,000 (One trillion, sixty-one billion, seven hundred twenty-one million) which reflects a debt increase of more than $4 trillion—$4,275,773,540,137.51 (Four trillion, two hundred seventy-five billion, seven hundred seventy-three million, five hundred forty thousand, one hundred thirty-seven dollars and fifty-one cents) during the past 15 years.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Utah is recognized.

EXTENSION OF MORNING BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that the time for morning business be extended by 10 minutes.

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

Mr. BENNETT. Mr. President, I ask that I be allowed to speak for up to 10 minutes as if in morning business.

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

NOMINATION OF LT. GEN. GEORGE T. BABBITT, JR.

Mr. BENNETT. Mr. President, I rise today to discuss the nomination that is before the Senate of Lt. Gen. George T. Babbitt, Jr. to be promoted and receive an additional star to become general in the U.S. Air Force.

When this nomination came to the Senate at an earlier time several months ago, I notified the majority leader that I would like to be informed prior to its coming to a vote. In Senate parlance, that is called putting a hold on this nomination. It was never my intention to hold up General Babbitt from receiving his additional star. But it was my intention to focus seriously on the policy of the Air Force which General Babbitt will be called upon to implement. Accordingly, I told the majority leader that I do not want this nomination to go forward until we have had an opportunity to discuss that policy in some length. The majority leader responded appropriately to my request, and we have had a series of events that I think satisfy my requirement for full discussion. I would like to outline those for the Senate today before I make it clear that I will have no further objection to proceeding with the nomination of General Babbitt. I speak entirely for myself. There are a number of other Senators who have also put holds on this nomination. What they will do with their holds is something that they will, of course, speak to on their own. I am speaking entirely, as I say, for myself on this matter.

I have been criticized by some Members of this body for putting a hold on a nomination for a member of the uniformed services, and was told, ''No. This should apply only to civilian personnel in the Department of Defense. You are using the uniformed services for a political purpose.''

Mr. President, if anyone has been using the uniformed services for political purposes and political gain it has been the Department of Defense, not the Senator from Utah. The Department of Defense, under instructions from the Base Realignment and Closure Commission—or BRCC—was told to close two of its five air logistics centers. That would be the best result for the uniformed services; in this case the Air Force.

A Member of this body, the then senior Senator from Maine, Senator Cohen, stood on this floor and berated the Department of Defense for its failure to abide by BRCC recommendations. He said very clearly that the Department of Defense was in violation of the BRCC recommendation by their attempts to keep two of those air logistic centers operating under the guise of privatization for competition. They invented a new term of art. They call it privatization in place. ''We will privatize the facility right where it is, which means we will not, as BRCC ordered us to, send the work that is currently going on in those facilities to the other facilities that can handle the work.'' That was what BRCC intended. That is what Senator Cohen attacked. And, yet, that is the policy that Secretary Cohen is now carrying out. That is the policy that I protested when I said that I do not want the nomination of General Babbitt to go forward until we can have a full airing of this issue.

I am happy to report to the Senate that the full airing for which I called has, indeed, taken place. We had a hearing before the Armed Services Committee, particularly before the Readiness Subcommittee, chaired by the Senator from Oklahoma [Mr. INHOFE].

In addition, we had a hearing before the Appropriations Committee, and in those hearings we found that, according to the General Accounting Office, the GAO, that the Air Force proposal for privatization in place will cost this country an additional $500 to $700 million—maybe even $800 million. At a time of tight defense budgets, at a time when we are talking about balancing the budget, it seems perverse for the Defense Department to say that we are going to waste that much money.

The Air Force in those hearings said, ''No. We will not waste that much money.'' But to the question of how much money will you save with your proposal of privatization in place, the Air Force has been basically silent. And their response has been overwhelmingly ''Trust us. We will not tell you how much money we will save, but trust us. We will save some, and the General Accounting Office figure is wrong.''

''How wrong?''

''Well, we do not know.''

''Why wrong?''

''Well, they don't understand our business.''

Mr. President, the General Accounting Office is the arm of the Congress created by law to be the fiscal watchdog of the executive branch. There can be no better example of the value of the General Accounting Office than this one, as they have gone behind the'trust me facade created by the Air Force and come up with numbers—lowest level $500 million, highest level $800 million, with $700 million being the guess about where it will finally come out.

So, by virtue of the hold that I put on General Babbitt's nomination, we have had those two hearings and have gotten that information into the public and on the record for the Senate.

In addition to those hearings, in response to my request to the majority leader, the Secretary of the Air Force last week met with me and two other Senators, Senator NICKLES and Senator INHOFE. And we had a full and frank discussion about this issue. To be honest with you, Mr. President, there was not much encouragement to come out of that discussion. Essentially, Secretary Widnall said, ''There is no problem. Therefore, we will not discuss with you any solution.'' She said to me, ''Please remove your hold on General Babbitt because it is having a corrosive effect on the personnel of the Air Force to have them continue without a commander.'' I said to her, and I repeat here today, there is a corrosive effect in this area certainly. But it is not caused by the fact that there is no confirmed commander. The corrosive effect is being caused by the Air Force's callous disregard for the needs of their personnel in the surviving air logistics centers, and for their refusal to abide by the BRCC process.

Following the meeting with Secretary Widnall today, I had a meeting again with Senator NICKLES, Senator INHOFE, and with General Babbitt. Where the Air Force said there was no problem relating to overcapacity in the air logistics centers, General Babbitt acknowledged that there is a big problem, and pledged himself to do the best he could to try to resolve it. He made it very clear, as he appropriately should, that he was not going to violate Air Force policy; that, as a uniformed officer, he would carry out his orders in this regard. And we would expect nothing less from him. But he did acknowledge, as the Air Force has not, to my satisfaction, that there is a serious problem of overcapacity, and that it calls for serious management solutions. And he pledged himself to provide those solutions to the degree he could within the policy dictated by his civilian superiors.

The Air Force has refused, as I have indicated, to give us any numbers. They have taken basically a trust me stance on this issue. General Babbitt, on the contrary, agreed, when I told him that we would want to see numbers, that he would make numbers available to the Congress. I said, ''General, as you proceed down this program of privatization in place, surely you are going to get some financial information that will tell you whether you are or are not saving money.'' And the financial information out of the Air Force should be available to us in Congress to compare with the analysis of the General Accounting Office. The Air Force, as I have said, Mr. President, has always refused to give us those numbers in the past. General Babbitt pledged that those numbers would be made available to Congress.

I consider this a significant act of good faith on the part of the general, because, once we have those numbers in front of us in the Congress, we can appropriately deal with this issue. And, if we find that the Air Force is correct, and they are saving the taxpayers hundreds of millions of dollars of privatization in place, and the General Accounting Office is wrong, I will be the first to come to the floor and congratulate the Air Force, because certainly I, like every other Senator, want to see to it that we save the taxpayers' money. But, if we find that, once we have the real numbers, the Air Force is wrong and the General Accounting Office is right, then I will be the first to come to the floor and once again demand that the Air Force try to solve this problem more intelligently.

The Air Force told us essentially there will be no change in policy regardless of whatever Congress does, regardless of your interpretation of the BRCC rules, and regardless of Senator Cohen's analysis, Secretary Cohen will insist that there be no change.

Mr. President, I ask unanimous consent that I be allowed to continue for another 3 minutes.

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

Mr. BENNETT. General Babbitt agreed that he would do whatever he could within the constraints of the policy laid down by the Air Force to give us intelligent management of this problem. That is the first sign of cooperation that I have seen out of this administration since this issue first arose.

So, Mr. President, because General Babbitt has made it clear, now that we have had our hearings in the Armed Services Committee, we have had our hearings in the Appropriations Committee, we have had our meeting with the Secretary of the Air Force, and we have had our meeting with him, that he will do what he can to address the issue within the constraints placed upon him by his civilian superiors to try to solve the problem, I am announcing my willingness to no longer insist that his nomination be held up. The purposes for which I made that insistence in the first place have been fulfilled. I will allow him to go forward to his additional star and his command, and I look forward to staying in touch with him in the spirit of the pledges he made to me and the other Senators this morning to see that this issue is properly resolved once and for all in the long term.

In sum, Mr. President, I am in no way backing down from my conviction

that this administration is shamelessly playing politics on this issue and has involved the uniformed services in a way that is totally inappropriate. I do not wish to be accused of doing the same thing in response because my desire is to solve the problem. I am hoping the administration will address it in the same spirit.

Mr. President, I ask unanimous consent that following my remarks the additional views of Senator WILLIAM S. COHEN on S. 1673 be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

[Excerpt From a Senate Report]

ADDITIONAL VIEWS OF SENATOR WILLIAM S. COHEN ON S. 1673

The FY97 National Defense Authorization Senate Armed Services Committee report includes a provision that changes the allocation of maintenance workloads between the public depots and the private sector from a 60/40 to a 50/50 split. Like most compromises, it will probably not satisfy everyone with an interest in this issue. I do not believe that the depot maintenance issue should be addressed this year as a result of the inability of the Department of Defense (DOD) to articulate its depot policy and its failure to adequately answer depot-related questions Congress requested in last year's National Defense Authorization Act. It appears that DOD is not interested in providing Congress with the data it needs to make an informed decision.

There is a need to reform how the Pentagon operates. Finding more efficient ways to support our war-fighters could result in billions of dollars in savings that can be transferred to support the modernization of our forces. DOD has proposed three methods of savings to fund modernization—procurement reform, base closings, and privatization. I am highly skeptical about significant savings accruing from any of these. The Congress has given DOD three revolutionary procurement reform acts in the last two years which could generate savings but I am fearful these may fail to achieve the desired effects due to management inertia. Likewise, the savings from BRAC may prove illusionary if the Administration continues to come up with proposals which are designed not for cost savings but to avoid the pain doled out in BRAC to politically important communities.

With regard to privatization, I believe the Pentagon has a misplaced sense of priorities. In the private sector, which DOD claims to emulate, organizations most frequently contract out for building management, fleet management, and information technology to better focus on their ''core competencies''. DOD has decided to turn this on its head by first outsourcing core competencies—for example, maintaining advanced weapon systems—while keeping most commercial business processes in-house.

If we are truly going to maximize the benefits of the commercial marketplace, I believe we should instead focus on those areas where the private sector has chosen to outsource, such as data processing, accounting, audit, transportation, and inventory. But the Pentagon wants to continue to operate its own data processing centers, develop its own software for financial systems when it can buy them off-the-shelf, like most private companies do, and manage its own inventory so the taxpayer ends up spending $36 billion more on goods that DOD does not need. And yet, the Pentagon wants to move quickly to privatize depots that were slated for closure by BRAC and further contribute to the excess capacity problem at public depots that have served our country so well since 1799.

On the point of privatizing closing facilities, there also seems to be a misunderstanding about the intent of the BRAC and the closure of the Air Logistics Centers at Kelly AFB and McClellan AFB. First, let there be no misunderstanding about the fact that the BRAC decisions were made under the assumption that 60 percent of the workload would go to public depots. The need to change this ratio to accommodate the Administration's plans to shift work to Kelly and McClellan illustrates that what we are doing in this bill is a clear circumvention of the BRAC process. To change the 60/40 criteria as the Armed Service Committee has agreed to will deteriorate critical warfighting capabilities, impede investment in the public domain, and most likely require further closures beyond what has been accomplished in BRAC.

The BRAC did not recommend or authorize ''privatization-in-place'' at Kelly or McClellan. Indeed for those facilities where the BRAC thought there was a unique capability that could lend itself to privatization-in-place (such as those at the Naval Air Warfare Center in Indianapolis or the Naval Surface Warfare Center in Louisville), a recommendation was made to that effect. The BRAC made no such identification or recommendation for facilities at the Kelly or McClellan Air Logistics Centers. Perhaps, it can be argued that the BRAC made a mistake and that it did not adequately recognize the unique potential of these two facilities. I would then argue that the BRAC did not adequately recognize the unique capabilities of Loring AFB in Presque Isle, Maine and I am sure some of my colleagues could argue the same for facilities in their states. The fact of the matter is that the BRAC made a recommendation and the Congress and the Administration accepted that recommendation with all of its consequences for national security and the economic impact on these communities.

Because of the implications of any change to 60/40 on excess capacity and concerns over DOD's direction on the privatization of defense depots, Congress asked the DOD to prepare a depot policy report. If Congress agreed with this policy, it would repeal the 60/40 rule. DOD ignored their deadline and sent up a policy just four weeks ago. The report did not meet the requirements that were outlined in last year's National Defense Authorization Act and was rejected by the Senate Armed Services Committee.

The Department of Defense's depot policy report was non-responsive and it was clear from DOD's April 17th testimony before the Senate Armed Services Readiness Subcommittee that DOD's policy was not well developed or supported. DOD's definition of core capability is so general that it is virtually meaningless. The report did not address how new weapons systems would be introduced in depots, or how public depots would be kept cost-efficient. There was a complete lack of detailed statistical data supporting the Pentagon's policy decisions and no data on past depot maintenance performance in which to support privatization decisions. In addition, there were neither plans to assure effective competition in a market where 76 percent of contracts are now let on a sole-source basis, nor a risk assessment on how plans for privatization-in-place would affect existing excess capacity and overall maintenance costs.

With the move to 50/50, the Senate Armed Services Committee is now saying DOD does not have a depot policy and Congress does not have the data to adequately develop its own policy, but we are going to repeal 60/40 anyway because it meets the short-sighted political agenda of the day. By repealing 60/40 at this time, we are rewarding DOD for not adequately responding to a congressionally mandated requirement. DOD's policy and the repeal of 60/40 were inextricably linked. to reject DOD's policy as the Armed Services Committee has done, is to reject DOD's call for a repeal of 60/40.

I do not believe we should give DOD any more flexibility in this area until DOD establishes a coherent policy on depot maintenance. It was apparent that this position was not universally accepted by my colleague on the Senate Armed Services Committee. When a compromise was offered to change the mix to 50/50, I reluctantly accepted it as I felt this was the best way to continue to maintain our nation's investment in the unique capabilities the public depots provide our armed forces in war and peace.

The committee report does provide some direction to require DOD to develop a rational depot policy. The final Committee agreement again asks DOD to report in detail on the provisions where it has failed to adequately respond. The committee directs DOD to provide answers to crucial questions needed by Congress in order to support an informed decision about maintaining a core logistics capability in the public sector. Some of the questions include:

What workloads should be ''core'' in each service?

What procedures will be used to conduct public-private and public-public competitions?

What is DOD's maintenance plan for new weapon system?

What level of organic work is necessary to provide efficient capacity utilization of the public depots that remain?

How does DOD plan to improve the productivity of the remaining public depots?

What are the estimated savings that will result from increased privatization?

This last question is crucial as DOD is proclaiming savings from consolidating depots, but then plans to keep more excess capacity with its policy of privatization-in-place. While DOD risks future modernization on savings supposedly generated by privatization of depot maintenance, these savings are unproven. DOD's estimated savings of 20–30% from depot privatization rely on past studies of the privatization of commercial type functions in the government where there is significant competition for contacts. This is in stark contrast to the marketplace for depot maintenance activities. In fact, the General Accounting Office found the Air Force is implementing a privatization plan at facilities at the Newark AFB that will most likely increase maintenance costs and not save the taxpayer any money as promised.

I would have preferred to delay any decision on depot maintenance until we secured all of the facts from DOD. However, the Senate Armed Services Committee has agreed to a compromise that I fully supported. Given the fact that the committee report allows DOD to shift to 50/50 while not obligating DOD to provide an adequate response to Congress, my continued support is dependent on the degree to which DOD satisfies the Committee's request for information on DOD's depot policy between now and the conference with the House of Representatives over the Fiscal Year '97 National Defense Authorization bill. I look forward to the Chairman and Ranking Member's letter directing DOD to provide this information. The Senate Armed Services Committee rejected DOD's proposed policy this year and is offering DOD another opportunity to get it right. DOD does not plan to meet the 60/40 ceiling for several years, so I believe we have the time to ensure that a coherent depot maintenance plan

that will truly save taxpayer dollars and effectively meet wartime surge requirements and readiness needs can be properly developed and implemented.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. BOXER. I thank the Chair. I wonder if the Presiding Officer could tell me what the order of business is before the Senate?

The PRESIDING OFFICER. We are in morning business. The order was to close morning business and go to H.R. 1122, but that has not been laid down yet so we are still in morning business.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PARTIAL-BIRTH ABORTION BAN ACT of 1997

The PRESIDING OFFICER. The clerk will report H.R. 1122.

The assistant legislative clerk read as follows.

A bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions.

The Senate proceeded to consider the bill.

Mr. SANTORUM. Mr. President, as I spoke last night, we are now moving to consideration of the partial-birth abortion ban that has passed the House of Representatives with a constitutional majority, more than two-thirds I should say, more than two-thirds majority in the House, which means, if there is a Presidential veto, we would be able to override it in the House. It now comes to the Senate where we have an assured majority of the votes to be able to pass this legislation. The question really is whether we are going to have 67 votes necessary to do it. So we commence the debate today. I am hopeful, now that this bill has 42 cosponsors, we will have a spirited debate with many people participating, adding their thoughts on this subject.

I have a unanimous-consent request first. I ask unanimous consent that Donna Joy Watts be allowed access to the Senate gallery. This is an exception to the Senate regulations governing access to the gallery because Ms. Watts is not yet 6 years of age.

Mrs. BOXER. Reserving the right to object, I would like to ask my colleague for what purpose does he wish—how old is the child?

Mr. SANTORUM. Five and a half.

Mrs. BOXER. A 5½-year-old child to be in the gallery during this debate?

Mr. SANTORUM. She is very interested in this subject. I will discuss her case, and she would like to hear the debate.

Mrs. BOXER. I am going to object on the basis of my being a grandmother, and I think that it is rather exploitive to have a child present in the gallery at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. SANTORUM. Mr. President, I do not think we are off to a very good start on this debate. I was hopeful that the Senator from California would continue to try to assure the comity that is usually accorded Members when it comes to these kinds of situations. I know that that unfortunate incident occurred a few weeks ago with a unanimous-consent request. I would hate to see that this kind of occurrence becomes a normal course.

Mrs. BOXER. Will the Senator yield?

Mr. SANTORUM. We have coarsened the comity of this place to the point where someone sitting in the gallery, who is literally months away from the age that has been set by the Senate rules, who has a particular interest in this piece of legislation would not be accorded the decency of being able to at least observe. But I respect the Senator's right to do what she wants to do, and she certainly is within her rights to do it. I think it is unfortunate that a young girl who has had as close to a personal encounter with this issue as possible and still be here to talk about it is not able to listen to a procedure to protect others from what she was threatened with. And that is certainly within the discretion of the Senator from California.

I will proceed with my opening statement.

Mrs. BOXER. Will the Senator yield?

Mr. SANTORUM. I will yield for a question.

Mrs. BOXER. Thank you so much. I just want the Senator to understand that this is nothing to do with a lack of comity. It is my deep belief, in my heart, that this is a very emotional debate. People can watch it here. They can watch it on television. I just, really, in my heart believe this—and I would not do it otherwise. It has nothing to do with comity—that given the fact that you have expressed here, I think I am acting in the best interests of that child.

That is my opinion. You have a different one. It is just some colleagues, some moms and dads, and in my case a grandmother, who has a different view of it. I ask the Senator to respect that, just as I respect his view.

Mr. SANTORUM. If I can, I find myself almost incredulous, to believe that you are—in arguing, as I know you have in the past, and other Members have, that we have no right here in the U.S. Senate to dictate what other parents should be able to do with their children with respect to whether they should be able to abort them or not. But when a mother seeks to share with her daughter, mother and father, share with her daughter some information that is important to her in a very profound way and that you are going to stand up, as a Member of the U.S. Senate, and suggest that you know what is better for her daughter than she does, I think is rather troubling. But again, it is your right as a Senator to object to these things. I respect that right. I just don't happen to agree with the characterization that allowing their daughter the opportunity to witness something that is very important to all of their lives is in any way exploiting her. But that is—your objection is so noted.

Mr. President, I think it is important as we start this debate that we understand what we are debating, that is partial-birth abortion. So I am going to explain what a partial-birth abortion is, when it is used, who it is used on, and why it is used.

There has been a lot of talk about this procedure and the facts around the procedure. We have seen in recent months how some of the facts in fact did not turn out to be facts, particularly things that were used and said by Members here on this Senate floor as to what partial-birth abortion was all about, when it was used, who it was used on, why it was used. So this debate unfortunately a year ago was shrouded in a cloak of inaccuracies. In this debate, as much as many of us tried to articulate what we knew to be the facts, we were countered with arguments that in fact have turned out not to be true. So I am hopeful that with this new information having been brought to light, that the facts as we now know them—and I cannot attest, because some of the facts have been provided by the abortion industry themselves, who are opposed to this bill, so I cannot verify the information we have been given is in fact accurate. All I can verify is that they have admitted to at least this. But what we do know is that those set of facts that they now admit to are different than what they were saying before, and different in a material enough way that Members who relied on that information last time, if they rely on the different set of facts this time, can come to a different conclusion.

That happened in the House of Representatives. Several Members who voted against the partial-birth abortion ban based on a set of facts as they knew them provided by the abortion industry, when those facts were shown to be inaccurate, changed their position in light of those, that new information, and supported the legislation and supported it to such a degree that it passed with over 290 votes, which is the necessary vote to override the Presidential veto.

So, let us look at what partial-birth abortion is. By the way, the drawings that I am going to use are drawings that were copied—derived from drawings that Dr. Haskell, who was the inventor of this procedure, had. Dr. Haskell, by the way, is not an obstetrician and gynecologist—people whose business it is to deliver babies. Dr. Haskell is a family practitioner who does abortions, and he invented this procedure. This procedure is not in any medical textbook. This procedure is not taught in any medical school. This procedure has not been peer reviewed. In other words, no other doctors have looked at this to see whether this is safe and healthy and a proper procedure. It has not been recognized as a legitimate procedure. But he has invented this thing, this monstrosity, and he wrote a paper on it. From the description and from the pictures in that paper we reproduced this, these drawings.

Dr. Haskell, when asked about these particular drawings, the ones you are going to see, said they were accurate, from a technical point of view. So any comments that these drawings are somewhat of a fabrication or whatever does not hold water.

I also suggest when you see the drawings of the baby in these pictures, the drawing of the baby in these pictures is a drawing of a 20–24 week gestation baby. It is not a big baby or has not been blown up to look like it is more life size than it is. It is the exact size. If you look at the size of the baby relative to the size of the doctors' hands, which is the way you can judge size, you can see a baby at that gestation which is when most of the partial-birth abortions are performed. In fact, it is at the low end of when they are performed because they are performed in the fifth and sixth month, and this is fifth month. So, it is the small end of when these abortions are performed.

This is a 3-day procedure. You are going to hear about life of the mother, health of the mother, we need to do some things to protect the life and health of the mother. This is a 3-day procedure. The mother is given drugs the first 2 days to dilate her cervix, to open her womb so the doctor can then reach in as you see here to grab the baby. I would just ask this question, and you don't have to be a doctor to answer it. If a woman presents herself to a physician in a life-threatening situation, would anyone do a 3-day procedure? Second, if the woman presented herself in a health-threatening situation, would any doctor do a procedure that says: Take these pills, come back tomorrow; take these pills that are going to dilate your cervix, open your womb up to infection, which is in fact a risk, and call back?

So, when you hear these, ''we have to keep this legal because there may be some circumstance,'' let me assure you—and I will have a quote that I will share with you—there is never a case, there is never a case where this procedure has to be performed to protect the life or health of the mother. Period. Having said that, the bill still provides for a life-of-the-mother exception. So I would just want Members to understand that this procedure is a 3-day procedure. It is done on an outpatient basis. When the mother presents herself in the third day—and this was the reason Dr. Haskell developed this, was so he could bring her in, the dilation of the cervix would be done, and simply he would perform the procedure. He wouldn't have to wait and have her in the clinic and do these other procedures which are done in 1 day. So this is done for the convenience of the doctor, the abortionist, not for the health of the mother, not for the safety of the baby or anybody else, because you are going to kill the baby. Now you understand why it is done.

Guided by an ultrasound, the abortionist grabs the baby with forceps by the feet or leg. Babies at this time, generally they move around, but they are generally in a head-down position. So the doctor has to reach around, grab the baby by the foot, turn the baby around inside the womb, inside the amniotic sack.

Second, they then grab the baby's leg and pull it breach. For those of you who are not physicians—I think there is only one physician in the Senate, the Senator from Tennessee—a breach birth, as any mother or parents know, is a very dangerous occurrence, when a child is delivered breach. To deliberately turn a baby and deliver the baby breach is a risk unto itself. But they deliberately turn this baby and then they pull the baby by the leg out of the uterus, out through the cervix to where the baby is delivered, the entire body except for the head. So you have a baby, now, that is outside the uterus with the exception of the head and, as nurse Brenda Shafer said when she witnessed this procedure, the baby's arms and legs were moving.

You might ask, why are they doing this? Why are they delivering this baby in this fashion? Why do they not just take the baby that is head down and just deliver the baby head first and then do what I am going to describe next to the baby? Why don't they do that?

The reason they don't deliver the baby out and kill the baby is because once the head exits the mother, it is considered a live birth and has protection. So, if you delivered it in a normal fashion and the baby's head were out and the rest of the body were in, you couldn't kill the baby. The only reason you do this is so it is easier to kill the baby and it is then legal to kill the baby—at least it is if we do not pass this law.

So just understand the difference here is a matter of which end comes out first. If the head came out first you can't touch that baby. It is a live birth, protected under the Constitution. Unfortunately, its feet are not protected by the Constitution nor its leg nor its trunk—just its head. At least that is what the courts have said.

So now we have this little baby that is outside the mother and a doctor takes some scissors and jams it right here, right in the back of the base of the skull, that soft baby's skull. You know, those of you who have children, how soft that skill is. And they thrust the scissors into the base of the skull.

Nurse Brenda Shafer described what the baby did in the partial-birth abortion that she saw. She said the baby's arms and legs flew out, like when you are holding a baby and you drop it and it goes like this. It just doesn't know what to do, it just sort of shoots its legs out, that nervous—nerve reaction. She said it shot its legs out, its arms and leg—for those who believe that the baby doesn't feel anything. And then they went limp.

To finish the procedure the doctor takes a suction tube, a high-pressure suction catheter, inserts it in the baby's skull, and suctions the brains out of the baby. That causes the head to collapse, and then the baby is delivered.

This is what we are trying to ban. Nothing else; nothing else. This is what we are trying to ban. I cannot help but think, as I look around and see the statues of the Vice Presidents of the United States that ring the Senate Chamber, that if we had been on the Senate floor 30 years ago, 50 years ago, 100 years ago and talked about this as something that was legal in America, we would have had 100 percent of the U.S. Senate saying, ''Why is this bill even here? This is obviously something that is so barbaric that we cannot allow to have happen.''

But, unfortunately, we have reached the point in our country where this is defensible. This is defensible, treating a little baby like this, a fully formed little baby, not a blob of protoplasm, not a tissue that many would like to believe, this is a baby fully formed, and in many cases viable, that we treat like this, that we murder like this. Let's call it what it is. And we are saying in this country, it's OK.

Now, if we did this procedure, if you would take these graphics out and leave some of the definitions out there, if we did this procedure of jamming scissors in the base of the skull and suctioning out the brains on someone who had raped and murdered 30 people, the Supreme Court and every Member of this Senate would say, ''You can't do that, you can't do that, that's cruel and inhumane punishment.'' Oh, but if you are a little baby, if you haven't hurt anybody, if you are nestled up in your mother's womb, warm and safe—supposedly safe—we can do that to you. In fact, it is our right, it is my right that I can do that.

The thing about this debate that is probably the most important thing—and you will hear rights, you will hear rights, my right to do this, my right to do that, it's my body, I can do whatever I want, I can kill this baby, it's my baby. Rights. Well, in this case, we are having an abortion debate on the

floor of the U.S. Senate where you cannot miss the other side of this debate. You cannot miss the baby in a partial-birth abortion. It is not hidden from view anymore. It is not the dirty little secret we tell ourselves to survive, to live with ourselves that we allow this kind of murder to occur in this country.

We cannot hide anymore from the truth of what is happening out there. We cannot lie to ourselves that this is not what we are doing. In fact, Ron Fitzsimmons said, the person who blew the whistle on the abortion industry, we have to face up to the fact that abortion is killing a living being. Let's face up to it. If you want to defend it, defend it, but defend it on what it is: It is killing a little baby who hasn't hurt anybody, who just wants a chance like all of us to live.

One of the great ironies that struck me as I walked on the floor today—I walked on the floor and I passed the Senator from Vermont, the Senator from Tennessee, and the Senator from Iowa, who had been so instrumental in the bill that we just passed on the Senate floor. Do you know what bill we just passed on the Senate floor? The Individuals With Disabilities Education Act. Individuals with disabilities.

The principal reason that the people who oppose this ban use for defending this procedure is, You know, a lot of these children have deformities. They might have Down's syndrome or they might not have any arms or legs or they might not even live long, they might have hydrocephaly, they might have all these maladies. And that, of course, is a good reason to kill them. That is the argument. That was the argument that was made over and over and over again, that fetal abnormality is a good reason —in fact, the courts, unfortunately, have legitimized this reason saying it is a legitimate reason to do a third-trimester abortion.

I just found it absolutely chilling that a Member could stand up here and rightfully, passionately argue that children are all God's children and perfect in his eyes, and while they may not be perfect, they deserve the dignity of being given the opportunity to maximize their human potential. That is what IDEA is all about, the ability to protect their civil rights to maximize their human potential—except to be born in the first place. Because some of the most passionate defenders of IDEA, some of the most passionate defenders of ADA, the Americans with Disabilities Act, say it is OK to kill a baby because it is not perfect, any time in a pregnancy—any time in a pregnancy—by using this, the most barbaric of measures.

We are going to educate you if you make it, if you survive this. If you survive, if you are lucky enough that your mother loves you enough to give you a chance at life, then we will protect you, but you are on your own until then; you are on your own; we're not going to protect you. You don't deserve protection.

Abraham Lincoln, quoting Scripture, said that a house divided against itself cannot stand. I just ask every Member who proudly stands and supports the disabled among us how you can then stand and allow this to happen to those very same children and say that you care? The ultimate compassion here is at least giving them a chance to live. I guarantee you that if you gave a lot of disabled people the choice of whether they would rather be educated or live, it is a pretty easy call. But somehow or another, that is lost here. Well, it is not lost on me, and I don't think it is lost on the American public. You cannot legitimately argue both ways. So this is the debate.

You will hear a lot about health exceptions—and I want to address that issue right up front—that we need this procedure to be legal because there might be instances in which the life and health of a mother are in danger and this procedure would have to be done. I am going to put a quote up from a group of close to 500 physicians, almost all of whom are obstetricians, people in the field:

> While it may become necessary—

This is a quote from a letter—

> While it may become necessary, in the second or third trimester, to end a pregnancy in order to protect the mother's life or health, abortion is never required.

I want to repeat that:

> . . . abortion is never required—i.e., it is never medically necessary, in order to preserve a woman's life, health or future fertility, to deliberately kill an unborn child in the second or third trimester, and certainly not by mostly delivering the child before putting him or her to death. What is required—

And this is important—

> What is required in the circumstances specified by Senator Daschle is separation of the child from the mother, not the death of the child.

What do they mean by that? Sometimes you might have to induce and deliver the baby. Sometimes you may have to do a cesarean section to deliver the baby. But you never have to kill the baby in order to protect the mother's life. You can at least give the baby a chance. Give him or her a chance. If it is not viable, then he will not live or she will not live very long, but you have at least dignified one of our human beings, one of us, your son, your daughter.

I just suggest to any mother or father that if you found out that your child was going to die, had a particular virulent form of cancer and the child was 5 years old and the child, according to the doctors, would almost certainly not live more than a few weeks, would you, would any parent in America say, ''Well, my child's going to die, I might as well kill them now''? Would any parent deliberately kill their child because they may not live long? Or, worse yet, would they kill their child because they were in a car accident and lost a leg? Or were in a car accident and are going to be in a wheelchair the rest of their lives and maybe has brain damage and does not have a whole lot of mental capacity, but some, or even none, would you deliberately kill your child? And in doing so, would you do the procedure that I suggested? Would you puncture their skull and suck their brains out? Would you do that?

Well, if you would not do that for a 5-year-old son or daughter, why would you do it to a 5-month-old son or daughter? Why? You don't have to.

If there is any message, whether this bill passes or not—I say passes, becomes law—that is so important, but it is so important for people to understand that you don't have to kill the baby. You don't have to do that. I know. There is always a more dignified way to treat another human being than to deliberately kill them.

So the debate will rage on this afternoon, but just remember these facts—facts: Partial-birth abortion is never necessary to protect the life or health of the mother. Fact: It is never medically indicated. It is not an accepted procedure.

It is rare, according to the abortion industry. It is only 3,000 to 5,000 a year, as if that's OK, only killing 3,000 to 5,000 children a year and that is not very many. I guess against 1.4 million or so, it is not many, but can you imagine what we would do in the U.S. Senate if we knew 3,000 children were going to die this year and we could stop it? What lengths would we go? What lengths would we go for 1,000? What lengths would we go for one? I don't know anymore. I wonder whether we can muster up the moral courage to stand up to the powerful lobbies out there and do the right thing.

This procedure does not have to be there for any reason—no reason other than for the convenience of the doctor doing the abortion. This procedure is not done at major medical facilities. This procedure is done at abortion clinics, period, and, in most cases, not even by—at least the people who developed it were not even obstetricians.

So I hope that we can have a debate on the facts. Because on the facts, if you look at the facts, there is no reason for this procedure to be legal—none. And if you look at the heart, what kind of message are we sending out to the young people all over the country?

You know, we have debates here on the floor, and we have committee meetings even to talk about juvenile crime, talk about generation X and how they have no respect for our institutions or even each other, that they think everybody is in it for themselves. The cynicism is so rampant.

If you want to know why that occurs, tune in to this debate. Children are not oblivious to what is going on in this country when it comes to the issue of abortion. Ask why a child should be any more concerned about shooting their neighbor if Members of the U.S. Senate and the President of the United States says we can kill a little baby.

What is the difference? There is no difference. We are going to have all sorts of problems with this future generation. I hear all the time, ''Oh, they have no values. They don't have any direction. They don't have any purpose. They are so self-centered.'' Gee, I wonder why.

What is more self-centered than what I have just described? We are sending a message. A message is being received. And 1.5 million abortions is a very loud message to everybody in our country, particularly the young, the impressionable. And we wonder why, we wonder what the problem is.

We can begin to send a positive message today. We can begin to say, you know, there are rights and wrongs—not just rights—rights and wrongs. And this is wrong.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from California.

Mrs. BOXER. Thank you very much, Mr. President.

When my colleague from Pennsylvania started this debate, he asked that a 5½-year-old be allowed in the gallery, that the Senate rules be waived. And then he went on—and I am quoting very much from his text—he went on to talk about what he believes that a medical procedure, which he has called a barbaric act, a procedure that doctors tell us is used to save the life of the woman, to spare her irreparable harm—and he calls that a ''murderous act''—his words. He used the term over and over about ''killing a baby.'' He ascribed it to the President of the United States. He wanted a 5½-year-old to hear that.

He said, you will hear words like ''rights,'' and then he quoted women, and he said, ''I can kill this baby.'' Is that what he thinks women want to do? And he wants a 5½-year-old to hear that?

Talk about messages that we are sending out, this is the greatest country in the world. We ought to approach these issues as a family, not turn one group against another, one gender against another.

Mr. President, this is the third time we are having this debate. And every time it is more painful than the one before. And the reason it is so painful is because the basic assumption of the Santorum bill is that women do not deserve the full range of medical options available to them in order to have a safe and legal abortion.

I know that every Senator in this U.S. Senate who calls himself or herself pro-choice believes, as the President of the United States believes, that abortion must be safe, legal, and rare.

Mr. President, I truly believe—and I will explain it in the body of my statement—that what the Santorum bill is really about is outlawing one procedure, and then they will go after the next procedure, and then they will go after the next and the next. And that will be the way abortion is made illegal in this country at any stage.

Mr. President, that is not the view of the American people. They believe very strongly that Government does not belong in this debate.

Mr. President, the Santorum bill prohibits the use of a specific abortion procedure, the intact dilation and extraction regardless of the medical needs of the woman. But some doctors consider that procedure the safest for the women. I am not saying that every doctor says that; I am saying many, many doctors believe that. And yet, the Santorum bill would outlaw this procedure.

The American College of Obstetricians and Gynecologists, an organization representing more than 37,000 physicians stated that an intact dilation and extraction ''may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in consultation with the patient, based upon the woman's particular circumstances, can make this decision.''

That is 37,000 doctors who are trained in obstetrics and gynecology.

Doctor Charles Bradley, medical director of Planned Parenthood in Santa Barbara, CA, wrote to me and said:

> The intact dilation and extraction procedure presents several advantages over the other techniques available for late-term abortion. Foremost among these, the procedure is short and the risk of damage to the mother's tissues and, therefore, the risk to her life and health is considerably reduced.

Dr. Seymour Romney, chair of the Society for Physicians for Reproductive Choice and Health sent me a letter. And he wrote:

> In complicated and some potentially tragic obstetrical situations, intact dilation and extraction can be the safest therapeutic procedure. In competent hands, it carries the least risk of bleeding, perforation, infection or trauma to the birth canal.

So this is a procedure that many doctors say is the safest, and yet the Santorum bill would outlaw it.

Mr. President, this is not a perfect world. If we could make it so, every child would be planned, every child would be wanted, every pregnancy would be uncomplicated, every fetus would be viable, would be healthy, every father would be proud to take responsibility, every mother would be physically and mentally healthy, there would be no rape or no incest. That is the world we should strive for. That is the world we want.

But, Mr. President, we are not there. This is not a perfect world. Families must make tough choices, and sometimes must decide, of course, to take, when things go tragically wrong—we must not pass reckless legislation which moves politicians into the hospital rooms where we do not belong. Mr. President, we do not belong in a hospital room.

We have laws in this land. We have court decisions in this land. And the laws relating to pregnancies are set. And they say, as follows: Before viability in the early stages of a pregnancy, a woman gets to decide, with her family and her doctor and with her God, what her options are. It is her choice. It is not Senator BOXER's choice. It is not Senator SANTORUM's choice. It is not Senator HELMS' choice. It is not Senator FEINSTEIN's choice. It is her choice. She will make this decision with her family, with her loving family, with her doctor. She decides. And that is it. And that is what the law says. And it was decided in 1973, in a previability situation, a woman has the right to choose.

There are those in this Chamber who want Government to enter this debate and stop that constitutionally protected right. And to do that they need a constitutional amendment. And for many years now they have not tried that because the American people do not support it. So they will go to procedures one at a time. They will do what it takes so in essence this constitutionally protected right will become meaningless to the women of this country.

How does the Santorum bill, endorsed by the antichoice groups in this country, treat a woman in the early stages of her pregnancy where, under law, it is her constitutional right to decide?

The Santorum bill says to the doctor that a particular procedure called intact dilation and extraction—and as Senator SANTORUM has given it a name of his own, partial-birth abortion, which is in no medical dictionary—that procedure is banned at any time. Any time in the pregnancy, before viability or after viability, it would be banned. And we know right off the bat that outlawing procedures in the previability stage of pregnancy before the fetus can live outside the womb, with or without life support, is a clear violation of Roe versus Wade, on which the constitutional right to choose is based.

So let us be clear. The Santorum bill infringes on a woman's right to choose in the earliest stages of her pregnancy and is clearly unconstitutional and against the law of the land.

In the late term what do the laws say? Postviability, the court decisions say that the Government does have a legitimate interest and can legislate, can legislate postviability, but with a caveat. And that is, that always the health of the woman and the life of the woman must be considered.

Let me repeat. Postviability, the Government can act to regulate abortion, but always the health of the woman and her life must always be protected.

What does the Santorum bill do in the late term? It outlaws the procedure and fails to give a health exception. My colleagues, this is dangerous. There is no health exception in the Santorum bill. And that is callous toward the women of this country.

Court cases have always ruled that any laws passed regarding abortion—

and there are many of these in the States; and my colleague, Senator FEINSTEIN, has become a real expert on studying what the States have done—they always make an exception for the health of the woman. And this U.S. Senate, under this bill, would be so radical as to not address the health of a woman.

This is very troubling to me, Mr. President. And I believe it shows a lack of concern for the women of this country, many of whom want their stories told.

In the interest of time, I am not going to go into all the stories that I have, but I am going to talk about one. And perhaps in the debate later on I will give you the other stories, because we must put a face on this issue.

This is Coreen Costello with her family. She happens to be a registered Republican. She describes herself as very conservative. And she is very clear that she and her family do not believe in abortion.

In March 1995, when she was 7 months pregnant—actually this is a photograph of her when she was pregnant—she was 7 months pregnant with her third child, and she had premature contractions and was rushed to the emergency room.

She discovered through an ultrasound that there was something seriously wrong with her baby. The baby, named Katherine Grace—she named her baby Katherine Grace while she was carrying her baby—had a lethal neurological disorder and had been unable to move inside Coreen's womb for almost 2 full months. The movements Coreen had been feeling were not that of a healthy, kicking baby. They were nothing more than fluid which had puddled in Coreen's uterus. The baby had not moved for a long time—not her eyelids, not her tongue. The baby's chest cavity was unable to rise or fall. As a result of this, her lungs were never stretched to prepare them for air. Her lungs and chest were left severely underdeveloped to the point of almost nonexistence. Her vital organs were atrophied.

The doctors told Coreen and her husband the baby was not going to survive, and they recommended termination of the pregnancy. To Coreen and Jim Costello, termination of the pregnancy was not an option. Coreen wanted to go into labor naturally. She wanted the baby born on God's time and did not want to interfere.

The Costello's spent 2 weeks going from expert to expert. They considered many options, but every option brought severe risks. They considered inducing labor, but they would be told it would be impossible due to the baby's position and the fact that the baby's head was so swollen with fluid it was already larger than that of a full-term baby. They considered a cesarean section, but the doctors were adamant that the risk to her health and her life were too great. Coreen said, ''There was no reason to risk leaving my two children motherless if there was no hope of saving Katherine Grace.''

These are the women my colleague stands and talks about as wanting to kill their babies? I am ashamed of that. It is unnecessary to talk about the mothers of America, the women of America in such a fashion.

Coreen and her husband faced a tragedy that most people, thank God, never have to face. In the end, they made a decision which saved Coreen's life. She underwent a late-term abortion.

In December of last year, I showed you this picture of Coreen and her family, and I reminded you at the time of this photo, Coreen was pregnant with Katherine Grace. Now I want to show another picture of the Costello family. Here is Coreen and her family with their newest addition, her son, Tucker.

Coreen writes that she is against abortion. She is a registered Republican. She says she is a conservative. She writes to us, ''This would not have been possible without this procedure. Please give other women and their families a chance. Let us deal with our tragedies without any unnecessary interference from our Government.'' She writes, ''Leave us with our God, our families and our trusted medical experts.''

Now, that is one story. To me, it just says it all, that this Santorum bill, if it became the law of the land, could have resulted in this woman dying or being impaired or losing her fertility. We stand here and talk as if the mothers of this country, the women of this country, want to end these pregnancies, when, in fact, these women—again, I have many of these stories which I will tell tomorrow, story after story—the last thing they wanted was to end the pregnancy. They wanted these babies.

Mr. President, I want to put the face of these women into the debate. I know those who wish to ban this procedure want the face of the woman gone. I want to show you what the New York Times quotes Ralph Reed, the head of the Christian Coalition, as saying in a March 23, 1997 article. This appeared:

> ''Mr. Reed said that by focusing on the grizzly procedure itself—and on the potential viability of a fetus—abortion foes undercut the primacy of the woman and made her secondary to the fetus.''

In other words, what Mr. Reed is quoted as saying, in what I consider to be an unguarded moment, is the reason he was so excited about this debate is that for the first time, the woman was made secondary to the fetus.

Those who are pushing this bill want us to forget about the women. As Ralph Reed is quoted as having said, to forget about our daughters, our sisters, our nieces. They want us to forget about them.

Why, the Senator from Pennsylvania, in his opening remarks, portrayed women as killers. His words: ''I have a right to kill this baby,'' as if that is what a woman wants to do.

If they succeed in outlawing this procedure, they will go to the next and the next, as I have said. With all due respect to my colleagues on the other side of this debate, they are very good at getting votes and they are very good at winning elections. But I do not think they are worth a whit in the gynecological operating room. I do not want them in that operating room telling a doctor what procedure to use for my daughter or my niece or, frankly, even for their daughter or their niece.

If a loved one—and I ask all Americans to think about this. Think about it, think of a woman in your life of child-bearing age. Think of that woman, be it your wife, be it your aunt, be it your sister, be it your niece, be it your daughter, be it your granddaughter, think of that woman, have that woman in front of your face, and think if that woman was in trouble with a pregnancy gone tragically wrong like Coreen's pregnancy. I will put her and her family's picture back up. Suppose you found out that she was carrying a fetus whose brain was growing outside the head, where the doctor has said to you the baby would live but a few moments, maybe, and in torture, and that your loved one, if this particular procedure were not used, because many have said it is, in fact, the safest, might suffer irreparable harm, irreparable harm, never to be able to have a child again, maybe could be blinded, maybe could be paralyzed. In your heart of hearts, you would not want Senators making that decision. You would want the decision to be made by the medical experts, the best in the world.

I do not want that doctor afraid at that moment that he or she might be hauled off to jail if he acted to help a family to spare a woman's life or health. I do not want that loved one in despair, pain, and grief to be told that her openings were narrowed because her doctor was afraid to do what he or she really thought had to be done to save her fertility or to save her life or to save her health.

Who decides? Senator SANTORUM? I hope not. Who decides? Senator BOXER? I hope not. I know politicians have big egos, but we are not doctors. We can show drawings done by a doctor, but that does not qualify us. Where is the humility around here? Why do we not just do our job? I think every woman in this country deserves a free range of options when she is in deep, deep trouble.

Mr. President, Senators FEINSTEIN, MOSELEY-BRAUN, and I have a bill that I believe is the most humane and the most sensible and the most constitutional of those that will be before the Senate. It zeros in on the timeframe that concerns most Americans, and that is the late term of a pregnancy, after viability, and is consistent with Roe versus Wade, which says the Government has an interest after viability. Our bill outlaws all post-viability abortions—all procedures, not just one. The Santorum bill does not do that. It zeros in on one procedure. We say after the

fetus is viable, no abortion, no procedure except to protect the woman's life or to spare her serious adverse health consequences.

Life and health are constitutional requirements, and it is the right thing to do for the women of this country. Mr. President, if we abandon the principle that a woman's health and life must always be considered when an abortion is considered, we are harming women, plain and simple, women like Coreen Costello and the other women that I will talk about.

Mr. President, the day we start passing laws that harm half of our population—women are more than half of our population—the day we start passing laws that harm more than half of our population is the day I will worry about the future of this, the greatest country in the world.

Mr. President, I just celebrated my second Mother's Day as a grandmother, and my daughter celebrated her second Mother's Day as a mom. This is the greatest thing for our family. And everyone who always said to me, ''When you are a grandmother, you will see how great it is,'' including Senator FEINSTEIN, who told me that years ago, I thought, well, maybe they are exaggerating. You know what? They are not. To see your baby have a baby, to get the continuity of life is an extraordinary feeling.

I happen to believe as I watch my daughter be a great mother that America's moms deserve to be honored every day. We just celebrated Mother's Day. They deserve to be honored every day.

Senator BYRD came down right before Mother's Day and talked about the incredible job that our moms are doing, working moms, supermoms, working hard so that families have the resources to educate their children, to give their children the American dream. It is hard for me to imagine why we would want to pass legislation that will harm women.

Now, it is interesting to me, in the Santorum bill, this procedure is outlawed. As a matter of fact, the Senator from Pennsylvania called it a barbaric act, and yet in his own bill he says, ''The procedure can be used when it is necessary to save the life of the mother'' if you can't find another medical procedure.

So, first, he says it is barbaric. And then he admits in his legislation that it may be necessary to save the life of the mother.

So what is this really all about? It is about banning one procedure and then the next and then the next. Women as moms and future moms should not be put at risk because the big arm of Government wants to reach further into their private medical and family physician.

We can pass a bill that respects women and their families, that is caring and trusting toward American moms and future moms while protecting a baby in the post-viability stage of pregnancy. We can pass a bill that is consistent with Roe.

That is what the Feinstein-Boxer-Moseley-Braun bill is about. This bill should not be about what the New York Times article quotes Ralph Reed as saying, which reveals, I think, a real malice toward the women of this country—that a woman should be secondary to a fetus. This should not be about mothers versus fetuses. This should be about all of us together as a society passing laws that help our families cope with tragedy and urgency in a way that is moral and in a way that is respectful of everyone involved.

So this is a painful debate, Mr. President, but my intent is clear. I will not allow the fate of the woman to be lost in this debate. I will tell story after story after story about the Coreen Costellos of our Nation who are loving, caring moms, many of whom would never have an abortion at any stage unless they were told they had to have one to spare their life or to preserve their fertility so they can be alive for their families, for their other children.

I will do all I can to spare families long-lasting, horrible pain that I think would come about as a result of the Santorum bill putting Senators into a hospital room and making decisions they are not qualified to make. I think this bill will cause pain to innocent, caring, and loving families in the name of sparing pain. It is a first step toward making all abortions illegal.

If you ask those who are on the floor and if you study their record, you will see they are on record as wanting to ban all abortions from the first second.

So, Mr. President, although this is a very painful debate for all of us, I will be here throughout this debate. I will work with my colleagues to put the fate of the woman on this debate, to never let anyone forget what we are doing if we pass this bill, which is to hurt American families. That is my deep belief.

If you are really about making sure that there is no abortion post-viability in the late term, you have the Daschle proposal that deals with it, and you have the Feinstein-Boxer-Moseley-Braun proposal. If you really want to do something about what Americans care about, that is what you should do. But don't go to a procedure which you say is barbaric, but then you allow it in the case of a woman's life, ban that and tell the American people you are doing something about the late term which, in fact, you are not when, in fact, what you are doing is interfering with medical treatment of women who—all of these women—are put in tragic circumstances where they could have lost their life or their health.

Thank you very much.

Mr. President, I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I rise once again to support the ban on the procedure known as partial-birth abortions.

Mr. President, we have heard a lot in the last year or two about this procedure. We have heard the graphic details, the details which are certainly not very pleasant. But we know that they are true. They are indisputable. We know exactly what this ''procedure'' consists of. Senator SANTORUM earlier this afternoon very graphically described it. It is unconscionable.

Mr President, the public reaction to disclosure about this ''procedure''—the disclosure of what partial-birth abortion really is—has been loud and convincing. There is a good reason for this. Yes, this procedure is barbaric. There is simply no other way to describe it.

Many people have asked the question. Why? Why does it take place? Why is it done? Why do they do this procedure? Is it really necessary?'' Then the question is, ''Why do we as a people allow this to happen?''

The opponents of this measure argue that it is medically necessary. Mr. President, this is simply not true. This is not a valid argument, when you have probably the single most respected physician in this country, Dr. C. Everett Koop, who says exactly the opposite. Dr. Koop in an interview with the American Medical News on March 3 of this year says: ''In no way can I twist my mind to see that the late-term abortion as described . . . partial birth, and then destruction of an unborn child before the head is born—is a medical necessity for the mother.''

Mr. President, America's most respected physician is not alone in this view.

Dr. Nancy Romer, chairman of OB–GYN and professor at Wright State University Medical School in Ohio says: ''This procedure is currently not an accepted medical procedure. A search of medical literature reveals no mention of this procedure, and there is no critically evaluated or peer review journal that describes this procedure. There is currently no peer review or accountability of this procedure. It is currently being performed by a physician with no obstetric training in an outpatient facility behind closed doors and no peer review.''

Dr. Romer also says, Mr. President: ''There is no medical evidence that a partial-birth abortion procedure is safer or necessary to provide comprehensive health care to women.''

Let me stress, Mr. President, what the doctor said, ''no medical evidence''; none.

Just this week the American Medical Association also endorsed this view. This is what they say. They said there were no situations in which partial-birth abortion ''is the only appropriate procedure''; no circumstances, Mr. President, where partial-birth abortion ''is the only appropriate procedure.''

I think it is often instructive to look at what those who perform the abortions have to say. One of the most famous or infamous abortionists is Martin Haskell. He has admitted—this is uncontroverted; no one disputes this—Dr. Haskell, who has performed hundreds of thousands of these probably,

admits that at least 80 percent of the partial-birth abortions he performed are elective. And the late Dr. James McMahon, a person who performed many abortions, says he performed nine of these partial-birth abortions because the baby had a cleft lip.

Let me repeat that. Nine were performed, according to Dr. James McMahon, for no other reason than the baby had a cleft lip.

Medical necessity, Mr. President? Medical necessity? So much for medical necessity.

Why then is this procedure performed? Is it because some of these fetuses are deformed?

Betty Friedan, in a televised debate, called such little babies ''monsters''; ''monsters.'' She said it not once but twice.

Are we now in the business of killing people for being defective, Mr. President? My colleague from Pennsylvania has pointed out very eloquently the irony of this argument, the fact that today—we tried earlier this week to protect people with handicaps, protect them in school to make sure they had a full education, but at the same time abortions are being performed, partial-birth abortions are being performed not for medical necessity but rather this child is somehow not ''perfect,'' at least as we see perfection.

Are we now, Mr. President, in the business of killing people for being defective? I would submit that the world has gone down that path once already in this blood-soaked 20th century. Are we really willing to go down that road again? Are we willing to go down that road again in this country that is based on the sanctity of human life, the sanctity of human rights? I hope not.

Mr. President, when the child which is subject to a partial-birth abortion exits the birth canal, once he or she is out, the child, of course, is protected by the U.S. Constitution. If the doctor performing the abortion slips, sneezes, something happens, and as a result the child's head exits the mother's body, then that doctor cannot legally kill that child.

Mr. President, do we as a nation really believe that those few inches between being inside the mother and being outside the mother, do we really believe that defines the difference between a legitimate medical procedure and barbaric murder? I hope and believe that we are better than that, that even our jaded, contemporary public morality would rebel in calling this a legitimate medical procedure.

Mr. President, the defenders of this procedure used to try to change the subject. They used to say that it rarely happens, so we shouldn't get all worked up about it.

Well, it is funny. You do not hear much of that argument anymore. The reason we do not hear that argument much anymore is because of the shocking confession made by a leader in the abortion rights movement. Ron Fitzsimmons is the executive director of the National Coalition of Abortion Providers. In 1995, when the Senate was considering the partial-birth abortion bill, he was helping lead the fight against this very bill. He went on ''Nightline'' to argue that the procedure ought to remain legal. At that time, he said the procedure was rare and was primarily performed to save the lives or the fertility of the mothers.

You know, a funny thing happened after that. Apparently his conscience starting gnawing at him. He says now that he felt physically ill about the lies he had told. He said to his wife the very next day, ''I can't do this again.''

Meanwhile, President Clinton was using Mr. Fitzsimmons' false statements to buttress his case for vetoing the partial-birth abortion bill that this Senate passed.

But a couple of months ago Mr. Fitzsimmons admitted that, in his own words, he ''lied through his teeth.'' The facts, as he now publicly acknowledges them, are clear. Partial-birth abortion is not a rare procedure. It happens tragically all the time. And it is not limited to mothers and fetuses who are in danger. It is performed on healthy women, it is performed on healthy babies—all the time.

Remember Dr. Haskell's quote that 80 percent of the abortions he performed are elective.

Mr. President, it is true that everyone is entitled to his or her opinion. Everyone is entitled to their own opinion. But people are not entitled to their own facts.

Ruth Padawer of the Record newspaper in Bergen, NJ, reported last September 15 that 1,500 of these partial-birth abortions happened in one local clinic in 1 year.

Once you confront the reality of what partial-birth abortion really is, you realize that from a moral perspective one of these atrocities is as bad as 1,500, but let nobody say this procedure is somehow de minimis, that it does not happen often enough to deserve legal notice.

Let me now describe briefly some of the proposed amendments to this legislation. I know we will have the opportunity later during this debate to talk about this at length. Let me just for a moment talk about several of the amendments at least as I now understand them.

Under the Boxer-Feinstein amendment, the exceptions swallow the rule. It is the old trick. Make it sound good, but then put an exception in there that, in reality, the way it really works as interpreted already by courts, the exception swallows up the entire rule and really makes the bill, in this case the amendment, meaningless. Under the Bolton precedent, the Bolton case, the ''health'' language clearly has unlimited meaning. So once the term ''health'' is in there, as interpreted by the Court, it swallows up the entire amendment and makes it useless. It is determined by the existence of health circumstances as decided by the very same doctor who performs the abortion. That is who does the decision. That is who makes the decision about the health under the Boxer-Feinstein amendment. Clearly that exception renders the bill meaningless.

Furthermore, if this really is about maternal health, then why do we have to kill the baby? Senator SANTORUM very eloquently talked about this a few minutes ago. No doctor, no witness, no Senator has yet offered any evidence that tells us why, when the health of the mother is in danger, you have to kill the baby. Why? Why can't we, if it is threatening the mother's health, deliver the baby and, if possible, save it? Why does this child have to be killed?

Senator SANTORUM earlier read in part from this letter, the letter from the Physicians Ad Hoc Coalition for Truth. I want to read one of the paragraphs because it addresses this very issue, and this is what the doctors said:

> As specialists in the care and management of high-risk pregnancies complicated by maternal or fetal illness, we have all treated women who during their pregnancies have faced the conditions cited by Senator DASCHLE. We are gravely concerned that the remarks by Senator DASCHLE and those who support the continued use of partial-birth abortion may lead such women to believe that they have no other choice but to abort their children because of their conditions. While it may become necessary, in the second or third trimester, to end a pregnancy in order to protect the mother's life or health, abortion is not required—i.e., it is never medically necessary, in order to preserve the woman's life, health or future fertility, to deliberately kill an unborn child in the second or third trimester, and certainly not by mostly delivering the child before putting him or her to death. What is required in the circumstances specified by Senator DASCHLE is separation of the child from the mother, not the death of the child.

Why then can't we as a society, if the child is threatening the mother's health, deliver the child and, if possible, to try to save it? Why does that child have to be killed? There is no medical answer for that, there is no medical reason. But let me submit a reason that I think is critically clear from the debate and, more importantly, from the evidence and, more importantly, from the words of the doctors who perform these abortions. Why is it done? Why does the child have to be killed? The child has to be killed because that is the goal. That is the goal. That is what the doctor wants to do.

Now, Dr. Haskell, who has performed hundreds and hundreds and hundreds of these, has said as much. In an interview with the American Medical News, he said:

> You could dilate further and deliver the baby alive, but that's really not the point. The point is you are attempting to do an abortion. And that's the goal of your work, is to complete an abortion. Not to see how do I manipulate the situation so that I get a live birth instead.

Dr. Haskell admits it. He admits what the goal is. He admits why it is done. Why can't we on the Senate floor?

An abortion is legal in this country. I happen to be pro-life. But nothing says we have to allow this procedure simply because it allows the doctor to speed up the procedure and move on to the next one. These are done for the doctor's convenience.

Let me specifically go back to the issue of the Daschle amendment, and again we will have the exact language in the Chamber, I am sure, and we will have the opportunity to more thoroughly debate this. Let me address the third trimester ban that is proposed by this amendment. The reality is that the exceptions are simply too numerous and the way they will be applied it will again swallow up the amendment.

The facts are that the vast majority of these partial-birth abortions occur in the fifth and sixth months. All the abortionist has to do under this amendment is to certify that either the baby is not viable, just certify it, or that the abortion is medically necessary. The conditions are spelled out apparently in the amendment. In practice, this means there will be no limit on the will of the abortionist. The same person who will be certifying is the person such as Dr. Haskell who has described why he performs this procedure. In practice, there will be no limit to what the abortionist does. Our colleague, my friend from Pennsylvania, Senator SANTORUM, has compared it—he does it better than anybody I have heard—to passing an assault weapons ban and then entrusting gun dealers to decide what constitutes an assault weapon. Would anybody propose to do that? I think not.

Viability has also been proposed as a standard. I fail to see what viability has to do with whether this procedure should really be permitted. Whether it should be permitted is a question of humaneness or arguably a question of health. If one can show that the fetus threatens maternal health and that abortion is the only way to save the mother's health, the opponents of the ban are still confronted with the insufferable difficulty of proving this specific procedure, partial-birth abortion, is the only way to accomplish that goal.

As Dr. Koop and Dr. Romer have testified, there is absolutely no way the partial-birth supporters can meet that test because this procedure is never medically necessary. The proponents of partial-birth cannot hide behind a false claim of medical necessity. There is no medical necessity. The evidence is abundantly clear.

Let us again, because I think it is so instructive, hear what Dr. Martin Haskell says, the abortionist who has performed so many of these abortions and who, frankly, has been so very candid about what he does and why he does it. Let us hear Dr. Haskell describe this procedure, again a procedure that is not medically necessary. This is what he says, not MIKE DEWINE, not Senator SANTORUM, not Senator BOXER. This is what Dr. Martin Haskell, who performs these abortions, has to say.

> I just kept on doing D&Es because that is what I was comfortable with up until 24 weeks. But they were very tough. Sometimes it was a 45-minute operation. I noticed that some of the later D&Es were very easy so I asked myself why can't they all happen this way. You see the easy ones would have a foot-length presentation, you'd reach up and grab the foot of the fetus, pull the fetus down and the head would hang up and then you would collapse the head and take it out. It was easy.

It was easy, Mr. President, it was easy for Dr. Haskell. Dr. Haskell does not say it was easy for the mother. I suspect that he really does not care. His goal is to perform abortions.

Under these proposed amendments, is Dr. Martin Haskell, a man who has said—you have heard what he had to say—is he the person we are going to trust to decide whether abortions are necessary? He has a production line going. Nothing is going to stop him from meeting his quota.

Dr. Haskell concludes, again quoting:

> I would reach around trying to identify a lower extremity blindly with the tip of my instrument. I'd get it right about 30–50 percent of the time. Then I said, ''Well, gee, if I just put the ultrasound up there I could see it all and I wouldn't have to feel around for it.'' I did that and, sure enough, I found it 99 percent of the time. Kind of serendipity.

Kind of serendipity, Mr. President.

Let me conclude. I believe we need to ask ourselves, what does our toleration of this procedure as a country, as a people, say about us? What kind of a people are we? What kind of a nation are we? I think you judge a country not just by what it is for. I think you also judge a country and a people by what we are against, and we judge a country and the people by what we tolerate. We tolerate a lot in this country, unfortunately. This is one thing that we should not have to tolerate. Where do we draw the line? At what point do we finally stop saying, oh, I really don't like this, but it doesn't really matter to me so I will put up with it? It really doesn't affect me so I will put up with it.

At what point do we say, unless we stop this from happening, we cannot justly call ourselves a civilized nation. I think it is very clear what justice demands. That is why I strongly support this ban. That is why I strongly support this bill to ban a truly barbaric procedure.

I look forward to the opportunity as this debate continues to debate the various amendments and talking about this bill further. At this point I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, it has often been said that one is a product of one's life experiences. Because this is a bill about so-called partial-birth abortion, and because there is no medical definition of partial-birth abortion, and because most of us believe that what is being referred to is a procedure either called intact D&E or intact D&X—but that is not reflected in the bill—and because the bill affects more than just the third trimester of a pregnancy but also goes into the second trimester, and because it carries with it criminal penalties, I want to share with this body how I am a product of my life experiences with respect to abortion.

I well remember my early days. In college during the 1950's, abortion was illegal, and I knew young women who were in trouble. I knew one who committed suicide. I knew others who passed the plate to those of us in a dormitory—and this was Stanford University—to go to Mexico for an abortion.

Later in the 1960's, I spent 8 days a year for 5 years sentencing women in the State prison, and I sentenced abortionists because abortion was still illegal in California in the early 1960's. I remember these cases particularly well. I remember the crude instruments used. I remember women who were horribly damaged by some of these illegal abortions. I remember mortality as well. And I always thought maybe one day we will get past this and not have to go back to it.

What concerns me about this debate is that I see it as the opening wedge of a long march to take us back 30 years, back to the passing of the plate at Stanford, back to the back-alley abortionists.

I will never forget one woman because abortion carried with it a maximum sentence of 10 years in State prison at the time. I sentenced this woman—I remember her name, I am not going to say it here—to the maximum sentence because she had been in and out of the State institution. This was her third time. Every time she went out I asked her why she continued. She said, ''Because women were in such trouble and they had no other place to go, so they came to me because they knew I would take care of them.'' That was the reality of life from 1960 to at least 1966 in California. I do not want women, young women, to have to go back to those days again.

So basically I am pro-choice. I am also a member of the Judiciary Committee of the Senate, so I have been present at all of the hearings on this so-called partial birth abortion bill. Essentially, I believe that abortion should be a matter for a woman, for her doctor, for her faith, for medicine, and not for politicians. One of the most perplexing things in my life has always been why men are so desperate to control a woman's reproductive system.

Nonetheless, about 4½ years ago, I became a grandmother of a little girl who is the light of my life. Her birth was not uncomplicated. My daughter had a pregnancy-related condition. It was a condition that women bleed to death from. You have, essentially, about 20 minutes from the time you begin to hemorrhage before your life is extinguished, and that of the child.

This case of my daughter's is really only related to this whole debate in

that it caused me to really think. I never thought that my daughter would be in a situation of this type. I began to think of the ''whens'' and ''ifs,'' and whether one could really predict all of the exigencies that a woman in pregnancy is subject to. I could not with my own daughter, because I never would have dreamt that this would have happened. For her, she was a lucky one. Although at home I am a block and a half from the hospital, they would not let her stay with me. She stayed in the hospital right next to an operating theater, so that for 2 months the baby grew in her womb, and then at 35 weeks she was able to have a C section. And we have a wonderful little granddaughter—bright eyed, bushy tailed—and the story came out OK.

But I came to a few conclusions. The conclusion is, no matter how all-seeing we think we are, no one can possibly know all of the circumstances one may find themselves in. So, if we are going to pass laws, laws need to be flexible enough to anticipate the circumstances and to provide for a worthy exception. I basically believe that this intact D&E, or intact D&X, whichever one chooses to call it, is a procedure that should not be used. That is my basic belief and I think the AMA is beginning to come to grips with this and set down some precepts, as to when one should consider a late-term abortion.

I believe that abortions post-viability should not take place except in the rarest of circumstances. And that the only case for a post-viability abortion is either to protect the life and health of the mother or in cases where there is such a serious, severe fetal abnormality that the abnormality is inconsistent with life. In other words, the child could not survive outside of the womb for any period of time.

So, with my colleagues, Senator BOXER and Senator MOSELEY-BRAUN, we will offer a substitute at the appropriate time to the Santorum bill and one that will also be a substitute to the Daschle bill. Our bill will have the following provisions:

It will prohibit all abortions after viability in a way that will meet the test of constitutionality. The provision for life and health of the mother does just that.

The health requirement is drawn to correspond with the mandate of Roe versus Wade, to prevent serious adverse health consequences to the mother and not to restrict the judgment of the physician.

Additionally, the goal is to provide for post-viability abortions only in cases of serious fetal anomalies—or abnormalities incompatible with life.

The penalties of the bill will be civil but substantial. They will be limited to the physician. The penalty for the first violation will be up to $100,000, along with referral to a State licensing board for possible suspension of the license. For a second offense, a fine up to $250,000 and referral to a State licensing board for possible revocation of the license. Unlike the Daschle substitute, we would not withhold Medicaid funds. But we would allow the State to, essentially, register its will.

I am very much persuaded by the fact that some 41 States have already passed legislation limiting late-term abortions. In Arizona, no abortion may be performed after viability; in Arkansas, same thing; in Connecticut, no abortion may be performed after viability; and on and on.

So I, for one, have a very hard time understanding why it is necessary for the Federal Government to get involved in this area at this time. But, if we do, I think we ought to do it in a way that does not limit the doctor, that prohibits post-viability abortions, and contains an exception that accounts for those rare cases when the fetus has a severe abnormality that is not consistent with human life.

So, we would offer this as a substitute for that offered by the distinguished Senator from Pennsylvania, and as a substitute to the Daschle legislation as well.

I would like to illustrate the ways in which this bill that the three of us would offer would differ from that of the Senator from Pennsylvania. Most profoundly, our legislation would fully comport with the Supreme Court's landmark decision, Roe versus Wade, which affirms a woman's constitutional right to choose whether or not to have an abortion. According to Roe, in the first 12 to 15 weeks of pregnancy, when 95.5 percent of all abortions occur, that procedure is medically the safest. The Government cannot, under Roe, place an undue burden on a woman's right to have an abortion.

In the second trimester, when the procedure in some situations provides a greater health risk, abortion may be regulated but only to protect the health of the mother. This might mean, for example, requiring that an abortion be performed in a hospital or performed by a licensed physician.

In the later stages of pregnancy, at the point the fetus becomes viable and able to live independently from the mother, Roe recognizes the strong interest in protecting potential human life. On that basis, abortions can be prohibited, except in cases where the abortion is necessary to protect the life and health of the woman. The life or the health of the woman. Thus, Roe strikes a delicate balance in protecting the fetus as well as the mother.

Our bill will fully comport with Roe. It applies only to post-viability abortions, not pre-viability abortions. And it contains exceptions to protect the health as well as life of the mother.

In my humble opinion, the bill before us now, presented by the distinguished Senator from Pennsylvania, is unconstitutional and it represents a direct challenge to Roe. It provides no exception for cases where the banned procedure may be necessary to protect a woman's health. It ignores the viability line established in Roe and reaffirmed in Casey. Although the term ''partial-birth abortion'' is not a medically recognized term, the bill's focus on a particular procedure means that this procedure will be banned even if performed pre-viability, during the second trimester. Roe does not permit abortions to be banned prior to viability. That is the constitutional framework here.

I think the proponents of this bill know well the challenges to Roe that this legislation presents. The magnitude of this bill is enormous for the long-term preservation of safe and legal abortion in this country. The Santorum bill would have an immediate and direct effect on the lives of women facing tragic and health-threatening circumstances, even in the second trimester of pregnancy. The bill also holds a doctor criminally liable unless he or she can prove that the banned procedure was the only one that would have saved the woman's life. Not the woman's health, but the woman's life.

The vagueness of the term ''partial-birth abortion'' makes the use of criminal penalties particularly troublesome. Doctors will not necessarily know when they are violating the law, since no precise procedure is referred to in the law.

During last year's hearing before the Judiciary Committee, none of our medical experts who testified had heard of the term partial-birth abortion. Since then, of course, times have changed. But none could point to a medical text that used the term.

Georgetown law professor, Michael Seidman, stated in hearings last year:

If I were a lawyer advising a physician who performed abortions, I would tell him to stop because there is just no way to tell whether the procedure will eventuate in some portion of the fetus entering the birth canal before the fetus is technically dead, much less being able to demonstrate that after the fact.

This is the catch-22 in the bill of the distinguished Senator from Pennsylvania. It can be applied to much more than just the procedure we think is at hand. The use of criminal penalties in conjunction with a vague term such as ''partial-birth abortion'' is likely to make the Santorum bill unconstitutionally vague and, therefore, unenforceable.

Our bill, instead, provides civil penalties for any post-viability abortion performed without sufficient medical justification. I believe that these civil penalties will effectively deter any physician who would perform a post-viability abortion for anything other than the most serious reasons.

Women's health, I think, should be of great importance to this body, and I would also hope that every woman in the United States would want a Congress to legislate based on what we thought would help their health, rather than create situations which would

deny them the opportunity prevent long-term damage to their physical health.

Late in certain types of highly troubled pregnancies, there are only limited options available to physicians, and I would like to give some examples of rare medical conditions that could necessitate a post-viability procedure for which there are no other alternatives available.

One example would be a fetus that has a greatly enlarged hydrocephalic head, three times the normal size, the cranium filled with fluid. The head is so large the woman physically cannot deliver it. Labor is impossible because the fetus cannot get through the birth canal. A caesarean may well be impossible for medical reasons.

Let me give you an actual case, the case of Viki Wilson. She stated:

> Then I had a final ultrasound at 36 weeks, just 4 weeks from my due date, and the world came crashing down around us. Our child was diagnosed with encephalocoele. Most of her brain had grown outside her head, and what did form was abnormal. Abigail could not survive outside the womb, and she was already suffering from seizures. At first I said, let's do a C-section, let's get her out of there! My doctor said, sadly, ''Viki, we do C-sections to save babies. I can't save Abigail, and I can't justify the risks of a C-section to your health when you are going to lose your daughter no matter what.'' So even though my medical training—

And this woman was a nurse—

> told us that there was no hope, my husband and I went to several specialists in the desperate belief that there was someone out there with a magic wand who would say, ''I can help save your daughter.'' No one did, no one could. Finally, we made a decision, based entirely on love, to end the pregnancy.

This is one of those situations that no one knows beforehand that they may be in.

There is also a case of a rigid fetus caused by arthrogryposis. This kind of fetus cannot move through the birth canal. It risks rupturing the woman's cervix. With prolonged intense pushing, the mother's heart is placed at risk.

Other health conditions can prevent a woman from being able to tolerate the stress of labor or surgery. They include cardiac problems like congestive heart failure, severe kidney disease, renal shutdown, severe hypertension, and so on.

In fact, it is certain health-related concerns that has caused me to part ways with Senator DASCHLE's approach. In many regards, the bill which we are introducing is similar to Senator DASCHLE's in several respects, but in one it is different.

We are alike in that both bills would limit all forms of post-viability abortions. The principal difference is the health exception. Our bill would allow third trimester abortions only in cases where the life of the mother is at issue or where an abortion is necessary to avert serious adverse health consequences to the mother. The Daschle bill, as I understand it, would allow an exception only in cases where continuation of the pregnancy would risk grievous injury to the mother's physical health. Grievous injury is defined as a seriously debilitating disease or impairment specifically caused by the pregnancy or an inability to provide necessary treatment for a life-threatening condition.

I believe that the Daschle substitute would not allow the abortion procedure for certain serious conditions that, although they are not caused by the pregnancy, are exacerbated by the pregnancy. I believe the limiting language of this bill could foreclose a doctor's option in certain situations that cannot be anticipated, and that is my concern. Who knows what situation one may be in or if the situation may not arise until labor or delivery?

For example, one House witness testified that her baby had a brain improperly formed, pressured by a backup of fluid, a greatly enlarged head, a malformed and failing heart, a malfunctioning liver, and a dangerously low amount of amniotic fluid. A physician, we believe, needs the latitude to deal with these complex emergency situations as they are trained to do.

I also believe it is important to understand, and I hope if I am wrong that the Senator will correct me, that the Daschle substitute makes no provision for a severely malformed fetus incompatible with life, if that baby can be delivered in a live condition even for a matter of minutes or days.

Roe simply states if the State is interested in protecting fetal life after viability, it may go so far as to proscribe abortion during that period, except when it is necessary to preserve the life or health of the mother.

I think that is a very important constitutional mandate, that any bill passed here in the next day or so must meet the test of constitutionality.

So we will, at an appropriate time, present a bill that we hope will meet this test.

Let me just end by saying that everything that I have read, everything that I have seen indicates that post-viability abortions are extremely rare, and that the vast majority, over 99 percent of abortions, are performed very early in pregnancy. The latest data that we have from the Guttmacher Institute, whose figures are relied upon by the Centers for Disease Control, indicates that 99 percent of all abortions are performed before 20 weeks of gestation; 90 percent are performed within the first 12 weeks; and less than 1 percent are performed after 20 weeks. Only four-hundredths of 1 percent performed after 20 weeks are performed during the third trimester. So this means there is a total of about 400 to 600 abortions performed annually during the third trimester of pregnancy.

According to the Centers for Disease Control, 98.9 percent of all abortions are performed by the simple curettage procedure, which simply involves the scraping of the interior of the uterus.

So any way you view it, we are looking at a very small number of cases. I guess my plea is for those circumstances which cannot be anticipated, for circumstances where the mother's life and health truly are at risk and—as I learned firsthand with my own daughter—nobody really understands or can have a looking glass to indicate what those circumstances may be.

As I said, I basically believe that the intact D&E or intact D&X, whatever one may choose, should not be used. I am hopeful that the medical profession will take that view, and I believe that there are ongoing discussions on that subject.

But I believe that when we pass legislation that affects every single woman in the United States who can possibly be at issue in this case, that to pass a piece of legislation which would mandate that a seriously abnormal fetus, unable over time to sustain life outside the womb, would have to be delivered regardless of the health impacts on the mother, is not a piece of legislation that I, in good conscience, can support. So, Madam President, at the appropriate time, Senators BOXER, MOSELEY-BRAUN, and I will present a substitute amendment.

I thank the Chair and yield the floor.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Thank you, Madam President. I will just say in response to the Senators from California, I just need to reiterate what we stated earlier, and Senator DEWINE read earlier, that there is no health reason where this is the only option. AMA said that today. They came out with a report saying that today. The American College of Gynecologists and Obstetricians have said so.

This is not going to limit anybody's access to abortion if that is what they choose to do. It eliminates a procedure, a procedure, as I said before, that is not medically recognized, it is not in the literature, it is not peer reviewed, it is not taught anywhere in any medical school. It eliminates a procedure which many of us believe, and I believe the vast majority of the American public believes, goes too far, is too brutal, is outside the realm of what we should allow in a civilized society.

So I keep hearing the concerns that, ''Well, maybe there's something out there, maybe there's a case out there that this is necessary.'' I know that the Senator from California started with the case of Viki Wilson and talked about one of those instances being the case of hydrocephaly. I am going to talk about a case of hydrocephaly. I am going to talk about a case where a mother involved with a little baby in her womb, diagnosed with hydrocephaly, was confronted with the very same problems that Viki Wilson was confronted with, the very same challenges Viki Wilson was confronted with, the very same challenges that not just Viki Wilson or Laurie Watts

were confronted with, but, unfortunately, lots of mothers and fathers are confronted with.

I suggest that there is a different way, that there are other options, options that are much more fulfilling, more decent, more human, more humane than the option of a partial-birth abortion.

We hear so much talk about the people who came to the White House and stood with the President. The Senator from California, Senator BOXER, is very fond of putting up charts of individual families that have gone through this very difficult time. I have often talked about the millions of children who die because of abortion, and the thousands of abortions of partial-birth abortion. But somehow or another, that does not seem to lock on, at least with the media or, in some respects, even with the American public. It reminds me of what Joseph Stalin once said. He said:

> A single death is a tragedy—a million deaths is a statistic.

I think for far too often, we have been arguing statistics here, about the numbers of millions of children, and maybe, oddly, we can learn something from Joseph Stalin.

So today I am going to talk about what could have been a single tragedy, what could very well have been a Viki Wilson, what could have been a whole host of other mothers and fathers who are confronted with this terrible dilemma of having a child who just might not survive.

Let me tell you the story about Donna Joy Watts and Lori and Donny Watts. The Watts live in Green Castle, PA. They did not always live there. They lived, until just a month or so ago, in western Maryland.

Seven months into her third pregnancy, Lori Watts learned that her child would not be normal, that there was a problem. A sonogram showed that her child had a condition known as hydrocephalus, the same condition that the Senator from California has just described with one of the cases the President points to as the reason for keeping this procedure legal. Hydrocephaly is an excessive amount of cerebral fluid in the skull, also known as water on the brain.

Lori's obstetrician said, after the sonogram was done, that he was going to refer her to a genetics counselor. I could talk for a long time about genetics counselors. But I think this story sums up, unfortunately, what far too many genetics counselors do.

Lori Watts phoned the clinic to ask directions and what they planned to do. The staff member told her that most hydrocephalic fetuses do not carry to term so that she should terminate her pregnancy. When she asked, how could you do an abortion so late in pregnancy at 7 months, she was told that the doctor could use a skull-collapsing technique that we refer to as partial-birth abortion.

Donny Watts demanded to know why they had been referred to a facility that counsels for abortion when talking to his obstetrician, whom he called. And the obstetrician said, ''Well, you know, there are doctors there who didn't encourage abortion. I thought you would talk to them, and you talked to the wrong person.''

It is amazing—but not amazing—that you can call a clinic, and depending on who you talk to is what kind of advice you are going to get as to whether to terminate your pregnancy or not. But I am, frankly, pleased that at least there are some counselors who will suggest other alternatives. Far too many do not in cases as severe as was confronting the Watts family.

In that conversation with their obstetrician, he advised the Watts to see a specialist in high-risk obstetrics. I can say that in conversations with the Watts, they were amazed at the attitude of the people they confronted.

The obstetrician, the original obstetrician, said that he could not take care of the baby anymore; it was too complicated. So they went and asked doctors at Johns Hopkins. They said they—well, they would not even see them. All they wanted to do was an abortion. They would not deliver the baby.

Then she went to Union Memorial Hospital, same thing. You hear so much talk about, well, we cannot get availability for abortions. How about availability for delivery?

She finally went to the University of Maryland Hospital in Baltimore. They were very quick to dismiss her also. They said the baby's chances for survival were nil, that she would be ''a burden, a heartache, and a sorrow.''

Where have we come in this country where we have so little respect for the little children among us who just may not be perfect, that they can be disposed of, that you can look into the eyes of a mother who desperately wants her child and tell her, ''It would just be a burden to you''?

I do not know of any child that is not at times a burden. Children are joys and struggles. I mean, that is just part of life. If you are not ready to have some burdens with your children, then you better not get pregnant in the first place and try to have children.

Where have we arrived?

She went through four separate occasions. They were discouraging her even from delivering her child, as desperately as she wanted to do so, not unlike what Viki Wilson ran into.

Lori Watts did not give up. Lori Watts finally found somebody who would do it, someone who was not going to say that it was a burden, a heartache, or a sorrow, or as the other doctors said, ''If you didn't abort, you would be jeopardizing your own fertility, your own health.''

So after all that treatment, they finally found someone who would do it.

In the process of the care, prior to the delivery, they found out that the fetus had occipital meningo-encephalocele, which is exactly again what Viki Wilson had. Part of the brain was developing outside of the skull.

There was an article from today's Washington Times, on page 2, about the Watts family. In that article, Mrs. Watts is quoted saying at this time in her life that ''everyone on the other side talks about choice, but they didn't want to give us a choice. They said they would not deliver her.''

Imagine, people wonder how far we have gone. People wonder how we can be debating partial-birth abortion on the floor of the U.S. Senate and have people get up and argue that it should be legal.

Listen to this. They would not even deliver her at four places—four places. They did finally find someone who would deliver the baby at the University of Maryland Hospital. They delivered through a cesarean section. The Watts' third daughter, Donna Joy—Donna, named after her dad, Donny; Joy, for obvious reasons—was born on November 26, 1991.

Yes, she was born with a lot of problems, a lot of serious problems. But let me describe to you what they had to confront now after they fought and did not give up to give their daughter a chance. Donna Joy was born with hydrocephaly.

That is a picture of her shortly after her birth.

For 3 days—for 3 days—they refused to drain the water off her brain. They said she was going to die, and so they refused to put a shunt in and drain the water. For 3 days they hydrated her, gave her fluids, but they did not feed her because they said she was going to die.

Mrs. Watts said in this article, ''The doctors wouldn't operate on her to save her life. I just about had to threaten one of the doctors physically. And I was seconds from throwing him against the wall. She was already born and they were still calling her a fetus.''

But Lori and Donny Watts did not give up. They did not cave in to what our culture around sick babies is any more, and they fought on. They had the surgery performed. They began the feeding. Initially, she fed the baby with breast milk in a sterilized eyedropper. Then, at 2 weeks of age, the shunt that was put in failed, and Donna Joy was readmitted to the hospital.

A tray of food was delivered by mistake to her room. It had some cereal and bananas and some baby formula on it. And so Lori decided that she would mix this together to form a paste, put it in an eyedropper, and place a drop in the back of Donna's tongue.

You see, Donna Joy was born with about 30 percent of her brain. Donna Joy was born without a functioning medulla oblongata, with a deformed brain stem. She had no control over her sphincter muscle, so things that were given to her would come straight back up. There was nothing to hold the food in her stomach. So Mrs. Watts came up with the idea of getting something that was heavy, pasty, and putting it way back. And it worked.

You want to talk about a burden and a joy? For the next several months, they had to feed Donna Joy that way. It took an hour and a half to feed their daughter; an hour-and-a-half break and then an hour-and-a-half feeding, 24 hours a day. She had to fight. She had to fight.

Four months later, a CT scan revealed she also suffered from lobar-haloprosencephaly, a condition that results in the incomplete cleavage of the brain.

She also suffered from epilepsy, a sleep disorder, and continuing digestive complications. The neurologist suggested that ''We may have to consider a gastronomy tube [a gastronomic tube] in order to maintain her nutrition and physical growth.''

She was suffering from apnea, a condition which spontaneously stops breathing.

At 18 months, Donna Joy had another brush with death. She contracted encephalitis, which is the inflammation of the brain. So a little girl, with 30 percent of her brain, who has to take medicine so she does not have seizures, hit with another problem of encephalitis.

As a result of high temperature—she had a 106 temperature—it was a big setback. Up until that time, she was developing along, using sign language. She was not talking, but she was communicating. That temperature wiped out, that encephalitis wiped out her memory. She could not walk or talk. She was laying in bed having all sorts of difficulty, could not focus on anybody, and had deteriorated substantially.

Then a miracle. Lori would tape shows late at night and put them on to give some diversion for Donna Joy to direct her attention. Nothing seemed to work, until one day a television show came on, a tape of a television show called Quantum Leap. The star of the show, Scott Bakula sings a song ''Somewhere in the Night.''

Upon hearing that song, she reacted as follows, according to the newspaper: ''The child stopped crying. Mrs. Watts rewound the piece and played it again. This time Donna sat up and tried crawling toward the television. The more she watched Quantum Leap the more Donna improved. She would only eat and drink when the TV character was on the screen. Just before she turned 2, she took her first steps toward Scott Bakula on the TV set.''

At 2 years, Donna Joy had already undergone eight brain operations, most of which occurred at the University of Maryland hospital. Finally, they received news about Donna Joy's prospects. The neurologist who examined her after her seizure in 1996 noted that at 4½ years of age Donna Joy could speak, walk, and handle objects fairly well. He also thanked a colleague for ''the kind approval for the follow-up in allowing me to reassess this beautiful young child who is, remarkably, doing very well in spite of significant malformation of the brain.''

Today, the story of Donna Joy Watts has inspired many, many people. She can do a lot in spite of her disabilities. She has cerebral palsy, epilepsy, tunnel vision, and Arnold-Chiari Type II malformation, which prevented development of her medulla oblongota. She walks, runs, plays. In fact, she was in my office most of the afternoon playing with my children. I know she has very good dexterity because we have Hershey kisses and Three Musketeer bars in the front of the office, and she can unwrap them as fast as any 5-year-old I have seen.

Prior to Donna Joy moving to Pennsylvania, the Governor of Maryland, Parris Glendenning, honored her with a Certificate of Courage commemorating her fifth birthday. The mayor of Hagerstown, MD, Steve Sager, proclaimed her birthday Donna Joy Watts Day. Members of the Scott Bakula fan club sent donations and Christmas presents for the Watts children. People from all over the world who learned about Donna Joy on the Internet have been moved to write and send gifts. Perhaps the most important is that the Watts' determination has inspired a Denver couple to fight for their little boy who was born with similar circumstances.

I asked the Watts if there are other children whom they know who have survived and done this well. Mrs. Watts looked back at me and said, ''Other children with this condition are aborted. We don't know. We don't know.'' We don't know the power of the human brain. I hear the story all the time about how you do not use all your brain. Well, I guess you do not need it all to be a functioning human being in our world. She is very functional.

There is a lot of talk that we need to have the abortions, particularly in the case of hydroencephaly to prevent future infertility. In June 1995, Lori and Donny Watts welcomed another child, Shaylah, into the family. Mrs. Watts looked at me very proudly and said, ''On the first try.''

I had the opportunity to walk over here with Donna Joy, hold her hand, ride the subway with her, go up the escalator, which was a big treat, and come up and be in the Senate gallery for only a brief time. She is now back in my office. I encourage anybody who would like to meet her, any one of my colleagues, I encourage all of them to go and talk to the Watts family and to look into the eyes of this little girl, this little girl who could have died through a partial-birth abortion. You want a face on partial-birth abortions? All of the faces are not here to be seen. They die. Brutal. This is the little girl who was saved from partial-birth abortion at 5½ years of age.

I will read the end of Tony Snow's article about this situation of the Watts. Lori and her husband, both children of steelworkers, had to overcome the contempt of snobbish doctors and social workers as they painstakingly built their own miracle. They never got any help from feminists, liberal Democrats or the President. These days, Don works the 4 p.m.-to-midnight shift in the local corrections facilities so he can spend time with his four kids. Lori educates them in the evening while he is gone. Unfortunately, they went bankrupt a couple years ago and have moved to Pennsylvania, Greencastle, a beautiful community in Franklin County, where they live in a 2-bedroom bungalow on a friend's farm.

As for choice, here is what Lori has to say: ''Choice they didn't give me. I had to beg for a choice. Why did I have to go out of my way when they wanted to kill my baby, when they didn't want to operate or feed her? I didn't get to choose anything.''

As I mentioned earlier today, I rose and asked unanimous consent to have little Donna Joy Watts sit up there with her mom and dad and watch this proceeding and watch Members debate whether we are going to allow a procedure that could have been used to kill her still be legal in this country. When I asked for that unanimous consent, the Senator from California, Senator BOXER, objected. Donna Joy Watts is only 5½ years of age, although I suggest she has lived a lot in those 5½ years. But you have to be 6 years of age to sit in the Senate gallery unless you can get unanimous consent in the Senate to do otherwise, and Senator BOXER rose and objected. She said, and I quote, ''I think I am acting in the best interests of that child.'' Oh, how many times has Lori Watts heard that? How many people have said to her, ''I am doing this for the best interests of your child.'' But she did not listen to them. If she had listened to them she would not be here today, sitting here in Washington, and Donna Joy would not be on this Earth. Thank God Lori did not listen to all of the voices, thank God Donny didn't listen to all of the voices that said, ''I think I'm acting in the best interests of your child.''

There is no reason—there is no reason—for the conditions that the Senator from California outlined as medically necessary reasons to do partial-birth abortions. There is no reason. Those are not good reasons. Here is an example of why it is not a good reason. You do not have to kill the baby. You can deliver the baby. You can do a cesarean section. You may at times—in this case, it was not the case—you may at times have to separate the mother from the child, but you never have to kill the child in the process. You do not have to do it.

So for all the arguments out there, for all the people who wanted to have a face, that is a beautiful face. It is a beautiful addition, a beautiful contribution to the human spirit. Does it not make you just feel good to know that people love their children so much, love life and respect it so much, that they will get up every 3 hours for an hour and a half every day to feed their children painstakingly one drop at a time? It ennobles us all. It lifts us all up.

What is the alternative? Death, destruction of a little baby. I do not see how that elevates any of us. How does that add to the human condition? How does that improve the quality of life in America? How are we ennobling our culture by this? How are we standing as a civilization on righteousness with this? There are beautiful tales to be told. Just give these children a chance.

That is what this bill does. It outlaws a barbaric procedure that is never, never, never, never, never necessary. Hold that thought. Believe that truth, then ask yourself why, why do we have people on the floor of the U.S. Senate, the greatest deliberative body on the face of the Earth, defending such cruelty, such barbarism, to some of the most vulnerable among us?

I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. FRIST. Madam President, I rise today to speak on the issue of partial-birth abortions. We know that public opinion on abortion is deeply divided, and reasoned debate too often degenerates into the shouted distortions of polarized parties. As elected leaders, we have a responsibility to resist the temptation of knee-jerk politics and carefully sift the facts from among the chaff of many fictions.

Americans, pro-life and pro-choice, Democrat and Republican, have united in opposition to partial-birth abortions because this issue transcends the politics of abortion. As a society, we have been shocked to realize we have allowed doctors to perform a procedure that is a mere 3 inches from infanticide. The nature of this brutal procedure has so shocked us that many pro-choice Americans fear that women and their circumstances will be forgotten in a backlash.

Fear has driven many activists to turn to deception for a defense. Understandable possibly, but unfortunate. As a physician, I know that women's health will never be served in the long term by myth and by deceit. Therefore, as we debate this procedure this afternoon, this evening, and tomorrow, I appeal to my colleagues to represent the facts accurately. Again and again, we have had to come to the floor to address the fallacies perpetuated by the opponents of the ban.

As a case in point, I would like to read an excerpt to illustrate the first myth, the myth that we have heard again and again, and the myth is that partial-birth abortion is necessary to preserve the health of the mother.

This myth really has been used as the primary objection, to the ban on partial-birth abortion. President Clinton has cited the absence of a health exception as his primary reason for carrying out the veto of the ban last year. In an Associated Press interview on December 13, 1996, President Clinton described a hypothetical situation where, without a partial-birth abortion, a woman could not ''preserve the ability to have further children.'' He said that he would not ''tell her that I am signing a law which will prevent her from having another child. I am not going to do it.''

The scenario described by President Clinton is heart wrenching, and is something that people listen to. It grabs their attention. But his claim about partial-birth abortion is entirely fictional. Partial-birth abortion is never necessary to preserve the health of a woman.

The College of Obstetricians and Gynecologists recently issued a statement admitting that their select panel on partial-birth abortion ''could identify no circumstances under which this procedure would be the only option to save the life or preserve the health of the mother.''

Madam President, I ask unanimous consent to have printed into RECORD the entire statement of policy.

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

ACOG STATEMENT OF POLICY AS ISSUED BY THE ACOG EXECUTIVE BOARD

STATEMENT ON INTACT DILATATION AND EXTRACTION

The debate regarding legislation to prohibit a method of abortion, such as the legislation banning ''partial birth abortion,'' and ''brain sucking abortions,'' has prompted questions regarding these procedures. It is difficult to respond to these questions because the descriptions are vague and do not delineate a specific procedure recognized in the medical literature. Moreover, the definitions could be interpreted to include elements of many recognized abortion and operative obstetric techniques.

The American College of Obstetricians and Gynecologists (ACOG) believes the intent of such legislative proposals is to prohibit a procedure referred to as ''Intact Dilatation and Extraction'' (Intact D & X). This procedure has been described as containing all of the following four elements: (1) deliberate dilatation of the cervix, usually over a sequence of days; (2) instrumental conversion of the fetus to a footling breech; (3) breech extraction of the body excepting the head; and (4) partial evacuation of the intracranial contents of a living fetus to effect vaginal delivery of a dead but otherwise intact fetus.

Because these elements are part of established obstetric techniques, it must be emphasized that unless all four elements are present in sequence, the procedure is not an intact D & X.

Abortion intends to terminate a pregnancy while preserving the life and health of the mother. When abortion is performed after 16 weeks, intact D & X is one method of terminating a pregnancy. The physician, in consultation with the patient, must choose the most appropriate method based upon the patient's individual circumstances.

According to the Centers for Disease Control and Prevention (CDC), only 5.3% of abortions performed in the United States in 1993, the most recent data available, were performed after the 16th week of pregnancy. A prelimary figure published by the CDC for 1994 is 5.6%. The CDC does not collect data on the specific method of abortion, so it is unknown how many of these were performed using intact D & X. Other data show that second trimester transvaginal instrumental abortion is a safe procedure.

Terminating a pregnancy is performed in some circumstances to save the life or preserve the health of the mother. Intact D & X is one of the methods available in some of these situations. A select panel convened by ACOG could identify no circumstances under which this procedure, as defined above, would be the only option to save the life or preserve the health of the woman. An intact D & X, however, may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in consultation with the patient, based upon the woman's particular circumstances can make this decision. The potential exists that legislation prohibiting specific medical practices, such as intact D & X, may outlaw techniques that are critical to the lives and health of American women. The intervention of legislative bodies into medical decision making is inappropriate, ill advised, and dangerous.

Mr. FRIST. Madam President, in addition, the AMA task force entitled ''The Report of the Board of Trustees,'' convened on this very issue, concluded that ''There does not appear to be any identified situation in which intact D&X''—their attempt to coin a phrase the procedure we call partial birth abortion—''is the only appropriate procedure to induce abortion,'' and they admitted that ''ethical concerns have been raised about intact D&X.''

Madam President, I will read the second myth. It comes directly from a Planned Parenthood press release. It says: ''The D&X abortion is a rare and difficult medical procedure. It is usually performed in the most extreme cases to save the life of the woman or in cases of severe fetal abnormalities.''

That is taken from Allen Rosenfeld, dean of the Columbia School of Public Health, Planned Parenthood Federation of America, press release of June 15, 1995.

This simply is not true. I direct my colleagues' attention to the recent admissions of Ronald Fitzsimmons, executive director of the National Coalition of Abortion Providers. Mr. Fitzsimmons has shown amazing integrity and courage by stepping forward and really coming clean on this misinformation campaign surrounding this bill. While he himself opposes and is very adamant when he speaks to all of us that he opposes the ban on philosophical reasons, he admits that he ''lied through his teeth'' when he said that partial-birth abortion was used rarely and only on women whose lives were in danger or whose fetuses were damaged.

He said he just went out there to ''spout the party line.'' In a recent American Medical News article in March of 1997, he explained that he could no longer justify lying to the American people, saying, ''You know they're primarily done on healthy women and healthy fetuses, and it makes you feel like a dirty little abortionist with a dirty little secret.''

I admire him for his integrity in coming forth.

Let me quote another partial-birth practitioner, Dr. James McMahon. He aborted nine babies simply because they had a cleft lip. Many others, at

least 39, were aborted because of the psychological and emotional health of the mother, despite the advanced gestational age and health of the child. Another practitioner, Dr. Martin Haskell claims that 80 percent of the partial-birth abortions he performed were for ''purely elective'' reasons.

So, in summary, we can categorically dismiss claims that the procedure is necessary for the health of the mother and that most of these babies are severely deformed.

Women always have safe and effective alternatives to partial-birth abortion in any trimester. The Washington Post put it this way: ''It is possible—and maybe even likely—that the majority of these abortions are performed on normal fetuses, not on fetuses suffering genetic or developmental abnormalities. Furthermore, in most cases where the procedure is used, the physical health of the woman * * * is not in jeopardy.''

That is from the Washington Post of September 17, 1996.

I submit that part of the confusion on this issue is due to the deliberate manipulation of the collective sympathy that we all have when we talk about the health of the mother. When the President of the United States defends his veto of the partial-birth abortion ban on the grounds that he wants to protect women's health, most people assume that he is talking about women's physical health. I imagine that most Americans would actually be surprised to learn that babies in the late second and early third trimesters may be legally aborted for reasons other than the life and/or the physical health of the mother. What the President does not tell you is that under Doe versus Bolton, a 1973 Supreme Court case, health is defined to include ''all factors—physical, emotional, psychological, familial, and a woman's age—relevant to the well-being of the patient.''

A broad definition of health.

People in the abortion industry understand that there are many late-term abortions performed for social reasons as well as health reasons. A 1993 National Abortion Federation internal memorandum acknowledged, ''There are many reasons why women have later abortions,'' and they include ''lack of money or health insurance, social-psychological crises, lack of knowledge about human reproduction, et cetera.'' So when you see legislation come to the floor of the U.S. Senate to allow late-term abortions if the mother's health is at risk, just remember how health is being defined—so broadly that you can drive a truck through it.

Unfortunately, opponents of the bill don't stop there. You will hear a third carefully crafted myth that goes something like this.

This procedure, if not wildly accepted, could possibly be the best procedure in a particular woman's situation.

As a physician, I have a sworn commitment to preserve the life and health of every single patient. So I have taken the liberty of calling and checking with people around the country, checking with key obstetricians and abortion providers all across this Nation. From the outset, I will admit that it has been difficult for me to imagine how a procedure that is not taught in residency programs where obstetricians are trained—it is not taught today; it is not referenced in our peer review journals, which is really the substance, the literature through which we teach each other, and share information; it is not in peer review journals—it is a little bit hard for me to understand how people could argue that this is the best procedure available. Really until the recent controversy, many practitioners who you talk to had never heard of this particular procedure.

On the other hand, a lot of my medical colleagues—they rightly fear the Government coming in and trying to control everything that they do in their practice—have said that this procedure could be the best alternative in a given situation. They have not endorsed it. They have not listed specific medical indications for the procedure, and they have not even recommended that it be used in most circumstances, but they have said—again, with this great fear that the Federal Government will come in and control everything that they do—that the physician should retain the right to use this procedure if a circumstance should hypothetically arise in which an individual might think it is the best option.

But when questioned about this very specific issue, the ACOG president of the Society of Obstetricians and Gynecologists, Dr. Fredric Frigoletto, maintains that, ''There are no data to say that one of the procedures is safer than the other.'' When asked why the statement then said that the procedure ''may be the best'' in some cases, Dr. Frigoletto answered, ''or it may not be.''

That interview is from the American Medical News, March 3, 1997.

Moreover, Dr. Warren Hern, author of the textbook Abortion Practice, the Nation's really most widely used textbook on abortion procedures and abortion standards, said, ''I have very serious reservations about this procedure * * * You really can't defend it * * * I would dispute any statement that this is the safest procedure to use.''

Dr. Hern specializes in late-term abortions.

Incidentally, Madam President, I would like to note that it is difficult from a medical perspective to categorically describe late-term surgical abortions as the best option. In the first place, medical, nonsurgical, late-term abortion methods are generally regarded as superior to surgical methods.

Second, the National Abortion Federation concedes that at this point in time residents may not receive enough training in abortion to ''be truly competent.''

Third, Dr. Haskell who, is considered to be one, if not the creator, of the creators of the procedure we are talking about, specifically acknowledged in his paper that a disadvantage of the partial-birth procedure was that it requires a ''high degree of surgical skill.''

So let me just recap briefly. You have a brutal, basically repulsive procedure designed to kill a living infant outside of the birth canal—except for the head. Leading providers of women's obstetrical and gynecological services condemn it. They recommend it not be used. They refuse to endorse it. They highlight its risks, and say that there are other safe and effective alternatives available. But for political reasons—and I understand the politics involved—they urge us not to ban it because that would be violating the sanctity of the physician-patient relationship.

Madam President, as a physician and as a father, I submit that any provider who performs a partial-birth abortion has already violated that sanctity of the physician-patient relationship.

Another myth: Medical procedures should never, under any circumstances, be criminalized.

It is a myth that I thought about. I would like to defer to this matter to the American Medical Association which concedes that there are circumstances where Government intervention, even in the form of criminalization of specific medical procedures, is appropriate.

I am quoting now from the letter of AMA Executive Vice President P. John Seward, M.D., to Representative CARDIN: He says:

> AMA's generic policy calls for opposition to the criminalization of medical procedures and practices. Therefore, on the surface, it would seem obvious for the AMA to oppose this bill. However, our policy cannot be applied without context. For example, the AMA has a strong ethical and policy position against . . . the practice some have called ''physician-assisted suicide'' and we have opposed efforts to legalize such activities even though current law could be considered the criminalization of a medical procedure.

The context in the case of partial-birth abortion, as in the case of physician-assisted suicide, is the time-honored Hippocratic principle, ''First do no harm.'' An additional component of the context is the reality that this procedure is not endorsed by the medical academy, and is made unnecessary by other widely used, safe and effective options.

Those of us in this room have followed this debate for 2 years now, some for much longer. From day one, there has been a pattern of manipulation, deception, misinformation, and coverup; even at the risk of harming women's health.

There is one final myth that has been perpetuated, and then I will yield the floor.

Those of us in opposition to the partial-birth abortion have had to dispel the notion—actually dangerous to women's health—that their babies

would be killed if they took anesthesia for any reason during pregnancy.

Let me quote again from some pro-choice literature trying to appease women's fears about partial-birth abortion by asserting that the baby is already dead when the doctor plunges the scissors into the back of the baby's head.

''The fetus dies of an overdose of anesthesia given to the mother intravenously.''

That is from a Planned Parenthood fact sheet.

No. 2. ''Neurological fetal demise is induced, either before the procedure begins or early on in the procedure, by the steps taken to prepare the woman for surgery.''

That is from the National Abortion Federation news release July 1995. It is simply not true. I will turn to the president of the American Society of Anesthesiologists who personally came to Capitol Hill to refute this argument, and he basically, in testifying before the Senate Judiciary Committee, said that intravenous anesthesia would not kill the baby. He said:

''In my medical judgment, it would be necessary in order to achieve neurological demise of the fetus in a partial-birth abortion to anesthetize the mother to such a degree as to place her own health in serious jeopardy.''

Now, in closing, we have heard many eloquent statements today, and we will likely hear them tomorrow, in defense of this brutal and inhumane procedure, but in the words of the great poet Milton, ''All is false and hollow.'' Despite the preponderance of evidence, we are compelled to again listen to arguments designed solely to ''make the worse appear the better reason,'' and we must continue to address deceptions designed to ''perplex and dash'' honest counsel. There is no excuse at this stage of the game for not knowing the truth, the absolute truth. There is no room—no room any longer to pretend that this procedure is necessary for the health of the mother or that it might be the best. It is time, as Mr. Fitzsimmons so plainly put it, for ''the [abortion] movement to back away from the spins and half truths.''

Partial-birth abortions cannot and should not be categorized with other medical procedures or even other abortions. They should not be allowed in a civilized country. With the reintroduction of the partial-birth abortion ban legislation in the Senate, we have the opportunity to right now to right a wrong, and now once again the American people are calling on us to listen not to political advisers, not to radical interest groups—but to our conscience. It will take moral courage to put a stop to the propaganda, but we all have the means at our disposal to do the right thing. For the sake of women, for the sake of their children, and for the sake of our future as a society, we must put a stop once and for all to partial-birth abortion.

I yield the floor.

(Mr. FAIRCLOTH assumed the chair.)

Mr. KYL. Mr. President, when President Clinton vetoed the Partial-Birth Abortion Ban Act a year ago, he said there are ''rare and tragic situations that can occur in a woman's pregnancy in which, in a doctor's medical judgment, the use of this procedure may be necessary to save a woman's life or to protect her against serious injury to her health.''

I do not doubt that the President made that statement about the rarity of the procedure and its utility, relying in good faith on information provided at the time by certain organizations involved in this debate. We now know, however, that the information given the President was of questionable value, if not downright inaccurate.

A number of pro-abortion organizations, for example, had suggested that partial-birth abortions totaled only about 500 a year and that they were limited to very serious and tragic cases where there was no alternative.

This is how the Planned Parenthood Federation of America characterized partial-birth abortion in a November 1, 1995, news release: ''The procedure, dilation and extraction (D&X), is extremely rare and done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality.'' Let me quote that again, done only—only—in cases when the woman's life is in danger or in cases of extreme fetal abnormality.

The organization repeated this several times. In a press release issued on March 26, 1996, Planned Parenthood said, ''The truth is that the D&X procedure is only used when the woman's life or health is in danger or in cases of extreme fetal anomaly.'' The statement is absolute: the procedure is only used under these conditions, said the organization.

In fairness, I will point out that Planned Parenthood was not the only group to make such sweeping statements at that time.

Within the last few months, however, the story has started to unravel. On February 26, the New York Times reported that Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, admitted he ''lied in earlier statements when he said [partial-birth abortion] is rare and performed primarily to save the lives or fertility of women bearing severely malformed babies.'' According to the Times, ''He now says the procedure is performed far more often than his colleagues have acknowledged, and on healthy women bearing healthy fetuses.''

Mr. Fitzsimmons told American Medical News the same thing—that is, the vast majority of these abortions are performed in the 20-plus week range on healthy fetuses and healthy mothers. He said, ''The abortion rights folks know it, the anti-abortion folks know it, and so, probably, does everyone else.''

I ask unanimous consent that the full text of the New York Times and the American Medical News articles be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. KYL. Mr. President, Ron Fitzsimmons' admission is really not all that surprising. Even at the time of the debate in the Senate last year, the preponderance of evidence suggested that the procedure was more common than some of its defenders wanted the public and Congress to believe. Consider, for example, that Dr. Martin Haskell, who authored a paper on the subject for the National Abortion Federation, said in a 1993 interview with American Medical News, ''in my particular case, probably 20 percent—of the instances of this procedure—are for genetic reasons. And the other 80 percent are purely elective.'' He suggested at the time that an estimate of about 4,000 partial-birth abortions a year was probably accurate.

Another doctor, Dr. James McMahon, who acknowledged that he performed at least 2,000 of the procedures, told American Medical News before he died that he used the method to perform elective abortions up to 26 weeks and nonelective abortions up to 40 weeks. His definition of ''non-elective'' was expansive, including ''depression'' as a maternal indication for the procedure. More than half of the partial-birth abortions he performed were on healthy babies.

The Record of Bergen County, NJ published an investigative report on the issue last year and reported that in New Jersey alone, at least 1,500 partial-birth abortions are performed annually, far more than the 450 to 500 such abortions that the National Abortion Federation said were occurring across the entire country.

According to the Record, doctors it interviewed said that only a ''minuscule'' number of these abortions are performed for medical reasons.

Mr. President, evidence overwhelmingly indicates that partial-birth abortions are performed far more often than President Clinton suggested when he vetoed the Partial-Birth Abortion Ban Act last year. But what about his comments about the need to protect the life and health of the mother?

Here is what the former Surgeon General of the United States, Dr. C. Everett Koop—a man who President Clinton singled out for praise as someone trying ''to bring some sanity into the health policy of this country''—had to say on the subject. He said that ''partial-birth abortion is never medically necessary to protect a mother's health or future fertility. On the contrary, this procedure can pose a significant threat to both.''

That is consistent with testimony that the Judiciary Committee received in late 1995 from other medical experts. Dr. Nancy Romer, a practicing ob-gyn

from Ohio, testified that in her 13 years of experience, she never felt compelled to recommend this procedure to save a woman's life. ''In fact,'' she said, ''if a woman has a serious, life threatening, medical condition this procedure has a significant disadvantage in that it takes three days.''

Even Dr. Warren Hern, the author of the Nation's most widely used textbook on abortion standards and procedures, is quoted in the November 20, 1995 edition of American Medical News as saying that he would ''dispute any statement that this is the safest procedure to use.'' He called it ''potentially dangerous'' to a woman to turn a fetus to a breech position, as occurs during a partial-birth abortion.

The American College of Obstetricians and Gynecologists, which, many will recall, supported the President's veto last year, was quoted by columnist Charles Krauthammer on March 14 as conceding that there are ''no circumstances under which this procedure would be the only option to save the life of the mother and preserve the health of the woman.'' I would point out that, in the event that a doctor determined that a partial-birth abortion was the only procedure available to save a woman's life, he should or could proceed since the legislation includes a life-of-the-mother exception.

Mr. President, I know that there are several other concerns that have been expressed about the legislation. For example, some have questioned its constitutionality, and that is a legitimate question. Of course, we all can speculate about how the U.S. Supreme Court might rule on the matter. But as Harvard Law School Professor Lawrence Tribe noted in a November 6, 1995 letter to Senator BOXER, there are various reasons ''why one cannot predict with confidence how the Supreme Court as currently composed would rule if confronted with [the bill].'' He noted that the Court has not had any such law before it. And he noted that ''although the Court did grapple in 1986 with the question of a State's power to put the health and survival of a viable fetus above the medical needs of the mother, it has never directly addressed a law quite like [the Partial-Birth Abortion Ban Act].''

Mr. President, neither Roe versus Wade nor any subsequent Supreme Court case has ever held that taking the life of a child during the birth process is a constitutionally protected practice. In fact, the Court specifically noted in Roe that a Texas statute that—making killing a child during the birth process a felony—had not been challenged. That portion of the law is still on the books in Texas today.

Remember what we are talking about here: ''an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.'' That is the definition of a partial-birth abortion in the pending legislation.

So we are talking about a child whose body, save for his or her head, has been delivered from the mother—that is, only the head remains inside. No matter what legal issues are involved, I hope no one will forget that we are talking about a live child who is already in the birth canal and indeed has been partially delivered.

Even if the Court did somehow find that a partially delivered child is not constitutionally protected, the Partial-Birth Abortion Ban Act could still be upheld under Roe and Planned Parenthood of Southeastern Pennsylvania versus Casey. Under both Roe and Casey, the Government may prohibit abortion after viability, except when necessary to protect the life or health of the mother. As I indicated earlier in my remarks, medical experts, including the former Surgeon General, Dr. C. Everett Koop, have said that this procedure is never medically necessary to protect a mother's health or future fertility. Others have even questioned its safety, calling it ''potentially dangerous.''

By contrast, in cases prior to viability, Casey allows regulation of abortion that is reasonably related to a legitimate State interest, unless the regulation places an ''undue burden'' on a woman's right to choose an abortion. But as I just indicated, the pending bill would only ban one type of procedure, involving the partial delivery of a child before it is killed. Other procedures would still be available if a woman's health were threatened. And the bill would allow a doctor to proceed with a partial-birth abortion if the woman's life were threatened.

Mr. President, Notre Dame's Professor of Constitutional Law, Douglas W. Kmiec, made the point in testimony before the Judiciary Committee on November 17, 1995, that ''even in Roe the Court explicitly rejected the argument that a woman 'is entitled to terminate her pregnancy at whatever time, in whatever way, and for whatever reason she alone chooses' [410 U.S. at 153].'' Professor Kmiec went on to note that under Casey, there is an elementary difference between banning all abortions and banning one procedure that medical testimony indicates is not at all necessary to save a mother's life.

Mr. President, although I believe the law would be upheld by the Court, I will concede that no one can say with certainty how the Supreme Court will rule until it has ruled. Until then, I suggest that we not use that as an excuse to avoid doing what we believe is right.

Mr. President, the other issue I want to address briefly before closing involves the question of when this procedure is performed. Some people, suggesting a way to compromise on the legislation, are now focusing on the third trimester, proposing that limitations on the procedure be restricted to that time period. Of course, all of the evidence suggests that the vast majority of partial-birth abortions—some 90 percent—occur during the second trimester of pregnancy. And as Ron Fitzsimmons put it, they are performed for the most part on healthy women and healthy babies.

A third-trimester partial-birth abortion ban would be a hollow gesture at best, and at worst, a cynical hoax on an American public that is outraged at the barbarity of this procedure.

It seems to me that a third-trimester limitation is merely a way for defenders of the status quo to make it appear that they are doing something to end this horrifying procedure without doing anything at all.

Mr. President, the spotlight is on this body. The facts are on the table. Let us do what is right and put a stop to what our colleague, Senator DANIEL PATRICK MOYNIHAN, has appropriately characterized as infanticide. Let us pass this bill.

EXHIBIT I

[From the New York Times, Feb. 26, 1997]

AN ABORTION RIGHTS ADVOCATE SAYS HE LIED ABOUT PROCEDURE

(By David Stout)

WASHINGTON.—A prominent member of the abortion rights movement said today that he lied in earlier statements when he said a controversial form of late-term abortion is rare and performed primarily to save the lives or fertility of women bearing severely malformed babies.

He now says the procedure is performed far more often than his colleagues have acknowledged, and on healthy women bearing healthy fetuses.

Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers, said he intentionally misled in previous remarks about the procedure, called intact dilation and evacuation by those who believe it should remain legal and ''partial-birth abortion'' by those who believe it should be outlawed, because he feared that the truth would damage the cause of abortion rights.

But he is now convinced, he said, that the issue of whether the procedure remains legal, like the overall debate about abortion, must be based on the truth.

In an article in American Medical News, to be published March 3, and an interview today, Mr. Fitzsimmons recalled the night in November 1995, when he appeared on ''Nightline'' on ABC and ''lied through my teeth'' when he said the procedure was used rarely and only on women whose lives were in danger or whose fetuses were damaged.

''It made me physically ill,'' Mr. Fitzsimmons said in an interview. ''I told my wife the next day, 'I can't do this again.'''

Mr. Fitzsimmons said that after that interview he stayed on the sidelines of the debate for a while, but with growing unease. As much as he disagreed with the National Right to Life Committee and others who oppose abortion under any circumstances, he said he knew they were accurate when they said the procedure was common.

In the procedure, a fetus is partly extracted from the birth canal, feel first, and the brain is then suctioned out.

Last fall, Congress failed to override a Presidential veto of a law that would have banned the procedure, which abortion opponents insist borders on infanticide and some abortion rights advocates also believe should be outlawed as particularly gruesome. Polls have shown that such a ban has popular support.

Senator Tom Daschle of South Dakota, the Democratic leader, has suggested a compromise that would prohibit all third-trimester abortions, except in cases involving

the ''life of the mother and severe impairment of her health.''

The Right to Life Committee and its allies have complained repeatedly that abortion-rights supporters have misled politicians, journalists and the general public about the frequency and the usual circumstances of the procedure.

''The abortion lobby manufactures disinformation,'' Douglas Johnson, the committee's legislative director, said today. He said Mr. Fitzsimmon's account would clarify the debate on this procedure, which is expected to be renewed in Congress.

Mr. Fitzsimmons predicted today that the controversial procedure would be considered by the courts no matter what lawmakers decide.

Last April, President Clinton vetoed a bill that would have outlawed the controversial procedure. There were enough opponents in the House to override his veto but not in the Senate. In explaining the veto, Mr. Clinton echoed the argument of Mr. Fitzsimmons and his colleagues.

''There are a few hundred women every year who have personally agonizing situations where their children are born or are about to be born with terrible deformities, which will cause them to die either just before, during or just after childbirth,'' the President said. ''And these women, among other things, cannot preserve the ability to have further children unless the enormity—the enormous size of the baby's head—is reduced before being extracted from their bodies.'' A spokeswoman for Mr. Clinton said tonight that the White House knew nothing of Mr. Fitzsimmons's announcement and would not comment further.

In the vast majority of cases, the procedure is performed on a healthy mother with a healthy fetus that is 20 weeks or more along, Mr. Fitzsimmons said. ''The abortion-rights folks know it, the anti-abortion folks know it, and so, probably, does everyone else,'' he said in the article in the Medical News, an American Medical Association publication.

Mr. Fitzsimmons, whose Alexandria, Va., coalition represents about 200 independently owned clinics, said coalition members were being notified of his announcement.

One of the facts of abortion, he said, is that women enter abortion clinics to kill their fetuses. ''It is a form of killing,'' he said. ''You're ending a life.''

And while he said that troubled him, Mr. Fitzsimmons said he continues to support this procedure and abortion rights in general.

[From the American Medical News, Mar. 3, 1997]

MEDICINE ADDS TO DEBATE ON LATE-TERM ABORTION—ABORTION RIGHTS LEADER URGES END TO ''HALF TRUTHS''

(By Diane M. Gianelli)

WASHINGTON—Breaking ranks with his colleagues in the abortion rights movement, the leader of one prominent abortion provider group is calling for a more truthful debate in the ongoing battle over whether to ban a controversial late-term abortion procedure.

In fact, Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, said he would rather not spend his political capital defending the procedure at all. There is precious little popular support for it, he says, and a federal ban would have almost no real-world impact on the physicians who perform late-term abortions or patients who seek them.

''The pro-choice movement has lost a lot of credibility during this debate, not just with the general public, but with our pro-choice friends in Congress,'' Fitzsimmons said. ''Even the White House is now questioning the accuracy of some of the information given to it on this issue.''

He cited prominent abortion rights supporters such as the Washington Post's Richard Cohen, who took the movement to task for providing inaccurate information on the procedure. Those pressing to ban the method call it ''partial birth'' abortion, while those who perform it refer to it as ''intact'' dilation and extraction (D&X) or dilation and evacuation (D&E).

What abortion rights supporters failed to acknowledge, Fitzsimmons said, is that the vast majority of these abortions are performed in the 20-plus week range on healthy fetuses and healthy mothers. ''The abortion rights folks know it, the anti-abortion folks know it, and so, probably, does everyone else,'' he said.

He knows it, he says, because when the bill to ban it came down the pike, he called around until he found doctors who did them.

''I learned right away that this was being done for the most part in cases that did not involve those extreme circumstances,'' he said.

The National Abortion Federation's Vicki Saporta acknowledged that ''the numbers are greater than we initially estimated.''

As for the reasons, Saporta said, ''Women have abortions pre-viability for reasons that they deem appropriate. And Congress should not be determining what are appropriate reasons in that period of time. Those decisions can only be made by women in consultation with their doctors.''

BILL'S REINTRODUCTION EXPECTED

Rep. Charles Canady (R. Fla.) is expected to reintroduce legislation this month to ban the procedure.

Those supporting the bill, which was also introduced in the Senate, inevitably evoke winces by graphically describing the procedure, which usually involves the extraction of an intact fetus, feet first, through the birth canal, with all but the head delivered. The physician then forces a sharp instrument into the base of the skull and uses suction to remove the brain. The procedure is usually done in the 20- to 24-week range, though some providers do them at later gestations.

Abortion rights activists tried to combat the images with those of their own, showing the faces and telling the stories of particularly vulnerable women who have had the procedure. They have consistently claimed it is done only when the woman's life is at risk or the fetus has a condition incompatible with life. And the numbers are small, they said, only 500 to 600 a year.

Furthermore, they said, the fetus doesn't die violently from the trauma to the skull or the suctioning of the brain, but peacefully from the anesthesia given to the mother before the extraction even begins.

The American Society of Anesthesiologists debunked the latter claim, calling it ''entirely inaccurate.'' And activists' claims about the numbers and reasons have been discredited by the very doctors who do the procedures. In published interviews with such newspapers as American Medical News, The Washington Post and The Record, a Bergen County, N.J., newspaper, doctors who use the technique acknowledged doing thousands of such procedures a year. They also said the majority are done on healthy fetuses and healthy women.

The New Jersey paper reported last fall that physicians at one facility perform an estimated 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by intact D&E. One of the doctors was quoted as saying, ''we have an occasional amnio abnormality, but it's a minuscule amount. Most are Medicaid patients . . . and most are for elective, not medical reasons: people who didn't realize, or didn't care, how far along they were.''

A Washington Post investigation turned up similar findings.

'SPINS AND HALF-TRUTHS'

Fitzsimmons says it's time for his movement to back away from the ''spins'' and ''half-truths.'' He does not think abortion rights advocates should ever apologize for performing the procedure, which is what he thinks they are doing by highlighting only the extreme cases.

''I think we should tell them the truth, let them vote and move on,'' he said.

Charlotte Taft, the former director of a Dallas abortion clinic who provides abortion counseling near Santa Fe, N.M., is one of several abortion rights activists who share many of Fitzsimmons' concerns.

''We're in a culture where two of the most frightening things for Americans are sexuality and death. And here's abortion. It combines the two,'' Taft said.

She agrees with Fitzsimmons that a debate on the issue should be straight-forward. ''I think we should put it on the table and say, 'OK, this is what we're talking about: When is it OK to end these lives? When is it not? Who's in charge? How do we do it? These are hard questions, and yet if we don't face them in that kind of a responsible way, then we're still having the same conversations we were having 20 years ago.''

Fitzsimmons thinks his colleagues in the movement shouldn't have taken on the fight in the first place. A better bet, he said, would have been ''to roll over and play dead, the way the right-to-lifers do with rape and incest.'' Federal legislation barring Medicaid abortion funding makes exceptions to save the life of the mother and in those two cases.

Fitzsimmons cites both political and practical reasons for ducking the fight. ''We're fighting a bill that has the support of, what, 78% of the public? That tells me that we have a PR problem,'' he said, pointing out that several members of Congress who normally support abortion rights voted to ban the procedure the last time the measure was considered.

From a practical point of view, it also ''wasn't worth going to the mat on. . . . I don't recall talking to any doctor who said, 'Ron you've got to save us on this one. They can't outlaw this. It'd be terrible.' No one said that.''

He added that ''the real-world impact on doctors and patients is virtually nil.'' Doctors would continue to see the same patients, using an alternative abortion method.

In fact, many of them already do a variation on the intact D&E that would be completely legal, even if the bill to outlaw ''partial birth'' abortions passed. In that variation, the physician makes sure the fetus is dead before extracting it from the birth canal. The bill would ban only those procedures in which a live fetus is partially vaginally delivered.

Lee Carhart, MD, a Bellevue, Neb., physician, said last year that he had done about 5,000 intact D&Es, about 1,000 during the past two years. He induces fetal death by injecting digoxin or lidocaine into the fetal sac 72 hours before the fetus is extracted.

DAMAGE CONTROL

Fitzsimmons also questions whether a ban on an abortion procedure would survive constitutional challenge. In any event, he concludes that the way the debate was fought by his side ''did serious harm'' to the image of abortion providers.

''When you're a doctor who does these abortions and the leaders of your movement appear before Congress and go on network

news and say these procedures are done in only the most tragic of circumstances, how do you think it makes you feel? You know they're primarily done on healthy women and healthy fetuses, and it makes you feel like a dirty little abortionist with a dirty little secret.''

Saporta says her group never intended to send this message to doctors.

''We believe that abortion providers are in fact maligned and we work 24 hours a day to try to make the public and others understand that these are heroes who are saving women's lives on a daily basis,'' she said.

When Fitzsimmons criticizes his movement for its handling of this issue, he points the finger at himself first. In November 1995, he was interviewed by ''Nightline'' and, in his own words, ''lied,'' telling the reporter that women had these abortions only in the most extreme circumstances of life endangerment or fetal anomaly.

Although much of his interview landed on the cutting room floor, ''it was not a shining moment for me personally,'' he said.

After that, he stayed out of the debate.

DON'T GET ''SIDETRACKED'' BY SPECIFICS

While Fitzsimmons is one of the few abortion rights activists openly questioning how the debate played out, it is clear he was not alone in knowing the facts that surround the procedure.

At a National Abortion Federation meeting held in San Francisco last year, Kathryn Kohlbert, one of the chief architects of the movement's opposition to the bill, discussed it candidly.

Kohlbert, vice president of the New York-based Center for Reproductive Law and Policy, urged those attending the session not to get ''sidetracked'' by their opponent's efforts to get them to discuss the specifics of the procedure.

''I urge incredible restraint here, to focus on your message and stick to it, because otherwise we'll get creamed,'' Kohlbert told the group.

''If the debate is whether the fetus feels pain, we lose. If the debate in the public arena is what's the effect of anesthesia, we'll lose. If the debate is whether or not women ought to be entitled to late abortion, we probably will lose.

''But if the debate is on the circumstances of individual women . . . and the government shouldn't be making those decisions, then I think we can win these fights,'' she said.

PUBLIC REACTION

The abortion rights movement's newest strategy in fighting efforts to ban the procedure is to try to narrow the focus of the debate to third-trimester abortions, which are far fewer in number than those done in the late second trimester and more frequently done for reasons of fetal anomaly.

When the debate shifts back to ''elective'' abortions done in the 20- to 24-week range, the movement's response has been to assert that those abortions are completely legal and the fetuses are considered ''pre-viable.''

In keeping with this strategy, Sen. Thomas Daschle (D. S.D.), plans to introduce a bill banning third-trimester abortions. Clinton, who received an enormous amount of heat for vetoing the ''partial birth'' abortion ban, has already indicated he would support such a bill.

But critics counter that Daschle's proposed ban—with its ''health'' exception—would stop few, if any, abortions.

''The Clinton-Daschle proposal is constructed to protect pro-choice politicians, not to save any babies.'' said Douglas Johnson, legislative director of the National Right to Life Committee.

Given the broad, bipartisan congressional support for the bill to ban ''partial birth'' abortions last year, it's unlikely Daschle's proposal would diminish support for the bill this session—particularly when Republicans control both houses and therefore, the agenda.

And given the public reaction to the ''partial birth'' procedure—polls indicate a large majority want to ban it—some questions occur: Is the public reaction really to the procedure, or to late-term abortions in general? And does the public really make a distinction between late second- and third-trimester abortions?

Ethicists George Annas, a health law professor at Boston University, and Carol A Tauer, PhD, a philosophy professor at the College of St. Catherine in St. Paul, Minn., say they think the public's intense reaction to the ''partial birth'' abortion issue is probably due more to the public's discomfort with late abortions in general, whether they occur in the second or third trimesters, rather than to just discomfort with a particular technique.

If Congress decided to pass a bill banning dismemberment or saline abortions, the public would probably react the same way, Dr. Tauer said. ''The idea of a second-trimester fetus being dismembered in the womb sounds just about as bad.''

Abortions don't have to occur in the third trimester to make people uncomfortable, Annas said. In fact, he said, most Americans see ''a distinction between first-trimester and second-trimester abortions. The law doesn't, but people do. And rightfully so.''

After 20 weeks or so, he added, the American public sees a baby.

''The American public's vision of this may be much clearer than [that of] the physicians involved.'' Annas said.

The PRESIDING OFFICER. The Chair recognizes Mr. CAMPBELL, the Honorable Senator from Colorado.

Mr. CAMPBELL. I thank the Chair. We in the Chamber may agree or not agree with our colleague from Pennsylvania, but, frankly, I know of no one who would ever question his commitment to his beliefs or the ability to take on a tough, difficult, emotional issue such as we face today. It is an issue to which there probably is no universal right answer in the eyes of our fellow Americans.

I know that many people have very strong opinions, sometimes driven by religion, by culture, by their own experiences, and perhaps I am no different than they are, but I do wish to commend the Senator from Pennsylvania for bringing this to the floor.

I wish to speak for a few moments about this extremely emotional and difficult issue of partial-birth abortion. As the Senators from California know—they are not on the floor. I had hoped they would be. But as they know, I have defined myself over the years as pro-choice and have supported their efforts in protecting the rights of women in almost every debate in the last 10 years which I have known Senator BOXER and in the last 5 that I have known Senator FEINSTEIN. In fact, I, like them, have had a 100 percent voting record for NARAL.

Last year, I voted with them in opposition to the ban, this ban. I have always believed that all the laws in the world will not prevent a woman from aborting an unwanted fetus. Efforts to prevent it I think simply drive it underground. In fact, I saw that in graphic results years ago on a couple of occasions when I was a policeman in California prior to Roe versus Wade.

Last year, before the override of the President's veto of the bill came about, I listened very carefully to those who hold very strong views on both sides of the issue. I think I learned a great deal from conversations with the medical community about this procedure and its implications. I am certainly not an expert, not a doctor, as is our previous speaker, but I think like most Americans I respect doctors and listen to their views very carefully when it deals with health.

Certainly I will never suffer the tragic decision a woman has to make when she decides whether to terminate or not to terminate a pregnancy. But it did become clear to me that the procedure which would be banned is inflicted on a fetus so far along in its development that it is an infant, not a fetus, in the eyes of a layman like me.

We are subject, of course, to very emotional debate, charts and graphs that are very explicit and tragic when we look at them, but we have to make a decision based on conscience, and last year I thought I did. When the vote, however, to override came about, I found myself confined to a hospital bed in the little town of Cortez, CO, as a result of an injury I sustained in a vehicle accident. I was there for a week. I watched C–Caps, as so many Americans do. I had a chance to talk to the doctors who were involved in operating on me when I was in the hospital. And in watching the dedicated health professionals in that hospital working so hard day and night to save lives, as the days went by, it became increasingly clear to me that a vote to override the veto also represented an effort to save lives and not take lives.

I had the opportunity to speak candidly to several of the doctors in that hospital as well as our doctor colleague here and a number of others about how this procedure is done and how often it is used.

Mr. President, each of us has to make our own decisions based on our own frame of reference with our own conscience as our guide, and so it was with me last year. And although I was in the hospital, I did send a statement to be read into the RECORD by Senator DAN COATS, our colleague from Indiana, that I would have, had I been here at the time, changed my position and voted to override the President's veto.

In recent Senate Judiciary Committee, proceedings, it came to light that Mr. Ron Fitzsimmons, another expert whose opinion I respect, stated that this procedure is performed more often than he had originally said, which supports what other doctors had told me. In light of this evidence and the evidence indicating that this procedure is only one among several options that women may elect to protect the life and health S4449of the mother, this year I

intend to support my colleague from Pennsylvania and support this ban.

Now, I probably will not be alone among my colleagues in changing my view on this, and I am certainly aware that any time a Senator changes his mind, even if it is based on new evidence, he opens the door to all kinds of accusations of flip-flopping, being in someone's pockets, selling out, and all the other ludicrous charges that are immediately levied against him or her when he finds new evidence and does change his mind. I can live with that. What I cannot live with is not voting my conscience and will, therefore, vote in support of the Senator from Pennsylvania.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the junior Senator from Colorado.

Mr. ALLARD. I thank the Chair. I rise in support of H.R. 1122, otherwise referred to as the Partial-Birth Abortion Ban Act of 1997.

As we have just heard from the previous comments, there are strongly held views on both sides of the abortion issue. I see this every day in my discussions with Coloradans, and I realize that this debate will continue for a long time. The people of my home State of Colorado know that personally I am pro-life and as a State Senator I had a strong pro-life voting record. I maintained that strong stance in my 6 years in the House of Representatives, and I intend to continue to vote my conscience on the issue of abortion during my tenure in the Senate. But what we have before us today is not an issue that breaks down between the pro-choice camp versus the pro-life camp. Even people in the pro-choice camp believe that there are certain reasonable restrictions that should be placed on abortion. A good example is the restriction that we place on public funding of abortions. Each year pro-life people come together with pro-choice individuals to include the Hyde amendment language in the Labor, HHS appropriations bill so that Medicaid money will not be used to fund abortions. Partial-birth abortions should be viewed in a similar light to the public funding issue.

Mr. President, in my comments I have just used the term partial-birth abortion, and I refer to the bill itself to see how ''partial-birth abortion'' is defined in the bill. It is defined in this section, and I quote:

> The term ''partial-birth abortion'' means an abortion in which the person performing the abortion partially vaginally delivers—

In other words, the baby is in the birth canal—

> a living fetus or baby before killing the fetus and completing the delivery.

So this is a procedure where the baby is in the birth canal and then whoever is doing the procedure kills the baby and then finishes the delivery. Many pro-choice people agree that the partial-birth abortion procedure should be banned, and a general consensus seems to be forming that this is a brutal procedure which should not be tolerated in a civilized society.

The reason for this apparent consensus is that it is a medically unnecessary, barbaric procedure. In fact, the front page of today's Washington Times notes that the American Medical Association's board of trustees has determined that there are no situations in which a partial-birth abortion is the only appropriate procedure to induce abortion—the only appropriate procedure to induce abortion.

It seems likely that President Clinton will bow to political pressures from the extremes in the pro-choice camp and veto this bill. The House passed this bill H.R. 1122 by a veto-proof margin of 295 to 136. In the Senate we will likely need 67 votes in order to ban this procedure. I urge all of my colleagues to support this legislation so that we can ban this brutal procedure.

I yield the floor, Mr. President.

Mr. ENZI addressed the Chair.

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

Mr. ENZI. I thank the Chair.

I am proud today to join the Senator from Pennsylvania and my other colleagues in voicing support for H.R. 1122, the Partial-Birth Abortion Ban Act of 1997. I was an original cosponsor of the Senate version of this bill, and I commend my friends in the other body for passing this legislation by such a compelling majority. I urge my colleagues in the Senate to take action and pass this bill by a margin that can withstand the President's threatened veto.

Mr. President, we are debating an issue that has an important bearing on the future of this Nation. Partial-birth abortion is a pivotal issue because it demands that we decide whether or not we as a civilized people are willing to protect that most fundamental of rights—the right to life itself. If we rise to this challenge and safeguard the future of our Nation's unborn, we will be protecting those whose voices cannot yet be heard by the polls and those whose votes cannot yet be weighed in the political process. If we fail in our duty, we will justly earn the scorn of future generations when they ask why we stood idly by and did nothing in the face of this national infanticide.

We must reaffirm our commitment to the sanctity of human life in all its stages. We took a positive step in that direction a few weeks ago by unanimously passing legislation that bans the use of Federal funds for physician-assisted suicide. We can take another step toward restoring our commitment to life by banning partial-birth abortions.

In this barbaric procedure, the abortionist pulls a living baby feet first out of the womb and through the birth canal except for the head, which is kept lodged just inside the cervix. The abortionist then punctures the base of the skull with long surgical scissors and removes the baby's brain with a powerful suction machine. This causes the head to collapse, after which the abortionist completes the delivery of the now dead baby. I recount the grisly details of this procedure only to remind my colleagues of the seriousness of the issue before the Senate. We must help those unborn children who are unable to help themselves.

Opponents of this legislation have relied on distortions to bolster their position. Just this past February, the executive director of the National Coalition of Abortion Providers, Ron Fitzsimmons, admitted that he lied through his teeth about the true number of partial-birth abortions performed in the United States every year. Mr. Fitzsimmons had originally joined Planned Parenthood and the National Abortion and Reproductive Rights Action League in falsely claiming that this abortion procedure was used only in rare cases to save the life of the mother. Mr. Fitzsimmons now admits that partial birth abortions are common and that the vast majority of them are performed in the second trimester—at 4 to 6 months' gestation—on healthy unborn children with healthy mothers. Mr. Fitzsimmons summed up the chilling truth of this procedure when he admitted that partial-birth abortion is ''a form of killing. You're ending a life.''

Opponents have argued that this procedure is necessary in some circumstances to save the life of the mother or protect her future fertility. These arguments have no foundation in fact. First, this bill provides an exception if the procedure is necessary to save the life of the mother and no alternative procedure could be used for that purpose. Moreover, leaders in the medical profession including former Surgeon General C. Everett Koop have stated that this procedure is never necessary to save the life of the mother. In fact, it is more dangerous medically to the mother than allowing the child to be born alive. Finally, a coalition of over 600 obstetricians, perinatologists, and other medical specialists have stated categorically that there is no sound medical evidence to support the claim that this procedure is ever necessary to protect a woman's future fertility. These arguments are offered as a smoke-screen to obscure the fact that this procedure results in the taking of an innocent life. The practice of partial birth abortions has shocked the conscience of our nation and it must be stopped.

Since I was sworn in as a Member of this distinguished body in January, we have had the opportunity to discuss a number of pieces of legislation which will have a direct impact on our families and our children. I have based my decision on every bill that has come before this body on what effect it will have on those generations still to come. We in the Senate have deliberated about what steps we can take to

make society a better place for our families and the future of our children. We as Senators will cast no vote that will more directly affect the future of our families and our children than the vote we cast on this bill.

Mr. President, when I ran for office, I promised my constituents I would protect and defend the right to life of the unborn. The sanctity of human life is a fundamental issue on which we as a nation should find consensus. It is a right which is counted among the unalienable rights in our Nation's Declaration of Independence. We must rise today to the challenge that has been laid before us of protecting innocent human life. I urge my colleagues to join me in casting a vote for life by supporting the Partial Birth Abortion Ban Act.

Now, I know there has been a big change in the approach to the whole situation by Mr. Fitzsimmons, who testified a year ago that this was not a common practice. I know now that he says it is common practice, and that is part of the debate that made a big difference on the House side, and I am convinced it will make a big difference on the Senate side, someone who is admitting that this is a common practice, that it takes lives and that he regrets what he said and what has been done as a result. I think that will make a difference in the vote we have over here, and I hope it will make a difference in the approach that the President takes to the bill.

I would like to concentrate my remarks on the miracle of life. A year and a half ago, I had a torn heart valve and was rushed to the hospital for emergency surgery. I had never been in a hospital except to visit sick folks before. I have to tell you that I am impressed with what they were able to do, but I have also been impressed with what doctors do not know. That is not a new revelation for me.

Over 24 years ago, a long time ago, my wife and I were expecting our first child. Then one day early in the sixth month of pregnancy, my wife starting having pains and contractions. We took her to the doctor. The doctor said, ''Oh, you may have a baby right now. We know it's early and that doesn't bode well. We will try to stop it. We can probably stop it.'' I had started storing up books for my wife for 3 months waiting for the baby to come. However, the baby came that night, weighing just a little over 2 pounds. The doctor's advice to us was to wait until morning and see if she lives. They said they didn't have any control over it.

I could not believe the doctors could not stop premature birth. Then I could not believe that they could not do something to help this newborn baby. Until you see one of those babies, you will not believe what a 6-month-old baby looks like. At the same time my wife gave birth to our daughter, another lady gave birth to a 10-pound baby. This was a small hospital in Wyoming so they were side by side in the nursery. Some of the people viewing the other baby said, ''Oh, look at that one. Looks like a piece of rope with some knots in it. Too bad.'' And we watched her grasp and gasp for air with every breath, and we watched her the whole night to see if she would live.

Then the next day they were able to take this baby to a hospital which provided excellent care. She was supposed to be flown to Denver where the best care in the world was available, but it was a Wyoming blizzard and we couldn't fly. So we took a car from Gillette, WY, to the center of the State to Wyoming's biggest hospital, to get the best kind of care we could find. We ran out of oxygen on the way. We had the highway patrol looking for us and all along the way, we were watching every breath of that child.

After receiving exceptional care the doctor said, ''Well, another 24 hours and we will know something.'' After that 24 hours there were several times we went to the hospital and there was a shroud around the isolette. We would knock on the window, and the nurses would come over and say, ''It's not looking good. We had to make her breathe again.'' Or, ''Have you had the baby baptized?''

We had the baby baptized in the first few minutes after birth. But that child worked and struggled to live. She was just a 6-month-old—3 months premature.

We went through 3 months of waiting to get her out of the hospital. Each step of the way the doctors said this isn't our doing. It gave me a new outlook on life. Now I want to tell you the good news. The good news is that the little girl is now an outstanding English teacher in Wyoming. She is dedicated to teaching seventh and ninth graders English, and she is loving every minute of every day. The only problem she had was that the isolette hum wiped out a range of tones for her, so she cannot hear the same way that you and I do. But she can lip read very well, which, in the classroom, is very good if the kids are trying to whisper. But that has given me an appreciation for all life and that experience continues to influence my vote now and on all issues of protecting human life.

When I first came to the Senate, we talked about cloning. I thought cloning had been going on for a long time. Of course, we used to call it identical twins, and it was pretty unpredictable. But I want to tell you, through all of that cloning, nobody produced life. They took life and they changed it.

Life is such a miracle that we have to respect it and work for it every single day in every way we can. I think this bill will help in that effort, and I ask for your support for this bill.

I yield the remainder of my time.

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

Mr. SANTORUM. Mr. President, first let me congratulate the Senator from Wyoming for that very touching story about his daughter. I congratulate him for his courage in standing up for her and fighting for her and his willingness to share that with us and his support of this legislation.

I also would like to thank the junior Senator from Colorado, Senator ALLARD, for his excellent statement in support of this measure.

I want to cite specifically the senior Senator from Colorado, Senator BEN NIGHTHORSE CAMPBELL. Last year I very vividly remember receiving a call from Senator COATS about BEN sitting in a hospital room in Colorado, watching the debate and talking to doctors and seeing so many people do so much to save life, and his incredibly insightful comments about how he could watch through his door efforts to save life and then look up on the television screen and see C–SPAN and see people who wanted to extinguish life. That conflicted him and disturbed him.

It is a very hard thing, it is a very hard thing in politics for someone on the abortion issue to walk out of a camp. This issue is a very polarized issue. You are in one camp or the other. You are pro-life or you are pro-choice and you don't waffle. You don't walk down the middle of this one or you get run over. It takes a lot of courage to walk out of that camp because you know they are wrong.

A lot of folks are struggling with this issue today. They are fighting themselves in looking at this issue. They don't feel comfortable being in this camp against this bill. But it takes courage to step out and do the right thing for you, do the right thing according to your conscience, the right thing according to what you believe is best for America. It has political risks, tremendous political risks. You alienate your friends, you open yourself up to attack.

But I think it just shows a tremendous amount of courage and commitment to your principles, to stand up to your friends. It is easy to stand up to your opponents. We do that all the time. But when you stand up and face the people that you have supported on issue after issue and say, ''This time you are wrong,'' do you know how hard that is? You know in your own lives, anybody listening here knows how difficult it is to talk to a friend and say, ''You know, I have been with you,'' and just say, on something they care about, they deeply care about, ''You are wrong and I cannot be with you.'' It is great courage, the courage of convictions. I applaud him for doing that in a very dramatic and sensitive way.

Finally, I thank the Senator from Tennessee, Senator FRIST, the only physician in the Senate who articulated, not just from a medical point of view but from a moral point of view, why this ban is absolutely necessary and why this procedure is absolutely unnecessary for any reason to be performed on anyone.

So, we have just begun this debate. Unfortunately, as soon as some other

Senators come down here to start the next—I see the Senator from North Carolina is here. I will move on. We will have to break off the debate for a short period of time. I hope we will have more time to debate later this evening, and then, pursuant to this unanimous consent that I will read, we will move tomorrow at 11 o'clock to reconsideration of this bill, bringing this bill back up for consideration, and debate the Boxer amendment.

Mr. President, I ask unanimous consent that the time between 11 a.m. and 2 p.m. on Thursday be equally divided for debate regarding the Feinstein amendment to H.R. 1122, that no amendment be in order to the Feinstein amendment, and, further, at the hour of 2 p.m., the Senate proceed to a vote on or in relation to the Feinstein amendment.

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

EXECUTIVE SESSION

FLANK DOCUMENT AGREEMENT TO THE CFE TREATY

Mr. SANTORUM. Mr. President, in executive session I ask unanimous-consent the Senate now proceed to the consideration of Executive Calendar No. 2, the Treaty Doc. No. 105–5, the CFE Treaty.

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

The clerk will report.

The legislative clerk read as follows:

Treaty Document 105–5, Flank Document Agreement to the Conventional Armed Forces in Europe Treaty.

The PRESIDING OFFICER. The Chair recognizes the distinguished senior Senator from North Carolina.

Mr. HELMS. I thank the Chair very much. Mr. President, may I ask that the unanimous-consent be stated as to time on this resolution of ratification?

The PRESIDING OFFICER. There are 1½ hours equally divided between the chairman of the Foreign Relations Committee and the ranking member.

Mr. HELMS. Senator BYRD has some time, too?

The PRESIDING OFFICER. And an additional 30 minutes for Senator BYRD.

Mr. HELMS. Very well. I do thank the Chair.

Mr. President, I yield myself such time as I may require.

The Senate Foreign Relations Committee this past Thursday reported a treaty to amend the Conventional Armed Forces in Europe Treaty. The vote was unanimous.

I have never hesitated to oppose, or seek to modify, treaties that ignore the best interests of the American people. As long as I am a Member of the U.S. Senate, I will be mindful of the advice and consent responsibilities conferred upon the Senate and the Senators by the U.S. Constitution. Therefore, I have never hesitated to oppose bad treaties and bad resolutions of ratification without hesitation. But when a treaty serves the Nation's interests, if it is verifiable, and if the resolution of ratification ensures the integrity of these two points for the life of the treaty, I unfailingly offer my support to it. That is why I support the treaty before us today.

In that connection, let the record show that the pending treaty was signed on May 31, 1996, and was not submitted by the President to the Senate for our advice and consent April 7, 1997. With the bewildering delay in the delivery of this treaty, the administration demanded action by May 15, 1997, which is tomorrow.

So, after wasting an entire year, the administration demanded that the Senate act on this treaty within 1 month's time. I believe it is obvious that the Foreign Relations Committee has been more than helpful in fulfilling its constitutional responsibilities to advise and consent.

The treaty before us today is a modification of the treaty approved by the Senate in 1991. Specifically, it will revise the obligations of Ukraine and Russia in what is known as the flank zone of the former Soviet Union. In recognition of the changes having occurred since the collapse of the Soviet Union, the 30 parties to the CFE Treaty have agreed to modify the obligations of Ukraine and Russia.

The 1991 CFE Treaty could not and did not anticipate the dissolution of the Soviet Union and the Warsaw Pact, let alone the expansion of NATO to include Central and Eastern Europe countries. Consequently, recent years have been occupied with efforts to adapt the treaty to the new security environment of its members.

Mr. President, in its essentials, the Flank Agreement removes several administrative districts from the old flank zone, thus permitting current flank equipment ceilings to apply to a smaller area. In addition, Russia now has until May 1999 to reduce its forces sufficient to meet the new limit.

To provide some counterbalance to these adjustments, reporting requirements were enhanced and inspection rights in the zone increased.

Mr. President, with the protections, interpretations, and monitoring requirements contained in the resolution of ratification, I recommend approval of this treaty because it sets reasonable limits and provides adequate guarantees to ensure implementation.

However, the simple act of approving this treaty does not diminish the need for further steps by the U.S. Government to strengthen the security of those countries located on Russia's borders. If this agreement is not implemented properly, Russia will retain its existing military means to intimidate its neighbors—a pattern of behavior with stark precedents.

As the Clinton administration is so fond of saying, this treaty is but a tool to implement the foreign policy of the United States. During the past 4 years, the Clinton administration has remained silent while Russia has encroached upon the territory and sovereignty of its neighbors. It was the lack of a foreign policy—not a lack of tools—that allowed this to happen.

I have confidence that the new Secretary of State will correct the course of our policies toward Russia, and I gladly support this treaty to aid the Honorable Madeleine Albright in that endeavor. The collapse of the Soviet Union was one of the finest moments of the 20th century. To allow even a partial restoration of the Soviet Union before the turn of the century would be a failure of an even greater magnitude.

Mr. President, a final and related issue in the resolution of ratification is one upholding the prerogatives of the Senate in matters related to the ABM Treaty. During the past few years, the executive branch has sought to erode the Senate's constitutional role of advice and consent regarding treaties. In fact, the executive branch originally refused to submit for advice and consent the treaty that is before the Senate today. Through protracted negotiations, the Senate successfully asserted its proper role to advise and consent to new, international treaty obligations. Likewise, on revisions to the ABM Treaty, it is only through a legally binding mandate that we can ensure the proper, constitutional role of the U.S. Senate. I hope, Mr. President, that we can proceed to do that without delay. Mr. President, I ask for the yeas and nays on the resolution of ratification.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I believe the Senator from Delaware wishes to speak.

Mr. BIDEN. Thank you, Mr. Chairman.

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

Mr. BIDEN. Mr. President, let me begin by acknowledging what the Senator and chairman of the committee said, and that is that this treaty has been around a long time, and all of a sudden it came popping up here. Some of us, like the Senator from North Carolina and the majority leader and others, myself included, have felt it is a Senate prerogative to determine whether or not this flank agreement should be agreed to. It is an amendment to the treaty. The administration for a long time concluded it was not a prerogative of the Senate, and it was not necessary to submit this treaty.

Some have asked, why are we acting so expeditiously on this treaty? Why is there this deadline? Two reasons: One, we waited a long time to agree we had the responsibility to accede to this or it could not occur, and, two, there is a real May 15 deadline by which all 30 nations must ratify this agreement. If, in fact, they do not, the agreement will have to be reviewed by all of them.

We are right now dealing with the enlargement of NATO, we are now dealing with the NATO-Russia Charter, and if it looks as though the United States is reneging on this flank agreement, it can just create a lot of confusion.

Having said that, had I been chairman of the committee rather than the ranking member and had it been a Republican President, I probably would have spent more time chastising the administration than the distinguished Senator from North Carolina. He just rolled up his sleeves and said, ''OK, this is a necessary and important treaty,'' and didn't spend a lot of time in recriminations about why it took so long to get here. I thank him for that, and I thank him for the way in which he moved this. I doubt there is any treaty or change in a treaty as significant as this that has moved as rapidly through the Foreign Relations Committee with as studied an approach as under the leadership of my colleague from North Carolina.

Mr. President, nearly 6 years ago, as chairman of the Subcommittee on European Affairs, I managed the ratification of the original CFE agreement for the then Democratic chairman of the committee. The treaty was, I believe then and I believe now, a monumental achievement, capping some two decades of negotiations between NATO and Warsaw Pact countries to establish a secure conventional military balance in Europe. I would argue, it was sort of the prelude to the undoing of our adversary at the time, the Soviet Union and the Warsaw Pact.

Mr. President, the treaty has succeeded as few other arms reduction measures have. Since 1992, it has fundamentally altered the military landscape from the Atlantic to the Urals, dramatically reducing the number of pieces of equipment that could be used to wage war.

In the last 5 years, the CFE Treaty has resulted in the removal or destruction of more than 53,000 pieces of heavy equipment, including tanks, artillery, armored combat vehicles, attack helicopters, and combat aircraft.

Since 1991, of course, the political face of Europe has changed dramatically. These developments had an impact on the relevance and potential durability of the CFE Treaty. Particularly effective were the so-called flank limits. To the average citizen out there, a flank limit is not much different than a flank steak or flank cut. The fact of the matter is, it has real significance; it is very important.

The flank limits were included to prevent military equipment that was removed from Central Europe from being concentrated elsewhere. We set limits on how much equipment could be set on that inter-German border, which we necessarily focused on for so many years. As that equipment was removed or destroyed, what we did not want to have happen is to have the Soviets take that equipment and move it into the flanks, moving it on the Turkish border or moving it up by Norway and having a predominance of force accumulated there.

After the collapse of the Soviet Union, Russia began to argue that the treaty, particularly the so-called flank limits, did not adequately reflect its security needs in the flank zone. We had placed limits on what type of equipment and how much could be placed in these flanks. Had I a map, I would reference it, but the fact of the matter is, we put limits on this. After the collapse of the Soviet Union, Russia began to argue that the treaty, particularly the flank limits, did not adequately reflect its security needs in the flank zone.

Put another way, all those folks in the Caucasus and Transcaucasus are now independent countries. When this was negotiated, they weren't part of the deal. They weren't part of the deal, and it was some Soviet general in Moscow deciding what could and could not be done in those countries.

Now the Russians come back and say, ''Hey, wait, this isn't the deal we signed on to.'' Russell Long—a great Senator who the Senator from North Carolina remembers well, but not nearly as well as the Senator from West Virginia sitting behind me—one of Russell Long's many expressions used to be, ''I ain't for no deal I ain't in on.'' All of a sudden, the Russians realized that they had signed on to a deal that, in a strong way, they were no longer in on, as it related to what was left of the Soviet Union.

Consequently, the NATO alliance agreed to negotiations on revising these flank limits, and the result was the agreement before us now known as the Flank Document that was signed by 30 states parties—a fancy term for saying 30 countries—to the treaty in Vienna on May 31, 1996. Reiterating the point made by my friend from North Carolina, this was signed a year ago, 1996. I believe that our negotiators, while meeting some Russian concerns, did an excellent job of protecting the interests of this country and the democracies on the northern and southern flanks of the former Soviet Union.

The CFE Flank Document removes some areas from what we call the old flank zone, but maintains constraints on equipment both in the new flank zone and in the old one. There are also limits on armored combat vehicles in each area that were removed from the old flank zone so as to prevent any tremendous concentration of equipment in any one place.

We all are concerned about Russian troop deployments outside its borders, Mr. President. We cannot allow Moscow to coerce its independent neighbors into accepting the presence of foreign forces on their soil or into giving up their own rights to military equipment, which would now be folded into this total limit.

But I believe the Flank Document and the resolution of ratification now before the Senate addresses these concerns and recognizes that sovereign countries must have the right to refuse Russian demands. Indeed, the chairman and I have found common ground on most of the issues in this resolution.

There are a total of, if I am not mistaken, 14 conditions, Mr. President. Two of these conditions of ratification, however, I think are extraneous and give me some concern. Of the 14, there are only two that I would flag for my colleagues, and I am not going to move to strike either one of them. I am not going to move to do anything about it. I just want to make the point of why I think they are unnecessary or counterproductive.

The first is condition 5, which includes a provision calling for a special report on possible noncompliance of the CFE Treaty by Armenia. I regret that this provision was included in the resolution at the insistence of the majority, but I am pleased that we have reached an agreement through the efforts of Senator JOHN KERRY and Senator SARBANES—and I am sure if they reached an agreement they must have run it by the distinguished Senator from West Virginia or it would not have been agreed to—to mitigate the one-sided nature of this original agreement.

More troubling, though, is condition 9. I will not speak more about condition 5 in the interest of time. Condition 9 also is insisted upon by the majority, and I note from a brief discussion, while working out yesterday out of the Senate environs with my distinguished friend from Virginia, that he feels very strongly about, and I happen to disagree with him on it.

Condition 9 requires the President to submit an agreement which will multilateralize the 1972 Anti-Ballistic Missile Treaty to the Senate for advice and consent. Put another way, there is a condition placed on here, very skillfully, I might add, by my friends who have concerns about the ABM Treaty that has nothing to do with this flank agreement. I was of the view it should not be included as part of a condition to this treaty. I did not have the votes. I must say to my friend from North Carolina, it is not merely because I hope I am a gentleman that I am not attempting to remove the condition, I do not have the votes to remove the condition, so I am not going to attempt to do something that I know will not prevail. But, I would like to point out, the condition is titled ''Senate Prerogatives.'' The title is interesting but, I think, inaccurate.

I take a back seat to no one when it comes to Senate prerogatives. As a matter of fact, it was the Byrd-Biden amendment attached to the INF Treaty. We have been jealous of the protection of our constitutional obligations and responsibilities. With all due respect, and it sounds self-serving, but I take a back seat to no one in the Senate in terms of protecting the constitutional obligations and responsibilities of the Senate. But in this case, I do not

think we have a prerogative to exercise, notwithstanding condition 9 is called ''Senate Prerogatives.''

The issue involves two powers: recognition of successor states and the power to interpret and implement treaties, both of which are executive functions.

Mr. President, it is undisputed that the President has the exclusive power, under the powers of article 2 of the Constitution, to recognize new states. I am not going to take a long time on this, so don't everybody worry I am in for a long constitutional discussion; I am only going to spend another 3 or 4 minutes, but I want to make the point for the RECORD. Under article 2, section 2 of the Constitution, the President and the Senate have a shared duty to ''make treaties.'' But once the treaty is made, it is the law of the land, and the President, under article 2, section 3, has the duty to take care that it is faithfully executed.

In exercising this duty, it is for the President to determine whether a treaty remains in force, a determination that, of necessity, must be made whenever a state dissolves.

So what are we talking about here? We had an ABM Treaty and CFE Treaty with the former Soviet Union. The Soviet Union dissolved. And the question remains, all those constituent countries that are now independent countries, is the President able to recognize Ukraine, for example, and, as a consequence, recognize the Ukrainians' assertion that they want to be part of the ABM Treaty? They were part of it when they were part of the whole Soviet Union, but as the constituent parts broke apart, the question was: As each individual country within that whole signs on to the continued commitment to ABM, does that require ratification by the United States Senate with each of them again? I would argue, and I will argue at a later date—I am sure we will hear more of this—that it does not require that. It is not a Senate prerogative.

In the case before us, the ABM Treaty, the President has the power to declare whether Russia and the other New Independent States inherit the treaty obligations of the former Soviet Union, provided those states indicate a desire to do so and provided that the succession agreement effects no substantive change in the terms of the treaty.

Both the Bush and Clinton administrations exercised this power following the breakup of the Soviet Union, Yugoslavia, Czechoslovakia, and Ethiopia as it relates to other issues, not as it relates to ABM. Moreover, it bears emphasis that the two arms control treaties, the CFE Treaty and the INF Treaty, were multilateralized by the executive action without the advice and consent of the Senate. By definition, we are all here, we are not asking for multilateralization of the flank agreement. It is somewhat curious that we say ABM requires the Senate to have a treaty vote on every successor nation, but on CFE, which we all like and we have no substantive disagreement on, we are not asking for that.

So the point I am making is that this condition has nothing to do with CFE and it is more about whether you like ABM or do not like ABM, not about who has what constitutional responsibility, I respectfully suggest.

I agree with my colleagues on the other side of the aisle and the other side of the issue in one respect, that this is the subject of legitimate debate. But the debate, which I am confident we can win on the merits, can readily be conducted at another time on a more germane subject than a treaty that it has nothing to do with. Nonetheless, the majority insisted upon this extraneous condition, and I think I can count votes.

I will never forget going to former Chairman Eastland as a young member of the Judiciary Committee asking for his support. He sat behind his desk, I say to the chairman of the committee, and said, ''Did you count?'' I didn't understand what he said.

I said, ''I beg your pardon, Mr. Chairman?''

He took that cigar out—I was asking to be chairman of the Subcommittee on Criminal Laws, because Senator McClellan had just passed away and, for years, it had been his job. It was a contest between me and another Senator.

I was looking at him, and he said, ''Did you count?'' I seriously did not understand what he was saying. ''I beg your pardon?'' I said. I tried to be humorous. I said, ''Mr. Chairman, I don't speak Southern very well.'' He smiled and looked at me, and he took the cigar out of his mouth, and said, ''Son, when you have counted, come back and talk to me.''

Well, I learned to count. The reason I am not contesting this now, as I said, I counted. I do not have the votes at this moment to remove condition 9 and still get this treaty up and out of here in time. So I will reserve that fight for another day.

Despite the inclusion of condition 9, I will strongly support the flank agreement because of its integral role in protecting American interests in maintaining security and stability in Europe. Indeed, the Flank Document we will be voting on is an important bridge to the broader revision of the CFE Treaty now under discussion as we talk about the enlargement of NATO. Those talks will allow us to achieve further reductions in military equipment in Europe and ensure that the confidence-building measures embodied in the CFE Treaty remain in place.

Mr. President, the CFE Treaty is just one component of the architecture of arrangements, including NATO, the Partnership for Peace, the Organization for Security and Cooperation in Europe, all of which are designed to ensure that in the post-cold war era, the European nations remain free and independent and are partners in a zone of security and prosperity.

But by maintaining the integrity of the CFE Treaty, we maintain the forum in which an enlarged NATO will make clear to Russia that our objective is stability in Europe, not military intimidation. Ratification of the flank agreement is a modest but important step toward the new European security system.

I urge my Senate colleagues to do two things—thank the chairman of the full committee for expediting this, and when we get very shortly to a vote on it, to vote their advice and consent to ratification.

I thank again the chairman of the full committee.

I reserve the remainder of my time.

Mr. HELMS. I thank the Senator from Delaware.

How much time do I have?

The PRESIDING OFFICER. The Senator has 41 minutes 42 seconds.

Mr. HELMS. I yield 8 minutes to the distinguished Senator from Virginia [Mr. WARNER].

Mr. WARNER. Mr. President, I thank my friend and colleague, the senior Senator from North Carolina. May I join others in urging that the Senate give its advice and consent to this very important treaty, a treaty brought forward by the leadership of the chairman and the distinguished ranking member at a critical time in the ever-increasing debates regarding Europe, whether it be NATO expansion or other issues.

I was prepared today to go toe to toe with my good friend, the ranking member of this committee, the Senator from Delaware, on the question of condition 9. I have spent a good portion of my career in the Senate on the question of the ABM Treaty. I think it was a very wise addition to this particular resolution of ratification, a provision, condition 9, that addresses the issue of the multilateralization of the ABM Treaty.

I go back to the Fiscal Year 1995 Defense Authorization Act, section 232. It was my privilege to introduce that provision as an amendment to that bill. That provision provided:

> The United States shall not be bound by any international agreement entered into by the President that would ''substantively'' modify the ABM Treaty unless this agreement is entered [into] pursuant to the treaty making power of the President under the Constitution.

That is section 232 of the Fiscal Year 1995 Defense Authorization Act. That is precisely, really a recitation, of what condition 9 requires—follow the law of the land. President Clinton signed section 232 into law, and yet, time and again, this President claims exemptions from the requirement to submit to the Senate agreements which clearly change the rights and obligations of the United States under the ABM Treaty.

For years, I have joined a number in this Chamber, primarily the Republicans, in insisting that the ''demarcation'' agreement, which the administration is currently completing in negotiations with the Russians, represents again another ''substantive'' change to the ABM Treaty that must be submitted to the Senate. I am pleased that the administration has at long last acknowledged that very fact and has agreed to bring that demarcation agreement before this body for the advice-and-consent responsibility entrusted to the Senate by the Constitution.

I, like the Senator from Delaware, was concerned about the use of the word ''prerogative'' in condition 9. I view the advice and consent role as an obligation of the U.S. Senate under the Constitution of the United States. It is an obligation that we must exercise in cases such as the demarcation and the multilateralization of the ABM Treaty.

I ask my colleagues to indulge me just for a minute. I go back to May 1972, a quarter of a century ago. As a much younger man, I was privileged to be a part of the delegation, headed by the President of the United States, that went to Moscow for the summit which culminated in the signing of SALT I, the ABM Treaty and other agreements. The particular matter for which I had primary responsibility was the Incidents at Sea Executive Agreement, which was also signed at that time.

I had been in the Pentagon as Secretary of the Navy during the course of the negotiation of the ABM Treaty. As such, I have spent a good deal of my career, beginning with the inception of that treaty to date, in trying to analyze it and defend it. I think it is a valuable part of our overall arms control relationship with the then-Soviet Union and today Russia. But there is a limit to which that treaty should be applied to other activities that this Nation must now undertake—activities that were not contemplated at the time the treaty was negotiated.

One of those activities—and I do not know of a more important one—is to protect the men and women of the Armed Forces when they are deployed abroad, and any number of civilians in their positions abroad, from the ever-growing threat of short-range ballistic missiles.

Hopefully, this year we will forge ahead and finally clarify—clarify—the misunderstandings about what the ABM Treaty was intended to do and what it was not intended to do on this issue. I have talked to so many of my colleagues who were in that delegation a quarter of a century ago who had a primary responsibility for the ABM Treaty. One after one they will tell you that they never envisioned at that time, from a technological standpoint, this new class of weapons, namely, the short-range ballistic missiles, and that that treaty was never intended to apply to those missiles.

As the Senator from Delaware said, there will be another day on which we can have that debate on the issue of that treaty's application to the current research and development now underway to develop and deploy those systems desperately needed in the Armed Forces of the United States to protect us from the short-range threat, an ever-growing threat, which is proliferating across the world.

The Foreign Relations Committee did precisely what it should have done: included in as condition 9 the protection of future debate on the ABM Treaty such that the U.S. Senate can make the decisions as to whether or not there are successions to the ABM Treaty by other nations.

The ABM Treaty was contemplated, negotiated, and signed as a bilateral treaty. It was approved by the Senate as a bilateral treaty. It strains credibility for the administration to now argue that the conversion of that treaty from a bilateral to a multilateral treaty is not a ''significant'' change to warrant Senate advice and consent.

At the time this treaty was negotiated, no one involved in the negotiations could ever have envisioned the dissolution of the Soviet Union in their lifetimes—much less within 20 years. Likewise, technical advances in the areas of both strategic offensive and defensive systems could not be adequately anticipated. That is why the treaty has provisions for amendment to adapt it to changing times circumstances, and technologies. I am personally of the view that this treaty should have been—and still needs to be—amended to allow the United States to protect its citizens, stationed abroad from short-range ballistic missile attacks which were not contemplated 25 years ago. But I also strongly believe that any amendment which alters U.S. rights and obligations—any substantive changes—must be submitted to the Senate for advice and consent.

We could argue for days about the international legal principles and requirements in this area. But one thing is clear—domestic law on this issue is unambiguous. Section 232 of the fiscal year 1995 Defense authorization bill, which I referred to earlier, clearly requires the President to submit for Senate advice and consent any international agreement which substantively modifies the ABM Treaty.

It is clear that multilateralization would constitute a substantive change to the ABM Treaty. For 25 years, this has been a bilateral treaty. If new parties are added, the geographic boundaries, which govern many aspects of the treaty, would be changed. Existing U.S. rights under the treaty to amend it by bilateral agreement would be lost. The draft memorandum of understanding on succession, the three new states parties will be given full voting rights in the Standing Consultative Commission [SCC], the body which supervises treaty implementation and negotiates amendments to the treaty. According to the guidelines of the SCC, changes to the ABM Treaty can only be made through a consensus of the parties. That means that any one of these three new states parties could block United States efforts to amend this treaty to allow for effective missile defenses to deal with current threats—even if the Russians agree to the changes.

The succession issue with the states of the former Soviet Union has been handled on a case-by-case basis. In the case of the CFE Treaty and the START I Treaty, the Senate specifically addressed the succession issue during consideration of the resolutions of ratification for those treaties. INF succession was handled without Senate involvement. It is clear that the matter of succession—far from being a legal absolute—is, at best, a murky legal issue.

The unique status of the ABM Treaty was highlighted in the 1994 legislation requiring Senate advice and consent of any international agreement that ''substantively'' modifies the ABM Treaty. This is not the case for the hundreds of other treaties we had in effect with the former Soviet Union.

Since the ABM Treaty reinterpretation debate of the late 1980's, the Democrats have insisted that any change to a treaty that differs from what was presented to the Senate at the time of ratification must be resubmitted to the Senate or the Congress for approval. Multilateralization of the ABM Treaty is not simply a reinterpretation of the treaty, it is a substantive change to the treaty text. By the Democrats own standards, such a change should clearly require Senate advice and consent.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I appreciate very much the comments by the distinguished ranking member of the Foreign Relations Committee. I must say for the record that I also enjoy the privilege of working with him. I think the committee has been more active in the last year or two than it has been for some time. But in any case, I am grateful to Senator BIDEN.

Mr. President, the history of the succession agreements to the various treaties concluded between the United States and the Soviet Union further supports the case for Senate consideration of ABM multilateralization. In only one case was advice and consent not required for multilateralization on an arms control treaty. Because the INF Treaty carried the so-called negative obligation of not possessing any intermediate-range nuclear missiles, that treaty could be multilateralized without altering any treaty terms or imposing any new treaty rights or obligations on the United States or new parties.

Multilateralization of the START I Treaty under the Lisbon Protocol, on the other hand, required Senate advice

and consent because this change had clear implications for the treaty's text and object and purpose. The Lisbon Protocol determined the extent to which countries other than Russia would be allowed to possess strategic nuclear weapons. Similarly, ratification of the Lisbon Protocol also effectively determined successorship questions to the Treaty on Non-Proliferation of Nuclear Weapons, NPT. Under that protocol, Belarus and other countries agreed to a legally binding commitment to join the NPT as nonnuclear weapons states. Thus when the Senate offered its advice and consent to the Lisbon Protocol, it approved successorship to both the INF and the START treaties.

Finally, the Senate specifically considered the question of multilateralization of the Treaty on Conventional Armed Forces in Europe under condition 5 of the resolution of ratification for the CFE Treaty.

Under article II, section 2, clause 2 of the Constitution, the Senate holds a co-equal treaty-making power. John Jay made one of the most cogent arguments in this respect, noting:

> Of course, treaties could be amended, but let us not forget that treaties are made not only by one of the contracting parties, but by both, and consequently that as the consent of both was essential to their formation at first, so must it ever afterwards be in order to alter . . . them.

Now, my colleagues of the Senate may disagree on the wisdom of continuing the national strategy embodied in the ABM Treaty. Where I hope all of our colleagues could agree, however, is on the imperative of upholding the constitutional responsibilities of the Senate, as reposed in this body by the Founding Fathers.

Mr. Justice Frankfurter stated:

> The accretion of dangerous power does not come in a day. It does come, however, slowly, from the generative force of unchecked disregard of the restrictions that fence in even the most disinterested assertion of authority.

I know the administration has demonstrated nothing if not disregard for the Senate's constitutional authority. The Senate's duty with regard to the issue of ABM multilateralization is, I believe, Mr. President, clear.

I yield the floor.

How much time does the distinguished Senator from Texas want?

Mrs. HUTCHISON. I do not know what the time limitations are. At least 10 minutes, in your range, or I could cut it back.

Mr. HELMS. If the Senator could do with 8 minutes, I think I could cover everybody, and the distinguished President pro tempore.

Mr. THURMOND. I need about 10 minutes. I can ask for extra time.

Mr. HELMS. Why don't you proceed.

Mrs. HUTCHISON. I will be happy to yield to the distinguished Senator.

Mr. HELMS. I say to Senator THURMOND, you have been yielded to by the distinguished Senator from Texas.

Mrs. HUTCHISON. Would you like to go next, Mr. Chairman?

Mr. THURMOND. Whatever suits you.

Mrs. HUTCHISON. After him, if I could have 8 to 10 minutes.

Mr. HELMS. Yes.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the CFE Flank Document resolution of ratification. My support of the CFE Flank Document is based largely upon the 14 conditions that the Foreign Relations Committee attached to the resolution of ratification. I am particularly pleased that the Foreign Relations Committee included condition 9, which deals with the Senate's prerogatives on multilateralization of the ABM Treaty. This has been an issue with which the Armed Services Committee has been deeply involved for many years.

I would strongly oppose any effort to dilute or eliminate condition 9 from the resolution of ratification. Condition 9 does not take a position, as such, on the ABM Treaty or treaty succession. It simply seeks to protect the Senate's prerogatives in case the treaty is substantively changed. I find it difficult to believe that any Member of this body would be opposed to this objective. In my view, it is a solemn and fundamental obligation of a Senator to consistently guard the rights and prerogatives of the Senate, regardless of which political party may occupy the White House at any given time.

Mr. President, although international law is ambiguous on the question of treaty succession, the U.S. Constitution and statutory law is clear. As section 232 of the National Defense Authorization Act for fiscal year 1995 states, ''the United States shall not be bound by any international agreement entered into by the President that would substantively modify the ABM Treaty unless the agreement is entered pursuant to the treaty making power of the President under the Constitution.'' This provision originated as an amendment sponsored by Senator WARNER of Virginia and Senator Wallop of Wyoming, two of the Senate's foremost experts on the ABM Treaty.

Notwithstanding the administration's assertion that treaty succession is an executive branch responsibility, or any argument that one might derive from international law, the real issue is simple and clear. Only one overarching question needs to be answered: Does multilateralization of the ABM Treaty constitute a substantive change to the treaty? If so, the President has no choice, under the law and the Constitution, other than to submit such an agreement to the Senate for advice and consent.

Ironically, those who have asserted that the President does not need to submit the multilateralization agreement to the Senate for advice and consent have not even attempted to answer the one relevant question: Is it a substantive change or not? Instead they have chosen to base their views strictly on ambiguity-laden international law and a simple assertion of executive prerogative.

If one carefully analyzes the issues associated with ABM Treaty multilateralization, it is difficult to avoid the conclusion that the ABM Treaty will indeed be modified in several substantive ways. The conferees to the fiscal year 1997 Defense Authorization Act recognized this in stating that ''the accord on ABM Treaty succession, tentatively agreed to by the administration, would constitute a substantive change to the ABM Treaty, which may only be entered into pursuant to the treaty making power of the President under the Constitution.'' This conference language, which was supported overwhelmingly on a bipartisan basis, was the culmination of 2 years of effort by several key Senators on the Armed Services Committee: I have been joined in this fight by Senator LOTT of Mississippi, Senator WARNER of Virginia, Senator—now Secretary of Defense—Cohen of Maine, and Senator SMITH of New Hampshire, as well as other stalwart supporters of the Senate's prerogatives.

Why would multilateralization of the ABM Treaty constitute a substantive change? First, because the basic strategic rationale for the treaty would be altered. The ABM Treaty was intended to be part of an overarching arms control regime for regulating United States-Soviet competition in strategic offensive forces. But under a multilateral ABM Treaty, some members will have neither strategic offensive nor strategic defensive forces, and hence no direct stake in the treaty's subject matter. Overall, the United States faces strategic and political circumstances that are vastly different than those that existed in 1972 when the ABM Treaty was signed. The Senate must carefully consider how these bear on the issue of treaty succession.

Second, the ABM Treaty will change from a treaty between two equal parties to one in which different parties have different rights and obligations. Some states will be entitled to a deployed ABM system, others will not. The United States will also face four states rather than one at any future negotiation concerning the future of the treaty. This clearly diminishes the weight of the American vote in the Standing Consultative Commission and increases the complexity of seeking changes or clarifications to the treaty.

Third, the actual mechanics of the ABM Treaty will be altered by multilateralization since the treaty is largely defined in terms of ''national territory.'' Some items that are regulated by the treaty, including large phased array radars, are currently located outside the national territory of any of the states that plan to accede to the ABM Treaty. Also, those former Soviet States that opt not to stay in the treaty would be legally permitted to deploy an unlimited ABM system even though their national territory

was formerly covered by the treaty's definition of Soviet ''national territory.''

Mr. President, these are only a few of the ways in which a multilateral ABM Treaty would constitute a substantive change from the original treaty. The evidence is overwhelming. For the Senate to do anything other than to insist on its right to provide advice and consent to such an agreement would be an abandonment of its rights and obligations. I urge my colleagues to stand together on this important constitutional prerogative of the Senate. The executive branch must not be permitted to circumvent the Senate on a matter of such fundamental importance.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Texas is now recognized for 8 minutes.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the committee and, of course, the distinguished senior Senator from South Carolina.

Mr. President, there is no Senate responsibility I take more seriously than the obligation we have to advise and consent on treaties. We are discussing two treaties today that mark the past and the future of arms control. It is interesting to me that they have become linked in the manner before us today. I commend the distinguished chairman of the Foreign Relations Committee for his vision in this effort.

The Conventional Forces in Europe Treaty is a pillar of post-cold-war security in Europe. That treaty, over a decade in negotiation and finished by President Bush in 1990, solidified NATO's victory in the cold war by dramatically reducing the size of the conventional forces arrayed against each other.

That treaty also restricted the areas on the flanks of Europe where the Soviet Union or its successors could place troops and equipment. This particular provision was one of the most difficult to negotiate because it was one of the most meaningful. By restricting the size of forces on Europe's northern and southern flanks, we greatly reduced the likelihood that the Soviet Union or its successors could conduct an effective assault on western forces.

Because of the importance of this provision, it is with great reluctance that I support the changes to the agreement before us today, which will relax these flank restrictions.

It is true that over 50,000 pieces of equipment limited by the CFE Treaty have been destroyed or removed since the treaty went into effect. Nevertheless, with the changes in the agreement regarding the flanks of Europe, we will all have to be watchful that we not slide back too far from the high standard we set for ourselves and for Russia in the original treaty.

Mr. President, I will also say that we will have to reevaluate our actions when we learn the full details of the NATO-Russia agreement just announced today. For example, I am hopeful that we did not place unilateral restrictions on our own ability to deploy troops in the potentially expanded area of NATO responsibility in exchange for Russia support for NATO expansion. I light of the changes we are making to the CFE Treaty—permitting Russia to deploy forces in areas that have been off-limits until now—such a unilateral restriction on our own ability to move troops around Europe would be shortsighted indeed.

Even with these reservations, though, I am willing to support the treaty document before us today because of condition 9, which will require the President to submit to the Senate for ratification any substantive changes to the Anti-Ballistic Missile Treaty. My support for an effective, global ballistic missile defense system greatly outweighs the concerns I may have with changes to the CFE Treaty.

Mr. President, if the CFE Treaty is a forward looking treaty that reflects the new realities of post-cold-war Europe, the ABM Treaty is an outdated document that harkens back to an era that is thankfully behind us. The ABM Treaty was with the USSR. Now that the cold war is over it is restricting the inexorable march of technology, a technology that I am convinced will make ballistic missiles obsolete.

The Clinton administration wants to bring new countries into this outmoded agreement. If the United States was limited in its ability to deploy an effective missile defense when the treaty was with Russia alone, how much more restricted will we find ourselves when there are half-a-dozen or more new members in this treaty?

The document before us today does not prejudice the Senate's action regarding the ABM Treaty. It only says that if the President wishes to permit other countries to join this treaty, then the Senate must fulfill its constitutional role to advise and consent on such a change to the treaty. Colleagues will have the opportunity at that time to debate the merits of bringing new countries into the treaty or simply letting this treaty fade into the history it represents.

While I support the latter, we aren't deciding that matter today. Today, we're simply asserting our prerogative to advise and consent on treaties. No Member of this body should be comfortable that any administration would want to make major modifications to a treaty without Senate approval.

I urge my colleagues to support the resolution of ratification before us today and assert their rights as a Member of the U.S. Senate. I commend Senator HELMS once again with the wisdom and leadership, a staunch defender always, of senatorial prerogatives and U.S. national security.

I commend all of those who are going to stand for the rights of the Senate and therefore the people, to change any potential treaty that this country has committed itself to, because we will keep our treaty obligations and we must make sure that the people of our country are informed and support any changes in those treaties.

I yield back the balance of my time.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I yield 12 minutes to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 12 minutes.

Mr. KERRY. Mr. President, before the Senate this afternoon is the task of taking the appropriate action, in fulfillment of the Senate's vital constitutional advice and consent responsibility and power, to adapt the Conventional Forces in Europe [CFE] Treaty to the constant change that affects our world—change which has been more sweeping and profound in Europe in the past 7 or 8 years than at any time in the preceding 40.

In 1990, after years of grueling negotiations to control the historically unprecedented conventional weaponry arrayed on opposite sides of the Iron Curtain in Central Europe, the CFE was signed. It entered into force in November of 1992. The long, difficult journey that led to the CFE treaty included one failed effort—the Mutual and Balanced Force Reduction Treaty episode—where negotiators eventually had to throw up their hands and acknowledge defeat in their efforts. But fortunately that failure was not permitted to become permanent. With U.S. leadership, efforts recommenced, and the CFE is the result.

The CFE treaty is the first in the post-World War II period to succeed in limiting and reducing conventional weaponry. While understandably strategic weapons treaty negotiations captured greater attention, since those negotiations addressed weapons of mass destruction each of which can annihilate great numbers of people and large cities, the CFE arguably addressed the greater threat to peace in Europe, because I believe it always was more likely that any conflict there would start as a conventional conflict. The CFE negotiating effort was successful in large part because it approached the issue of obtaining multilateral agreement to limitations of key offensive-capable weapons systems on an alliance-to-alliance basis—addressing on the one side the armaments possessed by not only the Soviet Union but all the Warsaw Pact nations taken together, and on the other side the armaments possessed by all the NATO nations taken together.

The CFE placed numerical limits on the numbers of five types of weapons systems critical to effective offensive operations which each alliance could possess in the Atlantic-to-the-Urals region of Europe where the Warsaw Pact confronted NATO: tanks; artillery pieces; armored combat vehicles; attack aircraft; and attack helicopters. It also contained sublimits based on

geographical regions—in realization of the fact that while a certain number of the covered items might not be a threat to peace or indicate diabolical intentions if spread evenly across the entire geography of each alliance, that same number if massed in a subregion could be threatening indeed and could indicate intentions to launch an attack or engage in other destabilizing behavior.

The treaty has been a notable success. It has resulted in reductions of over 50,000 items of heavy military equipment, verified by an intrusive verification regime that has included nearly 3,000 on-site inspections conducted to date under treaty auspices. It has worked and worked well. It is not a prospective treaty about which we all must guess or predict. It is a here-and-now, real-world treaty that has resulted in tangible reduction in armaments and consequently in real reduction in the threat of conflict. It is a treaty that we would do well to preserve and protect.

Its underlying premise remains valid. If buildups of a critical mass of the categories of treaty-limited equipment can be prevented, it will be very difficult for any nation to launch an attack against another with a significant prospect of success. And even if a nation seeks to flaunt the treaty's terms, and engage in a buildup of these weapons systems for the purpose either of conducting offensive military operations or engaging in a form of extortion, the treaty's verification procedures will reveal those efforts so that appropriate diplomatic and military responses can be made, and its terms give the other parties to the treaty the means to condemn violative activities and to enlist the community of nations in efforts to prevent escalation into conflict.

The implementation and ongoing administration of every treaty result in cases of different interpretations and various disagreements, and the CFE Treaty is no exception. But the mechanisms included in the treaty for resolving such conflicts or disagreements have worked reasonably well. And one can presume that the treaty would have continued to make a significant contribution to the security of Europe and, in turn, of the globe in a relatively smooth manner had the world remained as it was when the treaty was negotiated and entered into force. But, of course, the world has not stood still. The Soviet Union imploded. The Warsaw Pact disintegrated. Some of the very nations and armies that stared across the Iron Curtain at NATO's forces and their key United States components have become great friends of the United States and other NATO nations. Several of these appear to be on the verge of becoming a part of NATO itself. That, of course, is a matter of considerable controversy which should be and I trust will be debated separately and thoroughly. But our focus today is or should be on the CFE treaty.

In addition to the disappearance of the Soviet Union and the Warsaw Pact, and the realignment of some of the former pact nations with the North Atlantic Alliance, other components of the Eurasian security picture have changed dramatically. No longer is Russia's biggest concern the need to be ready for full-scale battle with NATO troops on the German and Benelux plains. Today ethnic conflict in some provinces and efforts of other provinces to obtain independence require much greater Russian attention. The ferment in the Middle East, and activities in Iran and Turkey south of the Russian Caucasus region also are of greater concern to Russia.

Not surprisingly the alterations in Russia's view of its own security picture resulted in alterations in what it believed to be the vital disposition of its security forces. Other nations of the former Soviet Union, including Ukraine, and of the now-defunct Warsaw Pact were faced with unanticipated anomalies resulting from the new maps of Eurasia. The changes occurred in and affected primarily one of four zones to which the CFE Treaty applies, the so-called flank region which consists of Norway, Iceland, Turkey, Greece, Romania, Bulgaria, Moldova, Georgia, Azerbaijan, Armenia, and parts of Ukraine and Russia.

To address the desires by Russia, Ukraine, and others to reallocate their forces, but to ensure that those reallocations protect the accomplishments and security provided by the CFE, the parties to the CFE Treaty negotiated the so-called flank agreement consisting of amendments to the original CFE treaty. The parties agreed to the flank agreement on May 31, 1996. It will enter into force if approved by all CFE Treaty party states by May 15, 1997.

The agreement does not change numerical limits for either of the two major sides of the post-World War II European alignment. Instead, it adjusts the boundaries of the flank, providing Russia and Ukraine more flexibility than they had before with respect to deployment of equipment limited by the treaty.

The flank agreement is in NATO's security interest, and, specifically, it is in the security interests of the United States. Without the adjustments it provides, it is likely Russia and possibly Ukraine would feel so impeded in their ability to meet their own national security requirements that they either would leave the treaty altogether or fail to comply with some of its provisions. The implications of neither of these outcomes would be acceptable, and would weaken or destroy the protections and added security offered by the CFE Treaty.

The judgment that the flank agreement is in our national interest is not just a judgment of our diplomatic community. It is fully endorsed by our Armed Forces leadership. On April 29 of this year, Brig. Gen. Gary Rubus testified:

In the judgment of the Joint Chiefs of Staff, the Flank Agreement is militarily sound. It preserves the CFE treaty and its contribution to U.S. and Allied military security. The additional flexibility permitted Russia in the flank zone does not allow a destabilizing new concentration of forces on the flanks of Norway, Turkey and other States in that area. Moreover, the agreement includes significant new safeguards, including greater transparency and new constraints on flank deployment:

The benefits of this agreement are apparent. The Foreign Relations Committee last week approved the resolution of ratification by a unanimous vote of 17–0. I am confident that a great majority of Senators approve of the flank agreement. But I am very troubled by how some in the majority seem determined to transform the constitutional treaty advice and consent process into an obstacle course.

The Foreign Relations Committee last week approved the resolution of ratification by unanimous vote. Mr. President, as the Foreign Relations Committee last week approved this by unanimous vote of 17 to 0, it doesn't mean that there were not some reservations. I just want to speak to them.

I am confident that the great majority of our colleagues will support the Flank Agreement. But I am troubled by the way in which some have transformed the constitutional treaty advise and consent process into something of an obstacle course that involves things that aren't directly in the treaty.

The conditions for ratification which the majority required before it would permit the Foreign Relations Committee and then the full Senate to perform the advice and consent role, fall into four rough categories. I find several of them—primarily those which the Senate appropriately and routinely attaches to treaties—beneficial and desirable. I find several others reflect a degree of fear and anxiety on the part of some Members, the basis for which I cannot ascertain—but which, all things told, appear unlikely to do fundamental damage to what should be our objective here: To keep the CFE Treaty in operation in order to continue to derive its benefits to security in Europe and a reduction in the risk of conflict there.

The third category, Mr. President, consists of a condition whose objective may have been desirable but which inadvertently or inadvisedly singles out one nation for implicit criticism when the kinds of actions it is implicitly criticized for taking may place it in the company of other nations in its region, and when it would be more appropriate to address these situations as a group so that all nations are held accountable to the same treaty standards. I speak of paragraph F of condition 5 which, in the form approved by the committee, singles out Armenia and requires a report directed solely at its activities and whether they comply with the terms of the treaty. I will address that matter separately, and will

offer an amendment to establish what I believe is an important balance and equity with respect to the entire Caucasus region.

Then, Mr. President, there is condition 9 which forms a special category all its own. I understand why a Senator who has not been deeply involved in the Senate's processing of the CFE Flank Agreement may be puzzled by the fact that condition 9 pertains to the ABM Treaty. In fact, I have been involved in the effort to move the Flank Agreement to Senate approval, and I cannot discern a reasonable or defensible rationale to link the issue of multilateralization of the ABM Treaty to action on the CFE Flank Agreement except for the reason of taking something that ought to happen that is important to our security and linking it to something that is not necessarily yet thoroughly considered by the Senate.

But even so, I do believe I understand what is going on here. Proposed condition 9 is hostage-taking, pure and simple. I think there are some who have a fundamental aversion to arms control agreements and want the United States to simply go it alone in the interdependent world of the last decade of the 20th century. Unfortunately they insist that unless the President concedes to their position on the unrelated issue of ABM multilateralization, they will refuse to let the United States ratify the CFE flank agreement.

I readily agree that the issues surrounding the ABM Treaty are both vital and very controversial. The Committee on Foreign Relations, with the contribution of the Committee on Armed Services, should devote considerable time and energy to thoroughly exploring those issues, and then the Senate as a whole should carefully determine how to proceed with respect to them.

But I want to register the strongest possible dissent from this tactic of hostage-taking. In my judgment these issues are separate and ought to be treated separately. Treaties are fundamentally different than bills on which this Congress acts on a daily basis. We ought to approach our advice and consent responsibility—a solemn constitutional duty—with more abstract side bar process. We should not load up resolutions of treaty ratification with essentially nongermane amendments.

Further, purporting to resolve the complex and very important ABM issues by attaching a condition to a wholly unrelated treaty—and without thoroughly airing and deliberating on those issues at the committee level via hearings and other means—is risky and ill-advised. Because I understand the power of the majority, perhaps the most significant feature of which is its considerable control over determining whether and when the Senate will address important issues, and because I believe it is of great importance that this flank agreement be considered and acted on by the full Senate, and that the Senate do so prior to the May 15 deadline which is imminent, I did not seek because of my aversion to condition 9 to derail the Foreign Relations Committee's action on the resolution of ratification last week, but I expressed my concerns which were published as additional views in the committee's report on the resolution.

Mr. President, as Senators, every one of us is sworn to uphold the Constitution. In my judgment that requires maintaining the separation of powers which plays so critical a part in maintaining the equilibrium of our unique form of government which has permitted it to survive and function successfully for over 200 years. Maintaining the separation requires a careful allegiance to preserving and protecting not only the constitutional obligations, responsibilities, and prerogatives of the legislative branch, and the Senate in particular, but also of the judicial and the executive branches.

We in this Chamber are most accustomed, understandably, to rising to the defense of the responsibilities, role, and prerogatives of our own branch and our own Chamber. I have joined many times in such efforts. Indeed, the very fact that the CFE Flank Agreement is being considered by the Senate is attributable to an effort to assert that the Senate properly should act on that agreement under the treaty clause of the Constitution because it substantively alters the original CFE Treaty.

Itis my view, and, I believe, the view of most Senators on both sides of the aisle who have carefully examined the issue, that the ABM Demarcation Agreement also makes a substantive change in a treaty to the ratification of which the Senate previously gave its advice and consent—thereby necessitating that U.S. ratification of the Demarcation Agreement can occur only if the Senate gives its advice and consent by means of the complete constitutional process.

But the ABM Succession Agreement is a different matter entirely. It effects no substantive change in the ABM Treaty or any other treaty. It does one and only one thing: It codifies the status with respect to the treaty of the states which succeeded to the rights and obligations of the former Soviet Union. It is a function of the executive branch, not the legislative branch, to determine if new nations which descend from a dissolved nation inherit the predecessor nation's obligations such as those under a treaty. This is not a matter of defending a Senate right or obligation or prerogative; the Senate has no right, obligation, or prerogative to defend with respect to determination of succession.

This principle has been illustrated on many occasions by its application. Recently, and of direct relevance, it has been applied in a number of circumstances with regard to the dissolution of the Soviet Union.

I believe I understand the objective here, Mr. President, and I do not believe it is the defense of a nonexistent constitutional principle or a nonexistent constitutional right or prerogative of the Senate. This is a wolf in sheep's clothing—a maneuver by opponents of the ABM Treaty to gain strategic advantage in their quest to demolish the ABM Treaty. The objective is to give them one additional shot at killing the Treaty.

I am prepared for the debate on the ABM Treaty. I look forward to thoroughly assessing whether this treaty continues to serve our Nation's security interests as I strongly believe it has well served those interests since its ratification. I look forward to examining in detail the probable reactions in Russia and elsewhere if we abandon the treaty.

But let me return to an earlier point that ABM opponents have shown they are willing to ignore. The Senate is not currently debating the ABM Treaty. The matter that is before us today is the Conventional Forces in Europe Treaty Flank Agreement. Condition 9 is an unwise, unnecessary, destructive digression from what we should be doing here today. It is yet another example of distressing political expediency too often illustrated in this Chamber in recent years. Fortunately, that expediency rarely has sunk to the level of sacrificing a vital constitutional principle—such as the separation of powers—for the sake of tactical gain. But, Mr. President, let there be no mistake: It is sinking to that level today in condition 9.

When we do such things, Mr. President, there is a price to be paid. Either we who serve here today will pay that price at a later time, or those who follow in our footsteps will pay that price. We disserve the Constitution we are sworn to uphold when we permit that to occur.

I must remark, Mr. President, on the peculiar and troubling silence of the administration on this issue. The administration, by position and motivation, is best situated to defend the constitutional prerogatives and responsibilities of the executive branch. And yet, for some unknown reason, perhaps a tactical calculus, or exhaustion, or distraction—for some reason—the administration never even joined this issue. I say to the administration: Despite the appearances given by your silence and inaction on this issue, this truly does matter in the long run. And this administration, and others to follow it, will regret this day. Much more is being ceded here than the authority to decide what nations properly hold the obligations of the ABM Treaty that previously were held by the Soviet Union.

Mr. President, I strongly support the ratification of the Flank Agreement. Before we vote on the resolution of ratification, I will offer the amendment I referenced earlier to address the Caucasus region, which I hope will be

approved. Then, despite the reservations about condition 9 I have enunciated, because of how important I believe the CFE Treaty is and will continue to be to European security and stability and therefore to world security and stability, I will vote to approve the resolution of ratification and urge all other Senators to do so.

QUESTIONS OF TREATY ADHERENCE IN THE CAUCASUS

Mr. President, the Conventional Forces in Europe Treaty was negotiated to limit the numbers and geographical distribution in Europe of five key types of offensive-capable weapons systems. The treaty contains sublimits for portions of the Atlantic-to-the-Urals region covered by the treaty that apply to the five types of treaty-limited equipment.

The treaty, when it was negotiated, was focused on the protracted cold war and the confrontation at the Iron Curtain that ran through Central Europe. Its design was to make it less likely that the cold war would turn hot, by making it more difficult to amass sufficient quantities of the weapons systems that would be needed for a successful attack of one side on the other, or, at the very least, to amass such weaponry without the other side being aware of the preparations for such an attack. The weapons limitations and the transparency are the treaty's keys.

But as the astonishing events of the late 1980's and early 1990's unfolded, the entire structure of Europe changed in such a fashion as to be virtually unrecognizable. For the most part, this was a very welcome change. For the first time in 40 years, there was no tense face-off of the world's greatest armies at the Warsaw Pact/NATO border.

But the disintegration of the Soviet Union, which was one of the most prominent of the changes in the region, removed the authority and control that had kept a lid on ethnic conflicts and territorial disputes in several regions of what had been the Soviet Union. Ancient tensions and hatreds soon began to bubble to the surface, and nowhere moreso than in the Caucasus region.

The Russian province of Chechnya sought to secede from Russia. Ethnic Armenians in the Nagorno-Karabakh region of Azerbaijan sought to gain independence so they could align with Armenia. Abkhaz separatists in Georgia have fought a long-running civil war with the central government.

Wars and revolutions are fought with weapons, of course. All parties to these conflicts have done all in their power to increase their firepower. Not surprisingly, these actions, when they involve treaty-limited equipment, have implications for the CFE Treaty even though contending with such situations was not the primary purpose for which the treaty was negotiated.

Responding to an allegation made publicly by a Russian Army general who now serves in the Duma, the majority included in the text of the resolution of ratification of the CFE flank agreement, as a part of condition 5 titled ''Monitoring and Verification of Compliance,'' paragraph F, which is a requirement that the President submit a report to the Congress regarding ''whether Armenia was in compliance with the treaty in allowing the transfer of conventional armaments and equipment limited by the treaty through Armenian territory to the secessionist movement in Azerbaijan.''

Mr. President, wherever there are credible allegations or concerns that the provisions of any arms control treaty have been violated, those allegations or concerns should be explored thoroughly and the truth determined. That, certainly, applies in this case. However, I believe this portion of condition 5 is too limited in its scope, and because of that limitation, leaves the impression that the Senate is not as concerned about the effects on the treaty of arms transfer and acquisition actions in other areas of the Caucasus region.

If we are to carefully examine alleged violations of treaty provisions in one specific location in this conflicted region, we should direct the same level of inquiry at all portions of the region. We know that arms buildups in other Caucasus locations have violated provisions of the CFE Treaty. Some of those violations, in fact, have been openly acknowledged.

It is my belief that the Senate should address this matter directly, and do so by expanding the scope of the report that will be required by paragraph F of condition 5. Together with Senator SARBANES, and with the support of several other Senators, I have prepared an amendment to do this. The amendment inserts a new subparagraph ii requiring that the President's report address ''whether other States Parties located in the Caucasus region are in compliance with the Treaty.'' The President also must indicate what actions have been taken to implement sanctions on any of these states found to be in violation.

I believe this change will make this provision of the resolution of ratification more useful. Because the report the Congress will receive will give a more complete picture of the level of compliance with or violation of the CFE Treaty in the Caucasus region, the United States can formulate a response that will be more complete and suitable.

AMENDMENT NO. 279

(Purpose: To require a compliance report on Armenia and other States Parties in the Caucasus region)

Mr. KERRY. Mr. President, the amendment that I send to the desk is an amendment that seeks very simply to create the equity and balance that I sought with respect to the question of Armenia.

I believe that we have an agreement on this language. It will simply reflect that we ought to hold all nations in the area to the same standard.

In my judgment, it is self explanatory. I believe it has been approved by both sides as a consequence of that.

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KERRY), for himself, Mr. BIDEN, Mr. SARBANES, Mr. ABRAHAM, and Mrs. FEINSTEIN, proposes an amendment numbered 279.

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

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

The amendment is as follows:

Strike subparagraph (F) of section 2(5) and insert the following:

(F) COMPLIANCE REPORT ON ARMENIA AND OTHER STATES PARTIES IN THE CAUCASUS REGION.—Not later than August 1, 1997, the President shall submit to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a full and complete classified and unclassified report regarding—

(i) whether Armenia was in compliance with the Treaty in allowing the transfer of conventional armaments and equipment limited by the Treaty through Armenian territory to the secessionist movement in Azerbaijan;

(ii) whether other States Parties located in the Caucasus region are in compliance with the Treaty; and

(iii) if Armenia is found not to have been in compliance under clause (i) or, if any other State Party is found not to be in compliance under clause (ii), what actions the President has taken to implement sanctions as required by chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.; relating to assistance to the independent states of the former Soviet Union) or other provisions of law.

Mr. KERRY. Mr. President, I believe we have an agreement on this particular amendment.

I thank the distinguished chairman of the Foreign Relations Committee for working, as he always does, in order to find a common ground in these matters.

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

The amendment (No. 279) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I yield 6 minutes to the distinguished Senator from New Hampshire, [Mr. SMITH].

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

Mr. SMITH of New Hampshire. Mr. President, I thank the distinguished chairman of the Foreign Relations Committee.

Mr. President, I rise in strong support of the resolution of ratification reported by the Senate Foreign Relations

Committee. I want to specifically commend the distinguished chairman, Senator HELMS, for his outstanding leadership in moving this resolution promptly and responsibly.

I also want to commend the Foreign Relations Committee for including condition No. 9, which would require the administration to submit any agreement that would multilateralize the ABM Treaty to the Senate for advice and consent. This is an extremely important issue, Mr. President, and this provision ensures that the Senate retains its constitutional prerogatives to advise and consent on international treaties.

By way of background, there is an existing statutory requirement, with precedent, that any substantive change to an international treaty must be submitted to the Senate for advice and consent, as prescribed under the Constitution.

The Clinton administration has spent the better part of the past 4 years negotiating changes to the 1972 Anti-Ballistic Missile [ABM] Treaty. Foremost among these changes are a demarcation agreement that would restrict the performance of certain theater defense programs, and a multilateralization agreement that would expand the ABM Treaty to include the Republics of the former Soviet Union. It is this multilateralization agreement that condition No. 9 would address.

Mr. President, condition No. 9 has become necessary because the administration refuses to submit the multilateralization agreement to the Senate for advice and consent. They have rightly conceded that both a demarcation agreement and the CFE flank limits agreement are substantive changes requiring approval of the Senate, but they adamantly refuse to submit multilateralization for approval.

The administration asserts that the executive branch alone has the authority to recognize nations and determine the successor states on treaties whose participants no longer exist. They also argue that multilateralization is merely a clarification, not a substantive change to the ABM Treaty.

It is a very significant change that will fundamentally alter both the nature of the treaty and the obligations of its parties. It is most certainly a substantive change, and as such, it must be submitted to the Senate for advice and consent.

Mr. President, let me elaborate on exactly why a multilateralization agreement would represent a substantive change. The ABM Treaty was signed by the United States and the Soviet Union. It was premised on the policy of mutual assured destruction and it codified the bipolar strategic reality of the cold war. All negotiations on compliance and all discussions concerning amendments to the treaty were to be bilateral in nature, with any decisions being approved by each side. The negotiating ratio was 1 to 1, the United States versus the Soviet Union.

However, one of these two parties has now ceased to exist. There is no longer a Soviet Union. If the treaty is multilateralized, and thereby expanded to include multiple parties on the former Soviet side, it will dramatically change this negotiating ratio, both theoretically and practically.

Instead of the 1-to-1 ratio that the treaty was premised on, it will become at a minimum a 1-to-4 ratio, of the United States versus Russia, Khazakstan, Ukraine, and Belarus, and perhaps even a 1-to-15 ratio of the United States versus all 15 of the former Soviet Republics. We just don't know and the administration isn't saying.

Under a multilaterlization agreement, each of these former Soviet Republics would have an equal say in negotiations, even though they clearly would have unequal rights and unequal equipment holdings. For instance, only the United States and Russia would be permitted to field an ABM system, but other nations would be free to deploy ABM radars and other related components of a system. Further, while the ABM Treaty prohibits defense of the territory of a nation, the term territory is being redefined to mean the combined territories of all former Soviet Republics who choose to join the treaty.

What does this mean? It means that instead of the treaty applying to the territory of an individual nation, it applies to a number of nations, unevenly and in a manner that is very detrimental to the United States. For example, Russia could legally establish new early warning radars on the territory of other States, well beyond the periphery of Russia, while the United States is restricted to its own borders. Compounding this inequity, the territory and borders of the so-called former Soviet Union could change over time because the multilateralization agreement allows the admission of additional republics even after entry into force.

The bottom line, Mr. President, is multilateralization would by definition and practice create a fundamental asymmetry in the ABM Treaty. Rather than having two parties with equal offensive strategic forces and defensive capabilities, this agreement would create a tremendous imbalance. For us to negotiate any changes to the treaty, such as an agreement to permit multiple sites or to change the location, we would now need to convince all the participating Republics of the former Soviet Union rather than just one.

In essence, each of those countries would be able to veto our position at any time. And they would individually leverage the vote in the Standing Consultative Commission for more foreign aid, or trade recognition, or concessions on a variety of issues. Whenever we finally met any single Republic's demands, another could instantly leverage similar concessions. When would it end? Never. This scenario is very troubling. It is troubling there are people in the Senate who would be willing to accede to that kind of situation. At the very least, it will cause huge complications in our process for negotiating changes to the treaty.

There can be no question, an agreement to multilateralize the ABM Treaty is a substantive change to the ABM Treaty, plain and simple. It must be submitted for advice and consent. Condition 9 merely says that before the CFE Flank Limits Agreement can take effect, the President must certify that he will submit the ABM Treaty multilateralization agreement to the Senate for advice and consent.

Nothing in this condition will require any renegotiation of any provision of the CFE Flank Limits Agreement or, for that matter, require any renegotiation of any provision of the ABM Treaty multilateralization agreement. This condition will not affect any other country or any other treaty or the cause of strategic stability in any respect. That is a fact.

Contrary to the parochial appeals of the administration, it is not going to kill NATO expansion. It will not kill START II. And it will not kill the CFE Treaty. In fact, all the President has to do is send us a letter this afternoon certifying he will submit the agreement to the Senate for advice and consent and we will be done with it. Case closed.

I am pleased the Senate has seen fit, thanks to the tremendous leadership of Chairman HELMS, to adopt this very important condition. Senator HELMS, as he does so many times and often on the floor of the Senate and in private meetings on issues, stands sometimes alone. I am proud to be standing with him on this very important issue, and I think future generations will thank him for his leadership when we get to the point where this treaty does take effect. People will be thanking him for his leadership on the multilateralization issue.

I thank the Chair.

Mr. HELMS. I thank the Senator from New Hampshire. I assure him it is an honor to serve in the Senate with him.

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

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Mr. President, I am pleased to support this CFE Flank Treaty today. It is good for the security of the United States and the security of our NATO allies.

This treaty modifies the Conventional Forces in Europe Treaty. This treaty was reached in 1990 before the breakup of the Soviet Union and the Warsaw Pact. The modifications in CFE flank restrictions contained in this treaty are reasonable, and we all should support them.

Under Chairman HELMS' guidance, the Foreign Relations Committee added a number of important conditions to this treaty. These conditions

clarify parts of the treaty that could be construed as granting special rights to Russia to intimidate its neighbors, but most importantly are the clarifications that nothing in the CFE Flank Treaty grants to Russia any right to continue its current violations of the sovereignty of several neighboring states.

I am pleased that these clarifications were fully bipartisan conditions that received the support of our distinguished Foreign Relations ranking member, Senator BIDEN.

There is, however, one remaining condition that caused some controversy. This is condition 9, which requires the President to submit to the Senate for ratification another treaty modification, the ABM multilateralization treaty. This is not a question of support or opposition to the ABM Treaty. This is purely a matter of the prerogative of the Senate, of whether or not to adhere to the clear intent of the Constitution of this country.

During negotiations over the Chemical Weapons Convention, Senator HELMS and Majority Leader LOTT succeeded in convincing the President to submit to the Senate two out of three pending treaty modifications that the President had intended to implement as executive agreements. One of those treaty modifications, the CFE Flank Treaty now before us today, and another, the ABM Demarcation Treaty, is before the Foreign Relations Committee where it will receive serious consideration.

Only one treaty modification has yet to be submitted to the Senate, the ABM multilateralization treaty agreed to in Helsinki by Presidents Clinton and Yeltsin. It is right to require that treaty to be submitted as well.

Again, this issue is merely the constitutional obligation of each of us in this body to give our advice and consent on the ratification of treaties, not whether this treaty modification is good or bad.

I again congratulate Chairman HELMS, Senator BIDEN, and the distinguished majority leader. I am proud of the leadership they have shown on this treaty and on the constitutional prerogatives of the Senate.

Mr. President, I yield my time.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I have a little housekeeping function. I ask what I am about to do will not be charged to either side.

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

UNANIMOUS-CONSENT AGREEMENT—H.R. 1122

Mr. HELMS. As in legislative session, Mr. President, I ask unanimous consent that immediately following disposition of the Feinstein amendment to H.R. 1122 during Thursday's session of the Senate, Senator DASCHLE be recognized to offer an amendment and it be considered under the following time agreement: 2½ hours under the control of Senator DASCHLE or his designee, and 2½ hours under the control of Senator SANTORUM or his designee.

I further ask unanimous consent that following the conclusion or yielding back of time on the Daschle amendment, the Senate proceed to vote on or in relation to the Daschle amendment without further action or debate, with no amendments in order during the pendency of the Daschle amendment.

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

Mr. HELMS. I thank the Chair.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I yield 12 minutes to the distinguished Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my friend from Delaware.

First, let me congratulate the Senators from North Carolina and Delaware, the chairman and ranking member of the Foreign Relations Committee, for working together so speedily and quickly to bring this treaty to the floor. It is a real feat. It is difficult to do this in this length of time. The kind of bipartisan cooperation that this takes really, I think, reflects great honor on this body.

There is one condition that I have some difficulty with that I want to address some remarks to this afternoon, and that is condition 9, which is now part of the resolution before the Senate.

Condition 9 requires the President to submit to the Senate for its advice and consent the memorandum of understanding concerning successor states to the ABM Treaty. In my view, this condition is probably unconstitutional but certainly unwise. As a general rule, a condition on a resolution of ratification is a stipulation which the President must accept before proceeding to ratification of a treaty. And if the President finds the condition unacceptable, he generally has but one choice, which is to refuse to ratify the treaty. There is, however, a generally recognized exception: If the condition is inconsistent with or invades the President's constitutional powers, in which case the condition would be ineffective and of no consequence. The restatement of foreign relations law puts the matter this way:

> The Senate has not made a practice of attaching conditions unrelated to the treaty before it. If the Senate were to do so and were to attach a condition invading the President's constitutional powers, for example, his power of appointment, the condition would be ineffective. The President would then have to decide whether he could assume that the Senate would have given its consent without the condition.

In this matter before us, condition 9 has no relation to the CFE flank agreement. The condition, therefore, on that ground is improper. It seeks to invade the President's constitutional powers to recognize states and to implement treaties, and thus is probably unconstitutional.

When the Senate deals with the important issue of advice and consent to a treaty, I think it should limit itself to the treaty before it. When we go beyond that, it seems to me we do not bring honor on this institution, when we try to force the hand of the President in areas beyond the immediate treaty that is being considered.

In a very ironic twist, condition 9 could imperil the continued viability of the treaty that we are ratifying because if the ABM Treaty, when it is multilateralized, needs to come back for ratification, the same principle would apply to other treaties, of which we have dozens. The same principle, if it applies to ABM, would apply to CFE, the treaty before us.

Is this treaty binding on those other states, those other successor states of the Soviet Union without coming back to the Senate? INF, START I, probably dozens of treaties with the former Soviet Union which have been multilateralized, which have been accepted by the successor states, which we now, I hope, consider binding on those States and on us, even though they have not been brought back to the Senate for ratification, if the logic of condition 9 is correct, it would undermine the viability, the efficacy of those other treaties that we had with the former Soviet Union. It would call into question treaties that I do not believe this body wants to call into question.

The reason that it does that is that condition 9 requires the President to submit to the Senate for its advice and consent his recognition of the Soviet Union successor states to the ABM Treaty. It does provide an opportunity for opponents of the ABM Treaty to try to defeat that memorandum of understanding as it relates to the successor states. But in doing so, it jeopardizes the continuing viability of the acceptance by those successor states of their obligations under the ABM Treaty and, in terms of the point I am making, their obligations under a number of other treaties which have been signed by the former Soviet Union.

This outcome could undermine the reductions of former Soviet nuclear weapons that our military has testified are so clearly in our national security interests. Opponents of having successor states other than Russia appear to worry about the potential difficulty of negotiating changes or amendments to the ABM Treaty in order to permit deployment of a national missile defense system in the future. Their notion appears to be that while it may be straightforward for us to negotiate required changes with Russia, it will somehow be more difficult to get the other three successor states to agree to any changes. And according to that view, rather than to give each of the other three states a potential veto over changes to the ABM Treaty, it would be better to prevent those successor states from ever joining the ABM Treaty as a party.

That is what this condition is all about, but it is misguided from a number of perspectives. First, the notion that Ukraine, Belarus, and Kazakstan would obstruct any changes to the ABM Treaty but that somehow Russia would be an easier negotiating partner flies in the face of experience. In the negotiations at the Standing Consultative Commission, it is Russia that has been the most challenging negotiating partner, while Ukraine, Kazakstan, and Belarus have been more amenable to American proposals.

Furthermore, as the administration has pointed out on many occasions, if the United States determines that there is the threat that requires us to deploy a national missile defense system that would conflict with the ABM Treaty, they would seek to negotiate changes with our treaty partners to permit such a deployment. We would seek to adapt the treaty to our security requirements. But if the Russians would not agree to our proposed changes, then the administration would consider whether to withdraw from the ABM Treaty, as is our right under the treaty's provisions relating to our supreme national interests. That is the prudent approach and the one that best serves our security.

Let me just give one other example of the implication of this condition. In 1995, the United States recognized Ukraine as a successor to the former Soviet Union for 35 nonarmed control treaties that we previously had with the U.S.S.R. We did this without a Senate vote. So now we presumably want the Ukraine to be bound by 35 treaties previously negotiated. But there is no Senate vote ratifying that treaty with Ukraine.

In a diplomatic note from the United States Embassy to the Government of Ukraine dated May 10, 1995, the United States listed the 35 agreements that have continued in force with Ukraine and they include such treaties as the incidents at sea agreement of 1972 with its protocol, which our good friend from Virginia, Senator WARNER, negotiated when he was Secretary of the Navy. They included the prevention of dangerous military activities agreement of 1989, which is designed to prevent an accident or mistake from erupting into hostilities. These are extremely important agreements and we should not put those agreements in limbo, or in doubt, by setting this precedent relative to the ABM Treaty.

I ask unanimous consent that the list of those 35 treaties that Ukraine is hopefully bound by, through that note—but which we have not ratified, vis-a-vis Ukraine—that that list and note be printed in the RECORD at this time.

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

EMBASSY OF THE UNITED STATES OF AMERICA—KIEV, MAY 10, 1996

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of Ukraine and has the honor to refer to discussions between technical experts of our two Governments concerning the succession of Ukraine to bilateral treaties between the United States of America and the former Union of Soviet Socialist Republics in light of the independence of Ukraine and the dissolution of the Union of Soviet Socialist Republics. In conducting their discussions, the experts took as a point of departure the continuity principle set forth in Article 34 of the Vienna Convention on Succession of States in respect of Treaties. In examining the texts they found that certain treaties to which the principle applied had since expired by their terms. Others had become obsolete and should not be continued in force between the two countries. Finally, after a treaty-by-treaty review, which included an examination of the practicability of the continuance of certain specific treaties, they recommended that our two Governments agree no longer to apply those treaties.

In light of the foregoing, the Embassy proposes that, subject to condition that follows, the United States of America and Ukraine confirm the continuance in force as between them of the treaties listed in the Annex to this Note.

Inasmuch as special mechanisms have been established to work out matters concerning succession to bilateral arms limitation and related agreements concluded between the United States and the former Union of Soviet Socialist Republics, those agreements were not examined by the technical experts. Accordingly, this Note does not deal with the status of those agreements and no conclusion as to their status can be drawn from their absence from the list appearing in the Annex.

With respect to those treaties listed in the Annex that require designations of new implementing agencies or officials by Ukraine, the United States understands that Ukraine will inform it of such designations within two months of the date of this Note.

If the foregoing is acceptable to the Government of Ukraine, this Note and the Ministry's Note of reply concurring therein shall constitute an agreement between our two Governments which shall enter into force on the date of receipt by the Embassy of the Ministry's Note in reply.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of Ukraine the assurance of its highest consideration.

Enclosure: Annex.

ANNEX

Convention relating to the rights of neutrals at sea. Signed at Washington July 22, 1854; entered into force October 31, 1854.

Agreement regulating the position of corporations and other commercial associations. Signed at St. Petersburg June 25, 1904; entered into force June 25, 1904.

Arrangements relating to the establishment of diplomatic relations, nonintervention, freedom of conscience and religious liberty, legal protection, and claims. Exchanges of notes at Washington November 16, 1933; entered into force November 16, 1933.

Agreement relating to the procedure to be followed in the execution of letters rogatory. Exchange of notes at Moscow November 22, 1935; entered into force November 22, 1935.

Preliminary agreement relating to principles applying to mutual aid in the prosecution of the war against aggression, and exchange of notes. Signed at Washington June 11, 1942; entered into force June 11, 1942.

Agreement relating to prisoners of war and civilians liberated by forces operating under Soviet command and forces operating under United States of America command. Signed at Yalta February 11, 1945; entered into force February 11, 1945.

Consular convention. Signed at Moscow June 1, 1964; entered into force July 13, 1968.

Agreement on the reciprocal allocation for use free of charge of plots of land in Moscow and Washington with annexes and exchanges of notes. Signed at Moscow May 16, 1969; entered into force May 16, 1969.

Agreement on the prevention of incidents on and over the high seas. Signed at Moscow May 25, 1972; entered into force May 25, 1972.

Agreement regarding settlement of lend-lease, reciprocal aid and claims. Signed at Washington October 18, 1972; entered into force October 18, 1972.

Protocol to the agreement of May 25, 1972 on the prevention of incidents on and over the high seas. Signed at Washington May 22, 1973; entered into force May 22, 1973.

Convention on matters of taxation, with related letters. Signed at Washington June 20, 1973; entered into force January 29, 1976; effective January 1, 1976.

Agreement on cooperation in artificial heart research and development. signed at Moscow June 28, 1974; entered into force June 28, 1974.

Agreement relating to the reciprocal issuance of multiple entry and exit visas to American and Soviet correspondents. Exchange of notes at Moscow September 29, 1975; entered into force September 29, 1975.

Agreement concerning dates for use of land for, and construction of, embassy complexes in Moscow and Washington. Exchange of notes at Moscow March 20, 1977, entered into force March 30, 1977.

Agreement relating to privileges and immunities of all members of the Soviet and American embassies and their families, with agreed minute. Exchange of notes at Washington December 14, 1978; entered into force December 14, 1978; effective December 29, 1978.

Memorandum of understanding regarding marine cargo insurance. Signed at London April 5, 1979; entered into force April 5, 1979.

The Agreement supplementary to the 1966 Civil Air Transport Agreement, as amended by the Agreement of February 13, 1986. Signed at Washington November 4, 1966; entered into force November 4, 1966.

Agreement relating to immunity of family members of consular officers and employees form criminal jurisdiction. Exchange of notes at Washington October 31, 1986; entered into force October 31, 1986.

Agreement concerning the confidentiality of data on deep seabed areas, with related exchange of letters. Exchange of notes at Moscow December 5, 1986; entered into force December 5, 1986.

Agreement relating to the agreement of August 14, 1987 on the resolution of practical problems with respect to deep seabed mining areas. Exchange of notes at Moscow August 14, 1987; entered into force August 14, 1987.

Declaration on international guarantees (Afghanistan Settlement Agreement). Signed at Geneva April 14, 1988; entered into force May 15, 1988.

Agreement on cooperation in transportation science and technology, with annexes. Signed at Moscow May 31, 1988; entered into force May 31, 1988.

Memorandum of understanding on cooperation to combat illegal narcotics trafficking. Signed at Paris January 8, 1989; entered into force January 8, 1989.

Agreement on the prevention of dangerous military activities, with annexes and agreed statements. Signed at Moscow June 12, 1989; entered into force January 1, 1990.

Agreement on a mutual understanding on cooperation in the struggle against the illicit traffic in narcotics. Signed at Washington January 31, 1990; entered into force January 31, 1990.

Civil Air Transport Agreement, with annexes. Signed at Washington June 1, 1990; entered into force June 1, 1990.

Agreement regarding settlement of lend-lease accounts. Exchange of letters at Washington June 1, 1990; entered into force June 1, 1990.

Agreement on cooperation on ocean studies, with annexes. Signed at Washington June 1, 1990; entered into force June 1, 1990.

Agreement on expansion of undergraduate exchanges. Signed at Washington June 1, 1990; entered into force June 1, 1990.

Agreement on scientific and technical cooperation in the field of peaceful uses of atomic energy, with annex. Signed at Washington June 1, 1990; entered into force June 1, 1990.

Memorandum of cooperation in the fields of environmental restoration and waste management. Signed at Vienna September 18, 1990; entered into force September 18, 1990.

Memorandum of understanding on cooperation in the physical, chemical and engineering sciences. Signed at Moscow May 13, 1991; entered into force May 13, 1991.

Memorandum of understanding on cooperation in the mapping sciences, with annexes. Signed at Moscow May 14, 1991; entered into force May 14, 1991.

Memorandum of cooperation in the field of magnetic confinement fusion. Signed at Moscow July 5, 1991; entered into force July 5, 1991.

Memorandum of understanding on cooperation in natural and man-made emergency prevention and response. Signed at Moscow July 30, 1991; entered into force July 30, 1991.

Memorandum of understanding on cooperation in housing and economic development. Signed at Moscow July 30, 1991; entered into force July 30, 1991.

Agreement on emergency medical supplies and related assistance. Signed at Moscow July 30, 1991; entered into force July 30, 1991.

Mr. LEVIN. If the logic of condition 9 were extended to Ukraine, all those 35 treaties would be in limbo until we ratified the succession of the treaties. And this list of treaties is just one case of the 12 successor states to the former Soviet Union. Condition 9 could cast into doubt the effect of all of those treaties for all of those states.

I think the aim here, while it is aimed at ABM, does not hit ABM because our ABM Treaty is not touched by this condition. Our treaty relative to ABM, with Russia, is not affected by condition 9. Condition 9 does not refer to Russia. It is the other states that it refers to. So our ABM Treaty with Russia is not affected. It is all the other treaties which are undermined, with all the other successor states. It is the arms control treaties and the nonarms control treaties which are put in jeopardy, left in limbo by the logic of this condition. So, while the aim is at the ABM Treaty, it misses that and, instead, hits treaties that I believe this body wants to be binding on the successor states to the Soviet Union.

What about the treaty before us, the CFE Treaty? Does this have to be ratified with each of the successor states to the Soviet Union? If so, we are putting this very treaty in limbo. This very CFE Treaty which we are ratifying, by the logic of condition 9, is left in limbo as to the other successor states, because there is no ratification of this treaty relative to the other states.

Mr. President, I fail to understand the logic of the supporters of condition 9 that appears to say that Russia is a successor state to the former Soviet Union but the other states of the former Soviet Union can only become successor states if the Senate ratifies that action. If the Senate must ratify the succession of one state, then logically it should ratify the succession of all. Thus this condition would cast into doubt the continuing validity of Russia's obligations under the numerous treaties that the United States had entered into with the Soviet Union but which were not submitted to the Senate for ratification subsequent to the breakup of the Soviet Union.

And it could cast into similar doubt other treaties with other countries that have dissolved, such as former Czechoslovakia, or former Yugoslavia, where the Senate has not ratified the succession of states to those treaties.

We should also consider the impact of condition 9 on other arms control agreements which successor states to the former Soviet Union have joined. Since we are considering the resolution of ratification for the CFE Flank Agreement, let us start with the underlying CFE Treaty. It was ratified by the Senate in November 1991, prior to the accession of successor states based on the Oslo document in June of 1992. In other words, it was after the Senate voted for ratification of the CFE Treaty that the former successor states agreed on the arrangement for joining the CFE Treaty.

The precedent that condition 9 would set would, if followed in other cases, call into question whether those states are considered members of and bound by the CFE Treaty until the Senate votes on their succession to the treaty.

There is also the case of the intermediate-range nuclear forces, or INF, Treaty signed between the United States and USSR. When the Soviet Union dissolved into 12 successor states, 6 of those states had INF facilities on their soil while the other 6 did not. All twelve are successors to the INF Treaty, with six having obligations related to their INF facilities and the other six having the obligation not to have such facilities or INF missiles.

The logic of condition 9 would suggest that the successor states are not parties to, or bound by, the INF Treaty unless and until the Senate provides its advice and consent to their accession. I cannot imagine any Member of the Senate wanting to cast doubt on the obligation of these states to comply with the INF Treaty, but that is what condition 9 does when its logic extended to other treaties.

In a June 11, 1996, letter, then-Secretary of Defense William Perry explained the Defense Department's concerns with a proposed provision of law that was essentially the same as condition 9:

> . . . this section runs counter to the successful U.S. policy of involving within the framework of strategic stability all states which emerged from the former Soviet Union with nuclear weapons on their territory. Moreover, Russia, Belarus, Kazakstan, and Ukraine perceive a clear link between their participation in the START and INF Treaties and the ABM Treaty. Casting doubt on their ability to be equal partners in the ABM Treaty could poison our overall relationship with these states and needlessly jeopardize their compliance with their denuclearization obligations under START I.

The logic of condition 9, when extended to other treaties, could well lead the successor states to the former Soviet Union to reconsider whether they are bound by these treaties as well as the ABM Treaty. Such a move would be decidedly against our security interests.

I should point out, Mr. President, that the Congress itself urged the President to discuss ABM Treaty issues ''with Russia and other successor states of the former Soviet Union'' in the National Defense Authorization Act for Fiscal Year 1994. At that time there was no question that there were other successor states to the former Soviet Union with whom we would want to discuss possible changes to the ABM Treaty. Section 232(c) of that Act states:

> Congress urges the President to pursue immediate discussions with Russia and other successor states of the former Soviet Union, as appropriate, on the feasibility of, and mutual interest in, amendments to the ABM Treaty to permit—
>
> clarification of the distinctions for the purposes for the purposes of the ABM Treaty between theater missile defenses and anti-ballistic missile defenses . . .

I find it strange that the Senate, after urging the President to discuss the ABM Treaty with Russia and other successor states to the former Soviet Union on demarcation, now would call into question whether there are other successor states to the ABM Treaty without a Senate ratification.

If a treaty must be submitted to the Senate for ratification of successors to the former Soviet Union, or other countries, before it is binding, then hundreds of our treaty commitments are in doubt. All of this is because opponents of the ABM Treaty are trying to maim or kill this one treaty.

Additionally, we should consider the impact of accepting condition 9 on other parliaments in other nations that may take this signal as an invitation for them to reconsider their nation's treaty commitments. I find it ironic that on an act of treaty ratification the Senate is on the verge of creating a potential international treaty uncertainty.

There is no need for the Senate to drag in the ABM Treaty issue on the CFE Flank Agreement resolution of ratification. The Senate will have ample opportunity to debate the ABM Treaty when the administration submits the ABM demarcation agreement to the Senate, as they have committed to do. But this is neither the time nor the vehicle to try to decide this issue.

Furthermore, this issue of the memorandum of understanding on successor

states to the ABM Treaty is already connected to Senate consideration on the demarcation agreement. The text of the demarcation agreement states that the MOU on successor states will not go into effect until the Agreed Statement on Demarcation goes into effect. So in effect, the MOU cannot take effect until the Senate votes on the demarcation agreement. Consequently there is no need for this condition and it should not be included in this resolution of ratification.

Mr. President, thankfully, condition 9 is limited to the memorandum of understanding concerning successor states to the ABM Treaty. It is my fervent hope and expectation that the President will make clear in his signing statement for the CFE Flank Agreement that this extraordinary action is not a precedent. In that way he can limit the damage that could otherwise flow from this unwise condition.

Mr. President, I am pleased that condition 5(f) dealing with potential violations of the CFE Treaty in the Caucasus region has been modified. I would have much preferred that it not make any reference to any particular country.

More importantly, I am very concerned with the word ''secessionist'' in condition 5(f). The situation in this troubled area has a long and unfortunate history, and I am disturbed that this condition would seek to so characterize a conflict there.

Mr. COCHRAN. Mr. President, I am pleased the administration has decided not to contest condition 9 in the resolution of ratification now before the Senate. That condition makes the advice and consent of the Senate a condition precedent to the addition of parties to the Anti-Ballistic Missile Treaty.

Any agreement between the administration and the Government of Russia or other states that were part of the Soviet Union which purports to enlarge the ABM Treaty by adding new parties must be submitted to the United States Senate and a resolution of ratification approved by the Senate before it will have the force and effect of law.

There are important reasons why it is necessary for the Senate to insist on its constitutional role in treaty making in this resolution. The administration has announced its intent not to submit a memorandum of understanding on succession to the Senate for advice and consent to ratification, and it purports to transform the ABM Treaty from a bilateral agreement into a multilateral accord.

The addition of new parties to the ABM Treaty clearly would have serious national security implications for the United States. It would make it much more difficult and time consuming to negotiate other changes in the treaty that may be considered necessary in the future to protect our security interests.

Unless the Senate insists on fulfilling its advice and consent responsibilities with respect to the ABM Treaty, there may be a mistaken view taken by the administration that a demarcation amendment being negotiated now with Russia could likewise be the subject of an executive agreement without the benefit of Senate ratification.

I am concerned that by our inaction the Senate could be forfeiting its constitutional role in the making of treaties. It should be clear that no treaty or material change in a treaty can be entered into by our government without the consent of the Senate. That is what the Constitution says, and that is what condition 9 says, and that is what the Senate says today as it provides advice and consent to ratification of the amendments to the Conventional Armed Forces in Europe Treaty.

Mr. ABRAHAM. Mr. President, I rise today to express my support for both the resolution of ratification to the Conventional Forces in Europe Treaty flank agreement, and, more importantly, the manager's amendment to condition 5 regarding compliance with the treaty by member states in the Caucasus region. True, the manager's amendment does not change the original language to the extent that I would desire, but I do wish to thank Senator HELMS and the staff of the Foreign Relations Committee for being so open to my ideas and engaging in very full negotiations. I also wish to thank Senators MCCONNELL, KERRY, and SARBANES for providing such critical leadership on this issue.

Mr. President, it is indeed important that the United States respond forthrightly to violations of the CFE Treaty. And considering this deals with numerical limits on military equipment, the degree of alleged violations is also important. But in executing such diligence, I hope we do not assume too quickly that all alleged violations are, in fact, true. That is why I applaud the inclusion of the request for a report on alleged violations, to ensure that the United States does not blindly enter a treaty which others may disregard.

But in requesting such reports, we must also be mindful of the impact our actions may have upon the delicate fabric of ongoing negotiations to which the United States is party. Specifically, Mr. President, I refer to the OSCE negotiations, to which the United States is co-chairman, regarding the future status of the Nagorno-Karabakh region. To single out one nation for alleged violations, in this case Armenia, without taking into account the full geo-political environment under which that nation's government must operate, may subvert the very process we think has been violated. Better, in my opinion, to err by requesting too much information than not enough, and take into account the region as a whole, and all the players in the current dispute. To ensure we do not upend this ongoing process of peaceful resolution, we should minimize giving credence to unverified allegations and cast as wide a net as possible in requesting additional analysis.

Mr. President, Armenia has had a tough go of it in its short period of independence. It is landlocked, its ethnic population is geographically divided, and it has suffered egregiously in the past from the crimes of others who condemned them simply because of their heritage. Add on top of that a 70-year legacy of abuse and political game playing by the Soviet Union, and it is understandable that Armenia may find itself hard-pressed to execute the policies that we Americans would like to see in a perfect world. But it is not a perfect world, and sometimes we must understand the realities of a situation, and make the best of it.

Therefore, Mr. President, I appreciate the willingness of the Foreign Relations Committee chairman to work with me on making condition 5 more inclusive of all potential threats to U.S. interests and the treaty's viability. By taking a more evenhanded approach, hopefully no party to the current negotiations will feel slighted. And, Mr. President, they should not feel slighted at this point in the process. This condition is meant to address violations to the CFE Treaty, not express an opinion on the legitimacy of any party's negotiating position. Any other interpretation is, in my opinion, a misunderstanding of the condition's intent. Further, I do not believe that this will, or should, be interpreted in any manner that would impugn the ability of the United States to continue as co-chair to the OSCE negotiations. The United States has energetically taken on this mantle of leadership, and I reaffirm my support for this process.

Mr. President, both the viability of the CFE Treaty, and the continued good-faith negotiations regarding the future status of Nagorno-Karabakh are important United States interests. We can, and must, work toward the success of both. I thank the chairman of the Foreign Relations Committee for his leadership in these areas, and the assistance of Senators KERRY and SARBANES in bringing about this amendment which I have cosponsored.

Mr. President, I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise today to address Senate consideration of the CFE Flank Agreement.

The Conventional Forces in Europe Treaty [CFE] entered into in 1990 is an outstanding arms control achievement, requiring the destruction of over 50,000 items of heavy weaponry, including tanks, armored personnel carriers, artillery pieces, and attack helicopters. The CFE has helped to make the Europe of 1997 a far safer place than the Europe of even just a few years ago, and in doing so has served American national security interests well.

The implementation of CFE helps guarantee that a destabilizing concentration of military equipment—or a massed military attack in central Europe of the kind that has dominated strategic thinking in Europe through two World Wars and a cold war—will

now be next to impossible for any nation or group of nations to achieve.

But, as the flank agreement underscores, the treaty negotiated between NATO and the Warsaw Pact in 1990 is not adequate to the realities of the new European security environment.

To begin with, the Soviet Union and the Warsaw Pact no longer exist. There are now Soviet successor states in the Baltics and the Transcaucasus—the flank zones—with very different security and political concerns. Since the breakup of the Soviet Union, the Transcaucasus have been a region of almost singular instability. Russia and the Ukraine, likewise, have different security orientations than did the Soviet Union, as do the states of both central and western Europe. NATO is undergoing a searching debate about the possibility of enlargement. The Europe that the CFE must be relevant to in 1997 is radically different than the Europe of 1990.

Thus, in ways unanticipated by its original negotiators, the issues raised by the flank agreement touch on some of the most central and the most sensitive security issues of the new European security environment.

The history of the Transcaucasus since the breakup of the Soviet Union have served as a grim reminder of the deadly subtleties of rapidly changing regional geography. Civil war and ethnic strife has been the rule, not the exception, in Nagorno-Karabagh, Osettia, Abkhazia, Georgia, and, of course, Chechnya.

Stabilizing the military balance in the Transcaucasus and inculcating confidence and security building measures, as the CFE Treaty does, is critical for peace in the region.

Although not racked with the violence that has characterized the Transcaucasus, the security concerns of the Baltic States in the northern flank zone will prove to be central to future stability in Europe, and the limits placed on threatening conventional weapons by the CFE Treaty is a critical part of the security architecture of the Baltics.

Likewise, the flank agreement also touches upon the sensitive topic of Russian-Ukrainian ties, and the political and security relationship between the two, and it addresses the role of Turkey between Europe, the Middle East, and central Asia.

Last, the flank agreement has profound implications for Russian nationalist sentiment, and may well have an impact on the future of Russian domestic political development, and the dynamics of those domestic factors which may influence either a cooperative or confrontational Russian foreign policy.

In this sense, the flank agreement is also critical issue for the debate over NATO enlargement that is just now beginning to come to a simmer. In structuring the balance of forces between NATO and Russia, the CFE and the flank agreement—what it says as well as how it is implemented—will be at the heart of Russian perceptions and assessments regarding the potential of an enlarged NATO.

In short, the CFE will play a central role in determining the future course of peace and stability in Europe.

Notwithstanding the positive contributions of the CFE to U.S. national security interests—and it is a treaty which I will be voting for—I feel that I would be remiss in my duty as a Senator if I did not also point out some general concerns that I have with the flank agreement, as well as some specific concerns I have with the resolution of ratification for this treaty as it was voted out of the Foreign Relations Committee last week.

As I made clear in the Foreign Relations Committee hearing, I found the way in which the flank agreement was negotiated—opening up an already negotiated treaty for revision because of the reticence of one party to live up to its commitments—deeply troubling.

Although I would agree with those who argue that it is necessary to revisit international agreements when there has been a material change in circumstances—and few would argue that the breakup of the Soviet Union does not count on this score—treaties, by their very nature, are only worthwhile if they are binding the minute they are signed.

The post-cold-war world may very well be more turbulent and fluid than the world which we are used to, but I hope that the way in which the flank agreement was opened for renegotiation—with one party not in compliance with a treaty which they had signed—does not set a precedent which will call into question other treaties which, after the fact, a state may wish to change.

I think that it is important for the Senate to go on the record in support of the binding nature of the treaty obligations which we and other states enter into—obligations which should be opened for renegotiation in only the most extreme of cases—even as we give our support to this agreement.

Second, in changing the CFE flank equipment ceilings to meet Russian security concerns, we must be careful to make sure that we have not increased the insecurity felt by other states in or bordering the flank zone.

In its original conception, the CFE Treaty was intended to make Europe safe from the dangers of a big war between East and West. I think that there is general agreement that CFE has been and will continue to be effective in this respect.

But the CFE Treaty, as revised, must not become part of a European security architecture in which Europe is made safe for little wars, between the large and the small, or as a tool for intimidation used by the strong against the weak.

If such a situation were to result from the flank agreement revisions, Europe would be less stable and secure, not more.

Third, as several of my colleagues have already pointed out, the inclusion of condition 9 regarding Senate advice and consent for the multilateralization of the Anti-Ballistic Missile Treaty is, I think, unwarranted and unwise.

It is unwarranted because the Anti-Ballistic Missile Treaty is not connected in any way with the CFE. It is unwise because it calls into question whether the United States may attempt to reopen or substantively change a treaty because some now perceive that it is in our interests to do so.

There was an attempt to get this same language regarding the ABM inserted into last year's defense authorization bill. That effort failed. On its own, the Senate has already rejected this language. Now there is an attempt to resurrect this language and attach it to this treaty. The consideration of treaties is one of the highest responsibilities of the Senate, and I am disappointed that some of my colleagues have chosen to place petty politics above the interests of U.S. national security.

The ABM Treaty is the diplomatic foundation of our intercontinental ballistic missile reduction strategy. It was possible to negotiate and ratify the Strategic Arms Reduction Treaty, or START, and negotiate START II because of the strategic groundwork laid in the ABM Treaty. Abandoning or violating the ABM Treaty would threaten the strategic ballistic missile reductions under these two treaties, which, when implemented, would verifiably eliminate the intercontinental ballistic missiles carrying two-thirds of Russia's nuclear warheads.

I would have preferred to have had the opportunity to eliminate this condition from the final resolution of ratification, but, unfortunately, it does not appear that we will have this opportunity.

In addition to these general concerns, I also have one specific concern with the resolution of ratification for this treaty as it was voted out of committee last week, which I hope that we will have an opportunity to change.

I am concerned that condition 5 (F) of section 2 unfairly singles out Armenia for a report on compliance with the CFE Treaty. In so doing, this condition makes the treaty weaker, and less effective in guaranteeing U.S. security interests in Europe, not more.

Although some of my Armenian friends might not want me to say this, I do believe that there should be a report on Armenia's compliance with the treaty. There have been some troubling questions raised in the press and in our committee discussions regarding Armenian transshipments of arms from Russia, and whether Armenia is in violation of certain provisions of the CFE.

As I noted previously, this is a very sensitive part of the globe, and one in which even a relatively small amount of heavy weaponry can have tremendous impact on the balance of power. If

Armenia is in violation of the treaty, then appropriate measures should be taken.

However, it is precisely the volatile nature of this region that dictates that U.S. national security interests demand that we seek compliance reports on the other states in the region as well. There are questions regarding Azerbaijan's compliance with the CFE's Treaty Limited Equipment (TLE) limits, for example, and recent experience with civil war and ethnic strife in Georgia, Osettia, Chechnya, Abkhazia, and elsewhere in the region all suggest that a condition calling for region-wide compliance reports would be in order.

Indeed stigmatizing and isolating Armenia in this fashion may well prove to be counterproductive. If the CFE Treaty is perceived as a tool of one side or another in an already tense and volatile region, it will have the effect of destroying confidence, not building it, and will contribute to an atmosphere where the states of the region may seek to build their armed forces, not lessen them.

This would be a grave mistake, and that is why I believe that condition 5 (F) must be changed to call for compliance reports for the other countries in the Transcaucasus as well. I urge my colleagues to support the amendment offered to make just these changes when we vote on this issue.

Even with these reservations, however, I find that the treaty merits support. The CFE, with the revised flank agreement, provides an invaluable tool for stabilizing European security and lessening regional tension. I would urge all of my colleagues to join me in voting in favor of this treaty.

Mr. LUGAR. Mr. President, I voted in committee to support the CFE Flank Document and the accompanying resolution of ratification that was reported favorably by the Committee on Foreign Relations last week.

Let me review a few of the issues that commanded committee concern.

THE FLANK DOCUMENT AND RELATIONS BETWEEN RUSSIA AND FORMER SOVIET STATES

During committee consideration of the CFE Flank Document, members on both sides of the aisle voiced concern over United States willingness to serve as an intermediary in negotiations between Russia and other former Soviet states to secure permission for temporary Russian troop deployments on their soil or for revision of the Russian treaty-limited equipment quotas set in the 1992 Tashkent Agreement. Paragraphs 2 and 3 of section IV of the Flank Document restate Russia's right to seek such permission ''by means of free negotiations and with full respect for the sovereignty of the States Parties involved''. A United States note passed to the Russians, according to Undersecretary of State Lynn Davis, said that the United States was ''prepared to facilitate or act as an intermediary for a successful outcome in'' such negotiations. United States officials state that Washington's offer to serve as an intermediary between Russia and other Tashkent Agreement signatories was for the purpose of leveling the playing field between Russia and smaller countries.

Many of the conditions in the resolution of ratification seek to bind the executive branch to its asserted purpose.

THE FLANK DOCUMENT AND AN ADAPTED CFE TREATY

In short, I agree with a number of the cautions presented by various witnesses with regard to the impact of the flank agreement on both Russia and a number of the States of the former Soviet Union, as well as its implications for bordering Western States. Thus, I am supportive of most of the conditions in the Committee resolution.

But I also believe that, on balance, this flank agreement is a useful contribution to the larger effort to adapt the original CFE agreement to the changed circumstances we now confront in Europe. I believe that the Flank Agreement must be viewed in that context as well.

The original CFE agreement has been a useful instrument for winding down the military confrontation in Europe that was a principal feature of the cold war. The United States is now presented with an opportunity to adapt that treaty to the new security situation in Europe in a way that could, in my judgment, facilitate both NATO enlargement and improved NATO-Russian cooperation. Because the former Soviet Army, and indeed some elements of the current Russian Armed Forces, always disliked CFE and considered it inequitable, some have argued that amending or adapting it now would be a concession to Russia or a price the United States should not have to pay. In my view, it is in the interest of the United States, NATO, and, for that matter, Russia to update the CFE Treaty as the only way to ensure its continued viability and its stabilizing influence in the Europe of the next century.

In light of the dramatic developments that have occurred in Europe since the treaty was negotiated, the CFE Treaty should not be exempted from the kind of change that is occurring in so many other European political, economic and security institutions. Thus, it is wholly appropriate to eliminate the bloc-to-bloc character of the original treaty in favor of national equipment ceilings and to reduce the amount of military equipment that will be permitted throughout the treaty area.

In short, I tend to analyze the benefits and costs associated with the CFE Flank Agreement not only on their own merits, but also in terms of their contributions to overhauling the entire treaty; that is one of the contexts in which I believe we must review the CFE Flank Agreement.

I am supportive of the general direction of NATO's recent proposals for adapting the CFE Treaty. As a general matter, it would emphasize the need for reciprocity in the adjustments that are made and encourage transparency.

However, I would raise some concerns relating to three aspects of the NATO proposals for an adapted CFE regime and suggest that we need to bear them in mind as we consent to ratification of the CFE Flank Agreement.

First, NATO has proposed limits on the ground equipment that could be deployed in the center zone of Europe, defined as Belarus, the Czech Republic, Hungary, Poland, Slovakia, Ukraine—other than the Odessa region—and the Kaliningrad region of Russia. This could be viewed as singling out potential new members of NATO for special restrictions, thus saddling them de facto with second-class citizenship within NATO. It is one thing for NATO to make a unilateral statement, as it has recently done, that it has, at present, no intention or need to station permanently substantial combat forces on the territory of new member states. It is quite another for it to accept legal limitations on its ability to station equipment on the territory of these states as part of an adapted CFE Treaty. While NATO would not be precluded from stationing forces on the territory of these states, such deployment would be constrained by the individual national ceilings which apply to the equipment of both stationed and indigenous forces.

It is certainly useful to have such a limitation with respect to the Kaliningrad region of Russia. With that exception, however, all of Russian territory lies outside the central zone. While Russian forces, permitted by a pliant Belarus to be stationed on its territory, would presumably be subject to the national ceiling applicable to Belarus, such a deployment could be viewed by Poland, for example, as an attempt to intimidate it. This consideration needs to be taken into account by NATO negotiators as they elaborate the terms of the NATO proposal for adapting the CFE Treaty. It is possible that provisions covering cooperative military exercises and temporary deployments in emergency situations, as well as ensuring adequate headroom in the national ceilings of the Central European States, may resolve this concern.

Secondly, this special central zone could be viewed as isolating Ukraine. If Russia chose to build up forces in the old Moscow Military District abutting Ukraine, then Ukraine could find itself unable to respond because it is subject to the special provisions of the central zone. It may be that in the negotiation of the revisions in the CFE Treaty, some arrangement can be found to allay Ukrainian concerns by some special limitation on Russia with respect to all or a portion of the Moscow Military District.

Finally, in negotiating changes to the CFE Treaty, NATO negotiators must keep in mind the possibility of further enlargement of NATO at some

future date to include states beyond three or four central European nations. It must ensure that whatever revised CFE limitations it negotiates will permit NATO, should it so decide, to extend security guarantees to these countries that will be credible and on which NATO can make good, even under the provisions of a revised CFE Treaty.

In sum, the CFE Flank Agreement, if ratified, provides the first building block to a revised CFE Treaty. NATO's proposals for an adapted CFE Treaty are based on the assumption that the flank agreement will be ratified. That being the case, it is appropriate that the Senate, in consenting to the CFE Flank Document, not only judge it on its own terms but also in terms of the contribution it can make to a revised CFE Treaty.

Mr. KYL. Mr. President, Article II of the Constitution gave the President and the Senate equal treaty making powers, stating that the President ''shall have the power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur.'' Substantive changes to treaties also require the advice and consent of the Senate. John Jay made one of the most persuasive arguments about this point, noting that, ''of course, treaties could be amended, but let us not forget that treaties are made not by only one of the contracting parties, but by both, and consequently that as the consent of both was essential to their formation at first, so must it ever afterwards be to alter . . . them.''

Condition 9 of the resolution of ratification for the CFE Flank Agreement protects the Senate's constitutional role by requiring that any agreement to multilateralize the 1972 ABM Treaty be submitted to the Senate for advice and consent, since any such agreement would substantively alter the rights and obligations of the United States and others under the treaty. This condition is not the first expression of the Senate's view on this issue, and would merely be the latest addition to a clear legislative history.

Section 232 of the Defense Authorization Act for fiscal year 1995 clearly states that any agreement that substantively modifies the ABM treaty must be submitted to the Senate for advice and consent.

The conference report accompanying the fiscal year 1997 Defense Authorization Act built on the language in the 1995 Authorization Act stating that, ''the accord on ABM Treaty succession, tentatively agreed to by the administration would constitute a substantive change to the ABM Treaty, which may only be entered into pursuant to the treaty making power of the President under the Constitution.''

The conversion of the ABM Treaty from a bilateral to a multilateral agreement represents a substantive modification of the treaty. First of all, multilateralization changes the agreement by altering the definition of territory, which is at the heart of the treaty. Article I of the 1972 ABM Treaty states, ''Each Party undertakes not to deploy ABM systems for a defense of the territory of its country.''

Under the terms of the memorandum of understanding on Succession to the ABM Treaty, territory would now be defined as the ''combined national territories of the U.S.S.R. Successor States that have become Parties to the Treaty.'' The term periphery would also be changed to mean the combined periphery of all the former Soviet states party to the treaty. Thus, instead of the treaty applying to the territory of a single nation, in the case of the former Soviet Union, it would apply to a number of nations.

Multilateralization would also be a substantive change since it would create a system of unequal rights under the treaty, wherein the New Independent States of the former Soviet Union would be treated as second class citizens. The ABM Treaty that the Senate agreed to 25 years ago created identical rights and obligations for each party. Under the memorandum of Uunderstanding on succession, however, only two of the potential parties to the treaty—the United States and Russia—would be permitted to field an ABM system. Other nations, while responsible for regulating ABM activities on their territory, would not be allowed to deploy such a system. For example, Ukraine could locate new early warning radars on the periphery of its territory, oriented outward, but would not be permitted to protect its capital with an ABM system.

The multilateralization of the ABM Treaty also undermines U.S. efforts to promote the independence of the former Soviet republics. The memorandum of understanding on succession states that the term capital of the U.S.S.R. will continue to mean the city of Moscow. This designation, in addition to granting the New Independent States inferior rights under the treaty, and defining territory and periphery as the combined total of the former Soviet states sends the wrong message. It tells the New Independent States that they remain linked to Russia, without equal rights.

Finally, multilateralization represents a substantive change to the agreement since it would diminish U.S. rights and influence under the treaty. New parties will surely be given a seat at the Standing Consultative Commission [SCC], which interprets, amends, and administers the ABM treaty. Under the 1972 ABM Treaty, the United States could take actions through bilateral agreements with the Soviet Union. By expanding the number of nations in the treaty, it will now be necessary to reach multilateral consensus to interpret or amend the treaty. One country, such as Belarus, could effectively block United States actions or demand concessions, even if Russia and the other parties to the treaty agreed with the United States. Negotiating changes or common interpretations of treaty obligations with Russia is a difficult task. Adding up to 11 new parties to the treaty will make this process much more difficult.

In addition to the reasons I have cited as to why multilateralization would substantively modify the ABM Treaty, and the legislative history compelling the administration to submit the agreement to the Senate for advice and consent, the way the Senate has considered succession agreements for the various arms control treaties concluded between the United States and the Soviet Union further supports the case for Senate consideration of any ABM successorship document.

Since the breakup of the Soviet Union, the only arms control treaty which was not re-submitted to the Senate for advice and consent due to changes in countries covered, was the INF Treaty. This treaty carried a negative obligation, namely not to possess intermediate-range nuclear missiles. Since no treaty terms were altered and U.S. rights and obligations remained unchanged, advice and consent was not necessary.

The resolution of ratification for the START I Treaty was accompanied by a separate protocol multilateralizing the treaty, which was submitted to the Senate for advice and consent.

This same protocol determined successorship questions for the Nuclear Nonproliferation Treaty [NPT].

Finally, the Senate specifically considered the question of multilateralization of the Conventional Armed Forces in Europe [CFE] treaty under condition #5 of its resolution of ratification.

As I have discussed today, the addition of parties to the ABM Treaty clearly represents a substantive modification of the treaty. The Defense Authorization Acts passed by the Senate in 1995 and 1997, and the history of how this body has considered succession agreements to previous arms control accords with the Soviet Union strongly support the submission of any ABM multilateralization agreement to the Senate. Voting to require the administration to submit the ABM multilateralization agreement for advice and consent, simply protects the Senate's constitutional role in treaty making. Reasonable people may differ over the merits of the ABM Treaty or the addition of one or more countries to the agreement, but I believe all my colleagues can agree that before this new treaty is implemented, the Senate needs to fulfill its constitutional duty by considering whether to give its advice and consent to this new agreement.

Mr. SHELBY. Mr. President, I rise in support of condition 9 of the resolution of ratification of the CFE Flank Agreement.

Condition 9 simply confirms the Senate's role in treatymaking, as established in the U.S. Constitution and reaffirmed in existing law.

Specifically, condition 9 restates the requirement, enacted as section 232 of

the National Defense Authorization Act for fiscal year 1995, Public Law 103–337, that:

The United States shall not be bound by any international agreement entered into by the President that would substantially modify the ABM Treaty unless the agreement is entered pursuant to the treaty making power of the President under the Constitution.

Thus, this body is already on record supporting the preservation of the Senate's constitutional prerogatives in this area.

In other words, the President may not unilaterally negotiate substantive changes to the ABM Treaty without the advice and consent of the Senate.

Frankly, I am surprised some of my colleagues, who in the past have been strong supporters of this body's constitutional prerogatives with respect to treaties in general, and the ABM Treaty in particular, are arguing to strike condition 9.

Not only do the Constitution and U.S. law require Senate advice and consent, but submission to the Senate is also consistent with recent practice on the multilateralization of arms agreements with the Soviet Union to include successor states.

Both the multilateralization of START I and the multilateralization of the CFE Treaty were considered by the Senate when it acted on the Lisbon protocol and the CFE Treaty itself.

Mr. President, some of my colleagues argue that the multilateralization of the ABM Treaty is not a substantive change.

Consider the following:

The proposed changes would alter the basic rights and obligations of the parties—the central issue in any contract or treaty.

Second, the proposed changes would modify the geographic scope and coverage of the Treaty, and would do so by taking the extraordinary step of defining Russia's national territory to include the combined territory of other independent states of the former Soviet Union.

Third, the role and function of the Standing Consultative Commission [SCC], in particular the ability of the United States to negotiate amendments to the treaty to protect our national interests, would be dramatically changed by the accession of new parties to the treaty with effective veto power over treaty amendments.

Lastly, some of my colleagues have cited a Congressional Research Service legal analysis that seems to suggest that the Senate has no role in the process.

In response, I would like to point out that:

The CRS analysis concludes that an apportionment of the rights and obligations of the U.S.S.R. under the ABM Treaty to its successor states would not, in itself, seem to require Senate participation.

The CRS analysis goes on to say, however, ''arguably, a multilateralization agreement could include matters that would alter the substance of the ABM Treaty and require Senate advice and consent.''

The administration's proposal clearly falls into the latter category.

It does much more than merely apportion the rights and obligations of the U.S.S.R.

It apportions some rights to some successor parties—but denies them to others, in effect creating two classes of parties. This asymmetry and lack of reciprocity represents a clear departure from both the legal and strategic assumptions embodied in the initial treaty.

It specifically permits Russia to establish ABM facilities on the territory of other independent states. This is not an apportionment; this creates a new right under the treaty.

The administration proposal admits to the treaty states which neither have nor intend to have offensive or defensive strategic weapons, while giving them virtual veto rights over the strategic posture of other parties.

This brings me to the most important point: The administration's proposal affects the rights of the United States to provide for our own defense as we see fit.

It was to protect those rights that the Senate was given its advice and consent role in the first place. The Senate must not abdicate its role, now.

I urge my colleagues to support this provision.

Mr. DODD. Mr. President, today I rise to recognize the past success of the CFE Treaty and to stress that, in order to continue that success, this body must now offer its advice and consent for the CFE Treaty's Flank Document.

Since the CFE Treaty entered into force in 1992 it has made Europe a safer place; not just because it has resulted in the removal or destruction of over 53,000 items of major military equipment; not just because it has enabled international inspectors to undertake nearly 3,000 on-site international inspections; but, above all, because it has fostered a sense of trust between NATO and Russia.

Now, as we move to build on that sense of trust and deal with Russia as a new democratic state rather than an old arch-enemy, it is only fair and proper that we address Russia's concerns with respect to some of the arcane provisions of this treaty. The CFE Treaty, as written, establishes zones on an old cold war map, a map drawn before the breakup of the former Soviet Union. The pending revised Flank Document updates alters some of the provisions of this treaty to reflect the fact that we're now dealing with a new map.

Clearly the Flank Document does not address all the issues that we must face in adapting the CFE Treaty to the new situation in Europe, but it is a fine first step.

The conditions in the resolution of ratification are, for the most part, thoughtful and necessary. I also support the amendment, offered by Senators KERRY and SARBANES, clarifying condition 5 as it relates to Armenia.

Without this amendment, section F of condition No. 5 would have required the President to submit a special report to Congress regarding whether or not Armenia has been in compliance with the CFE Treaty, and, if not, what actions the President has taken to implement sanctions.

Why should we single out Armenia? Without the amendment, the language assumed that Armenia and only Armenia violated the CFE Treaty and should suffer sanctions.

This amendment was added in the interest of fairness and simply asks the President to examine compliance of all States Parties located in the Caucasus region rather than singling out Armenia for special treatment.

While the amendment ameliorates one problem with the resolution of ratification, I have another misgiving about another condition that was adopted by the Committee on Foreign Relations during consideration of the treaty last week. Condition No. 9 would require the President to certify that he will submit to the Senate, for its advice and consent, the agreement to multilateralize the 1971 Anti-Ballistic Missile Treaty.

I am of the same mind as my distinguished colleague, Senator BIDEN, on this issue. While the Senate does not prohibit itself from attaching unrelated conditions to resolutions of ratification, the Senate should exercise some self-restraint in such important matters. The Founding Fathers clearly distinguished the question of treaty ratification by requiring a supermajority in such cases. This is not every day legislation we're dealing with here. We're debating whether or not to ratify a treaty, and this attached, unrelated condition really has no place in today's debate.

In short, condition No. 9 links ratification of the Flank Document with the unrelated, but controversial 1972 Anti-Ballistic Missile Treaty debate. There are merits to both sides of that issue and that debate will surely have its time. This is the wrong way to move that debate forward.

Let us be certain of one thing: The Senate, with condition 9, interferes with what has long been a function of the executive branch. In the breakups of the U.S.S.R., Yugoslavia, Czechoslovakia, and Ethiopia, when the new States took on the treaty rights and obligations of their predecessors, no request for Senate advice and consent was sought. I ask my colleagues: Why are we treating the ABM Treaty differently?

In spite of my objection to condition 9, this treaty and its resolution of ratification are too important to be bogged down today over a debate on the ABM Treaty. I believe that the appropriate course of action is to ratify the pending Flank Document this is a reasonable initial adjustment to the CFE

Treaty. In doing so, we will also show Russia that we are willing to work with Russian officials in facing legitimate concerns, and, most importantly, we will maintain the viability of this valuable 30-nation agreement.

Mr. HELMS. Mr. President, I yield the remainder of my time to the distinguished Senator from Oregon [Mr. SMITH].

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. SMITH of Oregon. Mr. President, I rise in appreciation for the leadership of the chairman, the Senator from North Carolina, on this issue and as member of his committee I rise in support of the ratification of the CFE Flank Agreement.

The CFE Treaty has been remarkably successful in reducing the cold war arsenals of conventional weapons in Europe. To date well over 50,000 tanks, artillery pieces and aircraft have been destroyed or removed from Europe. This treaty serves as an important mechanism to continue balanced force reductions in Europe, to build confidence among European States, and to provide assurances that NATO expansion will in no way threaten Russia.

In addition to the Europe-wide national ceilings on specific categories of military equipment, the CFE Treaty established a system of four zones inside the map of Europe with separate subceilings. The three central zones are nested and overlapping, the fourth zone is the flank zone. The flank zones include Russia's northern and southern military districts that, during the cold war, were areas of heightened tension with NATO. NATO has corresponding limits on its Northern and Southern Flanks.

The CFE flank zones limit the amount of equipment a country is permitted to deploy in certain areas of its own territory. The outbreak of armed ethnic conflicts in and around the Caucasus in 1993 and 1994, most notably the large scale offensive launched by the Russian Government in Chechnya, led to Russian claims for the need to deploy equipment in excess of treaty limits in that zone.

Under the CFE Treaty, mechanisms exist that would allow parties the flexibility to make temporary adjustments in the size or location of their military equipment holdings with proper notification. However, in 1994 the Government of Russia signaled its intention to violate the treaty if such restrictions were not permanently relaxed.

In early 1995, Clinton administration officials adamantly insisted that Russia must meet its obligations under the CFE Treaty on schedule. By May of that same year, those rigid statements demanding compliance soon collapsed into a frenzied effort to renegotiate the treaty on terms that would be acceptable to Russia.

Aside from the embarrassing spectacle of Western concessions in the face of Russian arms control violations, the NATO alliance was further undermined by a United States-Russian side deal that failed to gain the support of our allies. A key element of the final compromise on this treaty is a confidential side statement which U.S. negotiators provided to the Russian delegation in order to win their approval of the Flank Document. An interim United States-Russian proposal—known as the Perry-Grachev understanding—led to yet another embarrassing retreat, this time from our own NATO allies. Finally, after 11th hour negotiations, the agreement before us today was accepted by all 30 parties to the CFE Treaty.

In order to understand the process through which this treaty was approved, I strongly recommend that any interested Senator review that short document, which is available in the Office of Senate Security on the fourth floor of the Capitol. After reading that document, the purpose of the numerous restrictions contained in the resolution of ratification—particularly paragraphs 3 and 6—should be abundantly clear.

The committee resolution reverses the affects of this side agreement by prohibiting United States participation in any negotiations which would allow Russia to violate the sovereignty of its neighbors. As further assurance, the resolution requires the President to certify, prior to deposit of the instrument of ratification, that he will vigorously reject any other side agreements sought by the Russians or any other country.

I believe that the proper approach for the United States would have been to insist on Russian compliance 18 months ago. However, the 30 parties to the treaty were willing to reach a compromise consisting of the document before the Senate today. In all likelihood, if this treaty is rejected, it will be renegotiated on less favorable terms. With that in mind, and because of the 14 conditions included in the committee's resolution of ratification, I am willing to recommend support for this treaty.

The treaty is an acceptable first step in resolving the difficult challenge of adapting a cold war era treaty to post-cold-war realities. It is one part in a series of efforts underway to redesign the security architecture of Europe, and as such it is an important step toward the larger goal of NATO enlargement.

The CFE Treaty and the Vienna-based organization that oversees its implementation are important pieces of the geopolitical landscape of Europe and the former Soviet Union. With the end of the cold war, decisions made in the context of the CFE Treaty affect U.S. security on the margins. But for countries such as the Baltic States, Ukraine, Georgia, and Azerbaijan, such decisions can affect the very sovereignty of these newly independent countries.

Russia—still the largest military power in Europe—has used its armed forces in recent years in both Georgia and Azerbaijan. Russia uses its military presence in Ukraine and Moldova to influence the sovereign governments of those states. Russian Government officials have made open threats of military invasion against the Baltics. Finally, less than a year ago, a bloody war in Chechnya was brought to an end. That war was characterized by wide scale Russian atrocities, the intentional targeting of civilians, and casualties possibly in excess of 100,000 people—mostly innocent men, women, and children. It is against this back drop that the countries on Russia's periphery watch any revisions to the security guarantees contained in the CFE Treaty.

Mr. President, I understand my time is up.

On this basis, this treaty has been negotiated. Again, with the leadership of the chairman, I urge support from the Senate and thank you for this time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I want to pay my respects to the distinguished Senator from Oregon [Mr. SMITH]. He is the chairman of the Europe subcommittee, and he has devoted an enormous amount of time and effort to bringing this treaty forward. So he thanks me, but I thank him. I am glad he is in the Senate. I am glad he is a member of the Foreign Relations Committee.

I have been asked to advise Senators that the coming vote, after the able Senator from West Virginia, Senator BYRD, completes his presentation, the ensuing vote will be the last vote of the day.

I yield the floor and yield back such time as I may have.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, how much time remains before the vote?

The PRESIDING OFFICER. There is 3½ minutes for Senator BIDEN. You have 30 minutes.

Mr. BYRD. I thank the Chair.

Mr. President, I want to commend the managers of the agreement for the expeditious manner in which they have moved this agreement through the committee and to the floor in time for the deadline of May 15 in order that it not be subject to further action by the review conference in Vienna. As I understand it, the agreement was not submitted to the Senate by the Secretary of State until April 3, 1997. So I commend the committee. But I also wish to express my concern over the rushed manner in which the Senate has been forced to deal with this important treaty. All of us in this Chamber know that treaties are not considered by the House of Representatives, but they still have the effect and status of being the law of the land of our Nation. They have as much or even more importance, in some respects, and certainly as far as the Senate is concerned, than any bill that is passed by both Houses and has been subjected to the scrutiny of a conference committee.

In the case of treaties, the Senate considers them and, assuming that the President exchanges the instruments of ratification, they become the law of the land according to article 6 of the United States Constitution. Therefore, the Senate has a special responsibility, in the case of treaties, to exercise due caution and great care in dealing with treaties, since there is no review or check by the other body. Additionally, the Senate provides the only forum for the debate of the provisions of treaties, and for informing the American people about their content. Because of those realities, I am very concerned about the increasing tendency in this body, as has been evidenced by the Chemical Weapons Treaty that we recently passed, and now by this treaty, to enter into time agreements that inadequately protect the rights of all Senators to debate and amend treaties, but which also fail to defend the rights of the American people to know what is in the treaties. I think it is a bad trend. I think it should be curtailed, because it does not allow Members to thoroughly study and debate these complicate and important matters.

This committee report bears the date of May 9, 1997, when it was ordered to be printed. That was last Friday. As I understand it, it was made available to my staff on Monday of this week, and, so, I have had between Monday and now to consider the contents of the committee report. The committee report is where we naturally turn to understand the content of the treaty or content of the bill or resolution, as it were. Also, the courts turn to the phraseology of a committee report to better understand the intent of the legislature when it passes on a bill or resolution, or approves the resolution of ratification of a treaty. So it is important that Members have an adequate opportunity to study a committee report.

It is important that they have adequate opportunity to study the hearings. It is likewise important that they have an adequate opportunity to fully debate a treaty. Let me say, again, that according to article 6 of the United States Constitution—the Constitution, this Constitution—and the laws that are made in pursuance of this Constitution and the treaties that are made under the authority of the United States shall be the supreme law of the land—the supreme law of the land.

Now, that is a very heavy burden to place upon the U.S. Senate, as it is given the sole responsibility with respect to the Congress. As far as the Congress is concerned, the Senate has the sole responsibility, a very heavy responsibility, to study treaties, to conduct hearings thereon, to mark up the treaties, to approve of conditions or reservations, amendments, whatever, to those treaties. There is no other body that scrutinizes the treaty. The Senate of the United States—and that is one of the reasons why the Senate is the unique body that it is—unique body, the premier upper body in the world today, more so than the House of Lords in our mother country. And so it places upon us as Senators a responsibility that is very, very heavy, and we have a duty to know what is in a treaty before we vote on it. We get these requests, and here we are backed up against a date of the 15th.

We had the same problem, in a way, I think, with respect to the chemical weapons treaty. We are handed a unanimous consent request, and it is a bit intimidating for one Senator to be faced with the prospect that he will be holding up the business of the Senate if he holds up the unanimous consent request. But that is our responsibility; that is our duty.

So, I am increasingly concerned by the trend, as I have said, that we are finding ourselves being subjected to. It did not just begin yesterday or the day before, and I am not attempting to place any blame for that. I am simply calling attention to the fact that we have the responsibility as Senators under the Constitution, to which we swear an oath to uphold to support and defend, we have a duty to know what is in this treaty.

I am not on the committee, but I am a Senator, and I have as heavy a duty as does the Senator from North Carolina or the Senator from Delaware. That is the way I see it. I have as heavy a duty to know what I am voting on, because this is the law of the land. It is not an ordinary bill or resolution which can be vetoed by the President and which, if signed into law by the President, can be repealed next week or the following week or the next month. It is not that easy to negate the effects of a treaty if we find we made a mistake.

Well, so much for that. Here we are debating the treaty. We have one, two, three, four Senators on the floor debating an important treaty, and we are confined within a 2½-hour time limit, I believe. Four Senators. The law of the land. We should be debating the treaty without a time limit, at least in the beginning.

I have been majority leader of the Senate twice during the years when President Carter was President. I did not serve under Mr. Carter, I served with him. Senators don't serve under Presidents, we serve with Presidents. But I was majority leader during those 4 years. I was majority leader in the 100th Congress. I was minority leader in all of the Congresses in between 1981 and 1986.

We had some important treaties: INF Treaty, we had the Panama Canal Treaties, and we did not bring treaties like this to the floor and ask they be debated, no amendments thereon, and in a time limitation of 2 hours. And there was a request to cut that to 1 hour. We did not do that.

When I came here, we debated treaties, and we took our time. At some point, it is all right to try to get a time limitation after things have been aired; it is all right to try to bring it to closure. But I am somewhat disturbed and concerned by this trend that we find ourselves being subjected to.

As to the substance of the treaty, I want to note that condition No. 8 dealing with treaty interpretation provides sound guidance on the meaning of ''condition,'' which was authored by the distinguished Senator from Delaware, Mr. BIDEN, now the ranking Democrat on the Foreign Relations Committee, myself and former Senator Sam Nunn, the former chairman of the Senate Armed Services Committee, and agreed to on the Treaty on Intermediate Nuclear Forces in Europe of 1988. That is the INF Treaty.

In that instance, I was under great pressure from my friends on the Republican side of the aisle and great pressure from my friends on the Democratic side of the aisle to bring up the treaty. As majority leader, I thought it was my duty to wait until we had resolved some critical problems that were estimated to be critical problems by the Armed Services Committee and the Intelligence Committee before I brought it up. We spent considerable time on the treaty.

Condition (8) states that ''nothing in [the so-called Biden-Byrd] condition shall be construed as authorizing the President to obtain legislative approval for modifications or amendments to treaties through a majority approval of both Houses.''

Why was it necessary—I would like to ask this question of either the manager or the ranking manager of the resolution—why was it necessary for us to include condition (8), which certainly is a condition that I strongly support? Why was it necessary for us to include condition (8)?

(Ms. COLLINS assumed the chair.)

Mr. BIDEN. Madam President, would the Senator like me to respond?

Mr. BYRD. Yes, I yield, Madam President.

Mr. BIDEN. The Senator makes a valid observation. The truth is, it was not necessary, but I would like to give the explanation why it was included, and the majority can speak even more clearly to it.

The concern on the part of the majority was that the Clinton administration would use the Biden-Byrd language to justify sending a modification of a treaty for a two-House approval by majority vote rather than to the Senate for a supermajority vote when, in fact, it was a modification that constituted an amendment to the treaty.

You never intended it for that purpose; I never intended it for that purpose. The concern was, I think it is fair to say on the part of the majority, that the Clinton administration might have attempted to read it to allow them to avoid submission to the Senate for a supermajority vote under the Constitution and just go to each House for a majority vote.

Mr. BYRD. Does the manager wish to add anything?

Mr. HELMS. No, except to say Senator BIDEN has said it correctly.

Mr. BYRD. I am pleased that we have not done that. In other words, as I understand the distinguished ranking manager, the administration originally wanted the approval of disagreements through normal legislative action by both bodies of the Congress which would, of course, require only majority approval in both bodies. Was that the concern?

Mr. BIDEN. Yes, it is. If I may say, Madam President, to the distinguished leader, that in a November 25, 1996, memorandum for Alan J. Kreczko, Special Assistant to the President and Legal Adviser to the National Security Council, from Christopher Schroeder, Acting Assistant Attorney General, there is this phrase on page 14 of that memorandum. It says:

Because the Senate took the view that such ''common understandings'' of a treaty had the same binding effect as express provisions of the treaty for the purposes of U.S. law, the Biden condition logically supports the proposition that the President may be authorized to accept changes in treaty obligations either by further Senate advice and consent or by statutory enactment.

The next paragraph:

In light of these judicial and historical precedents, we conclude the Congress may authorize the President, through an executive agreement, substantially to modify the United States' international obligations under an arms control (or other political-military) treaty.

So the purpose, again, was to make it clear what you and I, as we understood at the time that condition was added—I might add, I get credit for it being called the Biden-Byrd condition, of which I am very proud, but the truth of the matter is, after having suggested such a condition early in the ratification process, I spent the next 7 months in the hospital during the remainder of the whole ratification process, and it was the distinguished leader, the Senator from West Virginia—it really should be the Byrd-Biden condition. Nonetheless, that is the reason. You and I never thought a majority vote in both Houses as a simple piece of legislation would be sufficient to approve an amendment to a treaty, and that was the concern expressed by the majority that it be memorialized, if you will, in condition (8).

Mr. BYRD. I thank the very able ranking manager, and I compliment him again and compliment the manager. I am glad that condition has been made clear.

Secondly, I would like to ask the managers of the agreement their reasoning behind their view of the collective impact of conditions (1), (2) and (3). Let me preface what I have just said by reading excerpts from these conditions.

CONDITION 1: POLICY OF THE UNITED STATES

I read from the committee report, page 20:

Condition (1) simply restates United States policy that no Russian troops should be deployed on another country's territory without the freely-given consent of that country. Unfortunately, Russia continues to station troops in several sovereign countries of the former Soviet Union—in several cases against the express wishes of the host country.

CONDITION 2: VIOLATIONS OF STATE SOVEREIGNTY

Condition (2) states the view of the Senate that Russian troops are deployed abroad against the will of some countries (namely, Moldova). It further states the Secretary of State should undertake priority discussions to secure the removal of Russian troops from any country that wishes them withdrawn. Further, it requires the Administration to issue a joint statement with the other fifteen members of the NATO alliance reaffirming the principles that this treaty modification does not give any country: (1) The right to station forces abroad against the will of the recipient country; or (2) the right to demand reallocation of military equipment quotas under the CFE Treaty and the Tashkant Agreement. This joint statement was issued, in fact, on May 8, 1997 in Vienna.

CONDITION 3: FACILITATION OF NEGOTIATIONS

Now, I am particularly interested in this condition.

Condition (3) ensures that the United States will not be party to any efforts by Russia to intimidate or otherwise extract CFE Treaty concessions from its smaller neighbors.

Let me interpolate right there for the moment with a rhetorical question.

Why should we have to have a condition to ensure that the United States will not be party to any efforts by Russia to intimidate or otherwise extract CFE Treaty concessions from its smaller neighbors? It would seem to me that would be a given.

Let me continue, and then I will yield to the distinguished ranking member.

Indeed, this condition, along with much of the rest of the resolution, is specifically designed to require the United States to safeguard the sovereign rights of other countries (such as Ukraine, Moldova, Azerbaijan, and Georgia) in their dealings with the Russian Federation.

Listen to this:

The committee became alarmed, over the course of its consideration of the CFE Flank Document, with several aspects of the United States negotiating record. This condition [condition No. 3] will ensure that the United States will adhere to the highest principles in the conduct of negotiations undertaken pursuant to the treaty, the CFE Flank Document, and any side statements that have already been issued or which may be issued in the future.

Now, there are several questions that jump out at anyone who reads that paragraph.

It makes reference to ''side statements.'' It uses the word ''alarmed.'' There is a condition there that ensures that the United States will not be a party to any efforts by Russia to intimidate or otherwise extract CFE Treaty concessions from a smaller neighbor.

Why do we have to have a condition to that effect? Is there some confusion about what the right position is that the United States should take? Is it not a given that the United States would not be a party to any efforts by Russia to intimidate concessions from its smaller neighbors?

I yield to the distinguished Senator.

Mr. BIDEN. Let me say, this all came about—and they are, obviously, as usual, very good, incisive and insightful questions.

I think it is unnecessary because I think it is a given. But let me explain, in fairness, why we got to this point and why I thought it was—speaking only for myself—a clarification, although in some sense I thought it was a demeaning clarification. Let me explain.

During the negotiations on the flank agreement, there was concern about what became referred to as a ''side agreement.'' That was, there was an issue that came up during the negotiations where a diplomatic note was passed, which is classified—I am not able to give you, but I can tell you from the committee testimony what it said—a note that was passed to the Russian representative dealing with the issue of the stationing of Russian troops on the soil of the countries you named.

The Under Secretary of State, Lynn Davis, who appeared before the committee on April 29, was asked to explain. He went on to explain why a statement was made to the Russians. The statement made was that we would—this is the quote, in part—''the United States is prepared to facilitate or act as an intermediary for a successful outcome in discussions that could take place under the flank agreement and the CFE Treaty between Russia and other Newly Independent States.''

The worry expressed by my friends in the Republican Party was that this reflected a possible inclination to try to mollify Russia and put American pressure on Moldova or Georgia or other states to accept Russian deployment of Russian forces on their soil.

The concern was that the assertion made by the U.S. negotiators was a way of saying, do not worry, we are going to help you to get Russian troops placed in those regions.

Lynn Davis, the Under Secretary said, no, that was never the intention of that ''side agreement,'' as it became referred to.

I will quote what he said at the hearing to my friend from West Virginia. He said:

We see this particular statement of our intentions as part of the reassurance that we can make so that those countries will feel that this is an agreement that continues to be in their security interests. This statement of our intentions makes clear that the commitment is predicated on an understanding that any agreements between Russia and the Newly Independent States must be done on a voluntary basis with due respect for the sovereignty of the countries involved, and our role here is indeed to reinforce that and ensure that it is carried out.

This was the concern that was expressed by my friends on the Republican side, that the United States intention to level the playing field between Russia and other Newly Independent States had not been seen that way by all concerned.

So what was done—and the administration signed on to the condition—was to make it crystal clear that this offer of an intermediary role was not for the purpose of using our influence or power to coerce them into accepting a demand or a suggestion from their Russian brethren.

That is the context, I say to my friend, in which it came up. You used the phrase ''the committee became alarmed.'' Some in the committee were alarmed because of the wording of the ''side agreement.'' This was done to clarify what the administration says was their intent from the beginning but now locks in the stated interpretation by the administration of what that whole thing was all about.

I hope I have answered the question, and I hope I have done it correctly.

Mr. HELMS. You have done it correctly, I say to the Senator.

Conditions 1, 2, and 3 of the resolution on ratification require the President to observe reasonable limits in the conduct of certain negotiations facilitated by the United States in support of the CFE Treaty. Specifically, this entails an obligation for the President to conduct his diplomacy in a manner that respects the sovereignty and free will of countries on the periphery of Russia that are under pressure by Russia to allow the establishment of military bases.

In fact, I do not believe that the United States should be party to any negotiation which could result in allowing Russia to deploy its troops into the territory occupied by the Soviet Union for nearly 70 years. Yet this is exactly the result contemplated by the Clinton administration if this resolution of ratification is not clear on this point. Conditions 1, 2, and 3 are clear on this matter.

It is clear from this document that the Clinton administration has demonstrated a willingness to participate in negotiations that could actually result in the establishment of Russian military bases on the territory of other States with the endorsement—and even with the active assistance—of the United States. Is there anyone in the administration who is prepared to state that it would be in the United States' interest for Russia to establish military bases outside of its territory?

The Clinton administration offers hollow assertions that Russian troops will not be deployed in other States without the freely given consent of the relevant government. Russia—still the largest military power in Europe—has used its armed forces in recent years in both Georgia and Azerbaijan with virtually no complaint from the Clinton administration.

Russia uses its military presence in Ukraine and Moldova to influence the sovereign governments of those States while the Clinton administration remains silent. Russian Government officials have made open threats of military invasion against the Baltic States. Finally, less than 1 year ago, a bloody war in Chechnya was brought to an end. That war was characterized by wide scale Russian atrocities, the intentional targeting of civilians, and casualties possibly in excess of 100,000 people—mostly innocent men, women, and children. Do the administration's lawyers find that these incidents were with the freely given consent of the affected governments?

Conditions 1, 2, and 3 set reasonable limits specifically tied to activities cited in paragraph IV (2) and (3) of the CFE Flank Document.

Mr. BIDEN. Mr. President—Madam President, I made the mistake of referring to the Presiding Officer as ''Mr. President″ before I turned around. And I also made the mistake of referring to Under Secretary Davis as ''he.'' It is ''she.'' I knew that, and I apologize on both scores.

Mr. BYRD. Well, Madam President, I came up, I suppose, at a time when political correctness did not make any difference. As far as I am concerned, it does not make any difference yet. And the pronoun ''he'' is inclusive. It was inclusive when I was a boy; it was inclusive when I became a man. It still is inclusive of the female. So I would not worry too much about that.

Mr. BIDEN. Madam President, as the distinguished former majority leader knows, another former majority leader, Senator Baker, used an expression all the time. He would come to the floor, and he would say, ''I ain't got no dog in that fight.''

Mr. BYRD. I commend the committee for including that condition.

I can understand how the committee would become alarmed. I think that it would have been well if all Senators could have been notified that there was—and maybe they were, I do not know, but I do not remember being notified except through my own staff that there was such a paper up in room 407 so that they could have gone up and examined it. I heard about it this afternoon, and I went up and looked at it.

So I think the committee had a right to be alarmed. I congratulate the committee on including the condition which, as Mr. BIDEN has just said, locks it in, locks the administration in, so there will be no doubt that the United States will not be party to any efforts by Russia to intimidate or otherwise extract CFE Treaty concessions from its smaller neighbors.

I would dare say, if the people in Azerbaijan or Armenia or Georgia should see that language, they would be alarmed also—they would be alarmed also. They would wonder, where does the United States stand? But the condition is there. And I again commend the committee on including it.

Do the managers feel that U.S. policy is now clearly to protect the interests and rights of the newly sovereign nations of the Caucasus against intimidation and pressure tactics by the Russians regarding equipment that is covered by the flank agreement that we are considering here today?

Mr. HELMS. Yes, sir.

Mr. BIDEN. I would say yes, as well, Madam President.

Mr. BYRD. Madam President, how much time remains?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. BYRD. Madam President, I thank all Senators. Especially I thank the manager and ranking manager on the committee.

I shall vote for the treaty.

I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Will the Senator yield me 1 minute?

Mr. BYRD. I yield 1 minute to the Senator.

Mr. HELMS. I thank the Senator.

During the past 4 years, the Clinton administration has remained silent while Russia has encroached upon the territory and sovereignty of its neighbors. It was the lack of a foreign policy—not a lack of tools—that allowed this to happen.

I have confidence that the new Secretary of State will correct the course of our policies toward Russia, and I gladly support this treaty to aid the Honorable Madeleine Albright in that endeavor. The collapse of the Soviet Union was one of the finest moments of the 20th century. To allow even a partial restoration of the Soviet Union before the turn of the century would be a failure of an even greater magnitude.

Senator LOTT, I believe, is standing by.

I thank the Senator.

Mr. BYRD. I thank the distinguished Senator.

I reserve the remainder of my time.

Mr. BIDEN. Madam President, before the distinguished leader takes the floor, if I could just take 60 seconds of the 3 minutes I have remaining to comment on something the Senator from West Virginia said.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Madam President, the Senate has always been served well by the talent of the Senator from West Virginia and, most importantly, in making sure that we do our job responsibly.

I would make only one 20-second explanation of why I think this treaty got less of a cover than any others.

One was the way in which it was delayed and being presented and the timeframe. But a second reason is that people who followed this, which is a mistake to assume everyone should, people who follow this have been aware of what the terms of the agreement were since May of last year.

I think many of us fell into the routine on Foreign Relations and Armed Services of thinking that its terms were well known. And it was widely accepted, the broad outlines of the treaty. But I think the Senator makes a very valid point and I, too, as ranking member of this committee, do not want

to be party to these expedited efforts to deal with very significant security issues relating to the United States.

Mr. HELMS. Let us make a pact.

Mr. BIDEN. We make a pact.

Mr. BYRD. Mr. President, I thank both Senators.

Mr. BIDEN. I reserve the remainder of my time, if I have any.

Mr. LOTT. Madam President, could I inquire how much time is remaining for debate?

The PRESIDING OFFICER. The Senator from West Virginia has 5 minutes remaining. The Senator from Delaware has 2 minutes remaining.

Mr. LOTT. Then I will yield myself time off my leader's time.

Mr. BYRD. Do you need more time?

Mr. LOTT. No. I thank the Senator from West Virginia.

I am glad I was able to come to the floor, Madam President, and listen to this exchange. I always enjoy learning from the exchanges involving the senior Senators, like the Senators from West Virginia and North Carolina and Delaware. I wish all Members had been here for the last hour and heard this debate.

I do want to take just a few minutes, as we get to the close of debate, to speak on the Chemical Forces in Europe flank agreement or resolution of ratification because I think it is very important. I wish we did have more time to talk about all of its ramifications, but I know the chairman and the ranking member have gone over the importance of this treaty earlier today.

Madam President, we have an important treaty before us today modifying the 1990 Conventional Armed Forces in Europe Agreement [CFE]. The Flank Document adjusts the CFE boundaries to reflect the collapse of the Soviet Empire, adds reporting requirements, and increases inspection provisions.

Negotiations to modify the CFE Treaty began in 1995, because Russia threatened to violate the flank limits in the original treaty. The precedent of modifying a treaty to accommodate violations by a major signatory concerned many of us. We have also been concerned about how Russia intends to use the Flank Agreement to pressure countries on its borders—former Republics of the Soviet Union. Our concerns were dramatically heightened by the classified side agreement the administration reached to further accommodate Russian demands. This side agreement is available for all Senators to review in room S–407 of the Capitol.

The concerns about the CFE Flank Agreement are shared by a number of states which have been subjected to Russian intimidation, pressure and subversion. States with Russian troops on their soil without their consent—Moldova, Ukraine, and Georgia—have rightly expressed concern that the Flank Agreement must not undermine their sovereign right to demand withdrawal of those Russian forces. A fourth country, Azerbaijan, has been subject to Russian-sponsored coups and assassination attempts. They have been reluctant to approve the Flank Agreement without adequate assurances.

The resolution of ratification before the Senate today addresses these concerns. The resolution includes a number of binding conditions which make clear to all CFE parties that no additional rights for Russian military deployments outside Russian borders are granted. The resolution ensures that United States diplomacy will not be engaged on the side of Russia but on the side of the victims of Russian policies. In addition, the 16 members of NATO issued a statement last week affirming that no additional rights are granted to Russia by the Flank Agreement. This statement was a direct result of the concerns expressed by other CFE parties and by the Senate.

The resolution directly addresses the administration's side agreement in condition 3 which limits United States diplomatic activities to ensuring the rights of the smaller countries on Russia's borders. This resolution ensures the United States will not tacitly support Russian policies that have undermined the independence of Ukraine, Georgia, Moldova, and Azerbaijan. Finally, the resolution requires detailed compliance reports and lays out a road map for dealing with noncompliance in the future.

The resolution of ratification also addresses important issues of Senate prerogatives. It clarifies that the Byrd-Biden condition, added to the INF Treaty in 1988, does not allow the administration to avoid Senate advice and consent on treaty modifications or amendments. The resolution addresses the issue of multilateralizing the 1972 ABM Treaty in condition 9. The administration has raised objections to this provision as they have to many previous efforts to assert Senate prerogatives on this point. This should be an institutional position—not a partisan issue.

For more than 3 years, Congress has been on the record expressing serious misgivings about the administration plan to alter the ABM Treaty by adding new signatories. Section 232 of the 1994 defense authorization bill states the issue clearly: ''The United States shall not be bound by any international agreement entered into by the President that would substantively modify the ABM Treaty unless the agreement is entered pursuant to the treaty making power of the President under the Constitution.''

Efforts to address the multilateralization issue since then have resulted in filibusters and veto threats. It should not surprise anyone that the Senate selected this resolution of ratification to address the issue—just as Senators BYRD and BIDEN selected the resolution of ratification for the INF Treaty to address an ABM Treaty issue 9 years ago.

Many of my colleagues are familiar with the issue of ABM multilateralization. Despite the often arcane legal arguments, the issue is not complicated. The Senate gave its advice and consent to the 1972 ABM Treaty as a bilateral agreement between the United States and the Soviet Union. The administration has proposed adding as many as four new signatories to the treaty and has negotiated limited treaty rights for those new signatories. The administration's proposal would define Russia's national territory to include these countries for purposes of the ABM Treaty. The administration's proposal would essentially define military equipment of these countries as belonging to Russia for purposes of the ABM Treaty. The administration's proposal would add new countries to the ABM Treaty but not grant them rights allowed the original signatories. This would mean that countries would have the power to block future U.S. amendments to the ABM Treaty—even though the new signatories would not have the same rights and obligations as the United States. The administration's proposed multilateralization would only address some of the military equipment covered under the original ABM Treaty—leaving a radar in Latvia, for example, outside the scope of the new treaty. Under the administration's proposal, the vast majority of states independent which succeeded the Soviet Union would be free to develop and deploy unlimited missile defenses—a dramatic change from the situation in 1972 when the deployment of missile defenses on these territories was strictly limited by the ABM Treaty.

In part and in total, these are clearly substantive modifications which require—under U.S. law—Senate advice and consent. Multilateralization would alter the object and purpose of the ABM Treaty as approved by the Senate in 1972. Multilateralization, therefore, must be subject to the advice and consent of the Senate.

The administration argues that it has the sole power to determine questions of succession. But that is not true. The Congressional Research Service opinion, quoted widely in this debate, recognizes that ''International law regarding successor States and their treaty obligations * * * remains unsettled.'' It also notes that ''international law does not provide certain guidance on the question of whether the republics formed on the territory of the former U.S.S.R. have succeeded to the rights and obligations of the ABM Treaty'' and that ''a multilateralization agreement could include matters that would alter the substance of the ABM Treaty and require Senate advice and consent.'' It is my understanding that this opinion was prepared a year ago by a lawyer who has not even seen the text of the proposed agreement.

The administration's position does not recognize the arms control precedents followed in the last decade. Arms control treaties are different from

treaties on fisheries, taxes, or cultural affairs. START I was concluded with the Soviet Union but entered into force only after the Senate gave its advice and consent to the Lisbon Protocol apportioning the nuclear forces of the former Soviet Union among successor States. The Bush administration did not argue that Ukrainian SS–19 missiles were the property of Russia. Yet, the Clinton administration is essentially arguing that Ukrainian phased-array radars are Russian under the proposed ABM multilateralization agreement. The question of successor state obligations under the CFE Treaty was explicitly recognized by the Senate when we gave our advice and consent to that treaty. During our consideration, a condition was included in the resolution of ratification which specified procedures for the accession of new States Parties to the CFE Treaty. On the issue of ABM multilateralization, Congress has specifically legislated on our right to review the agreement. To my knowledge, that has not happened on any other succession issue. Clearly, ABM multilateralization is very different from routine succession questions which have been decided by the executive branch alone.

Madam President, I agree with the administration on one important point. This is a constitutional issue. The White House has taken one position until today, and now the Senate has definitively taken another. Last January, I asked President Clinton to agree to submit three treaties for our consideration. the President has agreed to submit the ABM Demarcation agreement and the CFE Flank Agreement, which is before the Senate today. After he refused to submit ABM multilateralization, I said publicly that I would continue to press for the Senate prerogatives—because the Constitution, the precedents and the law are on our side. We do not prejudge the outcome of our consideration of ABM multilateralization. All we require is that the administration submit the agreement to the Senate. Yes, that requires building a consensus that may not exist today but such a consensus is necessary for a truly bipartisan national security policy. That is the issue before the Senate today.

Late last week, the administration recognized the Senate's desire to review ABM multilateralization. They proposed replacing the certification in condition 9 with nonbinding ''sense of the Senate'' language. In exchange, Secretary Albright offered to send a letter assuring us that we could address multilateralization in an indirect way—as part of a reference in the ABM demarcation agreement. But this offer was logically inconsistent. It asked the Senate to simply express our view about a right to provide advice and consent to multilateralization—and then accept a letter that explicitly denied that right. Adding new parties to the ABM Treaty is a fundamentally different issue from the proposed demarcation limits on theater defense systems. The administration's offer would allow multilateralization regardless of Senate action on the demarcation agreement. Our position is simple: We want to review multilateralization through the ''front door'' on its own merits—not through the ''back door'' as a reference in a substantively different agreement.

When the administration agreed to submit the CFE Flank Agreement for our advice and consent, we were asked to act by the entry into force deadline of May 15. We will act today even though the treaty was not submitted to the Senate until April 7—3 months after my request. We will act today even though we have a very full agenda—including comp time/flex time, IDEA, partial birth abortion and the budget resolution. We will fulfill our constitutional duty, we will address our concerns about policy toward Russia, and we will address the important issue of Senate prerogatives.

I urge my colleagues to support the entire resolution of ratification reported by the Foreign Relations Committee—including condition 9 on ABM multilateralization.

Madam President, I want to thank many Senators who have worked very hard and for quite some time on this treaty and on the ABM condition.

I particularly would like to thank Chairman HELMS, Senator BIDEN, Senator GORDON SMITH, and their staffs for all the work they did to get this resolution before the Senate today. Also, I would like to thank Senators who helped in insisting on Senate prerogatives—Senator WARNER and Senator MCCAIN, Senator SMITH, Senator KYL, Senator SHELBY, Senator LUGAR, and Senator HAGEL. A number of Senators on the committee and some not on the committee have been very much involved in this process. I commend them all.

Senators have had concerns about how and why this agreement was negotiated, and we had concerns about a side deal the administration made with the Russians concerning the allocation of equipment under the treaty.

The Senate has addressed these concerns decisively in this resolution of ratification. The resolution places strict limits on the administration's flank policy. It ensures that we will be on the side of the victims of Russian intimidation and that the United States will stand up for the independence of States on Russia's borders.

Most important, this resolution addresses a critical issue of Senate prerogative, our right to review the proposed modifications to the 1972 ABM Treaty. It was a decade ago that another ABM Treaty issue was brought in this body. That debate over interpretations of the ABM Treaty was finally resolved in the resolution of ratification for the INF Treaty in 1988.

Today, we are resolving the debate over multilateralization of the ABM Treaty in this resolution of ratification. For more than 3 years now Congress and the executive branch have discussed back and forth the appropriate Senate rule in reviewing the administration's plan to add new countries to the ABM Treaty.

Condition 9 requires the President to submit any multilateralization agreement to the Senate for our advice and consent. It does not force action here. It just says we should have that opportunity. We should be able to exercise that prerogative to review these changes. It ensures we will have a full opportunity to look at the merits of multilateralization in the future. I believe the Constitution and legal precedence are in our favor.

Today, the Senate will act on the Conventional Forces in the Europe [CFE] Flank Agreement in time to meet the May 15 deadline. In spite of the limited time we had to consider the agreement and the very full schedule that we have had on the floor, we are meeting that deadline.

I did have the opportunity to discuss this issue with our very distinguished Secretary of State yesterday, and we discussed the importance of this CFE Flank Agreement. Also, we talked about how we could properly and appropriately address our concerns about multilaterilization. I suspect that she probably had something to do with the decision to go forward with it in this form, and I thank her for that, and the members of the committee for allowing it to go forward in this form.

Mr. BIDEN. Will the Senator yield?

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

Mr. BIDEN. I would like to publicly comment and compliment the Senator from Mississippi. The truth of the matter is that this treaty would not be before the Senate today as a treaty without the efforts of the majority leader. The executive believed that they can do this by executive agreement. They did not think they needed to submit this to the Senate, although I had been for several months explaining that I thought it should be treated as a treaty. It was not until the distinguished leader from Mississippi said, if it is not treated as a treaty, we have a problem.

The truth of the matter is the reason it is here is because of the distinguished Senator from Mississippi. I thank him for that.

Mr. LOTT. I thank the Senator for those comments. I did write to the President expressing my concerns in this area in January of this year, and other issues.

When I had the opportunity to visit with Secretary Madeleine Albright before she was confirmed by the Senate, I had the temerity to read to her from the Constitution about our rights in the Senate in advice and consent, and she said, ''You know, I agree with you. I taught that at Georgetown University,'' and I believe she meant that.

I think we are seeing some results of that, and I appreciate the fact that our prerogatives are being protected. We

have had this opportunity to review it, debate it, and we will be able to take up other issues later on this year that are very important for Senate consideration. I think the process has worked. I urge my colleagues to support this resolution of ratification.

I yield the floor.

Mr. BYRD. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. BYRD. I will take 30 seconds. I want to thank the majority leader, and I associate myself with the remarks of Senator BIDEN. I thank the majority leader in insisting that this come to the Hill as a treaty, which requires a supermajority in the Senate. I very much appreciate that.

Madam President, I yield back the remainder of my time to Mr. BIDEN and Mr. HELMS. They can yield it back or they can use it.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, I have nothing more to say, which will surprise my colleagues, except that the distinguished Democratic leader, I am told, may wish to speak on leader's time for a few moments on this issue. Give me a minute to check on whether or not the distinguished leader, Mr. DASCHLE, wishes to speak.

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

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

Mr. DASCHLE. Madam President, the Senate today is being presented with an opportunity that is as rare as it is important. For the second time in less than 3 weeks, the Senate is being asked to give its advice and consent on a major arms control treaty: the flank agreement to the Conventional Forces in Europe treaty.

Late last month, the Senate had placed before it the Chemical Weapons Convention [CWC]. After much debate, the Senate resoundingly rebuffed several attempts by the treaty's opponents to scuttle it, and eventually passed CWC with the support of 74 Senators.

Now many have questioned the length to which CWC opponents went in their efforts to kill or delay Senate consideration of this treaty. I share some of those concerns. However, in the end, when the Senate was finally allowed to take up the CWC treaty, I would argue that the ensuing floor debate on the CWC treaty represented the Senate at its best. Senators discussed honest disagreements on issues directly related to the CWC treaty, carefully weighed those discussions, and finally voted up or down on those issues and, ultimately, the treaty itself. In short, during the actual floor debate of the CWC treaty, we saw the Senate acting in a responsible and exemplary fashion.

I am confident that if we had this same kind of debate on the CFE treaty, we would see the same result. In fact, the margin would probably be significantly greater for CFE than for CWC. I have listened carefully to the comments of my fellow Senators on for their views on this important agreement and have yet to hear a single Senator voice his or her opposition to the CFE treaty. This was true before the Foreign Relations Committee attached 13 CWC-related conditions and it is especially true after. As a result, Senate support for the CFE agreement itself probably exceeds the 74 who voted for the CWC.

Unfortunately, the Senate is being prevented from considering the CFE treaty in the same fashion we considered the CWC. We are not being allowed to look at just the CFE treaty and issues directly related to it. Instead, the time for Senate consideration of the CFE treaty is likely to be spent largely on a wholly unrelated issue—the ABM treaty and opponents efforts to undermine it.

Now, I understand this is an important issue to many members on the other side of the aisle. And, I know that Senators are well within their rights to attach unrelated matters to most types of legislation we consider

However, I disagree with the proponents of the ABM condition on the merits and I especially disagree with them on their methods. On the merits, the administration's lawyers argue persuasively that the Constitution assigns the exclusive responsibility to the President to determine the successor states to any treaty when an original party dissolves, to make whatever adjustments might be required to accomplish such succession, and to enter into agreements for this purpose. Increasing the number of states participating in a treaty due to the dissolution of an original party does not itself constitute a substantive modification of obligations assumed. This is the view of the administration's lawyers. This is also the view of the nonpartisan Congressional Research Service in a legal review they conducted last year.

As for their methods, I think it is both unfortunate and short-sighted to use a treaty that is in our national security interests as a vehicle for advancing a totally unrelated political agenda. The principal sponsors of this condition have previously made no secret of the fact that they would like to see the United States walk away from the entire ABM treaty and immediately begin spending tens of billions of dollars to build a star wars type missile defense. With this act, they have now revealed the lengths they are willing to go to force their views on this Senate and this administration.

Nevertheless, that is what has been done. Senators are now faced with a difficult choice: vote for this treaty in spite of the unacceptable ABM condition or against it because of the ABM language. This is an extremely close call for many of us.

In the end, Madam President, we must support this treaty. We must do so for two reasons. First, the treaty is still fundamentally in our strategic interest. Failure to pass this treaty now could unravel both the CFE agreement as well as any future efforts to enhance security arrangements in Europe. Second, the administration, which must ultimately decide how to deal with the objectionable ABM condition, has indicated that we should vote for this treaty now and let them work out what to do about this provision later. It is for these reasons that I cast my vote in support of this treaty and urge my colleagues to do the same.

Mr. BIDEN. Madam President, depending on the disposition of the chairman of the committee, I am prepared to yield back whatever time we have left and am ready to vote. The distinguished minority leader does not wish to speak on this at this moment.

I yield back the remainder of my time.

Mr. BYRD. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. LOTT. Madam President, if I could say for the Senators that will be coming over, this will be the last vote for the night so we can attend a very important dinner we have scheduled momentarily.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification. On this question, the yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

[Rollcall Vote No. 67 Ex.]

YEAS—100

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

Thompson	Torricelli	Wellstone
Thurmond	Warner	Wyden

The PRESIDING OFFICER. Two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification, as amended, is as follows:

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1, SENATE ADVICE AND CONSENT SUBJECT TO CONDITIONS.

The Senate advises and consents to the ratification of the CFE Flank Document (as defined in section 3 of this resolution), subject to the conditions in section 2.

SEC. 2. CONDITIONS.

The Senate's advice and consent to the ratification of the CFE Flank Document is subject to the following conditions, which shall be binding upon the President:

(1) POLICY OF THE UNITED STATES.—Nothing in the CFE Flank Document shall be construed as altering the policy of the United States to achieve the immediate and complete withdrawal of any armed forces and military equipment under the control of the Russian Federation that are deployed on the territories of the independent states of the former Soviet Union (as defined in section 3 of the FREEDOM Support Act) without the full and complete agreement of those states.

(2) VIOLATIONS OF STATE SOVEREIGNTY.—

(A) FINDING.—The Senate finds that armed forces and military equipment under the control of the Russian Federation are currently deployed on the territories of States Parties without the full and complete agreement of those States Parties.

(B) INITIATION OF DISCUSSIONS.—The Secretary of State should, as a priority matter, initiate discussions with the relevant States Parties with the objective of securing the immediate withdrawal of all armed forces and military equipment under the control of the Russian Federation deployed on the territory of any State Party without the full and complete agreement of that State Party.

(C) STATEMENT OF POLICY.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Senate that the United States and the governments of Belgium, Canada, Denmark, France, Germany, Greece, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Turkey, and the United Kingdom have issued a joint statement affirming that—

(i) the CFE Flank Document does not give any State Party the right to station (under Article IV, paragraph 5 of the Treaty) or temporarily deploy (under Article V, paragraphs 1 (B) and C) of the Treaty) conventional armaments and equipment limited by the Treaty or the territory of other States Parties to the Treaty without the freely expressed consent of the receiving State Party;

(ii) the CFE Flank Document does not alter or abridge the right of any State Party under the Treaty to utilize fully its declared maximum levels for conventional armaments and equipment limited by the Treaty notified pursuant to Article VII of the Treaty; and

(iii)the CFE Flank Document does not alter in any way the requirement for the freely expressed consent of all States Parties concerned in the exercise of any reallocations envisioned under Article IV, paragraph 3 of the CFE Flank Document.

(3) FACILITATION OF NEGOTIATIONS.—

(A) UNITED STATES ACTION.—

(i) IN GENERAL.—The United States, in entering into any negotiation described in clause (ii) involving the government of Moldova, Ukraine, Azerbaijan, or Georgia, including the support of United States intermediaries in the negotiation, will limit its diplomatic activities to—

(I) achieving the equal and unreserved application by all States Parties of the principles of the Helsinki Final Act, including, in particular, the principle that ''States will respect each other's sovereign equality and individuality as well as all the rights inherent in and concompassed by its sovereignty, including a particular, the right of every State to juridical equality, to territorial integrity, and to freedom and political independence.'';

(II) ensuring that Moldova, Ukraine, Azerbaijan, and Georgia retain the right under the Treaty to reject, or accept conditionally, any request by another State Party to temporarily deploy conventional armaments and equipment limited by the Treaty on its territory; and

(III) ensuring the right of Moldova, Ukraine, Azerbaijan, and Georgia to reject, or to accept conditionally, any request by another State Party to reallocate the current quotas of Moldova, Ukraine, Azerbaijan, and Georgia, as the case may be, applicable to conventional armaments and equipment limited by the Treaty and as established under the Tashkent Agreement.

(ii) NEGOTIATIONS COVERED.—A negotiation described in this clause is any negotiation conducted pursuant to paragraph (2) or (3) of Section IV of the CFE Flank Document or pursuant to any side statement or agreement related to the CFE Flank Document concluded between the United States and the Russian Federation.

(B) OTHER AGREEMENTS.—Nothing in the CFR Flank Document shall be construed as providing additional rights to any State Party to temporarily deploy forces or to reallocate quotas for conventional armaments and equipment limited by the Treaty beyond the rights accorded to all States Parties under the original Treaty and as established under the Tashkent Agreement.

(4) NONCOMPLIANCE.—

(A) IN GENERAL.—If the President determines that persuasive information exists that a State Party is in violation of the Treaty or the CFE Flank Document in a manner which threatens the national security interests of the United States, then the President shall—

(i) consult with the Senate and promptly submit to the Senate a report detailing the effect of such actions;

(ii) seek on an urgent basis an inspection of the relevant State Party in accordance with the provisions of the Treaty or the CFE Flank Document with the objective of demonstrating to the international community the act of noncompliance;

(iii) seek, or encourage, on an urgent basis, a meeting at the highest diplomatic level with the relevant State Party with the objective of bringing the noncompliant State Party into compliance;

(iv) implement prohibitions and sanctions against the relevant State Party as required by law;

(v) if noncompliance has been determined, seek on an urgent basis the multilateral imposition of sanctions against the noncompliant State Party for the purposes of bringing the noncompliant State Party into compliance; and

(vi) in the event that noncompliance persists for a period longer than one year after the date of the determination made pursuant to this subparagraph, promptly consult with the Senate for the purposes of obtaining a resolution of support for continued adherence to the Treaty, notwithstanding the changed circumstances affecting the object and purpose of the Treaty.

(B) AUTHORITY OF DIRECTOR OF CENTRAL INTELLIGENCE.—Nothing in this section may be construed to impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(5)).

(C) PRESIDENTIAL DETERMINATIONS.—If the President determines that an action otherwise required under subparagraph (A) would impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure, the President shall report that determination, together with a detailed written explanation of the basis for that determination, to the chairmen of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives not later than 15 days after making such determination.

(5) MONITORING AND VERIFICATION OF COMPLIANCE.—

(A) DECLARATION.—The Senate declares that—

(i) the Treaty is in the interests of the United States only if all parties to the Treaty are in strict compliance with the terms of the Treaty as submitted to the Senate for its advice and consent to ratification, such compliance being measured by performance and not by efforts, intentions, or commitments to comply; and

(ii) the Senate expects all parties to the Treaty, including the Russian Federation, to be in strict compliance with their obligations under the terms of the Treaty, as submitted to the Senate for its advice and consent to ratification.

(B) BRIEFINGS ON COMPLIANCE.—Given its concern about ongoing violations of the Treaty by the Russian Federation and other States Parties, the Senate expects the executive branch of Government to offer briefings not less than four times a year to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives on compliance issues related to the Treaty. Each such briefing shall include a description of all United States efforts in bilateral and multilateral diplomatic channels and forums to resolve compliance issues relating to the Treaty, including a complete description of—

(i) any compliance issues the United States plans to raise at meetings of the Joint Consultative Group under the Treaty;

(ii) any compliance issues raised at meetings of the Joint Consultative Group under the Treaty; and

(iii) any determination by the President that a State Party is in noncompliance with or is otherwise acting in a manner inconsistent with the object or purpose of the Treaty, within 30 days of such a determination.

(C) ANNUAL REPORTS ON COMPLIANCE.—Beginning January 1, 1998, and annually thereafter, the President shall submit to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a full and complete classified and unclassified report setting forth—

(i) certification of those States Parties that are determined to be in compliance with the Treaty, on a country-by-country basis;

(ii) for those countries not certified pursuant to clause (i), an identification and assessment of all compliance issues arising with regard to the adherence of the country to its obligations under the Treaty;

(iii) for those countries not certified pursuant to clause (i), the steps the United States has taken, either unilaterally or in conjunction with another State Party—

(I) to initiate inspections of the noncompliant State Party with the objective of demonstrating to the international community the act of noncompliance;

(II) to call attention publicly to the activity in question; and

(III) to seek on an urgent basis a meeting at the highest diplomatic level with the noncompliant State Party with the objective of bringing the noncompliant State Party into compliance;

(iv) a determination of the military significance of and border security risks arising from any compliance issue identified pursuant to clause (ii); and

(v) a detailed assessment of the responses of the noncompliant State Party in question to actions undertaken by the United States described in clause (iii).

(D) ANNUAL REPORT ON WITHDRAWAL OF RUSSIAN ARMED FORCES AND MILITARY EQUIPMENT.—Beginning January 1, 1998, and annually thereafter, the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representative on the results of discussions undertaken pursuant to subparagraph (B) of paragraph (2), plans for future such discussions, and measures agreed to secure the immediate withdrawal of all armed forces and military equipment in question.

(E) ANNUAL REPORT ON UNCONTROLLED TREATY-LIMITED EQUIPMENT.—Beginning January 1, 1998, and annually thereafter, the Director of Central Intelligence shall submit to the Committees on Foreign Relations, Armed Services, and the Select Committee on Intelligence of the Senate and to the Speaker of the House of Representatives a full and complete classified and unclassified report regarding—

(i) the status of uncontrolled conventional armament and equipment limited by the Treaty, on a region-by-region basis within the Treaty's area of application;

(ii) the status of uncontrolled conventional armaments and equipment subject to the Treaty, on a region-by-region basis within the Treaty's area of application; and

(iii) any information made available to the United States Government concerning the transfer of conventional armaments and equipment subject to the Treaty within the Treaty's area of application made by any country to any subnational group, including any secessionist movement or any terrorist or paramilitary organization.

(F) COMPLIANCE REPORT ON ARMENIA AND OTHER PARTIES IN THE CAUCASUS REGION.—Not later than August 1, 1997, the President shall submit to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a full and complete classified and unclassified report regarding—

(i) whether Armenia was in compliance with the Treaty in allowing the transfer of conventional armaments and equipment limited by the Treaty through Armenia territory to the secessionist movement in Azerbaijan;

(ii) whether other States Parties located in the Caucasus region are in compliance with the Treaty; and

(iii) if Armenia is found not to have been in compliance under clause (i), or, if any other State Party is found not to be in compliance under clause (ii), what actions the President has taken to implement sanctions as required by chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.; relating to assistance to the independent states of the former Soviet Union) or other provisions of law.

(G) REPORT ON DESTRUCTION OF EQUIPMENT EAST OF THE URALS.—Not later than January 1, 1998, the President shall submit to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a full and complete classified and unclassified report regarding—

(i) whether the Russian Federation is fully implementing on schedule all agreements requiring the destruction of conventional armaments and equipment subject to the Treaty but for the withdrawal of such armaments and equipment by the Soviet Union from the Treaty's area of application prior to the Soviet Union's deposit of its instrument of ratification of the Treaty; and

(ii) whether any of the armaments and equipment described under clause (i) have been redeployed, reintroduced, or transferred into the Treaty's area of application and, if so, the location of such armaments and equipment.

(H) DEFINITIONS.—

(i) UNCONTROLLED CONVENTIONAL ARMAMENTS AND EQUIPMENT LIMITED BY THE TREATY.—The term ''uncontrolled conventional armaments and equipment limited by the Treaty'' means all conventional armaments and equipment limited by the Treaty not under the control of a State Party that would be subject to the numerical limitations set forth in the Treaty if such armaments and equipment were directly under the control of a State Party.

(ii) UNCONTROLLED CONVENTIONAL ARMAMENTS AND EQUIPMENT SUBJECT TO THE TREATY.—The term ''uncontrolled conventional armaments and equipment subject to the Treaty'' means all conventional armaments and equipment described in Article II(1)(Q) of the Treaty not under the control of a State Party that would be subject to information exchange in accordance with the Protocol on Information Exchange if such armaments and equipment were directly under the control of a State Party.

(6) APPLICATION AND EFFECTIVENESS OF SENATE ADVICE AND CONSENT.—

(A) IN GENERAL.—The advice and consent of the Senate in this resolution shall apply only to the CFE Flank Document and the documents described in subparagraph (D).

(B) PRESIDENTIAL CERTIFICATION.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Senate that, in the course of diplomatic negotiations to secure accession to, or ratification of, the CFE Flank Document by any other State Party, the United States will vigorously reject any effort by a State Party to—

(i) modify, amend, or alter a United States right or obligation under the Treaty or the CFE Flank Document, unless such modification, amendment, or alternation is solely an extension of the period of provisional application of the CFE Flank Document or a change of a minor administrative or technical nature;

(ii) secure the adoption of a new United States obligation under, or in relation to, the Treaty or the CFE Flank Document, unless such obligation is solely of a minor administrative or technical nature; or

(iii) secure the provision of assurances, or endorsement of a course of action or a diplomatic position, inconsistent with the principles and policies established under conditions (1), (2), and (3) of this resolution.

(C) SUBSTANTIVE MODIFICATIONS.—Any subsequent agreement to modify, amend, or alter the CFE Flank Document shall require the complete resubmission of the CFE Flank Document, together with any modification, amendment, or alteration made thereto, to the Senate for advice and consent to ratification, if such modification, amendment, or alteration is not solely of a minor administrative or technical nature.

(D) STATUS OF OTHER DOCUMENTS.—

(i) IN GENERAL.—The following documents are of the same force and effect as the provisions of the CFE Flank Document:

(I) Understanding on Details of the CFE Flank Document of 31 May 1996 in Order to Facilitate its Implementation.

(II) Exchange of letters between the United States Chief Delegate to the CFE Joint Consultative Group and the Head of Delegation of the Russian Federation to the Joint Consultative Group, dated July 25, 1996.

(ii) STATUS OF INCONSISTENT ACTIONS.—The United States shall regard all actions inconsistent with obligations under those documents as equivalent under international law to actions inconsistent with the CFE Flank Document or the Treaty, or both, as the case may be.

(7) MODIFICATIONS OF THE CFE FLANK ZONE.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that any subsequent agreement to modify, revise, amend, or alter the boundaries of the CFE flank zone, as delineated by the map entitled ''Revised CFE Flank Zone'' submitted by the President to the Senate on April 7, 1997, shall require the submission of such agreement to the Senate for its advice and consent to ratification, if such changes are not solely of a minor administrative or technical nature.

(8) TREATY INTERPRETATION.—

(A) PRINCIPLES OF TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in condition (1) in the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988.

(B) CONSTRUCTION OF SENATE RESOLUTION OF RATIFICATION.—Nothing in condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, shall be construed as authorizing the President to obtain legislative approval for modifications or amendments to treaties through majority approval of both Houses.

(C) DEFINITION.—As used in this paragraph, the term ''INF Treaty'' refers to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter Range Missiles, together with the related memorandum of understanding and protocols, done at Washington on December 8, 1987.

(9) SENATE PREROGATIVES ON MULTILATERALIZATION OF THE ABM TREATY.—

(A) FINDINGS.—The Senate makes the following findings:

(i) Section 232 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) states that ''the United States shall not be bound by any international agreement entered into by the President that would substantively modify the ABM Treaty unless the agreement is entered pursuant to the treaty making power of the President under the Constitution''.

(ii) The conference report accompanying the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201) states ''. . . the accord on ABM Treaty succession, tentatively agreed to by the administration, would constitute a substantive change to the ABM Treaty, which may only be entered into pursuant to the treaty making power of the President under the Constitution''.

(B) CERTIFICATION REQUIRED.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Senate that he will submit for Senate advice and consent to ratification any international agreement—

(i) that would add one or more countries as States Parties to the ABM Treaty, or otherwise convert the ABM Treaty from a bilateral treaty to a multilateral treaty; or

(ii) that would change the geographic scope or coverage of the ABM Treaty, or otherwise modify the meaning of the term ''national territory'' as used in Article VI and Article IX of the ABM Treaty.

(C) ABM TREATY DEFINED.—For the purposes of this resolution, the term ''ABM Treaty'' means the Treaty Between the United States of America and the Union of Soviet

Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

(10) ACCESSION TO THE CFE TREATY.—The Senate urges the President to support a request to become a State Party to the Treaty by—

(A) any state within the territory of the Treaty's area of application as of the date of signature of the Treaty, including Lithuania, Estonia, and Latvia; and

(B) the Republic of Slovenia.

(11) TEMPORARY DEPLOYMENTS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Senate that the United States has informed all other States Parties to the Treaty that the United States—

(A) will continue to interpret the term ''temporary deployment'', as used in the Treaty, to mean a deployment of severely limited duration measured in days or weeks or, at most, but not years;

(B) will pursue measures designed to ensure that any State Party seeking to utilize the temporary deployments provision of the Treaty will be required to furnish the Joint Consultative Group established by the Treaty with a statement of the purpose and intended duration of the deployment, together with a description of the object of verification and the location of origin and destination of the relevant conventional armaments and equipment limited by the Treaty; and

(C) will vigorously reject any effort by a State Party to use the right of temporary deployment under the Treaty—

(i) to justify military deployments on a permanent basis; or

(ii) to justify military deployments without the full and complete agreement of the State Party upon whose territory the armed forces or military equipment of another State Party are to be deployed.

(12) MILITARY ACTS OF INTIMIDATION.—It is the policy of the United States to treat with the utmost seriousness all acts of intimidation carried out against any State Party by any other State Party using any conventional armament or equipment limited by the Treaty.

(13) SUPPLEMENTARY INSPECTIONS.—The Senate understands that additional supplementary declared site inspections may be conducted in the Russian Federation in accordance with Section V of the CFE Flank Document at any object of verification under paragraph 3(A) or paragraph 3(B) of Section V of the CFE Flank Document, without regard to whether a declared site passive quota inspection pursuant to paragraph 10(D) of Section II of the Protocol on Inspection has been specifically conducted at such object of verification in the course of the same year.

(14) DESIGNATED PERMANENT STORAGE SITES.—

(A) FINDING.—The Senate finds that removal of the constraints of the Treaty on designated permanent storage sites pursuant to paragraph 1 of Section IV of the CFE Flank Document could introduce into active military units within the Treaty's area of application as many as 7,000 additional battle tanks, 3,400 armored combat vehicles, and 6,000 pieces of artillery, which would constitute a significant change in the conventional capabilities of States Parties within the Treaty's area of application.

(B) SPECIFIC REPORT.—Prior to the agreement or acceptance by the United States of any proposal to alter the constraints of the Treaty on designated permanent storage sites, but not later than January 1, 1998, the President shall submit to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a full and complete classified and unclassified report setting forth—

(i) a detailed explanation of how additional Treaty-limited equipment will be allocated among States Parties;

(ii) a detailed assessment of the location and uses to which the Russian Federation will put additional Treaty-limited equipment; and

(iii) a detailed and comprehensive justification of the means by which introduction of additional battle tanks, armored combat vehicles, and pieces of artillery into the Treaty's area of application furthers United States national security interests.

SEC. 3. DEFINITIONS.

As used in this resolution:

(1) AREA OF APPLICATION.—The term ''area of application'' has the same meaning as set forth in subparagraph (B) of paragraph 1 of Article II of the Treaty.

(2) CFE FLANK DOCUMENT.—The term ''CFE Flank Document'' means the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990, adopted at Vienna on May 31, 1996 (Treaty Doc. 105–5).

(3) CONVENTIONAL ARMAMENTS AND EQUIPMENT LIMITED BY THE TREATY; TREATY-LIMITED EQUIPMENT.—The terms ''conventional armament and equipment limited by the Treaty'' and ''Treaty-limited equipment'' have the meaning set forth in subparagraph (J) of paragraph 1 of Article II of the Treaty.

(4) FLANK REGION.—The term ''flank region'' means that portion of the Treaty's area of application defined as the flank zone by the map depicting the territory of the former Soviet Union within the Treaty's area of application that was provided by the former Soviet Union upon the date of signature of the Treaty.

(5) FULL AND COMPLETE AGREEMENT.—The term ''full and complete agreement'' means agreement achieved through free negotiations between the respective States Parties with full respect for the sovereignty of the State Party upon whose territory the armed forces or military equipment under the control of another State Party is deployed.

(6) FREE NEGOTIATIONS.—The term ''free negotiations'' means negotiations with a party that are free from coercion or intimidation.

(7) HELSINKI FINAL ACT.—The term ''Helsinki Final Act'' refers to the Final Act of the Helsinki Conference on Security and Cooperation in Europe of August 1, 1975.

(8) PROTOCOL ON INFORMATION EXCHANGE.—The term ''Protocol on Information Exchange'' means the Protocol on Notification and Exchange of Information of the CFE Treaty, together with the Annex on the Format for the Exchange of Information of the CFE Treaty.

(9) STATE PARTY.—Except as otherwise expressly provided, the term ''State Party'' means any nation that is a party to the Treaty.

(10) TASHKENT AGREEMENT.—The term ''Tashkent Agreement'' means the agreement between Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova, Russia, and Ukraine establishing themselves as successor states to the Soviet Union under the CFE Treaty, concluded at Tashkent on may 15, 1992.

(11) TREATY.—The term ''Treaty'' means the Treaty on Conventional Armed Forces in Europe, done at Paris on November 19, 1990.

(12) UNITED STATES INSTRUMENT OF RATIFICATION.—The term ''United States instrument of ratification'' means the instrument of ratification of the United States of the CFE Flank Document.

Mr. LOTT. Madam President, I move to reconsider the vote by which the resolution of ratification was agreed to and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

ORDER OF PROCEDURE

Mr. LOTT. Madam President, I remind Senators still in the Chamber, that was the last vote for the day, and that we do have a dinner that we all need to adjourn to.

We will resume consideration in the morning. I believe there will be a cloture vote at 10 o'clock in the morning.

MORNING BUSINESS

Mr. LOTT. Madam President, I ask unanimous consent that the period for morning business be extended and Senators permitted to speak for up to 10 minutes each.

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

REMOVE CONTROVERSIAL RIDERS FROM THE SUPPLEMENTAL APPROPRIATIONS BILL

Mr. DASCHLE. Mr. President, on May 14 the Senate approved vitally important legislation to provide sorely needed aid to victims of the recent weather-related disasters throughout the country, including South Dakota. It is critical that this legislation be enacted as soon as possible so that residents of disaster-stricken States can get on with the process of recovering from the loss of property and livestock.

I am concerned that controversial riders on this bill, including the automatic continuing resolution and the provision related to the implementation of R.S. 2477 by the Interior Department, could, if included in the final conference report, make enactment of the bill impossible and thus delay needed aid to disaster victims.

The controversial Interior provision, over which Secretary Babbitt has said he will recommend a veto, blocks recent efforts by the administration to close a loophole in the mining laws that allow roads to be constructed in national parks and other sensitive Federal lands. Many Senators have gone on record that the administration should have the ability to protect our public lands from unnecessary and environmentally destructive road construction, and an amendment offered by Senator BUMPERS to strip the R.S. 2477 provision from the supplemental lost by a vote of only 49–51, drawing considerable bipartisan support. I urge the conferees to drop this and other controversial provisions from the bill during the House-Senate conference.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Mr. ROCKEFELLER. Mr. President, I want to commend my colleagues, Senators JEFFORDS, FRIST, HARKIN, and KENNEDY, and all the others that worked so long and hard to develop this bipartisan legislation. This is a carefully crafted compromise to balance the rights and concerns of school administrators and teachers as well as students and parents.

Because of attending a family memorial service in New York City, I could not be here for the final votes. Had I been in Washington, I would have supported the leadership and voted for final passage of the reauthorization of the Individuals With Disabilities Education Act, IDEA.

Our country should be proud of our efforts to provide education and opportunities to individuals with disabilities. Thanks to the IDEA, we opened schools to disabled children over 20 years ago and everyone in our society benefits from such inclusion and education.

In forging this legislation, leaders had to deal with difficult issues, including discipline problems sometimes involving weapons or drugs. Groups worked long and hard to develop an approach that would ensure that our schools are safe but that a disabled student's rights and education are are also protected. Classroom teachers will now be included in the planning and process which is a major change and important improvement.

Federal funding and leadership on IDEA is crucial, but this program is a partnership with States and local schools. West Virginia, like other States, assumes the lion share of education funding but Federal funding provides incentives and leadership. As always with a comprehensive reauthorization package, there are some lingering issues and questions. On balance, this legislation is a tremendous achievement that continues our Federal commitment to help disabled students in West Virginia and every State in our country.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING MAY 9TH

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending May 9, the United States imported 7,566,000 barrels of oil each day, 1,057,000 barrels less than the 8,623,000 imported during the same week a year ago.

While this is one of the few weeks that Americans imported less oil than the same week a year ago, Americans still relied on foreign oil for 53.9 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 7,566,000 barrels a day.

MESSAGES FROM THE HOUSE

At 12:06 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 49. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

H. Con. Res. 67. Concurrent resolution authorizing the 1977 Special Olympics Torch Relay to be run through the Capitol Grounds.

H. Con. Res. 73. Concurrent resolution concerning the death of Chaim Herzog.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 914) to make certain technical corrections in the Higher Education Act of 1965 relating to graduation data disclosures; with amendments, in which it requests the concurrence of the Senate.

MEASURES REFERRED

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 73. Concurrent resolution concerning the death of Chaim Herzog; to the Committee on Foreign Relations.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Elizabeth Anne Moler, of Virginia, to be Deputy Secretary of Energy.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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 Mrs. HUTCHISON:

S. 738. A bill to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BRYAN (for himself and Mr. REID):

S. 739. A bill to validate conveyances of certain lands in the State of Nevada that form part of the right-of-way granted by the United States to the Central Pacific Railway Company; to the Committee on Energy and Natural Resources.

By Mr. DASCHLE:

S. 740. A bill to provide a 1-year delay in the imposition of penalties on small businesses failing to make electronic fund transfers of business taxes; to the Committee on Finance.

By Mr. BREAUX:

S. 741. A bill to amend the Communications Act of 1934 to enable the Federal Communications Commission to enhance its spectrum management program capabilities through the collection of lease fees for new spectrum for radio services that are statutorily excluded from competitive bidding, and to enhance law enforcement and public safety radio communications; to the Committee on Commerce, Science, and Transportation.

By Mr. DEWINE:

S. 742. A bill to promote the adoption of children in foster care; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. REID, Mr. WARNER, Ms. MIKULSKI, Mr. CHAFEE, Mr. DURBIN, Ms. COLLINS, Mrs. MURRAY, and Mr. JEFFORDS):

S. 743. A bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans; to the Committee on Finance.

By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 744. A bill to authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a non-profit corporation, in the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON:

S. 738. A bill to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AMTRAK REFORM AND ACCOUNTABILITY ACT OF 1997

Mrs. HUTCHISON. Mr. President, I think it is very important in this country that we have a national rail passenger system. Rail is a viable alternative transportation. We now have a bus system that is feeding into Amtrak stations so people can come from small communities on the bus, into the Amtrak station, and go anywhere in the country as long as we keep our national system. You can go from Marshall, TX, to Chicago, IL, or to San Antonio and then to Los Angeles or all the way to Florida. It is really an exciting opportunity.

However, Mr. President, the national rail passenger service that we have now is really just an experiment. It really does not work very well, through no fault of the people who run it. Tom Downs is actually doing a terrific job. But we in Congress have put so many constraints and mandates on him that he cannot possibly compete to survive.

So, in fact, it is time to get the railroad back on track. It is time to get

this railroad right. We can do it if Congress will correct some of the problems that we have put on this rail passenger train and let them compete. We have told them, ''Run a good railroad,'' but we have tied one arm behind their back. So now it is time to let them compete, with the help of the bill I am introducing, most of which passed out of the Commerce Committee last year.

I am chairman of the Surface Transportation Subcommittee. It is in my purview to reauthorize Amtrak, and I want to reauthorize it and reform it so that it can compete and, hopefully, by the year 2002, there will not have to be operational subsidies from the taxpayers of America. But there is no question this will fail unless we have these reforms that will allow Amtrak to operate more like a business.

So, what are we trying to do? We are trying to have a system that is up and going without operational subsidies by the year 2002. Many of my friends say, ''I do not know why we should help Amtrak. Why should we have taxpayer subsidies of Amtrak when all the other transportation modes do not need taxpayer subsidies?'' Every transportation mode has taxpayer subsidies. Part of the reason we have mobility in our country is because we subsidize highways, we subsidize airports, we now also subsidize trains, and it does provide mobility.

I want to try to get Amtrak back on track, get it to run right, and see if we can have a passenger rail system that is dependable, that provides good service and viable transportation options to all the people of our country, whether they are elderly and do not want to drive, whether they just cannot drive, whether they do not like to fly, whether they live in a small community that does not have any kind of passenger service. We want people to have this mobility.

How are we going to do it? The Amtrak reform bill, first, will repeal two laws that have been very expensive. One is the 6-year termination provisions for anyone who is employed at Amtrak, if a line is shut down. Now, I am sure there are a lot of people in America that would like to have a 6-year termination agreement that says if you lose your job, you get 6 years full pay. That would be nice, but it is not realistic, and it certainly does not meet today's standards. Even many Amtrak employees tell me that they realize this is out of line. It is a congressional mandate that they have a 6-year termination agreement, but they know that Amtrak cannot compete with that kind of agreement in place. It is just much too expensive. They would rather keep their jobs. They love what they are doing. They want to keep their jobs rather than have a 6-year termination agreement.

So we want to require Amtrak to have free and open bargaining with its unions in the absence of a Government mandate of a 6-year termination agreement. In fact, it would be free and open like every other union negotiation is in this country. That is fair, and I think most Amtrak employees agree that is fair. Let them sit at the bargaining table with open and fair negotiations, and they will be able to get the best that the market can bear while still having a good job, a viable job, and doing a service for the people of our country.

This bill will also extinguish the prohibition on contracting out. One of the things that Tom Downs tells me they need is the ability to make the decision if they want to contract out in order to save costs, because if we are going to tell Mr. Downs that he has to run a tight ship, we cannot put mandates on him that are not anywhere else in any other competitive system in our country and expect him to do a good job. We have to take the shackles off.

We also must give him the ability to have some liability reform. He says one of the most expensive things he has to deal with is liability and not being able to have the right of indemnification with the people that own the tracks Amtrak uses. We need to have liability reform, and, in fact, this was passed out of the Commerce Committee last year. Like last year's bill, the liability reform in my bill would have caps on punitive damages for two times compensatory damages or $250,000, whichever is greater.

In fact, these kinds of liability limits, I think, are quite reasonable. Many States are enacting these kinds of liability limits, in particular for publicly assisted transportation services. It allows a person who has been wrongly injured to have compensation for that, but it puts some limitation so there will be a budget on it, so that there will be some reliability about how much you have to put in the budget for that kind of occurrence. It also confirms the right of passenger rail operators and owners of rights-of-way to contractually indemnify each other for liability arising out of an accident.

In addition to the reforms, we have accountability. We have an independent audit of Amtrak that will commence as soon as the bill is passed and signed by the President that will provide a basis upon which to judge what we can do better in Amtrak.

Like last year's bill, we also have an Amtrak reform council that is designed to monitor Amtrak's progress and viability and to make independent recommendations. We want overseers who are saying to Amtrak, is what you are doing what's best, and also to tell Congress that if we are not going to be able to make this work, we are not going to keep throwing money at Amtrak if it does not have a chance to survive.

So we have told this independent council if you make a determination that Amtrak just cannot make it, even with the reforms that we are giving them, then tell us. We will pull the plug and we will say it was a great effort but it just did not work.

Mr. President, what we are trying to do is give Amtrak a chance. We are trying to get it right. It is time to get this railroad right. In fact, it is time to get it back on track. We have had 26 years of experiments. We have not gotten it right yet. Most of that is at the feet of Congress. We have to give them a chance to compete if, in fact, we are going to have by the year 2002 a national rail passenger train opportunity—real mobility for people that live in small towns, people who are elderly, people who do not want to fly, and who can't fly or simply want more transportation options. We want mobility in our country. And we have made huge investments in infrastructure in our country in highways and airports. I think rail is a component part of that system.

We want a passenger rail opportunity in this country. But we don't want taxpayers subsidizing the operations of trains for the passengers who do not choose to use this route.

So we believe that this is the fairest way—reauthorize, reform, tell them to get their act together, and give them the tools to do it. That is the mandate of this bill.

So, Mr. President, I thank you and ask unanimous consent that this legislation be printed in the RECORD.

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

S. 738

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF SECTIONS.

(a) SHORT TITLE.—This Act may be cited as the ''Amtrak Reform and Accountability Act of 1997''.

(b) TABLE OF SECTIONS.—The table of sections for this Act is as follows:

Sec. 1. Short title; table of sections.
Sec. 2. Findings.
Title I—Reforms
Subtitle A—Operational Reforms
Sec. 101. Basic system.
Sec. 102. Mail, express, and auto-ferry transportation.
Sec. 103. Route and service criteria.
Sec. 104. Additional qualifying routes.
Sec. 105. Transportation requested by States, authorities, and other persons.
Sec. 106. Amtrak commuter.
Sec. 107. Through service in conjunction with intercity bus operations.
Sec. 108. Rail and motor carrier passenger service.
Sec. 109. Passenger choice.
Sec. 110. Application of certain laws.
Subtitle B—Procurement
Sec. 121. Contracting out.
Subtitle C—Employee Protection Reforms
Sec. 141. Railway Labor Act Procedures.
Sec. 142. Service discontinuance.
Subtitle D—Use of Railroad Facilities
Sec. 161. Liability limitation.
Title II—Fiscal Accountability
Sec. 201. Amtrak financial goals.
Sec. 202. Independent assessment.
Sec. 203. Amtrak Reform Council.
Sec. 204. Sunset trigger.
Sec. 205. Access to records and accounts.

Sec. 206. Officers' pay.
Sec. 207. Exemption from taxes.
Title III—Authorization of Appropriations
Sec. 301. Authorization of appropriations.
Title IV—Miscellaneous
Sec. 401. Status and applicable laws.
Sec. 402. Waste disposal.
Sec. 403. Assistance for upgrading facilities.
Sec. 404. Demonstration of new technology.
Sec. 405. Program master plan for Boston-New York main line.
Sec. 406. Americans with Disabilities Act of 1990.
Sec. 407. Definitions.
Sec. 408. Northeast Corridor cost dispute.
Sec. 409. Inspector General Act of 1978 amendment.
Sec. 410. Interstate rail compacts.
Sec. 411. Composition of Amtrak board of directors.

SEC. 2. FINDINGS.

The Congress finds that—

(1) intercity rail passenger service is an essential component of a national intermodal passenger transportation system;

(2) Amtrak is facing a financial crisis, with growing and substantial debt obligations severely limiting its ability to cover operating costs and jeopardizing its long-term viability;

(3) immediate action is required to improve Amtrak's financial condition if Amtrak is to survive;

(4) all of Amtrak's stakeholders, including labor, management, and the Federal government, must participate in efforts to reduce Amtrak's costs and increase its revenues;

(5) additional flexibility is needed to allow Amtrak to operate in a businesslike manner in order to manage costs and maximize revenues;

(6) Amtrak should ensure that new management flexibility produces cost savings without compromising safety;

(7) Amtrak's management should be held accountable to ensure that all investment by the Federal Government and State governments is used effectively to improve the quality of service and the long-term financial health of Amtrak;

(8) Amtrak and its employees should proceed quickly with proposals to modify collective bargaining agreements to make more efficient use of manpower and to realize cost savings which are necessary to reduce Federal financial assistance;

(9) Amtrak and intercity bus service providers should work cooperatively and develop coordinated intermodal relationships promoting seamless transportation services which enhance travel options and increase operating efficiencies; and

(10) Federal financial assistance to cover operating losses incurred by Amtrak should be eliminated by the year 2002.

TITLE I—REFORMS

SUBTITLE A—OPERATIONAL REFORMS

SEC. 101. BASIC SYSTEM.

(a) OPERATION OF BASIC SYSTEM.—Section 24701 of title 49, United States Code, is amended to read as follows:

"§ 24701. Operation of basic system

"Amtrak shall provide intercity rail passenger transportation within the basic system. Amtrak shall strive to operate as a national rail passenger transportation system which provides access to all areas of the country and ties together existing and emergent regional rail passenger corridors and other intermodal passenger service.".

(b) IMPROVING RAIL PASSENGER TRANSPORTATION.—Section 24702 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(c) DISCONTINUANCE.—Section 24706 of title 49, United States Code, is amended—

(1) by striking "90 days" and inserting "180 days" in subsection (a)(1);

(2) by striking "a discontinuance under section 24707(a) or (b) of this title" in subsection (a)(1) and inserting "discontinuing service over a route";

(3) by inserting "or assume" after "agree to share" in subsection (a)(1); and

(4) by striking "section 24707(a) or (b) of this title" in subsections (a)(2) and (b)(1) and inserting "paragraph (1)".

(d) COST AND PERFORMANCE REVIEW.—Section 24707 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(e) SPECIAL COMMUTER TRANSPORTATION.—Section 24708 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(f) CONFORMING AMENDMENT.—Section 24312(a)(1) of title 49, United States Code, is amended by striking ", 24701(a),".

SEC. 102. MAIL, EXPRESS, AND AUTO-FERRY TRANSPORTATION.

(a) REPEAL.—Section 24306 of title 49, United States Code, is amended—

(1) by striking the last sentence of subsection (a);

(2) by striking paragraphs (1) and (2) of subsection (b); and

(3) by striking "(3) State" and inserting "State".

SEC. 103. ROUTE AND SERVICE CRITERIA.

Section 24703 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

SEC. 104. ADDITIONAL QUALIFYING ROUTES.

Section 24705 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

SEC. 105. TRANSPORTATION REQUESTED BY STATES, AUTHORITIES, AND OTHER PERSONS.

Section 24101(c)(2) of title 49, United States Code, is amended by inserting ", separately or in combination," after "and the private sector".

SEC. 106. AMTRAK COMMUTER.

(a) REPEAL OF CHAPTER 245.—Chapter 245 of title 49, United States Code, and the item relating thereto in the table of chapters of subtitle V of such title, are repealed.

(b) CONFORMING AMENDMENT.—Section 24301(f) of title 49, United States Code, is amended to read as follows:

"(f) TAX EXEMPTION FOR CERTAIN COMMUTER AUTHORITIES.—A commuter authority that was eligible to make a contract with Amtrak Commuter to provide commuter rail passenger transportation but which decided to provide its own rail passenger transportation beginning January 1, 1983, is exempt, effective October 1, 1981, from paying a tax or fee to the same extent Amtrak is exempt.".

(c) TRACKAGE RIGHTS NOT AFFECTED.—The repeal of chapter 245 of title 49, United States Code, by subsection (a) of this section is without prejudice to the retention of trackage rights over property owned or leased by commuter authorities.

SEC. 107. THROUGH SERVICE IN CONJUNCTION WITH INTERCITY BUS OPERATIONS.

(a) IN GENERAL.—Section 24305(a) of title 49, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) Except as provided in subsection (d)(2), Amtrak may enter into a contract with a motor carrier of passengers for the intercity transportation of passengers by motor carrier over regular routes only—

"(i) if the motor carrier is not a public recipient of governmental assistance, as such term is defined in section 10922(d)(1)(F)(i) of this title, other than a recipient of funds under section 18 of the Federal Transit Act;

"(ii) for passengers who have had prior movement by rail or will have subsequent movement by rail; and

"(iii) if the buses, when used in the provision of such transportation, are used exclusively for the transportation of passengers described in clause (ii).

"(B) Subparagraph (A) shall not apply to transportation funded predominantly by a State or local government, or to ticket selling agreements.".

(b) POLICY STATEMENT.—Section 24305(d) of title 49, United States Code, is amended by adding at the end the following new paragraph:

"(3) Congress encourages Amtrak and motor common carriers of passengers to use the authority conferred in section 11342(a) of this title for the purpose of providing improved service to the public and economy of operation.".

SEC. 108. RAIL AND MOTOR CARRIER PASSENGER SERVICE.

(a) IN GENERAL.—Notwithstanding any other provision of law (other than section 24305(a) of title 49, United States Code), Amtrak and motor carriers of passengers are authorized—

(1) to combine or package their respective services and facilities to the public as a means of increasing revenues; and

(2) to coordinate schedules, routes, rates, reservations, and ticketing to provide for enhanced intermodal surface transportation.

(b) REVIEW.—The authority granted by subsection (a) is subject to review by the Surface Transportation Board and may be modified or revoked by the Board if modification or revocation is in the public interest.

SEC. 109. PASSENGER CHOICE.

Federal employees are authorized to travel on Amtrak for official business where total travel cost from office to office is competitive on a total trip or time basis.

SEC. 110. APPLICATION OF CERTAIN LAWS.

(a) APPLICATION OF FOIA.—Section 24301(e) of title 49, United States Code, is amended by adding at the end thereof the following: "Section 552 of title 5, United States Code, applies to Amtrak for any fiscal year in which Amtrak receives a Federal subsidy.".

(b) APPLICATION OF FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT.—Section 304A(m) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) applies to a proposal in the possession or control of Amtrak.".

SUBTITLE B—PROCUREMENT

SEC. 121. CONTRACTING OUT.

(a) CONTRACTING OUT REFORM.—Effective 180 days after the date of enactment of this Act, section 24312 of title 49, United States Code, is amended—

(1) by striking the paragraph designation for paragraph (1) of subsection (a);

(2) by striking "(2)" in subsection (a)(2) and inserting "(b)"; and

(3) by striking subsection (b).

The amendment made by paragraph (3) is without prejudice to the power of Amtrak to contract out the provision of food and beverage services on board Amtrak trains or to contract out work not resulting in the layoff of Amtrak employees.

(b) NOTICES.— Notwithstanding any arrangement in effect before the date of the enactment of this Act, notices under section 6 of the Railway Labor Act (45 U.S.C. 156) with respect to all issues relating to contracting out by Amtrak of work normally performed by an employee in a bargaining unit covered by a contract between Amtrak and a labor organization representing Amtrak employees, which are applicable to employees of Amtrak shall be deemed served

and effective on the date which is 45 days after the date of the enactment of this Act. Amtrak, and each affected labor organization representing Amtrak employees, shall promptly supply specific information and proposals with respect to each such notice. This subsection shall not apply to issues relating to provisions defining the scope or classification of work performed by an Amtrak employee. The issue for negotiation under this paragraph does not include the contracting out of work involving food and beverage services provided on Amtrak trains or the contracting out of work not resulting in the layoff of Amtrak employees.

(c) NATIONAL MEDIATION BOARD EFFORTS.—Except as provided in subsection (d), the National Mediation Board shall complete all efforts, with respect to the dispute described in subsection (b), under section 5 of the Railway Labor Act (45 U.S.C. 155) not later than 120 days after the date of the enactment of this Act.

(d) RAILWAY LABOR ACT ARBITRATION.—The parties to the dispute described in subsection (b) may agree to submit the dispute to arbitration under section 7 of the Railway Labor Act (45 U.S.C. 157), and any award resulting therefrom shall be retroactive to the date which is 120 days after the date of the enactment of this Act.

(e) DISPUTE RESOLUTION.—

(1) With respect to the dispute described in subsection (b) which—

(A) is unresolved as of the date which is 120 days after the date of the enactment of this Act; and

(B) is not submitted to arbitration as described in subsection (d),

Amtrak shall, and the labor organizations that are parties to such dispute shall, within 127 days after the date of the enactment of this Act, each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within 134 days after the date of the enactment of this Act, the individuals selected under the preceding sentence shall jointly select an individual from such roster to make recommendations with respect to such dispute under this subsection. If the National Mediation Board is not informed of the selection of the individual under the preceding sentence 134 days after the date of enactment of this Act, the Board will immediately select such individual.

(2) No individual shall be selected under paragraph (1) who is pecuniarily or otherwise interested in any organization of employees or any railroad or who is selected pursuant to section 141(d) of this Act.

(3) The compensation of individuals selected under paragraph (1) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act (45 U.S.C. 160) shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

(4) If the parties to a dispute described in subsection (b) fail to reach agreement within 150 days after the date of the enactment of this Act, the individual selected under paragraph (1) with respect to such dispute shall make recommendations to the parties proposing contract terms to resolve the dispute.

(5) If the parties to a dispute described in subsection (b) fail to reach agreement, no change shall be made by either of the parties in the conditions out of which the dispute arose for 30 days after recommendations are made under paragraph (4).

(6) Section 10 of the Railway Labor Act (45 U.S.C. 160) shall not apply to a dispute described in subsection (b).

(f) NO PRECEDENT FOR FREIGHT.—Nothing in this section shall be a precedent for the resolution of any dispute between a freight railroad and any labor organization representing that railroad's employees.

SUBTITLE C—EMPLOYEE PROTECTION REFORMS

SEC. 141. RAILWAY LABOR ACT PROCEDURES.

(a) NOTICES.—Notwithstanding any arrangement in effect before the date of the enactment of this Act, notices under section 6 of the Railway Labor Act (45 U.S.C. 156) with respect to all issues relating to employee protective arrangements and severance benefits which are applicable to employees of Amtrak, including all provisions of Appendix C-2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973, shall be deemed served and effective on the date which is 45 days after the date of the enactment of this Act. Amtrak, and each affected labor organization representing Amtrak employees, shall promptly supply specific information and proposals with respect to each such notice.

(b) NATIONAL MEDIATION BOARD EFFORTS.—Except as provided in subsection (c), the National Mediation Board shall complete all efforts, with respect to the dispute described in subsection (a), under section 5 of the Railway Labor Act (45 U.S.C. 155) not later than 120 days after the date of the enactment of this Act.

(c) RAILWAY LABOR ACT ARBITRATION.—The parties to the dispute described in subsection (a) may agree to submit the dispute to arbitration under section 7 of the Railway Labor Act (45 U.S.C. 157), and any award resulting therefrom shall be retroactive to the date which is 120 days after the date of the enactment of this Act.

(d) DISPUTE RESOLUTION.—

(1) With respect to the dispute described in subsection (a) which

(A) is unresolved as of the date which is 120 days after the date of the enactment of this Act; and

(B) is not submitted to arbitration as described in subsection (c), Amtrak shall, and the labor organization parties to such dispute shall, within 127 days after the date of the enactment of this Act, each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within 134 days after the date of the enactment of this Act, the individuals selected under the preceding sentence shall jointly select an individual from such roster to make recommendations with respect to such dispute under this subsection. If the National Mediation Board is not informed of the selection under the preceding sentence 134 days after the date of enactment of this Act, the Board will immediately select such individual.

(2) No individual shall be selected under paragraph (1) who is pecuniarily or otherwise interested in any organization of employees or any railroad or who is selected pursuant to section 121(e) of this Act.

(3) The compensation of individuals selected under paragraph (1) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

(4) If the parties to a dispute described in subsection (a) fail to reach agreement within 150 days after the date of the enactment of this Act, the individual selected under paragraph (1) with respect to such dispute shall make recommendations to the parties proposing contract terms to resolve the dispute.

(5) If the parties to a dispute described in subsection (a) fail to reach agreement, no change shall be made by either of the parties in the conditions out of which the dispute arose for 30 days after recommendations are made under paragraph (4).

(6) Section 10 of the Railway Labor Act (45 U.S.C. 160) shall not apply to a dispute described in subsection (a).

SEC. 142. SERVICE DISCONTINUANCE.

(a) REPEAL.—Section 24706(c) of title 49, United States Code, is repealed.

(b) EXISTING CONTRACTS.—Any provision of a contract entered into before the date of the enactment of this Act between Amtrak and a labor organization representing Amtrak employees relating to employee protective arrangements and severance benefits applicable to employees of Amtrak is extinguished, including all provisions of Appendix C-2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973.

(c) SPECIAL EFFECTIVE DATE.—Subsections (a) and (b) of this section shall take effect 180 days after the date of the enactment of this Act.

(d) NONAPPLICATION OF BANKRUPTCY LAW PROVISION.—Section 1172(c) of title 11, United States Code, shall not apply to Amtrak and its employees.

SUBTITLE D—USE OF RAILROAD FACILITIES

SEC. 161. LIABILITY LIMITATION.

(a) AMENDMENT.—Chapter 281 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 28103. Limitations on rail passenger transportation liability

"(a) LIMITATIONS.—

"(1) Notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to damages or liability, a contract between Amtrak and its passengers, the Alaska Railroad and its passengers, or private railroad car operators and their passengers regarding claims for personal injury, death, or damage to property arising from or in connection with the provision of rail passenger transportation, or from or in connection with any operations over or use of right-of-way or facilities owned, leased, or maintained by Amtrak or the Alaska Railroad, or from or in connection with any rail passenger transportation operations over or rail passenger transportation use of right-of-way or facilities owned, leased, or maintained by any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier shall be enforceable if—

"(A) punitive or exemplary damages, where permitted, are not limited to less than 2 times compensatory damages awarded to any claimant by any State or Federal court or administrative agency, or in any arbitration proceeding, or in any other forum or $250,000, whichever is greater; and

"(B) passengers are provided adequate notice of any such contractual limitation or waiver or choice of forum.

"(2) For purposes of this subsection, the term 'claim' means a claim made directly or indirectly—

"(A) against Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier including the Alaska Railroad or private rail car operators; or

"(B) against an affiliate engaged in railroad operations, officer, employee, or agent of, Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier.

"(3) Notwithstanding paragraph (1)(A), if, in any case in which death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, a claimant may recover in a claim limited by this subsection for actual or compensatory damages measured by the pecuniary injuries, resulting from such death, to the persons for whose benefit the

action was brought, subject to the provisions of paragraph (1).

(b) INDEMNIFICATION OBLIGATION.—Obligations of any party, however arising, including obligations arising under leases or contracts or pursuant to orders of an administrative agency, to indemnify against damages or liability for personal injury, death, or damage to property described in subsection (a), incurred after the death of the enactment of the Amtrak Reform and Accountability Act of 1997, shall be enforceable, notwithstanding any other statuatory or common law or public policy, or the nature of the conduct giving rise to the damages or liability.

(b) CONFORMING AMENDMENT.—The table of sections of chapter 281 of title 49, United States Code, is amended by adding at the end the following new item:

''28103. Limitations on rail passenger transportation liability.''.

TITLE II—FISCAL ACCOUNTABILITY

SEC. 201. AMTRAK FINANCIAL GOALS.

Section 24101(d) of title 49, United States Code, is amended by adding at the end thereof the following: ''Amtrak shall prepare a financial plan to operate within the funding levels authorized by section 24104 of this chapter, including budgetary goals for fiscal years 1998 through 2002. Commencing no later than the fiscal year following the fifth anniversary of the Amtrak Reform and Accountability Act of 1997, Amtrak shall operate without Federal operating grant funds appropriated for its benefit.''.

SEC. 202. INDEPENDENT ASSESSMENT.

(a) INITIATION.—Not later than 15 days after the date of enactment of this Act, the Secretary of Transportation shall contract with an entity independent of Amtrak and not in any contractual relationship with Amtrak and of the Department of Transportation to conduct a complete independent assessment of the financial requirements of Amtrak through fiscal year 2002. The entity shall have demonstrated knowledge about railroad industry accounting requirements, including the uniqueness of the industry and of Surface Transportation Board accounting requirements.

(b) ASSESSMENT CRITERIA.—The Secretary and Amtrak shall provide to the independent entity estimates of the financial requirements of Amtrak for the period described above, using as a base the fiscal year 1997 appropriation levels established by the Congress. The independent assessment shall be based on an objective analysis of Amtrak's funding needs.

(c) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including Amtrak's—

(1) cost allocation process and procedures;

(2) expenses related to intercity rail passenger service, commuter service, and any other service Amtrak provides;

(3) Strategic Business Plan, including Amtrak's projected expenses, capital needs, ridership, and revenue forecasts; and

(4) Amtrak's debt obligations.

(d) DEADLINE.—The independent assessment shall be completed not later than 90 days after the contract is awarded, and shall be submitted to the Council established under section 203, the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the United States Senate, and the Committee on Transportation and Infrastructure of the United States House of Representatives.

SEC. 203. AMTRAK REFORM COUNCIL.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Amtrak Reform Council.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of 9 members, as follows:

(A) The Secretary of Transportation.

(B) Two individuals appointed by the President, of which—

(i) one shall be a representative of a rail labor organization; and

(ii) one shall be a representative of rail management.

(C) Two individuals appointed by the Majority Leader of the United States Senate.

(D) One individual appointed by the Minority Leader of the United States Senate.

(E) Two individuals appointed by the Speaker of the United States House of Representatives.

(F) One individual appointed by the Minority Leader of the United States House of Representatives.

(2) APPOINTMENT CRITERIA.—

(A) TIME FOR INITIAL APPOINTMENTS.—Appointments under paragraph (1) shall be made within 30 days after the date of enactment of this Act.

(B) EXPERTISE.—Individuals appointed under subparagraphs (C) through (F) of paragraph (1)—

(i) may not be employees of the United States;

(ii) may not be board members or employees of Amtrak;

(iii) may not be representatives of rail labor organizations or rail management; and

(iv) shall have technical qualifications, professional standing, and demonstrated expertise in the field of corporate management, finance, rail or other transportation operations, labor, economics, or the law, or other areas of expertise relevant to the Council.

(3) TERM.—Members shall serve for terms of 5 years. If a vacancy occurs other than by the expiration of a term, the individual appointed to fill the vacancy shall be appointed in the same manner as, and shall serve only for the unexpired portion of the term for which, that individual's predecessor was appointed.

(4) CHAIRMAN.—The Council shall elect a chairman from among its membership within 15 days after the earlier of—

(A) the date on which all members of the Council have been appointed under paragraph (2)(A); or

(B) 45 days after the date of enactment of this Act.

(4) MAJORITY REQUIRED FOR ACTION.—A majority of the members of the Council present and voting is required for the Council to take action. No person shall be elected chairman of the Council who receives fewer than 5 votes.

(c) ADMINISTRATIVE SUPPORT.—The Secretary of Transportation shall provide such administrative support to the Council as it needs in order to carry out its duties under this section.

(d) TRAVEL EXPENSES.—Each member of the Council shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5, United States Code.

(e) MEETINGS.—Each meeting of the Council, other than a meeting at which proprietary information is to be discussed, shall be open to the public.

(f) ACCESS TO INFORMATION.—Amtrak shall make available to the Council all information the Council requires to carry out its duties under this section. The Council shall establish appropriate procedures to ensure against the public disclosure of any information obtained under this subsection that is a trade secret or commercial or financial information that is privileged or confidential.

(g) DUTIES.—

(1) EVALUATION AND RECOMMENDATION.—The Council—

(A) shall evaluate Amtrak's performance; and

(B) make recommendations to Amtrak for achieving further cost containment and productivity improvements, and financial reforms.

(2) SPECIFIC CONSIDERATIONS.—In making its evaluation and recommendations under paragraph (1), the Council take consider all relevant performance factors, including—

(A) Amtrak's operation as a national passenger rail system which provides access to all regions of the country and ties together existing and emerging rail passenger corridors;

(B) appropriate methods for adoption of uniform cost and accounting procedures throughout the Amtrak system, based on generally accepted accounting principles; and

(C) management efficiencies and revenue enhancements, including savings achieved through labor and contracting negotiations.

(h) ANNUAL REPORT.—Each year before the fifth anniversary of the date of enactment of this Act, the Council shall submit to the Congress a report that includes an assessment of Amtrak's progress on the resolution or status of productivity issues; and makes recommendations for improvements and for any changes in law it believes to be necessary or appropriate.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Council such sums as may be necessary to enable the Council to carry out its duties.

SEC. 204. SUNSET TRIGGER.

(a) IN GENERAL.—If at any time the Amtrak Reform Council finds that—

(1) Amtrak's business performance will prevent it from meeting the financial goals set forth in section 201; or

(2) Amtrak will require operating grant funds after the fifth anniversary of the date of enactment of this Act, then

the Council shall immediately notify the President, the Committee on Commerce, Science, and Transportation of the United States Senate; and the Committee on Transportation and Infrastructure of the United States House of Representatives.

(b) FACTORS CONSIDERED.—In making a finding under subsection (a), the Council shall take into account—

(1) Amtrak's performance;

(2) the findings of the independent assessment conducted under section 202; and

(3) Acts of God, national emergencies, and other events beyond the reasonable control of Amtrak.

(c) ACTION PLAN.—Within 90 days after the Council makes a finding under subsection (a), it shall develop and submit to the Congress—

(1) an action plan for a restructured and rationalized intercity rail passenger system; and

(2) an action plan for the complete liquidation of Amtrak.

If the Congress does not approve by concurrent resolution the implementation of the plan submitted under paragraph (1) within 90 calendar days after it is submitted to the Congress, then the Secretary of Transportation and Amtrak shall implement the plan submitted under paragraph (2).

SEC. 205. ACCESS TO RECORDS AND ACCOUNTS.

Section 24315 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(h) ACCESS TO RECORDS AND ACCOUNTS.—A State shall have access to Amtrak's records, accounts, and other necessary documents used to determine the amount of any payment to Amtrak required of the State.''.

SEC. 206. OFFICERS' PAY.

Section 24303(b) of title 49, United States Code, is amended by adding at the end the following: ''The preceding sentence shall not apply for any fiscal year for which no Federal assistance is provided to Amtrak.''.

SEC. 207. EXEMPTION FROM TAXES.

(a) IN GENERAL.—Subsection (l) of section 24301 of title 49, United States Code, is amended—

(1) by striking so much of the subsection as precedes ''or a rail carrier'' in paragraph (1) and inserting the following:

''(l) EXEMPTION FROM TAXES LEVIED AFTER SEPTEMBER 30, 1981.—

''(1) IN GENERAL.—Amtrak'';

(2) by inserting '', and any passenger or other customer of Amtrak or such subsidiary,'' in paragraph (1) after ''subsidiary of Amtrak'';

(3) by striking ''or fee imposed''in paragraph (1) and all that follows through ''levied on it'' and inserting '', fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom'';

(4) by striking the last sentence of paragraph (1);

(5) by striking ''(2) The'' in paragraph (2) and inserting ''(3) JURISDICTION OF UNITED STATES DISTRICT COURTS.—The''; and

(6) by inserting after paragraph (1) the following:

''(2) PHASE-IN OF EXEMPTION FOR CERTAIN EXISTING TAXES AND FEES.—

''(A) YEARS BEFORE 2000.—Notwithstanding paragraph (1), Amtrak is exempt from a tax or fee referred to in paragraph (1) that Amtrak was required to pay as of September 10, 1982, during calendar years 1997 through 1999, only to the extent specified in the following table:

PHASE-IN OF EXEMPTION

Year of assessment	Percentage of exemption
1997	40
1998	60
1999	80
2000 and later years	100

''(B) TAXES ASSESSED AFTER MARCH, 1999.—Amtrak shall be exempt from any tax or fee referred to in subparagraph (A) that is assessed on or after April 1, 1999.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) do not apply to sales taxes imposed on intrastate travel as of the date of enactment of this Act.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 24104(a) of title 49, United States Code, is amended to read as follows:

''(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation—

''(1) $1,138,000,000 for fiscal year 1998;

''(2) $1,058,000,000 for fiscal year 1999;

''(3) $1,023,000,000 for fiscal year 2000;

''(4) $989,000,000 for fiscal year 2001; and

''(5) $955,000,000 for fiscal year 2002,

for the benefit of Amtrak for capital expenditures under chapters 243 and 247 of this title, operating expenses, and payments described in subsection (c)(1)(A) through (C). In fiscal years following the fifth anniversary of the enactment of the Amtrak Reform and Accountability Act of 1997 no funds authorized for Amtrak shall be used for operating expenses other than those prescribed for tax liabilities under section 3221 of the Internal Revenue Code of 1986 that are more than the amount needed for benefits of individuals who retire from Amtrak and for their beneficiaries.''.

TITLE IV—MISCELLANEOUS

SEC. 401. STATUS AND APPLICABLE LAWS.

Section 24301 of title 49, United States Code, is amended—

(1) by striking ''rail carrier under section 10102'' in subsection (a)(1) and inserting ''railroad carrier under section 20102(2) and chapters 261 and 281''; and

(2) by amending subsection (c) to read as follows:

''(c) APPLICATION OF SUBTITLE IV.—Subtitle IV of this title shall not apply to Amtrak, except for sections 11303, 11342(a), 11504(a) and (d), and 11707. Notwithstanding the preceding sentence, Amtrak shall continue to be considered an employer under the Railroad Retirement Act of 1974, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act.''.

SEC. 402. WASTE DISPOSAL.

Section 24301(m)(1)(A) of title 49, United States Code, is amended by striking ''1996'' and inserting ''2001''.

SEC. 403. ASSISTANCE FOR UPGRADING FACILITIES.

Section 24310 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 243 of such title, are repealed.

SEC. 404. DEMONSTRATION OF NEW TECHNOLOGY.

Section 24314 of title 49, United States Code, and the item relating thereto in the table of sections for chapter 243 of that title, are repealed.

SEC. 405. PROGRAM MASTER PLAN FOR BOSTON-NEW YORK MAIN LINE.

(a) REPEAL.—Section 24903 of title 49, United States Code, is repealed and the table of sections for chapter 249 of such title is amended by striking the item relating to that section.

(b) CONFORMING AMENDMENTS.—

(1) Section 24902 of title 49, United States Code, is amended by striking subsections (a), (c), and (d) and redesignating subsection (b) as subsection (a) and subsections (e) through (m) as subsections (b) through (j), respectively.

(2) Section 24904(a)(8) is amended by striking ''the high-speed rail passenger transportation area specified in section 24902(a)(1) and (2)'' and inserting ''a high-speed rail passenger transportation area''.

SEC. 406. AMERICANS WITH DISABILITIES ACT OF 1990.

(a) APPLICATION TO AMTRAK.—

(1) ACCESS IMPROVEMENTS AT CERTAIN SHARED STATIONS.—Amtrak is responsible for its share, if any, of the costs of accessibility improvements at any station jointly used by Amtrak and a commuter authority.

(2) CERTAIN REQUIREMENTS NOT TO APPLY UNTIL 1998.—Amtrak shall not be subject to any requirement under subsection (a)(1), (a)(3), or (e)(2) of section 242 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162) until January 1, 1998.

(b) CONFORMING AMENDMENT.—Section 24307 of title 49, United States Code, is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

SEC. 407. DEFINITIONS.

Section 24102 of title 49, United States Code, is amended—

(1) by striking paragraphs (2) and (11);

(2) by redesignating paragraphs (3) through (8) as paragraphs (2) through (7), respectively;

(3) by inserting '', including a unit of State or local government,'' after ''means a person'' in paragraph (7), as so redesignated; and

(4) by inserting after paragraph (7), as so redesignated, the following new paragraph:

''(8) 'rail passenger transportation' means the interstate, intrastate, or international transportation of passengers by rail, including mail and express.''.

SEC. 408. NORTHEAST CORRIDOR COST DISPUTE.

Section 1163 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1111) is repealed.

SEC. 409. INSPECTOR GENERAL ACT OF 1978 AMENDMENT.

(a) AMENDMENT.—

(1) IN GENERAL.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''Amtrak,''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect in the first fiscal year for which Amtrak receives no Federal subsidy.

(b) AMTRAK NOT FEDERAL ENTITY.—Amtrak shall not be considered a Federal entity for purposes of the Inspector General Act of 1978. The preceding sentence shall apply for any fiscal year for which Amtrak receives no Federal subsidy.

SEC. 410. INTERSTATE RAIL COMPACTS.

(a) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

(1) retaining an existing service or commencing a new service;

(2) assembling rights-of-way; and

(3) performing capital improvements, including—

(A) the construction and rehabilitation of maintenance facilities;

(B) the purchase of locomotives; and

(C) operational improvements, including communications, signals, and other systems.

(b) FINANCING.—An interstate compact established by States under subsection (a) may provide that, in order to carry out the compact, the States may—

(1) accept contributions from a unit of State or local government or a person;

(2) use any Federal or State funds made available for intercity passenger rail service (except funds made available for the National Railroad Passenger Corporation);

(3) on such terms and conditions as the States consider advisable—

(A) borrow money on a short-term basis and issue notes for the borrowing; and

(B) issue bonds; and

(4) obtain financing by other means permitted under Federal or State law.

(c) ELIGIBLE PROJECTS.—Section 133(b) of title 23, United States Code, is amended by striking ''and publicly owned intracity or intercity bus terminals and facilities'' in paragraph (2) and inserting a comma and ''including vehicles and facilities, publicly or privately owned, that are used to provide intercity passenger service by bus or rail, or a combination of both''.

(d) ELIGIBILITY OF PASSENGER RAIL UNDER CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4); and

(3) by adding at the end thereof the following:

''(5) if the project or program will have air quality benefits through construction of and operational improvements for intercity passenger rail facilities, operation of intercity

passenger rail trains, and acquisition of rolling stock for intercity passenger rail service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operating support.''.

(e) ELIGIBILITY OF PASSENGER RAIL AS NATIONAL HIGHWAY SYSTEM PROJECT.—Section 103(i) of title 23, United States Code, is amended by adding at the end thereof the following:

''(14) Construction, reconstruction, and rehabilitation of, and operational improvements for, intercity rail passenger facilities (including facilities owned by the National Railroad Passenger Corporation), operation of intercity rail passenger trains, and acquisition or reconstruction of rolling stock for intercity rail passenger service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operation.''.

SEC. 411. COMPOSITION OF AMTRAK BOARD OF DIRECTORS.

Section 24302(a) of title 49, United States Code, is amended—

(1) by striking ''3'' in paragraph (1)(C) and inserting ''4'';

(2) by striking clauses (i) and (ii) of paragraph (1)(C) and inserting the following:

''(i) one individual selected as a representative of rail labor in consultation with affected labor organizations.

''(ii) one chief executive officer of a State, and one chief executive officer of a municipality, selected from among the chief executive officers of State and municipalities with an interest in rail transportation, each of whom may select an individual to act as the officer's representative at board meetings.'';

(4) striking subparagraphs (D) and (E) of paragraph (1);

(5) inserting after subparagraph (C) the following:

''(D) 3 individuals appointed by the President of the United States, as follows:

''(i) one individual selected as a representative of a commuter authority, (as defined in section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) that provides its own commuter rail passenger transportation or makes a contract with an operator, in consultation with affected commuter authorities.

''(ii) one individual with technical expertise in finance and accounting principles.

''(iii) one individual selected as a representative of the general public.''; and

(6) by striking paragraph (6) and inserting the following:

''(6) The Secretary may be represented at a meeting of the board only by the Administrator of the Federal Railroad Administration.''.

By Mr. DASCHLE:

S. 740. A bill to provide a 1-year delay in the imposition of penalties on small businesses failing to make electronic fund transfers of business taxes; to the Committee on Finance.

THE ELECTRONIC FUNDS TRANSFER TAX PAYMENTS BY SMALL BUSINESSES ACT OF 1997

Mr. DASCHLE. Mr. President, today I am introducing legislation that would waive for 1 year penalties on small businesses that fail to pay their taxes to the Internal Revenue Service [IRS] electronically.

Last July, millions of small business owners received a letter from the IRS announcing that, beginning January 1, 1997, business tax payments would have to be made via electronic funds transfer. This letter sent shock waves through the small business community in South Dakota. The letter was vague and provided little information on how the new deposit requirement would work.

In meetings, letters, and phone calls, South Dakotans posed many questions to me that the IRS letter did not answer: ''How much will this cost my business?''; ''Will I have to purchase new equipment to make these electronic transfers?''; and ''Will the IRS be taking the money directly out of my account?''

As you may recall, this new requirement was adopted as part of a package of revenue offsets for the North American Free-Trade Agreement. The Treasury Department was directed to draw up regulations phasing in the requirement, which will raise money by eliminating the float banks accrue on the delay between the time they receive tax deposits from businesses and the time they transfer this money to the Treasury.

All businesses with $47 million or more in annual payroll taxes are already required to pay by electronic funds transfer. The new, lower threshold is estimated to bring 1.3 million small- and medium-sized businesses into the program for the first time.

As a result of protests registered by many small businesses, the IRS decided to delay for 6 months the 10-percent penalty on firms failing to begin making deposits electronically by January 1, 1997. Not satisfied with this step, Congress recently passed an outright 6-month delay in the electronic filing requirement as part of the Small Business Job Protection Act of 1996.

I strongly supported this amendment. However, I believe that these 1.3 million businesses should be given further time to comply without the threat of financial penalties. Electronic funds transfer may well prove to be the most efficient system of payment for all concerned, including small businesses. Once they learn the advantages of the new system, these firms may well come to prefer it to the existing one, which requires a special kind of coupon and a lot of paperwork. But this is a new procedure, and many small employers are not sure what it will entail. A recent hearing in the House of Representatives documented a series of uncertainties and potential problems accompanying an extension of the electronic funds transfer mandate to smaller firms.

The bill I am introducing today would suspend penalties for noncompliance for 1 year, until July 1, 1998. I believe this step is necessary to provide time for small businesses to be properly educated about the easiest, least burdensome, and most cost-efficient way to comply. In my view, whenever possible, the IRS should avoid taking an adversarial approach toward the small business community or, for that matter, any taxpayer. At every opportunity, the IRS should seek to help taxpayers comply with their obligations. I believe that, by removing the threat of penalties for a short while longer, my bill will help the IRS fulfill this important part of its mission.

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. 740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF PENALTY ON SMALL BUSINESSES FAILING TO MAKE ELECTRONIC FUND TRANSFERS OF TAXES.

No penalty shall be imposed under the Internal Revenue Code of 1986 solely by reason of a failure by a person to use the electronic fund transfer system established under section 6302(h) of such Code if—

(1) such person is a member of a class of taxpayers first required to use such system on or after July 1, 1997, and

(2) such failure occurs during the 1-year period beginning on July 1, 1997.

By Mr. BREAUX:

S. 741. A bill to amend the Communications Act of 1934 to enable the Federal Communications Commission to enhance its spectrum management program capabilities through the collection of lease fees for new spectrum for radio services that are statutorily excluded from competitive bidding, and to enhance law enforcement and public safety radio communications; to the Committee on Commerce, Science, and Transportation.

THE PRIVATE WIRELESS SPECTRUM AVAILABILITY ACT

● Mr. BREAUX. Mr. President, I introduce the Private Wireless Spectrum Availability Act of 1997. This legislation will help the more than 300,000 U.S. companies, both large and small, that have invested $25 billion in internally owned and operated wireless communications systems. It will provide these companies with critically needed spectrum and will do so through an equitable lease fee system.

The private wireless communications community includes industrial, land transportation, business, educational, and philanthropic organizations that own and operate communications systems for their internal use. The top 10 U.S. industrial companies have more than 6,000 private wireless licenses. Private wireless systems also serve America's small businesses in the utility, contracting, taxi, and livery industries.

These internal-use communications facilities greatly enhance public safety and the quality of American life. They also support global competitiveness for American firms. For example, private wireless systems support: the efficient production of goods and services; the safe transportation of passengers and products by land and air; the exploration, production, and distribution of energy; agricultural enhancement and production; the maintenance and development of America's infrastructure;

and compliance with various local, State, and Federal operational government statutes.

Current regulatory policy inadequately recognizes the public interest benefits that private wireless licensees provide to the American public. Consequently, allocations of spectrum to these private wireless users has been deficient. Private wireless entities received spectrum in 1974 and 1986 when the FCC allocated channels in the 800 megahertz and 900 megahertz bands. Over time, however, the FCC has significantly reduced the number of channels available to industrial and business entities in those allocations. Private wireless entities now have access to only 299 channels, or 32 percent of the channels of the original allocation.

Spectrum auctions have done a great job of speeding up the licensing of interpersonal communications services and have generated significant revenues for the U.S. Treasury. They have also unfortunately skewed the spectrum allocation process toward subscriber-based services and away from critical radio services such as private wireless which are exempted from auctions. Nearly 200 megahertz of spectrum has been allocated for the provision of commercial telecommunications services, virtually all of which has been assigned by the FCC through competitive bidding.

Competitive bidding is not the proper assignment methodology for private wireless telecommunications users. Private wireless operations are site-specific systems which vary in size based on that user's particular needs, and are seldom mutually exclusive from other private wireless applicants. Auctions, which depend on mutually exclusive applications and use market areas based on population, simply cannot be designed for private wireless systems.

This legislation mandates that the FCC allocate no less than 12 megahertz of new spectrum for private wireless use as a measure to maintain our industrial and business competitiveness in the global arena, as well as to protect the welfare of the employees in the American workplace. Research indicates that private wireless companies are willing to pay a reasonable fee in return for use of spectrum. They recognize that their access to spectrum increases with their willingness to pay fair value for the use of this national asset.

My bill grants the FCC legislative authority to charge efficiency-based spectrum lease fees in this new spectrum allocation. These lease fees should encourage the efficient use of spectrum by the private wireless industry, generate recurring annual revenues as compensation for the use of spectrum, and retain spectrum ownership by the public. Furthermore, the fees should be easy for private frequency advisory committees to calculate and collect.

Mr. President, I am mindful that some peripheral concerns expressed by small businesses that service private wireless users are not addressed in this bill. I assure these companies that I will work with them through the legislative process to address these issues. I urge my colleagues to join me in supporting this bill and ask unanimous consent that the full 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. 741

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Private Wireless Spectrum Availability Act''.

SEC. 2. DEFINITIONS.

As used in this Act—

(1) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(2) PUBLIC SAFETY.—The term ''public safety'' means fire, police, or emergency medical service including critical care medical telemetry, and such other services related to public safety as the Commission may include within the definition of public safety for purposes of this Act.

(3) PRIVATE WIRELESS.—The term ''private wireless'' encompasses all land mobile telecommunications systems operated by or through industrial, business, transportation, educational, philanthropic or ecclesiastical organizations where these systems, the operation of which may be shared, are for the licensees' internal use, rather than subscriber-based Commercial Mobile Radio Services (CMRS) systems.

(4) SPECTRUM LEASE FEE.—The term ''spectrum lease fee'' means a periodic payment for the use of a given amount of electromagnetic spectrum in a given area in consideration of which the user is granted a license for such use.

SEC. 3. FINDINGS.

The Congress finds that:

(1) Private wireless communications systems enhance the competitiveness of American industry and business in international commerce, promote the development of national infrastructure, improve the delivery of products and services to consumers in the United States and abroad, and contribute to the economic and social welfare of citizens of the United States.

(2) The highly specialized telecommunications requirements of licensees in the private wireless services would be served, and a more favorable climate would be created for the allocation of additional electromagnetic spectrum for those services if an alternative license administration methodology, in addition to the existing competitive bidding process, were made available to the Commission.

SEC. 4. SPECTRUM LEASING FEES.

Title I of the Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding at the end thereof the following:

''SEC. 12. SPECTRUM LEASE FEE PROGRAM.

''(a) SPECTRUM LEASE FEES.—

''(1) IN GENERAL.—Within 6 months after the date of enactment of the Private Wireless Spectrum Availability Act, the Commission shall by rule—

''(A) implement a system of spectrum lease fees applicable to newly allocated frequency bands, as described in section 5 of the Private Wireless Spectrum Availability Act, assigned to systems (other than public safety systems (as defined in section 2(2) of the Private Wireless Spectrum Availability Act)) in private wireless service;

''(B) provide appropriate incentives for licensees to confine their radio communication to the area of operation actually required for that communications; and

''(C) permit private land mobile frequency advisory committees certified by the Commission to assist in the computation, assessment, collection, and processing of amounts received under the system of spectrum lease fees.

''(2) FORMULA.—The Commission shall include as a part of the rulemaking carried out under paragraph (1)—

''(A) a formula to be used by private wireless licensees and certified frequency advisory committees to compute spectrum lease fees; and

''(B) an explanation of the technical factors included in the spectrum lease fee formula, including the relative weight given to each factor.

''(b) FEE BASIS.—

''(1) INITIAL FEES.—Fees assessed under the spectrum lease fee system established under subsection (a) shall be based on the approximate value of the assigned frequencies to the licensees. In assessing the value of the assigned frequencies to licensees under this subsection, the Commission shall take into account all relevant factors, including the amount of assigned bandwidth, the coverage area of a system, the geographic location of the system, and the degree of frequency sharing with other licensees in the same area. These factors shall be incorporated in the formula described in subsection (a)(2).

''(2) ADJUSTMENT OF FEES.—The Commission may adjust the formula developed under subsection (a)(2) whenever it determines that adjustment is necessary in order to calculate the lease fees more accurately or fairly.

''(3) FEE CAP.—The spectrum lease fees shall be set so that, over a 10-year license term, the amount of revenues generated will not exceed the revenues generated from the auction of comparable spectrum. For purposes of this paragraph, the 'comparable spectrum' shall mean spectrum located within 500 megahertz of that spectrum licensed in a concluded auction for mobile radio communication licenses.

''(c) APPLICATION TO PRIVATE WIRELESS SYSTEMS.—After the Commission has implemented the spectrum leasing fee system under subsection (a) and provided licensees access to new spectrum as defined in section 5(c)(2) of the Private Wireless Spectrum Availability Act, it shall assess the fees established for that system against all licensees authorized in any new frequency bands allocated for private wireless use.''.

SEC. 5. SPECTRUM LEASE FEE PROGRAM INITIATION.

(a) IN GENERAL.—The Commission shall allocate for use in the spectrum lease fee program under section 12 of the Communications Act of 1934 (47 U.S.C. 162) not less than 12 megahertz of electromagnetic spectrum, previously unallocated to private wireless, located between 150 megahertz and 1000 megahertz on a nationwide basis.

(b) EXISTING INCUMBENTS.—In allocating electromagnetic spectrum under subsection (a), the Commission shall ensure that existing incumbencies do not inhibit effective access to use of newly allocated spectrum to the detriment of the spectrum lease fee program.

(c) TIMEFRAME.—

(1) ALLOCATION.—The Commission shall allocate electromagnetic spectrum under subsection (a) within 6 months after the date of enactment of this Act.

(2) ACCESS.—The Commission shall take such reasonable action as may be necessary to ensure that initial access to electromagnetic spectrum allocated under subsection (a) commences not later than 12

months after the date of enactment of this Act.

SEC. 6. DELEGATION OF AUTHORITY.

Section 5 of the Communications Act of 1934 (47 U.S.C. 155) is amended by adding at the end thereof the following:

''(f) DELEGATION TO CERTIFIED FREQUENCY ADVISORY COMMITTEES.—

''(1) IN GENERAL.—The Commission may, by published rule or order, utilize the services of certified private land mobile frequency advisory committees to assist in the computation, assessment, collection, and processing of funds generated through the spectrum lease fee program under section 12 of this Act. Except as provided in paragraph (3), a decision or order made or taken pursuant to such delegation shall have the same force and effect, and shall be made, evidenced, and enforced in the same manner, as decisions or orders of the Commission.

''(2) PROCESSING AND DEPOSITING OF FEES.—A frequency advisory committee shall deposit any spectrum lease fees collected by it under Commission authority with a banking agent designated by the Commission in the same manner as it deposits application filing fees collected under section 8 of this Act.

''(3) REVIEW OF ACTIONS.—A decision or order under paragraph (1) is subject to review in the same manner, and to the same extent, as decisions or orders under subsection (c)(1) are subject to review under paragraphs (4) through (7) of subsection (c).

SEC. 7. PROHIBITION OF USE OF COMPETITIVE BIDDING.

Section 309(j)(6) of the Communications Act of 1934 (47 U.S.C. 309(j)(6)) is amended—

(1) by striking ''or'' at the end of subparagraph (G);

(2) by striking the period at the end of subparagraph (H) and inserting a semicolon and ''or''; and

(3) by adding at the end thereof the following:

''(I) preclude the Commission from considering the public interest benefits of private wireless communications systems (as defined in section 2(3) of the Spectrum Efficiency Reform Act of 1977) and making allocations in circumstances in which—

''(i) the pre-defined geographic market areas required for competitive bidding processes are incompatible with the needs of radio services for site-specific system deployment;

''(ii) the unique operating characteristics and requirements of Federal agency spectrum users demand, as a prerequisite for sharing of Federal spectrum, that non-government access to the spectrum be restricted to radio systems that are non subscriber-based;

''(iii) licensee concern for operational safety, security, and productivity are of paramount importance and, as a consequence, there is no incentive, interest, or intent to use the assigned frequency for producing subscriber-based revenue; or

''(iv) the Commission, in its discretion, deems competitive bidding processes to be incompatible with the public interest, convenience, and necessity.''.

SEC. 8. USE OF PROCEEDS FROM SPECTRUM LEASE FEES.

(a) ESTABLISHMENT OF ACCOUNT.—There is hereby established on the books of the Treasury an account for the spectrum license fees generated by the spectrum license fee system established under section 12 of the Communications Act of 1934 (47 U.S.C. 162). Except as provided in subsections (b) and (c), all proceeds from spectrum lease fees shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code, and credited to the account established by this subsection.

(b) ADMINISTRATIVE EXPENSES.—Out of amounts received from spectrum lease payments a fair and reasonable amount, as determined by the Commission, may be retained by a certified frequency advisory committee acting under section 5(f) of the Communications Act of 1934 (47 U.S.C. 155(f)) to cover costs incurred by it in administering the spectrum lease fee program.

SEC. 9. LEASING NOT TO AFFECT COMMISSION'S DUTY TO ALLOCATE.

The implementation of spectrum lease fees as a license administration mechanism is not a substitute for effective spectrum allocation procedures. The Commission shall continue to allocate spectrum to various services on the basis of fulfilling the needs of these services, and shall not use fees or auctions as an allocation mechanism.●

By Ms. SNOWE (for herself, Mr. REID, Mr. WARNER, Ms. MIKULSKI, Mr. CHAFEE, Mr. DURBIN, Ms. COLLINS, Mrs. MURRAY, and Mr. JEFFORDS):

S. 743. A bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans; to the Committee on Finance.

THE EQUITY IN PRESCRIPTION INSURANCE AND CONTRACEPTIVE COVERAGE ACT

Ms. SNOWE. Mr. President, nowhere is the middle ground in American politics harder to find than in the debate over abortion. It is clear that the apparent inability of pro-choice and pro-life members to find common ground is one of the most divisive issues we face today. In debate after debate, it often appears that there is no middle ground. Well, I am extremely pleased that my colleague from Nevada, Senator REID, is joining me today to introduce legislation that will prove this statement untrue.

Too often, pro-choice leaders do too little to convey that they are not pro-abortion. Likewise, abortion opponents too often fail to work constructively toward reducing the need for abortion. The failure of pro-choice and pro-life members to stake out common ground weakens our Nation immeasurably.

Today that's going to change. The cosponsors of this bill come from different parties, and have very different views on abortion. Our voting records are clear: I am firmly pro-choice; Senators REID is firmly pro-life. Yet, despite these fundamental differences, we agree that something can and must be done to reduce the rates of unintended pregnancy and abortion in this country. That is why we are joining forces and introducing bipartisan, landmark legislation to make contraceptives more affordable for Americans. And I am pleased that a number of my colleagues, including Senators WARNER, MIKULSKI, CHAFEE, DURBIN, COLLINS, MURRAY, and JEFFORDS are joining us as original cosponsors.

The need is clear. This year, there will be 3.6 million unintended pregnancies—over 56 percent of all pregnancies in America—and half will end in abortion. These are staggering statistics. But what's even more staggering is that it doesn't have to be this way. If prescription contraceptives were covered like other prescription drugs, a lot more Americans could afford to use safe, effective means to prevent unintended pregnancies.

The fact is, under many of today's health insurance plans, a woman can afford a prescription to alleviate allergy symptoms but not a prescription to prevent an unintended and life-altering pregnancy. It is simply not right that while the vast majority of insurers cover prescription drugs, half of large group plans exclude coverage of prescription contraceptives. And only one-third cover oral contraceptives—the most popular form of birth control.

Is it any wonder that women spend 68 percent more than men in out-of-pocket health care costs—68 percent. It does not make sense that, at a time when we want to reduce unintended pregnancies, so many otherwise insured woman can't afford access to the most effective contraceptives because of the disparity in coverage.

The lack of contraceptive coverage in health insurance is not news to most women. Countless American women have been shocked to learn that their insurance does not cover contraceptives, one of their most basic health care needs, even though other prescriptions drugs which are equally valuable to their lives are routinely covered. But until today, women could do little more than feel silent outrage at a practice that disadvantages both their health and their pocketbook.

Now, the Equity in Prescription Insurance and Contraceptive Coverage Act gives voice to that outrage. EPICC sends a message that we can no longer tolerate policies that disadvantage women and disadvantage our nation. When our bill is passed, women will finally be assured of equity in prescription drug coverage and health care services. And America's unacceptably high rates of unintended pregnancies and abortions will be reduced in the process.

This EPICC approach is simple. It says that if insurers already cover prescription drugs and devices, they must also cover FDA-approved prescription contraceptives. And it takes the commonsense approach of requiring health plans which already cover basic health care services to also cover medical and counseling services to promote the effective use of those contraceptives. The bill does not require insurance companies to cover prescription drugs—it simply says that if insurers cover prescription drugs, they cannot treat prescription contraceptives any differently. Similarly, it says that insurers which cover outpatient health care services cannot limit or exclude coverage of the medical and counseling services necessary for effective contraceptive use in order to prevent unintended pregnancies.

This bill is not only good policy, it also makes good economic sense. We know that contraceptives are cost-effective: in the public sector, for every

dollar invested in family planning, $4 to $14 is saved in health care and related costs. And we also know that by helping families to adequately space their pregnancies, contraceptives contribute to healthy pregnancies and healthy births, reducing rates of maternal complications, and low-birth weight.

Time and time again Americans have expressed the desire for their leaders to come together to work on the problems that face us. This bill exemplifies that spirit of cooperation. It crosses some very wide gulfs and makes some very meaningful changes in policy that will benefit countless Americans.

As someone who is pro-choice, I firmly believe that abortions should be safe, legal, and rare. Through this bill, I invite both my pro-choice and pro-life colleagues to join with me in emphasizing the rare. And I invite all who believe in sound public policy to join our alliance. Because we as a nation must be truly committed to reducing rates of unintended pregnancy and abortion. We must come together despite our differences. We must pass this EPICC bill into law.

Mr. REID. Mr. President, I am proud to introduce today, with Senator SNOWE, the Equity in Prescription and Contraception Coverage Act of 1997. I have said time and time again that if men suffered from the same illnesses as women, the biomedical research community would be much closer to eliminating diseases that strike women. I believe this is a similar type of issue. If men had to pay for contraceptive drugs and devices, the insurance industry would cover them.

The health industry has done a poor job of responding to women's health needs. Women spend 68 percent more in out-of-pocket costs for health care than men. Reproductive health care services account for much of this difference. According to a study done by the Alan Guttmacher Institute, 49 percent of all large-group health care plans do not routinely cover any contraceptive method at all, and only 15 percent cover all five of the most common contraceptive methods. Women are forced to use disposable income to pay for family planning services not covered by their health insurance—the pill—one of the most common birth control methods, can cost cover $300 a year. Therefore, women who lack disposable income are forced to use less reliable methods of contraception and risk an unintended pregnancy.

The legislation we introduce today would require insurers, HMO's, and employee health benefit plans that offer prescription drug benefits to cover contraceptive drugs and devices approved by the FDA. Further, it would require these insurers to cover outpatient contraceptive services if a plan covers other outpatient services. Lastly, it would prohibit the imposition of copays and deductibles for prescription contraceptives or outpatient services that are greater than those for other prescription drugs.

Each year approximately 3,600,000 pregnancies, or 60 percent of all pregnancies, in this country are unintended. Of these unintended pregnancies, 44 percent end in abortion. Reliable family planning methods must be made available if we wish to reduce this disturbing number. Further, a reduction in unintended pregnancies will also lead to a reduction in infant mortality, low-birth weight, and maternal morbidity. In fact, the National Commission to Prevent Infant Mortality determined that ''infant mortality could be reduced by 10 percent if all women not desiring pregnancy used contraception.''

Ironically, abortion is routinely covered by 66 percent of indemnity plans, 67 percent of preferred provider organizations, and 70 percent of HMO's. Sterilization and tubal ligation are also routinely covered. It does not make sense financially for insurance companies to cover these more expensive services, rather than contraception. Studies indicate that for every dollar of public funds invested in family planning, $4 to $14 of public funds is saved in pregnancy and health care-related costs. According to one recent study in the American Journal of Public Health, by increasing the number of women who use oral contraceptives by 15 percent, health plans would accrue enough savings in pregnancy care costs to cover oral contraceptives for all users under the plan.

It is vitally important to the health of our country that quality contraception is not beyond the financial reach of women. Providing access to contraception will bring down the unintended pregnancy rate, insure good reproductive health for women, and reduce the number of abortions.

It is a significant step, in my opinion, to have support from both pro-life and pro-choice Senators for this bill. Prevention is the common ground on which we can all stand. Let's begin to attack the problem of unintended pregnancies at its root.

By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 744. A bill to authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

THE FALL RIVER WATER USERS DISTRICT RURAL WATER SYSTEM ACT OF 1997

• Mr. JOHNSON. Mr. President, today I am proud to introduce legislation to authorize a critically important rural water system in South Dakota, the Fall River Water Users District Rural Water System Act of 1997. This legislation is strongly supported by local project sponsors who have demonstrated that support by agreeing to substantial financial contributions from the local level. I am pleased to introduce this legislation today, along with my colleague from South Dakota, Senate Minority Leader TOM DASCHLE. Both Senator DASCHLE and I were sponsors of similar legislation in the 104th Congress, and we will work together to enact this necessary rural water legislation in the 105th Congress.

Like many parts of South Dakota, Fall River County has insufficient water supplies of reasonable quality available, and the water supplies that are available do not meet the minimum health and safety standards. In addition to improving the health of residents in the region, I strongly believe that these rural drinking water delivery projects will help to stabilize the rural economy in both regions. Water is a basic commodity and is essential if we are to foster rural development in many parts of rural South Dakota, including the Fall River County area.

Past cycles of severe drought in the southeastern area of Fall River County have left local residents without a satisfactory water supply and during 1990, many homeowners and ranchers were forced to haul water to sustain their water needs.

Currently, many residents are either using bottled water for human consumption or they are using distillers due to the poor quality of the water supplies available. After conducting a feasibility study and preliminary engineering report, the best available, reliable, and safe rural and municipal water supply to serve the needs of the Fall River Water Users District consists of a Madison Aquifer well, three separate water storage reservoirs, three pumping stations, and approximately 200 miles of pipeline. The legislation I am introducing today authorizes the Bureau of Reclamation to construct a rural water system in Fall River County as described above. The Fall River system will serve rural residents, as well as the community of Oelrichs and the Angostura State Recreation Area.

Mr. President, South Dakota is plagued by water of exceedingly poor quality, and the Fall River County rural water project is an effort to help provide clean water—a commodity most of us take for granted—to the people of South Dakota. I am a strong believer in the role of the Federal Government to help in the delivery of rural water, and I hope to continue to advance that agenda both in South Dakota and around the country. I urge my colleagues to support this legislation, and I look forward to working with my colleagues on the Energy and Natural Resources Committee to move forward on enactment as quickly as possible.

Mr. President, I ask unanimous consent 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. 744

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 ''Fall River Water Users District Rural Water System Act of 1997''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there are insufficient water supplies of reasonable quality available to the members of the Fall River Water Users District Rural Water System located in Fall River County, South Dakota, and the water supplies that are available are of poor quality and do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) past cycles of severe drought in the southeastern area of Fall River County have left residents without a satisfactory water supply, and, during 1990, many home owners and ranchers were forced to haul water to sustain their water needs;

(3) because of the poor quality of water supplies, most members of the Fall River Water Users District are forced to either haul bottled water for human consumption or use distillers;

(4) the Fall River Water Users District Rural Water System has been recognized by the State of South Dakota; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Fall River Water Users District Rural Water System members consists of a Madison Aquifer well, 3 separate water storage reservoirs, 3 pumping stations, and approximately 200 miles of pipeline.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Fall River Water Users District Rural Water System in Fall River County, South Dakota;

(2) to assist the members of the Fall River Water Users District in developing safe and adequate municipal, rural, and industrial water supplies; and

(3) to promote the implementation of water conservation programs by the Fall River Water Users District Rural Water System.

SEC. 3. DEFINITIONS.

In this Act:

(1) ENGINEERING REPORT.—The term ''engineering report'' means the study entitled ''Supplemental Preliminary Engineering Report for Fall River Water Users District'' published in August 1995.

(2) PROJECT CONSTRUCTION BUDGET.—The term ''project construction budget'' means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the engineering report.

(3) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term ''pumping and incidental operational requirements'' means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Fall River Water Users District Rural Water System to each entity that distributes water at retail to individual users.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Reclamation.

(5) WATER SUPPLY SYSTEM.—The term ''water supply system'' means the Fall River Water Users District Rural Water System, a nonprofit corporation, established and operated substantially in accordance with the engineering report.

SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary shall make grants to the water supply system for the Federal share of the costs of the planning and construction of the water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, and water conservation within the boundaries of the Fall River Water Users District, described as follows: bounded on the north by the Angostura Reservoir, the Cheyenne River, and the line between Fall River and Custer Counties, bounded on the east by the line between Fall River and Shannon Counties, bounded on the south by the line between South Dakota and Nebraska, and bounded on the west by the Igloo-Provo Water Project District.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the water supply system shall not exceed the Federal share under section 9.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply system; and

(2) a final engineering report has been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the system.

SEC. 5. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the engineering report.

SEC. 6. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1 and ending October 31 of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Fall River Water Users District;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATE.

This Act does not limit the authorization for water projects in South Dakota under law in effect on or after the date of enactment of this Act.

SEC. 8. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, dealing with water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. 9. FEDERAL SHARE.

The Federal share under section 4 shall be 80 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

SEC. 10. NON-FEDERAL SHARE.

The non-Federal share under section 4 shall be 20 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

SEC. 11. CONSTRUCTION OVERSIGHT.

(a) AUTHORIZATION.—The Secretary may provide construction oversight to the water supply system for areas of the water supply system.

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Fall River County, South Dakota.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $3,600,000 for the planning and construction of the water system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

ADDITIONAL COSPONSORS

S. 63

At the request of Mr. FEINGOLD, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 63, a bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful

employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes.

S. 114

At the request of Mr. INOUYE, the names of the Senator from Arkansas [Mr. HUTCHINSON], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 114, a bill to repeal the reduction in the deductible portion of expenses for business meals and entertainment.

S. 364

At the request of Mr. LIEBERMAN, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 364, a bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices.

S. 394

At the request of Mr. LEAHY, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 394, a bill to partially restore compensation levels to their past equivalent in terms of real income and establish the procedure for adjusting future compensation of justices and judges of the United States.

S. 498

At the request of Mr. CHAFEE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 498, a bill to amend the Internal Revenue Code of 1986 to allow an employee to elect to receive taxable cash compensation on lieu of nontaxable parking benefits, and for other purposes.

S. 499

At the request of Mr. CHAFEE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 499, a bill to amend the Internal Revenue Code of 1986 to provide an election to exclude from the gross estate of a decedent the value of certain land subject to a qualified conservation easement, and to make technical changes to alternative valuation rules.

S. 511

At the request of Mr. CHAFEE, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Hawaii [Mr. INOUYE], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 511, a bill to require that the health and safety of a child be considered in any foster care or adoption placement, to eliminate barriers to the termination of parental rights in appropriate cases, to promote the adoption of children with special needs, and for other purposes.

S. 518

At the request of Mr. ABRAHAM, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 518, a bill to control crime by requiring mandatory victim restitution.

S. 575

At the request of Mr. DURBIN, the name of the Senator from Rhode Island [Mr. REED] was added as a cosponsor of S. 575, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals.

S. 597

At the request of Mr. BINGAMAN, the names of the Senator from Vermont [Mr. LEAHY], the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 597, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals.

S. 648

At the request of Mr. GORTON, the name of the Senator from Wyoming [Mr. ENZI] was added as a cosponsor of S. 648, a bill to establish legal standards and procedures for product liability litigation, and for other purposes.

S. 664

At the request of Mr. KENNEDY, the names of the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Rhode Island [Mr. REED] were added as cosponsors of S. 664, a bill to establish tutoring assistance programs to help children learn to read well.

S. 674

At the request of Mr. CHAFEE, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 674, a bill to amend title XIX of the Social Security Act to encourage States to expand health coverage of low income children and pregnant women and to provide funds to promote outreach efforts to enroll eligible children under health insurance programs.

S. 716

At the request of Mr. CRAIG, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 716, a bill to establish a Joint United States-Canada Commission on Cattle and Beef to identify, and recommend means of resolving, national, regional, and provincial trade-distorting differences between the countries with respect to the production, processing, and sale of cattle and beef, and for other purposes.

S. 717

At the request of Mr. KENNEDY, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 717, a bill to amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes.

S. 732

At the request of Mr. FAIRCLOTH, the names of the Senator from Georgia [Mr. COVERDELL], the Senator from Oklahoma [Mr. INHOFE], the Senator from New Hampshire [Mr. GREGG], the Senator from Alabama [Mr. SESSIONS], the Senator from Missouri [Mr. ASHCROFT], the Senator from Nebraska [Mr. HAGEL], the Senator from South Carolina [Mr. THURMOND], the Senator from Alabama [Mr. SHELBY], the Senator from Idaho [Mr. CRAIG], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Mississippi [Mr. LOTT], the Senator from Montana [Mr. BURNS], the Senator from Washington [Mr. GORTON], the Senator from New Hampshire [Mr. SMITH], the Senator from Minnesota [Mr. GRAMS], the Senator from Kansas [Mr. BROWNBACK], the Senator from Arkansas [Mr. HUTCHINSON], and the Senator from Texas [Mr. GRAMM] were added as cosponsors of S. 732, a bill to require the Secretary of the Treasury to mint and issue coins in commemoration of the centennial anniversary of the first manned flight of Orville and Wilbur Wright in Kitty Hawk, North Carolina, on December 17, 1903.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the names of the Senator from North Carolina [Mr. HELMS], the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE CONCURRENT RESOLUTION 7

At the request of Mr. SARBANES, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of Senate Concurrent Resolution 7, a concurrent resolution expressing the sense of Congress that Federal retirement cost-of-living adjustments should not be delayed.

SENATE CONCURRENT RESOLUTION 21

At the request of Mr. MOYNIHAN, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of Senate Concurrent Resolution 21, a concurrent resolution congratulating the residents of Jerusalem and the people of Israel on the thirtieth anniversary of the reunification of that historic city, and for other purposes.

SENATE RESOLUTION 76

At the request of Mr. THURMOND, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from North Carolina [Mr. HELMS], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Ohio [Mr. GLENN], the Senator from Alaska [Mr. STEVENS], the Senator from Connecticut [Mr. DODD], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Maine [Ms. COLLINS], the Senator from Alabama [Mr. SHELBY], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Montana [Mr. BURNS], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of Senate Resolution 76, a resolution proclaiming a nationwide moment of remembrance, to be observed on Memorial Day, May 26, 1997, in order to appropriately honor American patriots lost in the pursuit of peace of liberty around the world.

AMENDMENTS SUBMITTED

THE FAMILY FRIENDLY WORKPLACE ACT OF 1997

ABRAHAM AMENDMENTS NOS. 254–255

(Ordered to lie on the table.)

Mr. ABRAHAM submitted two amendments intended to be proposed by him to the bill (S. 4) to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes, as follows:

AMENDMENT NO. 254

On page 26, strike lines 2 through 9 and insert the following:

''(g)(1) In addition to any amount that an employer is liable under the second sentence of subsection (b) for a violation of a provision of section 13A, an employer that violates section 13A(d) shall be liable to the employee affected for an additional sum equal to twice that amount.

''(2) The employer shall be subject to such liability in addition to any other remedy available for such violation under this section or section 17.''.

AMENDMENT NO. 255

On page 8, strike lines 6 through 14 and insert the following:

''(A) twice the product of—

''(i) the rate of compensation (determined in accordance with section 7(r)(8)(A)); and

''(ii)(I) the number of hours of compensatory time off involved in the violation that was initially accrued by the employee; minus

''(II) the number of such hours used by the employee; and

''(B) as liquidated damages, twice the product of—''.

GRASSLEY AMENDMENT NO. 256

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill, S. 4, supra; as follows:

At the end of the bill, add the following:

SEC. 4. APPLICATION OF LAWS TO LEGISLATIVE BRANCH.

(a) DEFINITIONS.—In this section, the terms ''Board'', ''covered employee'', and ''employing office'' have the meanings given the terms in sections 101 and 203 of Public Law 104–1.

(b) BIWEEKLY WORK PROGRAMS; FLEXIBLE CREDIT HOUR PROGRAMS; EXEMPTIONS.—

(1) IN GENERAL.—The rights and protections established by sections 13(m) and 13A of the Fair Labor Standards Act of 1938, as added by section 3, shall apply to covered employees.

(2) REMEDY.—The remedy for a violation of paragraph (1) shall be such remedy, including liquidated damages, as would be appropriate if awarded under section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)), and (in the case of a violation concerning section 13A(d) of such Act), section 16(g)(1) of such Act (29 U.S.C. 216(g)(1)).

(3) ADMINISTRATION.—The Office of Compliance shall exercise the same authorities and perform the same duties with respect to the rights and protections described in paragraph (1) as the Office exercises and performs under title III of Public Law 104–1 with respect to the rights and protections described in section 203 of such law.

(4) PROCEDURES.—Title IV and section 225 of Public Law 104–1 shall apply with respect to violations of paragraph (1).

(5) REGULATIONS.—

(A) IN GENERAL.—The Board shall, pursuant to section 304 of Public Law 104–1, issue regulations to implement this subsection.

(B) AGENCY REGULATIONS.—The regulations issued under subparagraph (A) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in paragraph (1) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of the regulations would be more effective for the implementation of the rights and protections under this subsection.

(c) COMPENSATORY TIME OFF.—

(1) REGULATIONS.—The Board shall, pursuant to paragraphs (1) and (2) of section 203(c), and section 304, of Public Law 104–1, issue regulations to implement section 203 of such law with respect to section 7(r) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(r)), as added by section 3(a).

(2) REMEDY.—The remedy for a violation of section 203(a) of Public Law 104–1 shall be such remedy, including liquidated damages, as would be appropriate if awarded under section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)), and (in the case of a violation concerning section 7(r)(6)(A) of such Act (29 U.S.C. 207(r)(6)(A))), section 16(f)(1) of such Act (29 U.S.C. 216(f)(1)).

(3) EFFECTIVE DATE.—Subsection (a)(3), and paragraphs (3) and (4) of subsection (c), of section 203 of Public Law 104–1 cease to be effective on the date of enactment of this Act.

(d) RULES OF APPLICATION.—For purposes of the application under this section of sections 7(r) and 13A of the Fair Labor Standards Act of 1938 to covered employees of an employing office, a reference in such sections—

(1) to a statement of an employee that is made, kept, and preserved in accordance with section 11(c) of such Act shall be considered to be a reference to a statement that is made, kept in the records of the employing office, and preserved until 1 year after the last day on which—

(A) the employing office has a policy offering compensatory time off, a biweekly work program, or a flexible credit hour program in effect under section 7(r) or 13A of such Act, as appropriate; and

(B) the employee is subject to an agreement described in section 7(r)(3) of such Act or subsection (b)(2)(A) or (c)(2)(A) of section 13A of such Act, as appropriate; and

(2) to section 9(a) of the National Labor Relations Act (29 U.S.C. 159(a)) shall be considered to be a reference to subchapter II of chapter 71 of title 5, United States Code.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall take effect, with respect to the application of section 7(r), 13(m), or 13A of the Fair Labor Standards Act of 1938 to covered employees, on the earlier of—

(A) the effective date of regulations promulgated by the Secretary of Labor to implement such section; and

(B) the effective date of regulations issued by the Board as described in subsection (b)(5) or (c)(1) to implement such section.

(2) CONSTRUCTION.—A regulation promulgated by the Secretary of Labor to implement section 7(r), 13(m), or 13A of such Act shall be considered to be the most relevant substantive executive agency regulation promulgated to implement such section, for purposes of carrying out section 411 of Public Law 104–1.

WELLSTONE AMENDMENTS NOS. 257–264

(Ordered to lie on the table.)

Mr. WELLSTONE submitted eight amendments intended to be proposed by him to the bill, S. 4, supra; as follows:

AMENDMENT NO. 257

Beginning on page 9, strike line 19 and all that follows through page 10, line 3 and insert the following:

''(9)(A) An employee shall be permitted by an employer to use any compensatory time off provided under paragraph (2)—

''(i) for any reason that qualifies for leave under—

''(I) section 102(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)), irrespective of whether the employer is covered, or the employee is eligible, under such Act; or

''(II) an applicable State law that provides greater family or medical leave rights than does the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.);

''(ii) for any reason after providing notice to the employer not later than 2 weeks prior to the date on which the compensatory time off is to be used, except that an employee may not be permitted to use compensatory time off under this clause if the use of the compensatory time off will cause substantial and grievous injury to the operations of the employer; or

''(iii) for any reason after providing notice to the employer later than 2 weeks prior to the date on which the compensatory time off is to be used, except that an employee may not be permitted to use compensatory time off under this clause if the use of the compensatory time off will unduly disrupt the operations of the employer.''

AMENDMENT NO. 258

On page 28, after line 16, add the following:

SEC. 4. COMMISSION ON WORKPLACE FLEXIBILITY.

(a) ESTABLISHMENT.—There is established a Commission on Workplace Flexibility (referred to in this section as the ''Commission'').

(b) MEMBERSHIP.—The Commission shall be composed, and the members of the Commission shall be appointed, in accordance with paragraphs (1) and (2) of subsection (a), and subsection (b), of section 303 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2633(a) (1) and (2), and (b)).

(c) DUTIES.—

(1) STUDY.—The Commission shall conduct a comprehensive study of the impact of this Act, and the amendments made by this Act, on public and private sector employees, including the impact of this Act, and the amendments made by this Act—

(A) on the average earnings of employees, the hours of work of employees, the work schedules of employees, and the flexibility of scheduling work to accommodate family needs; and

(B) on the ability of employees to obtain the compensation to which the employees are entitled.

(2) REPORT.—

(A) IN GENERAL.—Not later than 1 year prior to the termination date of the Commission prescribed by subsection (e), the Commission shall prepare and submit to the appropriate committees of Congress and the

Secretary of Labor, a report concerning the findings of the study described in paragraph (1).

(B) RECOMMENDATIONS.—The report described in subparagraph (A) shall include recommendations on whether—

(i) the compensatory time provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) should be modified or extended, including—

(I) a recommendation on whether particular classes of employees or industries should be exempted or otherwise provided special treatment under the provisions; and

(II) a recommendation on whether additional protections should be provided, including additional protections for employees of public agencies.

(C) SPECIAL RULE.—The Commission shall have no obligation to conduct a study and issue a report pursuant to this section if funds are not authorized and appropriated for that purpose.

(d) COMPENSATION AND POWERS.—The compensation and powers of the Commission shall be as prescribed by sections 304 and 305, respectively, of the Family and Medical Leave Act of 1993 (29 U.S.C. 2634 and 2635).

(e) TRAVEL EXPENSES.—The members of the Commission shall be allowed reasonable travel expenses in accordance with section 304(b) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2634(b)).

(f) TERMINATION.—The Commission shall terminate 4 years after the date of enactment of this Act.

SEC. 5. CESSATION OF EFFECTIVENESS.

This Act, and the amendments made by this Act, cease to be effective 4 years after the date of enactment of this Act.

AMENDMENT NO. 259

On page 10, strike lines 4 through 7 and insert the following:

''(10) In a case in which an employee uses accrued compensatory time off under this subsection, the accrued compensatory time off used shall be considered as hours worked during the applicable workweek or other work period for the purposes of overtime compensation and calculation of entitlement to employment benefits.

''(11)(A) The term 'compensatory time off' means the hours during which an employee is not working and for which the employee is compensated in accordance with this subsection in lieu of monetary overtime compensation.

''(B) The term 'monetary overtime compensation' means the compensation required by subsection (a).''.

AMENDMENT NO. 260

On page 10, strike line 4, and insert the following:

''(10) The entire liquidated value of an employee's accumulated compensatory time, calculated as provided for in this subsection, shall, for purposes of proceedings in bankruptcy under title 11, United States Code, be treated as unpaid wages earned by the individual as of—

''(A) the date the employer was or becomes legally or contractually obligated to provide monetary compensation to the employee for the compensatory time; or

''(B) if the employer was not legally or contractually obligated to provide such monetary compensation prior to ceasing to do business, the date of ceasing to do business.

''(11) The terms 'monetary overtime compensation' ''.

AMENDMENT NO. 261

Beginning on page 3, strike lines 15 through 23 and insert the following:

''(B) In this subsection:

''(i) The term 'employee' does not include—

''(I) an employee of a public agency;

''(II) an employee who is a part-time employee;

''(III) an employee who is a temporary employee; and

''(IV) an employee who is a seasonal employee.

''(ii) The term 'employer' does not include—

''(I) a public agency; and

''(II) an employer in the garment industry.

''(iii) The term 'employer in the garment industry' means an employer who is involved in the manufacture of apparel.

''(iv) The term 'part-time employee' means an employee whose regular workweek for the employer involved is less than 35 hours per week.

''(v) The term 'seasonal employee' means an employee in—

''(I) the construction industry;

''(II) agricultural employment (as defined by section 3(3) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802(3))); or

''(III) any other industry that the Secretary by regulation determines is a seasonal industry.

''(vi) The term 'temporary employee' means an employee who is employed by an employer for a season or other term of less than 12 months, or is otherwise treated by the employer as not a permanent employee of the employer.''

AMENDMENT NO. 262

Beginning on page 10, strike line 17 and all that follows through page 26, line 18.

AMENDMENT NO. 263

On page 28, after line 16, add the following:

SEC. 4. EFFECTIVE DATE.

This Act shall not take effect until the Secretary of Labor—

(1) makes a written determination that the aggregate number of complaints that are subject to investigation by the Wage and Hour Division of the Employment Standards Administration of the Department of Labor and unresolved by the Secretary of Labor for the year involved is less than 10 percent of the aggregate number of all complaints that are subject to investigation by the Wage and Hour Division of the Employment Standards Administration of the Department of Labor for the preceding calendar year; and

(2) submits the determination to the appropriate committees of Congress.

AMENDMENT NO. 264

At the appropriate place, insert the following:

SEC. ___. BATTERED WOMEN'S FAMILY LEAVE AND SAFETY.

(a) REFERENCE.—whenever in this section an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) violence against women is the leading cause of physical injury to women, and the department of justice estimates that intimate partners commit more than 1,000,000 violent crimes against women every year;

(B) approximately 95 percent of the victims of domestic violence are women;

(C) in the united states, a woman is more likely to be assaulted, injured, raped, or killed by a male partner than by any other type of assailant;

(D) the bureau of labor statistics predicts that women will account for two-thirds of all new entrants into the workforce between now and the year 2000;

(E) violence against women dramatically affects women's workforce participation, insofar as one-quarter of the battered women surveyed had lost a job due at least in part to the effects of domestic violence, and over one-half had been harassed by their abuser at work;

(F) a study by Domestic Violence Intervention Services, Inc found that 96 percent of employed domestic violence victims had some type of problem in the workplace as a direct result of their abuse or abuser;

(G) the availability of economic support is a critical factor in a women's ability to leave abusive situations that threaten them and their children, and over one-half of the battered women surveyed stayed with their batterers because they lacked resources to support themselves and their children;

(H) a report by the New York City victims services agency found that abusive spouses and lovers harass 74 percent of battered women at work, 54 percent of battering victims miss at least 3 days of work per month, 56 percent are late for work at least 5 times per month, and a University of Minnesota study found that 24 percent of women in support groups for battered women had lost a job partly because of being abused;

(I) 49 percent of senior executives recently surveyed said domestic violence has a harmful effect on their company's productivity, 47 percent said domestic violence negatively affects attendance, and 44 percent said domestic violence increases health care costs, and the bureau of national affairs estimates that domestic violence costs employers between $3,000,000,000 and $5,000,000,000 per year; and

(J) existing federal and state legislation does not expressly authorize battered women to take leave from work to seek legal assistance and redress, counseling, or assistance with safety planning and activities.

(2) PURPOSES.—Pursuant to the affirmative power of congress to enact this section under section 5 of the Fourteenth Amendment to the Constitution, as well as under clause 1 of section 8 of article I of the Constitution and clause 3 of section 8 of article I of the Constitution, the purposes of this section are—

(A) to promote the national interest in reducing domestic violence by enabling victims of domestic violence to maintain the financial independence necessary to leave abusive situations, to achieve safety and minimize the physical and emotional injuries from domestic violence, and to reduce the devastating economic consequences of domestic violence to employers and employees, by entitling employed victims of domestic violence to take reasonable leave under the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) to seek medical help, legal assistance, counseling, and safety planning and assistance without penalty from their employer;

(B) to promote the purposes of the Fourteenth Amendment by protecting the civil and economic rights of victims of domestic violence and by furthering the equal opportunity of women to employment and economic self-sufficiency;

(C) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, health care costs, and employer costs from domestic violence; and

(D) to accomplish the purposes described in subparagraphs (A) , (B) and (C) in a manner that accommodates the legitimate interests of employers.

(c) ENTITLEMENT TO LEAVE FOR DOMESTIC VIOLENCE.—

(1) AUTHORITY FOR LEAVE.—Section 102(a)(1) (29 U.S.C. 2612(a)(1)) is amended by adding at the end the following:

''(A) In order to care for the child or parent of the employee, if such child or parent is addressing domestic violence and its effects.

''(B) Because the employee is addressing domestic violence and its effects, the employee is unable to perform any of the functions of the position of such employee.''.

(2) DEFINITION.—section 101 (29 U.S.C. 2611) is amended by adding at the end the following:

''(14) ADDRESSING DOMESTIC VIOLENCE AND ITS EFFECTS.—The term 'addressing domestic violence and its effects' means—

''(A) experiencing domestic violence;

''(B) seeking medical attention for or recovering from injuries caused by domestic violence;

''(C) seeking legal assistance or remedies, including communicating with the police or an attorney, or participating in any legal proceeding related to domestic violence;

''(D) attending support groups for victims of domestic violence;

''(E) obtaining psychological counseling related to experiences of domestic violence;

''(F) participating in safety planning and other actions to increase safety from future domestic violence, including temporary or permanent relocation; and

''(G) any other activity necessitated by domestic violence which must be undertaken during hours of employment.''.

(3) INTERMITTENT OR REDUCED LEAVE.—Section 102(b) (29 U.S.C. 2612(b)) is amended by adding at the end the following:

''(3) DOMESTIC VIOLENCE.—Leave under subparagraph (E) or (F) of subsection (a)(1) may be taken by an employee intermittently or on a reduced leave schedule. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.''.

(4) PAID LEAVE.—Section 102(d)(2)(B) (29 U.S.C. 2612(d)(2)(B)) is amended by striking ''(C) or (D)'' and inserting ''(C), (D), (E), or (F)''.

(5) CERTIFICATION.—section 103 (29 U.S.C. 2613) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

''(e) DOMESTIC VIOLENCE.—In determining if an employee meets the requirements of subparagraph (E) or (F) of section 102(a)(1), the employer of an employee may require the employee to provide—

''(1) documentation of the domestic violence, such as police or court records, or documentation of the domestic violence from a shelter worker, attorney, clergy, or medical or other professional from whom the employee has sought assistance in addressing domestic violence and its effects; or

''(2) other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances which provide the basis for the claim, or physical evidence of domestic violence, such as photographs, torn or bloody clothes, etc.''.

(6) CONFIDENTIALITY.—section 103 (29 U.S.C. 2613), as amended by subsection (e), is amended—

(A) in the title by adding before the period the following: **''; CONFIDENTIALITY''**; and

(B) by adding at the end the following:

''(f) CONFIDENTIALITY.—all evidence of domestic violence experienced by an employee or the employee's child or parent, including an employee's statement, any corroborating evidence, and the fact that an employee has requested leave for the purpose of addressing domestic violence and its effects, shall be retained in the strictest confidence by the employer, except to the extent consented to by the employee where disclosure is necessary to protect the employee's safety.''.

(d) ENTITLEMENT TO LEAVE FOR FEDERAL EMPLOYEES FOR DOMESTIC VIOLENCE.—

(1) AUTHORITY FOR LEAVE.—Section 6382 of title 5, United States Code is amended by adding at the end the following:

''(E) In order to care for the child or parent of the employee, if such child or parent is addressing domestic violence and its effects.

''(F) Because the employee is addressing domestic violence and its effects, the employee is unable to perform any of the functions of the position of such employee.''.

(2) DEFINITION.—section 6381 of title 5, united states code is amended—

(A) by striking ''and'' at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting ''; and''; and

(C) by adding at the end the following:

''(7) the term 'addressing domestic violence and its effects' means—

''(A) experiencing domestic violence;

''(B) seeking medical attention for or recovering from injuries caused by domestic violence;

''(C) seeking legal assistance or remedies, including communicating with the police or an attorney, or participating in any legal proceeding related to domestic violence;

''(D) attending support groups for victims of domestic violence;

''(E) obtaining psychological counseling related to experiences of domestic violence;

''(F) participating in safety planning and other actions to increase safety from future domestic violence, including temporary or permanent relocation; and

''(G) any other activity necessitated by domestic violence which must be undertaken during hours of employment.''.

(3) INTERMITTENT OR REDUCED LEAVE.—Section 6382(b) of title 5, United States Code, is amended by adding at the end the following:

''(3) Leave under subparagraph (E) or (F) of subsection (a)(1) may be taken by an employee intermittently or on a reduced leave schedule. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.''.

(4) OTHER LEAVE.—Section 6382(d) of title 5, United States Code, is amended by striking ''(C) or (D)'' and inserting ''(C), (D), (E), or (F)''.

(5) CERTIFICATION.—section 6383 of title 5, united states code, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

''(e) DOMESTIC VIOLENCE.—In determining if an employee meets the requirements of subparagraph (E) or (F) of section 6382(a)(1), the employer of an employee may require the employee to provide—

''(1) documentation of the domestic violence, such as police or court records, or documentation of the domestic violence from a shelter worker, attorney, clergy, or medical or other professional from whom the employee has sought assistance in addressing domestic violence and its effects; or

''(2) other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances which provide the basis for the claim, or physical evidence of domestic violence, such as photographs, torn or bloody clothes, etc.''.

(6) CONFIDENTIALITY.—section 6383 of title 5, united states code, as amended by subsection (e), is amended—

(A) in the title by adding before the period the following: **''; confidentiality''**, and

(B) by adding at the end the following:

''(g) CONFIDENTIALITY.—All evidence of domestic violence experienced by an employee or the employee's child or parent, including an employee's statement, any corroborating evidence, and the fact that an employee has requested leave for the purpose of addressing domestic violence and its effects, shall be retained in the strictest confidence by the employer, except to the extent consented to by the employee where disclosure is necessary to protect the employee's safety.''.

(e) EFFECT ON OTHER LAWS AND EMPLOYMENT BENEFITS.—

(1) MORE PROTECTIVE.—Nothing in this section or the amendments made by this section shall be construed to supersede any provision of any Federal, State or local law, collective bargaining agreement, or other employment benefit program which provides leave benefits for employed victims of domestic violence than the rights established under this section or such amendments.

(2) LESS PROTECTIVE.—The rights established for employees under this section or the amendments made by this section shall not be diminished by any collective bargaining agreement, any employment benefit program or plan, or any State or local law.

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect upon the expiration of 180 days from the date of the enactment of this section.

GORTON AMENDMENT NO. 265

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill, S. 4, supra; as follows:

Beginning on page 10, strike line 8 and all that follows through page 10, line 6 and insert the following: ''subsection (o)(8).''.

(4) APPLICATION OF THE COERCION AND REMEDIES PROVISIONS TO EMPLOYEES OF STATE AGENCIES.—Section 7(o) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(o)) is amended—

(A) in paragraph (7), by striking ''(7) For'' and inserting ''(8) For''; and

(B) by inserting after paragraph (6), the following:

''(7)(A) The provisions relating to the prohibition of coercion under subsection (r)(6)(A) shall apply to an employee and employer described in this subsection to the same extent the provisions apply to an employee and employer described in subsection (r).

''(B)(i) Except as provided in clause (ii), the remedies under section 16(f) shall be made available to an employee described in this subsection to the same extent the remedies are made available to an employee described in subsection (r).

''(ii) In calculating the amount an employer described in this subsection would be liable for under section 16(f) to an employee described in this subsection, the Secretary shall, in lieu of applying the rate of compensation in the formula described in section 16(f), apply the rate of compensation described in paragraph (3)(B).''.

(5) NOTICE TO EMPLOYEES.—Not later than 30 days after the date of enactment of this Act, the Secretary of Labor shall revise the materials the Secretary provides, under regulations contained in section 516.4 of title 29, Code of Federal Regulations, to employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 to employees so that the notice reflects the amendments made to the Act by this subsection.

BAUCUS (AND OTHERS) AMENDMENT NO. 266

(Ordered to lie on the table.)

Mr. BAUCUS (for himself, Mr. KERREY, and Ms. LANDRIEU) submitted an amendment intended to be proposed by them to the bill, S. 4, supra; as follows:

Beginning on page 1, strike line 3 and all that follows through page 28, line 16 and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Family-Friendly Workplace Act of 1997''.

SEC. 2. APPLICATION TO CERTAIN EMPLOYEES IN THE PRIVATE SECTOR.

Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended by adding at the end the following:

''(r)(1) An employee who is not a part-time, temporary, or seasonal employee (as defined in paragraph (13)(C)), who is not an employee of a public agency or of an employer in the garment industry, and who is not otherwise exempted from this subsection by regulations promulgated by the Secretary under paragraph (3)(D), may receive, in accordance with this subsection and in lieu of overtime compensation, compensatory time at a rate not less than 1½ hours for each hour of employment for which overtime compensation is required by this section.

''(2) An employer may provide compensatory time to an eligible employee under paragraph (1) only—

''(A) pursuant to—

''(i) applicable provisions of a collective bargaining agreement, memorandum of understanding, or any other written agreement between the employer and the representative of the employee; or

''(ii) in the case of an employee who is not represented by a collective bargaining agent or other representative designated by the employee, a plan adopted by the employer and provided in writing to the employees of the employer which provides employees with a voluntary option to receive compensatory time in lieu of overtime compensation for overtime work where there is an express, voluntary written request by an individual employee for compensatory time in lieu of overtime compensation, provided to the employer prior to the performance of any overtime assignment;

''(B) if the employee has not earned compensatory time in excess of the applicable limit prescribed by paragraph (3)(A) or in regulations issued by the Secretary under paragraph (3)(D);

''(C) if the employee is not required as a condition of employment to accept or request compensatory time; and

''(D) if the agreement or plan complies with the requirements of this subsection and the regulations promulgated by the Secretary thereunder, including the availability of compensatory time to similarly situated employees on an equal basis.

''(3)(A) An employee may earn not more than a total of 80 hours of compensatory time in any year or alternative 12-month period designated pursuant to subparagraph (C). The employer shall regularly report to the employee on the number of compensatory hours earned by the employee and the total amount of the employee's earned and unused compensatory time, in accordance with regulations issued by the Secretary of Labor.

''(B) Upon the request of an employee who has earned compensatory time, the employer shall, within 15 days after the request, provide monetary compensation for any such compensatory time at a rate not less than the regular rate earned by the employee at the time the employee performed the overtime work or the employee's regular rate at the time such monetary compensation is paid, whichever is higher.

''(C) Not later than January 31 of each calendar year, an employer shall provide monetary compensation to each employee of the employer for any compensatory time earned during the preceding calendar year for which the employee has not already received monetary compensation (either through compensatory time or cash payment) at a rate not less than the regular rate earned by the employee at the time the employee performed the overtime work or the employee's regular rate at the time such monetary compensation is paid, whichever is higher. An agreement or plan under paragraph (2) may designate a 12-month period other than the calendar year, in which case such monetary compensation shall be provided not later than 31 days after the end of such 12-month period. An employee may voluntarily, at the employee's own initiative, request in writing that such end-of-year payment of monetary compensation for earned compensatory time be delayed for a period not to exceed 3 months. This subparagraph shall have no effect on the limit on earned compensatory time set forth in subparagraph (A) or in regulations issued by the Secretary pursuant to subparagraph (D).

''(D) The Secretary may promulgate regulations regarding classes of employees, including but not limited to all employees in particular occupations or industries, to—

''(i) exempt such employees from the provisions of this subsection;

''(ii) limit the number of compensatory hours that such employees may earn to less than the number provided in subparagraph (A); or

''(iii) require employers to provide such employees with monetary compensation for earned compensatory time at more frequent intervals than specified in subparagraph (C);

where the Secretary has determined that such regulations are necessary or appropriate to protect vulnerable employees, where a pattern of violations of this Act may exist, or to ensure that employees receive the compensation due them.

''(4) An employee who has earned compensatory time authorized to be provided under paragraph (1) shall, upon the voluntary or involuntary termination of employment or upon expiration of this subsection, be paid for unused compensatory time at a rate of compensation not less than the regular rate earned by the employee at the time the employee performed the overtime work or the employee's regular rate at the time such monetary compensation is paid, whichever is higher. A terminated employee's receipt of, or eligibility to receive, monetary compensation for earned compensatory time shall not be used—

''(A) by the employer to oppose an application of the employee for unemployment compensation; or

''(B) by a State to deny unemployment compensation or diminish the entitlement of the employee to unemployment compensation benefits.

''(5) An employee shall be permitted to use any compensatory time earned pursuant to paragraph (1)—

''(A) for any reason that would qualify for leave under section 102(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)), or any comparable State law, irrespective of whether the employer is covered or the employee is eligible under such Act or law; or

''(B) for any other purpose—

''(i) upon notice to the employer at least 2 weeks prior to the date on which the compensatory time is to be used, unless use of the compensatory time at that time will cause substantial and grievous injury to the operations of the employer; or

''(ii) upon notice to the employer within the 2 weeks prior to the date on which the compensatory time is to be used, unless use of the compensatory time at that time will unduly disrupt the operations of the employer.

An employee's use of earned compensatory time may not be substituted by the employer for any other paid or unpaid leave or time off to which the employee otherwise is or would be entitled or has or would earn, nor satisfy any legal obligation of the employer to the employee pursuant to any law or contract.

''(6) An employee shall not be required by the employer to use any compensatory time earned pursuant to paragraph (1).

''(7)(A) When an employee receives monetary compensation for earned compensatory time, the monetary compensation shall be treated as compensation for hours worked for purposes of calculation of entitlement to employment benefits.

''(B) When an employee uses earned compensatory time, the employee shall be paid for the compensatory time at the employee's regular rate at the time the employee performed the overtime work or at the regular rate earned by the employee when the compensatory time is used, whichever is higher, and the hours for which the employee is so compensated shall be treated as hours worked during the applicable workweek or other work period for purposes of overtime compensation and calculation of entitlement to employment benefits.

''(8) Except in a case of a collective bargaining agreement, an employer may modify or terminate a compensatory time plan described in paragraph (2)(A)(ii) upon not less than 60 days' notice to the employees of the employer.

''(9) An employer may not pay monetary compensation in lieu of earned compensatory time except as expressly prescribed in this subsection.

''(10) It shall be an unlawful act of discrimination, within the meaning of section 15(a)(3), for an employer—

''(A) to discharge, or in any other manner penalize, discriminate against, or interfere with, any employee because such employee may refuse or has refused to request or accept compensatory time in lieu of overtime compensation, or because such employee may request to use or has used compensatory time in lieu of receiving overtime compensation;

''(B)(i) to request, directly or indirectly, that an employee accept compensatory time in lieu of overtime compensation;

''(ii) to require an employee to request such compensatory time as a condition of employment or as a condition of employment rights or benefits; or

''(iii) to qualify the availability of work for which overtime compensation is required upon an employee's request for or acceptance of compensatory time in lieu of overtime compensation; or

''(C) to deny an employee the right to use, or force an employee to use, earned compensatory time in violation of this subsection.

''(11) An employer who violates any provision of this subsection shall be liable, in an action brought pursuant to subsection (b) or (c) of section 16, in the amount of overtime compensation that would have been paid for the overtime hours worked or overtime hours that would have been worked, plus an additional equal amount as liquidated damages, such other legal or equitable relief as may be appropriate to effectuate the purpose of this section, costs, and, in the case of an action filed under section 16(b), reasonable attorney's fees. Where an employee has used compensatory time or received monetary compensation for earned compensatory time for such overtime hours worked, the amount of such time used or monetary compensation paid to the employee shall be offset against the liability of the employer under this paragraph, but not against liquidated damages due.

''(12)(A) The entire liquidated value of an employee's accumulated compensatory time,

calculated as provided for in this subsection, shall, for purposes of proceedings in bankruptcy under title 11, United States Code, be treated as unpaid wages earned by the individual—

''(i) if the date the employer was or becomes legally or contractually obligated to provide monetary compensation to the employee for the compensatory time was more than 90 days before the cessation of business, as if such date was within 90 days before the cessation of business by the employer;

''(ii) if the date the employer was or becomes legally or contractually obligated to provide such monetary compensation was within 90 days before the cessation of business by the employer, as of such date; or

''(iii) if the employer was not legally or contractually obligated to provide such monetary compensation prior to ceasing to do business, as of the date of ceasing to do business.

''(B) The amount of such monetary compensation shall not be limited by any ceiling on the dollar amount of wage claims provided under Federal law for such proceedings.

''(13) In this subsection—

''(A) the term 'overtime compensation' means the compensation required by subsection (a);

''(B) the term 'compensatory time' means hours during which an employee is not working and for which the employee is compensated in accordance with this subsection in lieu of overtime compensation;

''(C) the term 'part-time, temporary, or seasonal employee' means—

''(i) an employee whose regular workweek for the employer is less than 35 hours per week;

''(ii) an employee who is employed by the employer for a season or other term of less than 12 months or is otherwise treated by the employer as not a permanent employee of the employer; or

''(iii) an employee in the construction industry, in agricultural employment (as defined in section 3(3) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802(3))), or in any other industry which the Secretary by regulation has determined is a seasonal industry; and

''(D) the term 'overtime assignment' means an assignment of hours for which overtime compensation is required under this section.

''(14) The Secretary may issue regulations as necessary and appropriate to implement this subsection including, but not limited to, regulations implementing recordkeeping requirements and prescribing the content of plans and employee notification.''.

SEC. 3. CIVIL MONEY PENALTIES.

Section 16(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(e)) is amended by striking the second sentence and inserting the following: ''Any person who violates section 6, 7, or 11(c) shall be subject to a civil penalty not to exceed $1,000 for each such violation.''.

SEC. 4. CONSTRUCTION.

Section 18 of the Fair Labor Standards Act of 1938 (29 U.S.C. 218) is amended by adding at the end the following:

''(c)(1) No provision of this Act or of any order thereunder shall be construed to—

''(A) supersede any provision of any State or local law that provides greater protection to employees who are provided compensatory time in lieu of overtime compensation;

''(B) diminish the obligation of an employer to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater protection to employees provided compensatory time in lieu of overtime compensation; or

''(C) discourage employers from adopting or retaining compensatory time plans that provide more protection to employees.

''(2) Nothing in this subsection shall be construed to allow employers to provide compensatory time plans to classes of employees who are exempted from section 7(r), to allow employers to provide more compensatory time than allowed under subsection (o) or (r) of section 7, or to supersede any limitations placed by subsection (o) or (r) of section 7, including exemptions and limitations in regulations issued by the Secretary thereunder.''.

SEC. 5. COMMISSION ON WORKPLACE FLEXIBILITY.

(a) ESTABLISHMENT.—There is established a Commission on Workplace Flexibility (referred to in this section as the ''Commission'').

(b) MEMBERSHIP; COMPENSATION; POWERS; TRAVEL EXPENSES.—The Commission shall be composed, and the members of the Commission shall be appointed, in accordance with paragraphs (1) and (2) of subsection (a), and subsection (b) of section 303 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2633(a)(1) and (2) and (b)). The compensation and powers of the Commission shall be as prescribed by sections 304 and 305, respectively, of such Act (29 U.S.C. 2634 and 2635). The members of the Commission shall be allowed reasonable travel expenses in accordance with section 305(b) of such Act (29 U.S.C. 2635(b)).

(c) DUTIES.—

(1) STUDY.—The Commission shall conduct a comprehensive study of the impact of the provision of compensatory time on public and private sector employees, including the impact of this Act—

(A) on average earnings of employees, hours of work of employees, work schedules of employees, and flexibility of scheduling work to accommodate family needs; and

(B) on the ability of vulnerable employees or other employees to obtain the compensation to which the employees are entitled.

(2) REPORT.—

(A) IN GENERAL.—A report concerning the findings of the study described in paragraph (1) shall be prepared and submitted to the appropriate committees of Congress and to the Secretary not later than 1 year prior to the expiration of this title.

(B) RECOMMENDATIONS.—The report described in subparagraph (A) shall include recommendations on whether—

(i) the compensatory time provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et. seq.) should be modified or extended, including—

(I) a recommendation on whether particular classes of employees or industries should be exempted or otherwise given special treatment under the provisions;

(II) a recommendation on whether additional protections should be provided, including additional protections to employees of public agencies; and

(III) a recommendation on whether the provisions should be applied to any category of exempt employees.

(C) SPECIAL RULE.—The Commission shall have no obligation to conduct a study and prepare and submit a report pursuant to this section if funds are not authorized and appropriated for that purpose.

SEC. 6. EFFECTIVE DATE; CESSATION OF EFFECTIVENESS.

(a) EFFECTIVE DATE.—The provisions of this title, and the amendments made by this title, shall become effective 6 months after the date of enactment of this Act.

(b) CESSATION OF EFFECTIVENESS.—The provisions of this title, and the amendments made by this title, shall cease to be effective 4 years after the date of enactment of this Act.

KENNEDY AMENDMENTS NOS. 267–274

(Ordered to lie on the table.)

Mr. KENNEDY submitted eight amendments intended to be proposed by him to the bill, S. 4, supra; as follows:

AMENDMENT NO. 267

Beginning on page 9, strike line 19 and all that follows through page 10, line 3 and insert the following:

''(9)(A) An employee shall be permitted by an employer to use any compensatory time off provided under paragraph (2)—

''(i) for any reason that qualifies for leave under—

''(I) section 102(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)), irrespective of whether the employer is covered, or the employee is eligible, under such Act; or

''(II) an applicable State law that provides greater family or medical leave rights than does the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.);

''(ii) for any reason after providing notice to the employer not later than 2 weeks prior to the date on which the compensatory time off is to be used, except that an employee may not be permitted to use compensatory time off under this clause if the use of the compensatory time off will cause substantial and grievous injury to the operations of the employer; or

''(iii) for any reason after providing notice to the employer later than 2 weeks prior to the date on which the compensatory time off is to be used, except that an employee may not be permitted to use compensatory time off under this clause if the use of the compensatory time off will unduly disrupt the operations of the employer.''

AMENDMENT NO. 268

On page 28, after line 16, add the following:

SEC. 4. COMMISSION ON WORKPLACE FLEXIBILITY.

(a) ESTABLISHMENT.—There is established a Commission on Workplace Flexibility (referred to in this section as the ''Commission'').

(b) MEMBERSHIP.—The Commission shall be composed, and the members of the Commission shall be appointed, in accordance with paragraphs (1) and (2) of subsection (a), and subsection (b), of section 303 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2633(a) (1) and (2), and (b)).

(c) DUTIES.—

(1) STUDY.—The Commission shall conduct a comprehensive study of the impact of this Act, and the amendments made by this Act, on public and private sector employees, including the impact of this Act, and the amendments made by this Act—

(A) on the average earnings of employees, the hours of work of employees, the work schedules of employees, and the flexibility of scheduling work to accommodate family needs; and

(B) on the ability of employees to obtain the compensation to which the employees are entitled.

(2) REPORT.—

(A) IN GENERAL.—Not later than 1 year prior to the termination date of the Commission prescribed by subsection (e), the Commission shall prepare and submit to the appropriate committees of Congress and the Secretary of Labor, a report concerning the findings of the study described in paragraph (1).

(B) RECOMMENDATIONS.—The report described in subparagraph (A) shall include recommendations on whether—

(i) the compensatory time provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) should be modified or extended, including—

(I) a recommendation on whether particular classes of employees or industries should be exempted or otherwise provided special treatment under the provisions; and

(II) a recommendation on whether additional protections should be provided, including additional protections for employees of public agencies.

(C) SPECIAL RULE.—The Commission shall have no obligation to conduct a study and issue a report pursuant to this section if funds are not authorized and appropriated for that purpose.

(d) COMPENSATION AND POWERS.—The compensation and powers of the Commission shall be as prescribed by sections 304 and 305, respectively, of the Family and Medical Leave Act of 1993 (29 U.S.C. 2634 and 2635).

(e) TRAVEL EXPENSES.—The members of the Commission shall be allowed reasonable travel expenses in accordance with section 304(b) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2634(b)).

(f) TERMINATION.—The Commission shall terminate 4 years after the date of enactment of this Act.

SEC. 5. CESSATION OF EFFECTIVENESS.

This Act, and the amendments made by this Act, cease to be effective 4 years after the date of enactment of this Act.

AMENDMENT NO. 269

On page 10, strike lines 4 through 7 and insert the following:

''(10) In a case in which an employee uses accrued compensatory time off under this subsection, the accrued compensatory time off used shall be considered as hours worked during the applicable workweek or other work period for the purposes of overtime compensation and calculation of entitlement to employment benefits.

''(11)(A) The term 'compensatory time off' means the hours during which an employee is not working and for which the employee is compensated in accordance with this subsection in lieu of monetary overtime compensation.

''(B) The term 'monetary overtime compensation' means the compensation required by subsection (a).''.

AMENDMENT NO. 270

On page 10, strike line 4, and insert the following:

''(10) The entire liquidated value of an employee's accumulated compensatory time, calculated as provided for in this subsection, shall, for purposes of proceedings in bankruptcy under title 11, United States Code, be treated as unpaid wages earned by the individual as of—

''(A) the date the employer was or becomes legally or contractually obligated to provide monetary compensation to the employee for the compensatory time; or

''(B) if the employer was not legally or contractually obligated to provide such monetary compensation prior to ceasing to do business, the date of ceasing to do business.

''(11) The terms 'monetary overtime compensation' ''.

AMENDMENT NO. 271

Beginning on page 10, strike line 17 and all that follows through page 26, line 18.

AMENDMENT NO. 272

Beginning on page 26, strike line 19 and all that follows through page 28, line 16.

AMENDMENT NO. 273

Beginning on page 3, strike lines 15 through 23 and insert the following:

''(B) In this subsection:

''(i) The term 'employee' does not include—

''(I) an employee of a public agency;

''(II) an employee who is a part-time employee;

''(III) an employee who is a temporary employee; and

''(IV) an employee who is a seasonal employee.

''(ii) The term 'employer' does not include—

''(I) a public agency; and

''(II) an employer in the garment industry.

''(iii) The term 'employer in the garment industry' means an employer who is involved in the manufacture of apparel.

''(iv) The term 'part-time employee' means an employee whose regular workweek for the employer involved is less than 35 hours per week.

''(v) The term 'seasonal employee' means an employee in—

''(I) the construction industry;

''(II) agricultural employment (as defined by section 3(3) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802(3))); or

''(III) any other industry that the Secretary by regulation determines is a seasonal industry.

''(vi) The term 'temporary employee' means an employee who is employed by an employer for a season or other term of less than 12 months, or is otherwise treated by the employer as not a permanent employee of the employer.''

AMENDMENT NO. 274

Beginning on page 10, strike line 17 and all that follows through page 26, line 18.

DODD AMENDMENTS NOS. 275–276

(Ordered to lie on the table.)

Mr. DODD submitted two amendments intended to be proposed by him to the bill, S. 4, supra; as follows:

AMENDMENT NO. 275

On page 5, line 12, strike ''240'' and insert ''80''.

AMENDMENT NO. 276

Beginning on page 10, strike line 17 and all that follows through page 26, line 18.

KENNEDY AMENDMENT NO. 277

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill, S. 4, supra; as follows:

On page 7, strike line 13 and insert the following:

''(B) It shall be an unlawful act of discrimination, within the meaning of section 15(a)(3), for an employer—

''(i) to discharge or in any other manner penalize, discriminate against, or interfere with, any employee because—

''(I) the employee may refuse or has refused to request or accept compensatory time off in lieu of monetary overtime compensation;

''(II) the employee may request to use or has used compensatory time off in lieu of monetary overtime compensation; or

''(III) the employee has requested the use of compensatory time off at a specific time of the employee's choice;

''(ii) to request, directly or indirectly, that an employee accept compensatory time off in lieu of monetary overtime compensation;

''(iii) to require an employee to request compensatory time off in lieu of monetary overtime compensation as a condition of employment or as a condition of employment rights or benefits;

''(iv) to qualify the availability of work for which monetary overtime compensation is required upon the request of an employee for, or acceptance of, compensatory time off in lieu of monetary overtime compensation; or

''(v) to deny an employee the right to use, or coerce an employee to use, earned compensatory time off in violation of this subsection.

''(C) An agreement or understanding that is entered''.

SPECTER AMENDMENT NO. 278

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill, S. 4, supra; as follows:

On page 7, after line 12, insert

''(iii) UNLAWFUL DISCRIMINATION.—It shall be an unlawful act of discrimination, within the meaning of section 15(a)(3), for an employer to request, directly or indirectly, that an employee accept compensatory time off in lieu of monetary overtime compensation, or to qualify the availability of work for which overtime compensation is required upon employee's request for or acceptance of compensatory time off in lieu of monetary overtime compensation.''.

THE FLANK DOCUMENT TO THE CONVENTIONAL FORCES IN EUROPE TREATY

KERRY (AND OTHERS) EXECUTIVE AMENDMENT NO. 279

Mr. KERRY (for himself, Mr. SARBANES, Mr. ABRAHAM, Mrs. FEINSTEIN, and Mr. BIDEN) proposed an executive amendment to condition No. 5 of the Resolution of Ratification (Treaty Doc. No. 105–5); as follows:

Strike subparagraph (F) of section 2(5) and insert the following:

(F) COMPLIANCE REPORT ON ARMENIA AND OTHER STATES PARTIES IN THE CAUCASUS REGION.—Not later than August 1, 1997, the President shall submit to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a full and complete classified and unclassified report regarding—

(i) whether Armenia was in compliance with the Treaty in allowing the transfer of conventional armaments and equipment limited by the Treaty through Armenian territory to the secessionist movement in Azerbaijan;

(ii) whether other States Parties located in the Caucasus region are in compliance with the Treaty; and

(iii) if Armenia is found not to have been in compliance under clause (i) or, if any other State Party is found not to be in compliance under clause (ii), what actions the President has taken to implement sanctions as required by chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.; relating to assistance to the independent states of the former Soviet Union) or other provisions of law.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate

Committee on Indian Affairs will meet on Wednesday, May 21, 1997, at 9:30 a.m. in room 485, Russell Senate Building to conduct an oversight hearing on programs designed to assist native American veterans.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on Thursday, June 5, 1997, at 9 a.m. in SR–328A to receive testimony regarding contaminated strawberries in school lunches.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on Wednesday, June 18, 1997, at 9 a.m. in SR–328A to receive testimony from Secretary Glickman and U.S. Trade Representative Barshefsky regarding U.S. export trade.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, May 14, 1997, at 9:30 a.m. on program efficiencies of the Department of Commerce and National Science Foundation.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, May 14, for purposes of conducting a full committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this business meeting is to consider pending calendar business.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, May 14, 1997, beginning at 9:30 a.m. until business is completed, to receive testimony on the Campaign Finance System for Presidential Elections: The Growth of Soft Money and Other Effects on Political Parties and Candidates.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 14, 1997, at 2:30 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON OCEANS AND FISHERIES

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Oceans and Fisheries Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, May 14, 1997, at 2:30 p.m. on S. 39—International Dolphin Conservation Program Act.

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

CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Caucus on International Narcotics Control be authorized to meet during the session of the Senate on Wednesday, May 14, starting at 9:30 a.m. in room G–50 of the Dirksen Office Building. The caucus will be receiving testimony on the threat to and effects of corruption on U.S. law enforcement personnel along the Southwest border.

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

ADDITIONAL STATEMENTS

TRIBUTE TO MISSOURI LAW ENFORCEMENT OFFICIALS WHO LOST THEIR LIVES IN ORDER TO PROTECT AND SERVE

• Mr. BOND. Mr. President, I rise today to pay tribute to those law enforcement officers who have given their lives while protecting the lives of so many others. When I was the Governor, with command of the Highway Patrol of the State of Missouri, the hardest part of my job was, without question, dealing with the loss of a law enforcement officer. Not only did these men and women faithfully serve their communities in life, they imparted the greatest sacrifice of all: they gave their lives.

In 1996, 117 law enforcement officers lost their lives in the line of duty, and 13,692 officers in total have been killed while protecting their communities. Every year 1 in 9 officers is attacked, 1 in 25 is injured, and 1 in 4,000 is killed while trying to preserve the peace and safety of the United States.

My sincerest condolences go out to the families of these men and women who have died in the line of duty. I can only be thankful that organizations such as Missouri Concerns of Police Survivors [MOCOP] exist to help in the aftermath of such tragedy. Every year, this nonprofit support group honors those men and women who have laid down their lives for Missouri. According to MOCOP any local, State, or Federal peace officer serving Missouri as an elected, appointed, deputized, temporary, or permanent officer who was killed or died of wounds or injuries received while performing an act to enforce the law and/or keep the peace from 1820 to the present is eligible to have his or her name inscribed on a monument in Jefferson City, MO.

Two men whose names will be added to the monument this year, Detective Willie Neal, Jr.—January 29, 1997—and Deputy Sheriff Christopher Lee Castetter—November 28, 1996—sacrificed their lives within the past 6 months. It saddens me to hear of these officers in the prime of their lives killed needlessly as they attempted to do their jobs. I can only hope that it is of some comfort to their families that they will forever be remembered as heroes by being etched into this historic monument.

The other six being honored this year include: B.H. Williamson, May 26, 1867; Horace E. Petts, August 3, 1868; Jasper Mitchell, August 3, 1868; George C. Walters, March 3, 1873; J. Milton Phillips, September 20, 1873; Ed Daniels, March 17, 1874; Anderson Coffman, February 14, 1878; and Hardin Harvey Vickery, March 8, 1879.

As Abraham Lincoln once said, ''It is rather for us to be here dedicated to the great task remaining before us * * * that from these honored dead we take increased devotion to that cause for which they gave their last full measure of devotion; that we were highly resolved that these dead shall not have died in vain.'' It is important that we remember why these men and women gave their lives and that we work to ensure that their sacrifice was not in vain. Law enforcement men and women risk their lives every day in order to protect ours. Each day we walk down the street safely or get a good night's sleep without fear of robbery or assault, we should thank those officers who protect us every day and remember the ones who lost their lives in the process.

CONSUMER PRODUCT SAFETY COMMISSION'S ''RECALL ROUNDUP'' STATEMENT

Ms. MIKULSKI. Mr. President, I would like to take this opportunity to commend the Consumer Product Safety Commission for the kick off of its Recall Round-up campaign. The Recall Roundup is a national effort to retrieve all hazardous products that have been recalled, but may still be in people's homes.

Each year the Commission coordinates approximately 300 recalls of defective or dangerous products. The task of getting these products out of American homes has been a difficult one.

The existence of faulty products has been the cause of serious injury and even death to children in the United States. This is unacceptable. That's why I am pleased to report that in my own State, Maryland Lt. Governor Kathleen Kennedy Townsend on April 16 announced the State's plans to join the Commission in the Recall Roundup.

Mr. President, as one of the Senators for Maryland, I would like to submit Lt. Governor Townsend's remarks for the RECORD. I commend the Commission and the State of Maryland on their partnership to protect American children from hazardous products.

The remarks of the Lt. Governor follow:

[Consumer Product Press Conference, April 16, 1997]

REMARKS OF THE LT. GOVERNOR

Good Morning. This is a very exciting day and it's great to be here with you. I want to thank Chairman Ann Brown for her leadership and hard work, as well as all of the men and women of the Consumer Product Safety Commission.

Everyday, you make our homes and communities safer for children. You are doing a tremendous job of identifying hazardous products and getting them off the market and out of our homes. I am grateful, not just as the Lt. Governor of Maryland, but as the mother of four daughters. Thank you.

You know that we need to do more than just identify dangerous items. Every year, scores of children die because of products that the Consumer Product Safety Commission has already recalled. But for one reason or another, they were never replaced with safer products. These children did not have to die. And if we do the job we know we must, and make sure these products are taken out of homes, we can save many, many lives in the future.

Governor Glendening and I are extremely proud that Maryland and the Commission are working so closely together to make this happen. The Recall Roundup is the quintessential example of how federal and state governments can work together for our shared goals.

The Commission's information about what products pose threats to children is vital to parents, and we're going to make sure that they get it. We will distribute a list of these products to local health departments, community organizations, local publications, to second-hand stores. At the State's Child Care Conference, at the State Fair, and training seminars for child care providers. We are going to blanket the State, and in case some parents cannot get to the information, we'll be coming to them.

Maryland's high school student volunteers will be helping to perform Recall Roundup Home Inspections to point out potential hazards to families. Parents have enough to worry about. The world today is already dangerous for children. But we can make a difference. With hard work and cooperation, we can make sure that every child's home is child-safe. Thank you.

TRIBUTE TO ''UGA V'' AMERICA'S NO. 1 MASCOT

Mr. CLELAND. Mr. President, I rise today to pay tribute to UGA V, the mascot for the University of Georgia, who, this month, was honored by Sports Illustrated magazine as ''America's No. 1 college mascot.'' The English Bulldog carries almost 100 years of tradition as the mascot for the university's athletic program and is one of the most recognizable figures in all of college sports. The current line of bulldogs can be traced back over 50 years to when the first UGA's grandfather guarded the sidelines for the football team during the 1943 Rose Bowl in Pasadena, CA. UGA V and his forefathers have helped lead the University of Georgia to build one of the most respected and successful athletic programs in the country. The UGA line has witnessed national championships in football, baseball, and gymnastics; final fours in men's and women's basketball; and countless Southeastern Conference championships in a variety of sports. UGA IV was even invited to be the first mascot to attend the presentation of the Heisman trophy to Hershel Walker in 1982.

I would also like to recognize the outstanding efforts and dedication of the Seiler family of Savannah, GA. Since 1956, Frank (Sonny) Seiler and his family have raised UGA and his descendants. They have also traveled across the country attending all of the University of Georgia football games. Their hard work has molded a tradition like no other in this country.

As did the mascots before him, UGA V gives frequently of his time to charitable organizations. UGA has appeared and raised money for such groups as the Humane Society, March of Dimes, Easter Seals, and the Heart Fund. In 1984 UGA IV was named ''Honorary Chairman for the Great American Smokeout'' campaign on behalf of the American Cancer Society. When not appearing in his official capacity as mascot, UGA has represented the State of Georgia at a number of State functions.

It is with great pride that I congratulate the University of Georgia for all of its academic and athletic accomplishments, and UGA, ''America's No. 1 mascot.''

HONORING DR. ALLAN E. STRAND

● Mr. LAUTENBERG. Mr. President, I rise to honor Dr. Allan Strand, who is retiring after 18 years of distinguished service as headmaster of Newark Academy in New Jersey.

During his tenure, Dr. Strand's scholarship and leadership set a magnificent example for his students, including two of my own children. Although all four of my children received an outstanding education at Newark Academy, my two youngest had the added good fortune of attending while Dr. Strand was headmaster. He was an educator, mentor, and friend.

Mr. President, I know that my children benefited from Dr. Strand's vision, integrity, energy, and academic excellence. But more than that, the entire Newark Academy community benefited from his presence. His list of accomplishments while headmaster is impressive.

During his tenure, the academy's educational mission was affirmed. The traditional college preparatory course was continued, but the program was enhanced by bold developments in computer science and the arts. Dr. Strand also worked to revitalize the board of trustees and to strengthen an already superb faculty. Committed to the principles of respect and integrity, he introduced the Honor Code and Honor Council. Even the physical plant was not neglected; it was so expanded that only the front foyer remains unchanged. The McGraw Arts Center was added to accommodate the burgeoning arts program, and the Morris Interactive Learning Center brought the latest in technology to the school's instructional program.

But through all the changes, one thing remained unchanged, Dr. Strand's commitment to his students and their education. It has been said that the only lasting legacy that any of us can have is to make a difference in the life of a child. If that is true, than Dr. Strand's legacy is definitely assured.

Mr. President, when Thomas Jefferson presented his credentials as United States minister to France, the French premier remarked, ''I see that you have come to replace Benjamin Franklin.'' Jefferson corrected him. ''No one can replace Dr. Franklin. I am only succeeding him.'' In much the same way, Allan Strand is also irreplaceable. Others may fill his position at Newark Academy, but no one will ever be able to fill his shoes.●

TRIBUTE TO GEORGE HEARN

●Mr. INOUYE. Mr. President, I rise today to pay tribute to George Hearn. George Hearn is an old and trusted friend who has rendered distinguished service to our country in peace and war. He has announced that he will soon be trimming his sails, and cutting back on his day to day activities on behalf of U.S. flag international shipping. I hasten to reassure his countless friends and those who rely on his good counsel and advice, George Hearn is not retiring completely from the world of international shipping.

For over 50 years George has been part of our Nation's maritime effort. He enlisted in the U.S. Navy, and served in the Pacific Theater aboard the U.S.S. *Iowa* from 1945 to 1946. Honorably discharged from the Navy, George practiced maritime law in New York City. During that time he was also elected to the New York City Council, and served from 1957 until his resignation in 1961. He resigned to join the Kennedy administration in Washington, DC, where he served in a senior staff position at the Civil Aeronautics Board, until President Johnson nominated him to the Federal Maritime Commission in 1964. George was reappointed to the Commission, once by President Johnson, and once by President Nixon. He resigned as Vice-Chairman of the Commission in 1975, to practice maritime law in New York City. In 1982 he joined Waterman Steamship Corp. as the executive vice-president. George will continue to serve Waterman as a consultant.

Mr. President, that in brief is the distinguished public career of my friend, George Hearn. Proud as he should be of

all he has accomplished, I know he is proudest of his family, his wife of 45 years, Anne, and their adult children, Annemarie, Peggy, and George, Jr.

George is the son of an immigrant Irish father. George has capitalized to the fullest the bounty which our great country has offered to us all. But what makes me proudest to call George my friend, is the way he has used his opportunity to help preserve and increase that bounty for the generations of Americans to come. So, I wish to say well done good friend, and you deserve the chance to take time to smell the roses.●

TRIBUTE TO THE LATE IGNAZIO M. ''CARLO'' CARLUCCIO

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to the late Ignazio M. ''Carlo'' Carluccio who passed away on April 22, 1997, 3 months to the day after celebrating his 100th birthday in Hampton, NH, with his entire family and his close friends.

I had the great honor and privilege to meet Mr. Carluccio on October 29, 1996, at his home in North Salisbury Beach, MA, just across the border from Seabrook, NH. I was attending a function at a lobster pound owned by Bruce Brown, a long-time mutual friend of both Mr. Carluccio and myself. While in the area, I wanted to pay my respects to Mr. Carluccio, especially since his grandson Dino has worked in my office for the last decade.

When I met Mr. Carluccio in his home, he was in excellent health, witty, and sharp as a tack. Indeed, it was hard to believe at the time that he would shortly be celebrating his 100th birthday. During my visit with him, I was fascinated to learn many details of his truly remarkable life, some of which I would like to share with my colleagues and the American people today.

Ignazio Carluccio was born in the small town of Benevento, Italy, in 1897. He was the son of Antonio Carluccio, and the grandson of Ignazio Carluccio. He had one brother and four sisters, three of whom still reside in southern Italy. His grandfather was the proprietor of the Gran Caffe dell'Unione, the most popular gathering place in the center of Benevento with regular outdoor musical entertainment. It was this experience as a young boy, growing up around his grandfather's cafe, that would eventually shape and inspire Mr. Carluccio's future in America as a talented musician and a proprietor of his own small business in a similar small community far away from his homeland.

Before leaving Italy in 1921 for America, young Ignazio Carluccio learned to play the violin at a conservatory in Milan, and would often perform his own solo concerts in the beautiful parks along the bay of Naples. At that point, Ignazio's family had moved from Benevento to Naples, where his father now operated his own local cafe. I am told that there are still a few people in Naples who remember his violin performances.

Ignazio Carluccio loved the challenges that life presented, and he knew a lot about taking risks. Whether it was simply entering the local bicycle races along the treacherous, yet scenic Amalfi Coast between Naples and Sorrento, or his service during World War I in an Italian aviation division, Mr. Carluccio was not deterred by the physical harm he encountered. He recovered only to take an even greater risk—the monumental adventure of leaving everything behind except for his violin and a few family mementos and heading for America, never turning back in the eight decades that followed.

Earlier this year, Mr. Carluccio reflected on those first few years following his arrival in Boston on a passenger ship from Naples. He said, ''Early on, I could not speak English, but I made it. It was a heckuva time.''

Mr. Carluccio was persistent and determined following his arrival in America—he worked as a haberdasher and became the first concert violinist for the People's Symphony in Boston. He selected a middle name for himself, something uncommon in his native Italy, but not in his new country. He chose ''Mario'' because he wanted to be known as ''I.M. Carluccio'' which sounded like ''I am Carluccio.'' How clever for someone trying to master the English language, Mr. President.

He met his wife, Alphonsine Giguere, backstage during one of his performances, and married her in 1928. In 1934, following the passing of his father-in-law, he took over the drugstore his father-in-law had operated in Leominster, MA, since 1903, earned a degree in pharmacy, and practiced pharmacy for the next six decades until his retirement in 1985. At its peak, Giguere Drug Stores encompassed three shops and represented the largest prescription business in Worcester County, MA. When you were sick and needed medicine, everyone knew that you needed to go see Mr. Carluccio at Giguere's.

The original corner store was also complete with soda fountains, booths, and peanut machines, and even had musical entertainment performed on the store's roof at one point. It was the local hangout for everyone from school children to local politicians to State police officials. Mr. Carluccio surely must have been proud of the tradition he had carried on from his own grandfather's popular cafe in Benevento, Italy.

Mr. President, I.M. Carluccio lived the American dream to the fullest. He worked hard, starting at 5 a.m. in his store each morning, finishing late at night, teaching violin on the side to students in the community, putting his five children through college, and simultaneously sending money on a regular basis back to his siblings in Italy. And if that was not enough, Mr. President, he even reminded me last fall that, although he was approaching age 50 during World War II, he wrote a letter at the time to the Secretary of what was then known as our War Department offering his services. What devotion, Mr. President.

I.M. Carluccio cherished his family and his close friends, and he enjoyed his classic cars, his homemade spaghetti sauce, his violin music, and his favorite cigars—the simple things for a man who lived such a rich, enduring, and multifaceted life. He was a true gentleman to all who knew him. He accomplished so much that we can only hope that, perhaps, he was able to reflect back with pride, in his own quiet, dignified way, as he puffed his final cigars earlier this year. He has left a wonderful legacy which continues to inspire all those who have known him.

When I met him last fall I, too, was inspired, not only by his longevity, but by his selfless devotion through the years to his Nation, the communities in which he made his home, and to his entire family—three sons, two daughters, nine grandchildren, seven great-grandchildren, nephews, and nieces. Let me say also say here that I am proud that Mr. Carluccio's three grandchildren who carry the Carluccio name—Carlo, Dino, and Mario—are all constituents of mine from New Hampshire. I am honored to represent them in the U.S. Senate.

Mr. President, I hope Mr. Carluccio's legacy will inspire all those who hear of it today. I am proud to do my part through this statement to ensure that the life of Mr. Carluccio is properly recognized as part of our American history. The story of this great Italian-American centenarian has already been recognized on many occasions at the State and local level, and through the countless birthday greetings Mr. Carluccio received through the years from Presidents, Senators, Congressmen, and State and local politicians. But it is appropriate and deserving that today, we make Mr. Carluccio's life story part of the official, permanent RECORD of the U.S. Congress. God bless Mr. Carluccio and his entire family.

Mr. President, I ask that a proclamation by Massachusetts Gov. William F. Weld issued earlier this year in honor of Mr. Carluccio's 100th birthday and a statement submitted to Fitchburg State College honoring Mr. Carluccio as one of ''100 Who Made a Difference'' be printed in the RECORD.

The proclamation and statement follows:

A PROCLAMATION BY HIS EXCELLENCY GOVERNOR WILLIAM F. WELD—1997

Whereas, Ignazio M. Carluccio was born on January 22, 1897, in Benevento, Italy; and

Whereas, after moving to the United States in 1921, Mr. Carluccio found a new home in the Commonwealth and married Alphonsine Giguere in 1928; and

Whereas, a talented violinist, Ignazio Carluccio has shared his musical inspiration with many through performance and instruction; and

Whereas, in 1934, Ignazio Carluccio succeeded his father-in-law as owner and operator of the family business, Giguere's Drug Store, in Leominster, Massachusetts; and

Whereas, having earned the tremendous respect of his community, Ignazio Carluccio received an award from the Eli Lilly Pharmaceutical Company in 1976, in recognition of the outstanding community health service provided by Gigurere's Drug Store; and

Whereas, as Ignazio Carluccio celebrates his One Hundredth Birthday, it is fitting to pay tribute to this fine individual who has touched the lives of many throughout the Commonwealth; now, therefore, I, William F. Weld, Governor of the Commonwealth of Massachusetts, do hereby proclaim January 22nd, 1997, to be Ignazio Carluccio Day and urge all the citizens of the Commonwealth to take cognizance of this event and participate fittingly in its observance.

100 WHO MADE A DIFFERENCE

IGNAZIO M. CARLUCCIO

Mr. Carluccio has been an integral part of this community since 1928 when he married Alphonsine A. Giguere. He was a concert violinist and teacher of the violin in this and the surrounding area, but he later became a pharmacist and took over the operation and ownership of Giguere Drug to continue the family business that his father-in-law started in 1903. He dedicated his life to his family and business and to serving the public.

In the 1950's and 60's his corner drugstore was known as the most complete prescription department in Worcester County. In 1976, the Eli Lilly Pharmaceutical Company presented Mr. Carluccio and his company an award in recognition of outstanding Community Health Service.

In 1983, Giguere Drug Stores was recognized for 80 years of service, and I.M. Carluccio was still managing and serving the public from his corner drugstore. At this point, his original business had expanded into a small 3-store chain.

Mr. Carluccio had a special recipe of old-fashioned customer service and modern health care products. Customers idolized him. Today, he is still a celebrity for anyone who knows him, sees him, and remembers the days of yesteryear. This man is a tribute to his community!●

A TRIBUTE TO TWO FRIENDS

● Mr. CLELAND. Mr. President, I rise today to mourn the recent loss of two constituents and good friends. Mrs. Frances Chapman and Mr. Bill Kelly were more than just constituents and good friends from my home town of Lithonia, GA. They were outstanding examples to their families and friends, and assets to their community.

Frances Chapman's accomplishments were many. She was dedicated to her community and its institutions. She was a member of the First Baptist Church of Lithonia. There she served as superintendent of the children's department, taught Sunday school and was a member of the choir. She taught for several years in the DeKalb County School System, and was a past president of the Lithonia High School Parent Teachers Association. Through her participation in community organizations she made Lithonia a place of pride in Georgia. She was a longtime member of the Lithonia Women's Club, and served twice as its president. Through her energies and activities she set an example for all of us.

William (Bill) Kelly served his country and his community all his life. During World War II, he served in the Combat Engineers and saw action in the North Africa campaign. During his life, Mr. Kelly was always involved in one activity or another in his community. He ran a successful paving contracting company, and also helped develop the Lithonia Industrial Park. He served with great distinction for 12 years as the mayor of Lithonia, and his leadership sought to bring a better quality of life to all of its citizens. He was a longtime member of the Lithonia Presbyterian Church, Masonic Lodge No. 84 and the Veterans of Foreign Wars. He was dedicated to his wife of 55 years, Anne, and very involved with his two daughters, grandchildren, and great-grandchildren.

Mr. President, today I commend the lives and lessons of my friends, Frances Chapman and Bill Kelly, and ask my colleagues to join me in saluting their memory and accomplishments.●

TRIBUTE TO BOB DEVANEY

● Mr. KERREY. Mr. President, I rise today to pay tribute to Bob Devaney, the former athletic director and head football coach of the University of Nebraska, who passed away last Friday.

It is impossible to overstate the impact that Bob Devaney had on the people of our State. And although he was born and raised in Saginaw, MI, he was the pride of all Nebraska.

In 1962, he came from Wyoming and took the helm of a football team that finished 3–6–1 the year before. In his first year as head coach, he turned them into a 9–1 winner—the best record at Nebraska since 1905.

By the time he left the head coaching job to become athletic director in 1972, he had won two national championships, boasted the winningest record in college football at the time, and built the third-largest city in the State—Memorial Stadium on a fall Saturday. He won eight Big Eight championships, six bowl games, and in 1982, a place in the College Football Hall of Fame.

Numbers alone cannot measure Bob Devaney's achievement. He brought pride to Nebraska and taught us what it took and what it felt like to be No. 1. He taught our children how to dream beyond the boundaries of the rural communities and urban neighborhoods in which they live, and he taught us all that with commitment and determination, our dreams could become realities.

But his most important legacy was that of sportsmanship. One of the many tributes to Bob Devaney in the wake of his death shared this story, and captures the greatness of the man:

In one game in 1970, after Nebraska trailed Kansas by 20–10, the Cornhuskers rallied for a 41–20 victory. ''You learned something today,'' Mr. Devaney told his players after the game. ''You learned you can come back. Remember that. That's the lesson of life.''

Bob Devaney taught all of us about the lessons of life. Bob was a source of inspiration, a great Nebraskan, and a friend to us all. Because of Bob Devaney, there is no place like Nebraska. He will be badly missed.

Mr. President, I ask that Bob Reeves' tribute from the May 10 Lincoln Journal-Star and an editorial from the May 11 Omaha World-Herald be printed into the RECORD.

The material follows:

[From the Lincoln Journal-Star, May 10, 1997]

DEVANEY AN 'INSPIRATION' TO STATE

(By Bob Reeves)

Nebraska lost more than a great football coach when Bob Devaney died Friday. The state lost a born motivational expert who helped give the state a real sense of self-esteem, current and former state and university leaders said Friday.

''Bob Devaney was an inspiration to Nebraska,'' Gov. Ben Nelson said. ''He made pride in football and pride in Nebraska the same. He helped Nebraskans believe that we could be No. 1 in football and in anything we did. He will be missed personally, and by the people who knew and loved him.''

''All of us who knew and worked for Bob Devaney feel a great sense of loss,'' said University of Nebraska-Lincoln head football coach Tom Osborne. ''It's an end of an era, so to speak. Bob always had great joy for the people who worked for him and was very supportive.''

James Moeser, UNL chancellor, said Devaney ''helped make the University of Nebraska synonymous with strength, a solid work ethic and people who strive to do their very best.''

Former Gov. Norbert Tiemann, who served from 1967 to 1971, described Devaney as ''a tremendous leader.''

Devaney ''turned the whole athletic program around (and) gave the state a sense of pride in itself,'' said Tiemann, who now lives in Dallas. ''I've got the greatest admiration for him, both from a professional and personal standpoint. It was a tremendous boost to the state's ego to have a winning football team.''

Those comments were echoed by former Gov. Frank Morrison, who served from 1961 through 1967. He was governor at the time then-chancellor Clifford Hardin hired Devaney to take over the football program.

''In many ways, he changed the psychological attitude of the state,'' Morrison said. ''The majority of people had an inferiority complex. It (Devaney's enthusiasm) was pervasive. He helped unify the state and improve our pride in Nebraska.''

Both Morrison and Tiemann talked about the positive impression Devaney made when he first arrived in the state from neighboring Wyoming. Tiemann was a banker in Wausa at the time and traveled throughout the state with a group introducing Devaney to various communities.

''Wherever we went, we didn't have to do much selling,'' because of Devaney's winning personality, Tiemann said. ''He made a great impression. He was a wonderful person to be around.''

He added that Devaney had such a likable personality that ''he could tell the dirtiest jokes in mixed company and get away with it. I could never do that.''

He also forged an intense loyalty from his players, said Morrison, who remained a close friend of Devaney's over the years. ''Johnny Rodgers (1972 Heisman Trophy winner) told me one time, 'I would have died for Bob Devaney.'''

Woody Varner, who was president of the university from 1970–77, during Nebraska's first two national championships, said he knew Devaney when he was an assistant coach at Michigan State.

''He came (here) with real devotion to Nebraska,'' Varner said.

''He was always a fighter for Nebraska. He never swallowed the story that Nebraska was second-class in any respect. He wanted Nebraskans to feel proud of themselves and of the state.''

Varner added that what Devaney did for athletics helped build the reputation of the university.

''It was easier to recruit students and faculty,'' he said. ''The state of Nebraska held its head high, thanks to Bob Devaney.''

Don Bryant, UNL associate athletic director and former longtime sports information director, said, ''I have lost a dear, personal friend and it results in a feeling of numbness and shock to realize that Bob Devaney no longer is a force in Nebraska and intercollegiate athletics.''

Bryant said Devaney's coaching ability and administrative leadership ''raised the standards of excellence and the visions of highest expectations for all Nebraskans.''

Osborne said that besides being a great coach, Devaney was ''a great friend.''

''He was the one who gave me a chance to be a graduate assistant, an assistant coach and a head coach at Nebraska,'' Osborne said. ''Most everything I know about coaching I learned from him. He was exceptional at handling players, always had a great sense of humor, and the players enjoyed playing for him because of the type of person he was. We will all miss him dearly.''

UNL Athletic Director Bill Byrne described Devaney as ''a giant in the world of college football, a dear friend and national leader.'' Devaney's leadership ''created a football dynasty and athletic program that is the best in America,'' he said. ''Our goal at Nebraska will be to continue the legacy created by Bob. We all will miss him very much.''

UNL sports historian Ben Rader described Devancy as ''a modern icon of success, in as much as his victories represented success for the entire state . . . He was also an example of a self-made man, who came from modest origins. Success is very difficult to measure in the world of bureaucracies, but an athletics or sports, it's very clear-cut.''

UNL volleyball coach Terry Pettit recalled that when Devancy came to Nebraska, he had two missions.

''First, he turned around an average football program and made it into the best in the nation. Then, as athletic director, he (took) a mediocre athletic department and built it into one of the best all-around athletic programs in the country.''

Petit credited Devaney with helping make Nebraska competitive in women's athletics.

''He gave me the resources and opportunity to succeed,'' Petiti said.

''He did have, and he will continue to have a lasting impact on the Nebraska athletic department and the entire state of Nebraska. His energy, enthusiasm and drive shaped our athletic department. For a lot of people, especially the coaches under him, he was a sort of father figure. We looked to him for guidance and support, and he always showed great loyalty to his staff.''

[From the Omaha World Herald, May 11, 1997]

BOB DEVANEY, BUILDER OF PRIDE

Bob Devaney.

The name unleashes a flood of symbols and memories.

Johnnie the Jet.

Gotham Bowl.

The Game of the Century.

Tagge-Brownson.

Back-to-back national football championships.

Tom Osborne.

Expansion after expansion of Memorial Stadium.

A sea of helium-filled red balloons, released by thousands of football fans on Nebraska's first touchdown of the game, hanging in the air above Lincoln on a brilliant fall day.

Even before Devaney's death on Friday, it has been an often-repeated cliche that Devaney's impact on Nebraska went far beyond football, that he brought Nebraskans together, east and west.

But like most other cliches, this one is backed by solid evidence.

A stumbling athletic program wasn't the only negative that greeted Devaney when he accepted the head coaching job in 1962. The state's spirit in general had been bruised by events of the previous five years. The Starkweather mass murders were still fresh in people's memories. A governor had recently died in office. Angry debates over tax policy and school financing, gathering steam since the 1940s, were dividing urban and rural Nebraska interests.

Nebraskans were ready for a little good news. Devaney gave it to them.

Under him, the Cornhuskers played with noticeably greater verve.

They won games that they would have lost in earlier years.

They began appearing in the national ratings. Then the Top 10.

Finally, in 1970 and 1971, they were national champions.

Interstate 80 was pushing westward across Nebraska in those days.

Westerners sometimes asked what good it was.

Devaney's success gave people in Hyannis, Kimball and Scottsbluff a reason to use the new superhighway.

Cowboy boots and Stetsons, often bright red, became a familiar sight in Lincoln on autumm Saturdays.

Lincoln's economy benefited.

East-west friendships grew stronger. The financial success of the football team made it possible for Nebraska to have a high-caliber women's athletic program. The classy Devaney football teams gave the university national visibility.

Some people say that too much is made of college athletics, and they're right. Devaney knew that. Remember, he told fans before a game in 1965, there are 800 million people in China ''who don't give a damn whether Nebraska wins or loses.'' There are bigger things in life than whether the team wins.

Devaney never seemed driven or angry. He respected his opponents. His spirit of good sportsmanship lives on in the Memorial Stadium fans who traditionally applaud Nebraska's opponents at the end of each game, even when Nebraska loses.

Devaney never set out to transform Nebraska. He would have laughed if someone in 1962 said he was responsible for propping up the self-esteem of an entire state. He was just a man with something he could do very, very well. But excellence on the football field inspired excellence in other walks of life.

Devaney's success, and the positive influence his accomplishments had on his adopted state, constitutes a memorial that will long bring honor to his name.●

WEI JINGSHENG

Mr. ROTH. Mr. President, I rise to join my colleagues who have so eloquently praised China's most prominent dissident and advocate of democracy, Wei Jingsheng, and who have called for his immediate release from prison. Yesterday marked the publication of Mr. Wei's remarkable book, ''The Courage to Stand Alone.'' The book is a compilation of his valiant prison letters to the Chinese leadership.

As a result of Mr. Wei's outspoken and articulate views on human rights and democracy the Government of China has imprisoned him—mostly in solitary confinement—for the greatest part of two decades. His personal sacrifices in the name of fundamental freedoms are a testament to his heroic spirit.

As one who has always supported commercial engagement with Beijing to encourage greater openness and freedom in China, I find China's repression of Wei's views and cruel treatment of Wei himself offensive.

As we are about to embark on our annual debate on renewing normal trade relations with China, Beijing must realize that its treatment of Mr. Wei in particular, and its repressive human rights policies in general, trouble all of the Members of this body, especially those of us who favor renewal.

While Mr. Wei has been outspoken in his own support of continuing China's MFN trade status—noting at his trial that the direct victims of MFN revocation ''would be the already poverty-stricken Chinese people'' rather than the authorities in Beijing—China would do its people and its position in the world well by heeding this brave man's calls for greater freedom and democracy.●

EARLY CHILDHOOD DEVELOPMENT ACT

● Mr. KENNEDY. Mr. President, it is a privilege to cosponsor the Early Childhood Development Act and I commend Senator KERRY for introducing this important legislation.

Recent research has clearly demonstrated what parents and others have intuitively known for generations: that experiences in the early childhood years lay the foundation for much of later development. Children thrive and grow on positive interactions with their parents and other adults. Quality child care, quality nutrition, and quality health care can make all the difference in enabling infants and children to reach their full potential and become contributing members of society. Ensuring that children have these experiences early in development is much easier and less expensive than coping with later crisis problems such as substance abuse, school dropout, and criminal behavior.

The Early Childhood Development Act is a significant step toward helping children obtain the multiple supports they need to grow and thrive. It builds effectively on the White House summit in April that emphasized the very great

importance of this issue. It will help State and local jurisdictions expand their efforts to assist young children and their families. It will strengthen Early Head Start, and increase resources for child care and nutrition.

This initiative is extremely important for the Nation's children. I look forward to continuing to work with Senator KERRY and others to provide children with the opportunities they need and deserve and must have in order to help our country for the generations to come.●

SENATE QUARTERLY MAIL COSTS—SECOND QUARTER

● Mr. WARNER. Mr. President, in accordance with section 318 of Public Law 101–520 as amended by Public Law 103–283, I am submitting the frank mail allocations made to each Senator from the appropriation for official mail expenses and a summary tabulation of Senate mass mail costs for the second quarter of fiscal year 1997 to be printed in the RECORD. The second quarter of fiscal year 1997 covers the period of January 1, 1997 through March 31, 1997. The official mail allocations are available for frank mail costs, as stipulated in Public Law 104–197, the Legislative Branch Appropriations Act of Fiscal Year 1997.

The material follows:

Senators	Fiscal year 1997 official mail allocation	Senate quarterly mass mail volumes and costs for the quarter ending Mar. 31, 1997			
		Total pieces	Pieces per capita	Total cost	Cost per capita
Abraham	$143,028	1,520	0.00016	$403.90	$0.00004
Akaka	43,336	0 0		0.00 0	
Allard	59,148	0 0		0.00 0	
Ashcroft	97,617	0 0		0.00 0	
Baucus	41,864	12,443	0.01510	10,242.54	0.01243
Bennett	50,841	0 0		0.00 0	
Biden	40,023	0 0		0.00 0	
Bingaman	50,582	0 0		0.00 0	
Bond	97,617	0 0		0.00 0	
Boxer	382,528	815	0.00003	273.31	0.00001
Bradley	33,378	0 0		0.00 0	
Breaux	82,527	0 0		0.00 0	
Brown	20,625	0 0		0.00 0	
Brownback	52,198	0 0		0.00 0	
Bryan	50,755	0 0		0.00 0	
Bumpers	62,350	0 0		0.00 0	
Burns	41,864	0 0		0.00 0	
Byrd	53,135	0 0		0.00 0	
Campbell	77,822	0 0		0.00 0	
Chafee	43,394	0 0		0.00 0	
Cleland	90,218	0 0		0.00 0	
Coats	100,503	0 0		0.00 0	
Cochran	62,491	0 0		0.00 0	
Cohen	12,042	0 0		0.00 0	
Collins	35,217	0 0		0.00 0	
Conrad	38,762	14,900	0.02343	1,976.46	0.00311
Coverdell	118,346	0 0		0.00 0	
Craig	44,496	0 0		0.00 0	
D'Amato	232,926	0 0		0.00 0	
Daschle	39,578	0 0		0.00 0	
DeWine	164,923	1,720	0.00016	448.000	0.00004
Dodd	71,425	0 0		0.00 0	
Domenici	50,582	0 0		0.00 0	
Dorgan	38,762	6,600	0.01038	864.74	0.00136
Durbin	125,121	0 0		0.00 0	
Exon	13,199	0 0		0.00 0	
Enzi	28,054	0 0		0.00 0	
Faircloth	121,600	0 0		0.00 0	
Feingold	91,527	0 0		0.00 0	
Feinstein	382,528	0 0		0.00 0	
Ford	77,040	0 0		0.00 0	
Frahm	0	0 0		0.00 0	
Frist	96,062	0 0		0.00 0	
Glenn	164,923	0 0		0.00 0	
Gorton	97,506	2,170	0.00042	564.31	0.00011
Graham	230,836	0 0		0.00 0	
Gramm	251,855	1,400	0.00008	448.19	0.00003
Grams	85,350	57,080	0.01274	34,094.58	0.00761
Grassley	65,258	0 0		0.00 0	
Gregg	44,910	4,176	0.00376	3,357.88	0.00302
Hagel	38,444	0 0		0.00 0	
Harkin	65,258	0 0		0.00 0	
Hatch	50,841	0 0		0.00 0	
Hatfield	18,477	0 0		0.00 0	
Heflin	22,240	0 0		0.00 0	
Helms	121,600	0 0		0.00 0	
Hollings	76,388	0 0		0.00 0	
Hutchinson	47,286	0 0		0.00 0	
Hutchison	251,855	0 0		0.00 0	
Inhofe	73,454	0 0		0.00 0	
Inouye	43,336	0 0		0.00 0	
Jeffords	38,357	192,100	0.33702	32,489.42	0.05700
Johnson	29,826	0 0		0.00 0	
Johnston	21,919	0 0		0.00 0	
Kassebaum	16,457	0 0		0.00 0	
Kempthorne	44,496	0 0		0.00 0	
Kennedy	104,638	0 0		0.00 0	
Kerrey	50,818	0 0		0.00 0	
Kerry	104,638	0 0		0.00 0	
Kohl	91,527	0 0		0.00 0	
Kyl	83,872	0 0		0.00 0	
Landrieu	62,755	0 0		0.00 0	
Lautenberg	124,195	0 0		0.00 0	
Leahy	38,357	0 0		0.00 0	
Levin	143,028	0 0		0.00 0	
Lieberman	71,425	0 0		0.00 0	
Lott	62,491	388,500	0.14862	57,001.87	0.02181
Lugar	100,503	0 0		0.00 0	
Mack	230,836	0 0		0.00 0	
McCain	83,872	5,640	0.00147	4,692.98	0.00122
McConnell	77,040	0 0		0.00 0	
Mikulski	90,835	0 0		0.00 0	
Moseley-Braun	163,870	0 0		0.00 0	
Moynihan	232,926	0 0		0.00 0	
Murkowski	37,990	0 0		0.00 0	
Murray	97,506	17,800	0.00347	3,910.47	0.00076
Nickles	73,454	0 0		0.00 0	
Nunn	31,770	0 0		0.00 0	
Pell	11,158	0 0		0.00 0	
Pressler	10,108	0 0		0.00 0	
Pryor	16,371	0 0		0.00 0	

Senators	Fiscal year 1997 official mail allocation	Senate quarterly mass mail volumes and costs for the quarter ending Mar. 31, 1997			
		Total pieces	Pieces per capita	Total cost	Cost per capita
Reed	32,752	0 0		0.00 0	
Reid	50,755	0 0		0.00 0	
Robb	109,107	0 0		0.00 0	
Roberts	47,525	0 0		0.00 0	
Rockefeller	53,135	0 0		0.00 0	
Roth	40,023	0 0		0.00 0	
Santorum	176,220	0 0		0.00 0	
Sarbanes	90,835	0 0		0.00 0	
Sessions	63,649	0 0		0.00 0	
Shelby	83,692	0 0		0.00 0	
Simon	44,289	0 0		0.00 0	
Simpson	9,473	0 0		0.00 0	
Smith, Bob	44,910	0 0		0.00 0	
Smith, Gordon	53,158	0 0		0.00 0	
Snowe	46,609	0 0		0.00 0	
Specter	176,220	0 0		0.00 0	
Stevens	37,990	0 0		0.00 0	
Thomas	37,266	0 0		0.00 0	
Thompson	96,062	0 0		0.00 0	
Thurmond	76,388	0 0		0.00 0	
Torricelli	94,702	0 0		0.00 0	
Warner	109,107	0 0		0.00 0	
Wellstone	85,350	0 0		0.00 0	
Wyden	70,009	0 0		0.00 0	
Total		706,864	0.55683	150,768.65	0.10855•

SENATE QUARTERLY MAIL COSTS—FIRST QUARTER

• Mr. WARNER. Mr. President, in accordance with section 318 of Public Law 101–520 as amended by Public Law 103–283, I am submitting the frank mail allocations made to each Senator from the appropriation for official mail expenses and a summary tabulation of Senate mass mail costs for the first quarter of fiscal year 1997 to be printed in the RECORD. The first quarter of fiscal year 1997 covers the period of October 1, 1996, through December 31, 1996. The official mail allocations are available for frank mail costs, as stipulated in Public Law 104–197, the Legislative Branch Appropriations Act for fiscal year 1997.

The material follows:

Senators	Fiscal year 1997 official mail allocation	Senate quarterly mass mail volumes and costs for the quarter ending Mar. 31, 1996			
		Total pieces	Pieces per capita	Total cost	Cost per capita
Abraham	$143,028	2,750	0.00029	$563.73	$0.00006
Akaka	43,336	0 0		0.00 0	
Allard	59,148	0 0		0.00 0	
Ashcroft	97,617	0 0		0.00 0	
Baucus	41,864	0 0		0.00 0	
Bennett	50,841	0 0		0.00 0	
Biden	40,023	0 0		0.00 0	
Bingaman	50,582	0 0		0.00 0	
Bond	97,617	0 0		0.00 0	
Boxer	382,528	0 0		0.00 0	
Bradley	33,378	0 0		0.00 0	
Breaux	82,527	0 0		0.00 0	
Brown	20,625	13,000	0.00375	3,833.68	0.00110
Brownback	52,198	0 0		0.00 0	
Bryan	50,755	0 0		0.00 0	
Bumpers	62,350	0 0		0.00 0	
Burns	41,864	0 0		0.00 0	
Byrd	53,135	0 0		0.00 0	
Campbell	77,822	0 0		0.00 0	
Chafee	43,394	0 0		0.00 0	
Cleland	90,218	0 0		0.00 0	
Coats	100,503	0 0		0.00 0	
Cochran	62,491	0 0		0.00 0	
Cohen	12,042	0 0		0.00 0	
Collins	35,217	0 0		0.00 0	
Conrad	38,762	0 0		0.00 0	
Coverdell	118,346	0 0		0.00 0	
Craig	44,496	0 0		0.00 0	
D'Amato	232,926	0 0		0.00 0	
Daschle	39,578	0 0		0.00 0	
DeWine	164,923	0 0		0.00 0	
Dodd	71,425	0 0		0.00 0	
Domenici	50,582	0 0		0.00 0	
Dorgan	38,762	0 0		0.00 0	
Durbin	125,121	0 0		0.00 0	
Exon	13,199	0 0		0.00 0	
Enzi	28,054	0 0		0.00 0	
Faircloth	121,600	0 0		0.00 0	
Feingold	91,527	0 0		0.00 0	
Feinstein	382,528	0 0		0.00 0	
Ford	77,040	0 0		0.00 0	
Frahm	0	0 0		0.00 0	
Frist	96,062	0 0		0.00 0	
Glenn	164,923	0 0		0.00 0	
Gorton	97,506	0 0		0.00 0	
Graham	230,836	0 0		0.00 0	
Gramm	251,855	0 0		0.00 0	
Grams	85,350	0 0		0.00 0	
Grassley	65,258	0 0		0.00 0	
Gregg	44,910	0 0		0.00 0	
Hagel	38,444	0 0		0.00 0	
Harkin	65,258	0 0		0.00 0	
Hatch	50,841	0 0		0.00 0	
Hatfield	18,477	0 0		0.00 0	
Heflin	22,240	0 0		0.00 0	
Helms	121,600	0 0		0.00 0	
Hollings	76,388	0 0		0.00 0	
Hutchinson	47,286	0 0		0.00 0	
Hutchison	251,855	0 0		0.00 0	
Inhofe	73,454	0 0		0.00 0	
Inouye	43,336	0 0		0.00 0	
Jeffords	38,357	31,020	0.05442	5,689.22	0.00998
Johnson	29,826	0 0		0.00 0	
Johnston	21,919	0 0		0.00 0	

Senators	Fiscal year 1997 official mail allocation	Senate quarterly mass mail volumes and costs for the quarter ending Mar. 31, 1996			
		Total pieces	Pieces per capita	Total cost	Cost per capita
Kassebaum	16,457	0 0		0.00 0	
Kempthorne	44,496	0 0		0.00 0	
Kennedy	104,638	0 0		0.00 0	
Kerrey	50,818	0 0		0.00 0	
Kerry	104,638	0 0		0.00 0	
Kohl	91,527	0 0		0.00 0	
Kyl	83,872	0 0		0.00 0	
Landrieu	62,755	0 0		0.00 0	
Lautenberg	124,195	0 0		0.00 0	
Leahy	38,357	726	0.00127	1,018.31	0.00179
Levin	143,028	0 0		0.00 0	
Lieberman	71,425	0 0		0.00 0	
Lott	62,491	0 0		0.00 0	
Lugar	100,503	0 0		0.00 0	
Mack	230,836	0 0		0.00 0	
McCain	83,872	4,398	0.00115	3,565.77	0.00093
McConnell	77,040	0 0		0.00 0	
Mikulski	90,835	0 0		0.00 0	
Moseley-Braun	163,870	0 0		0.00 0	
Moynihan	232,926	0 0		0.00 0	
Murkowski	37,990	0 0		0.00 0	
Murray	97,506	0 0		0.00 0	
Nickles	73,454	0 0		0.00 0	
Nunn	31,770	0 0		0.00 0	
Pell	11,158	0 0		0.00 0	
Pressler	10,108	0 0		0.00 0	
Pryor	16,371	0 0		0.00 0	
Reed	32,752	0 0		0.00 0	
Reid	50,755	0 0		0.00 0	
Robb	109,107	0 0		0.00 0	
Roberts	47,525	0 0		0.00 0	
Rockefeller	53,135	0 0		0.00 0	
Roth	40,023	0 0		0.00 0	
Santorum	176,220	0 0		0.00 0	
Sarbanes	90,835	0 0		0.00 0	
Sessions	63,649	0 0		0.00 0	
Shelby	83,692	0 0		0.00 0	
Simon	44,289	0 0		0.00 0	
Simpson	9,473	0 0		0.00 0	
Smith, Bob	44,910	0 0		0.00 0	
Smith, Gordon	53,158	0 0		0.00 0	
Snowe	46,609	0 0		0.00 0	
Specter	176,220	0 0		0.00 0	
Stevens	37,990	0 0		0.00 0	
Thomas	37,266	0 0		0.00 0	
Thompson	96,062	0 0		0.00 0	
Thurmond	76,388	0 0		0.00 0	
Torricelli	94,702	0 0		0.00 0	
Warner	109,107	0 0		0.00 0	
Wellstone	85,350	0 0		0.00 0	
Wyden	70,009	0 0		0.00 0	
Total		51,894	0.06088	14,670.71	0.01386

ORDERS FOR THURSDAY, MAY 15, 1997

Mr. LOTT. Madam President, I ask unanimous consent that at 9:15 a.m. on Thursday the Senate resume consideration of S. 4, the Family Friendly Workplace Act, and the time between then and 10 a.m. be equally divided between the two managers, or their designees; and, further, at 10 a.m. the Senate proceed to vote on the motion to invoke cloture on the pending committee amendment. I further ask unanimous consent that following that vote there be a period for morning business until the hour of 11 a.m. with Senator THOMAS in control of the first 20 minutes; and, Senator DASCHLE, or his designee, under the control of the next 20 minutes.

Finally, I ask unanimous consent that at 11 a.m. the Senate resume consideration of H.R. 1122, the Partial-Birth Abortion Ban Act.

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

Mr. LOTT. Madam President, I yield the floor, and I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection it is so ordered.

PARTIAL-BIRTH ABORTION BAN ACT OF 1997

Mr. BROWNBACK. Madam President, I rise to speak about something of great sadness in our Nation. Tomorrow we will take a vote on partial-birth abortion. I want to speak about that particular issue if I could this evening from a particular perspective that I think might be somewhat different from folks who might look at this as a sterile procedure, a procedure that we may consider banning. I would like to talk about what it says of our culture, what this procedure that is being used today says about us. Is the loss of love in our culture actually so great that we could actually kill a child and explain it away? I think this is actually how we ought to look at this debate on this issue.

I oppose the partial-birth abortion procedure being conducted in United States other than in cases of loss of life of the mother, and then I think we need to clearly say that this is available in cases of loss of life of the mother. My wife and I have three children, and I would hate to think that she would be put in a spot where she could not have access to a medical procedure that she desperately needed for her own life. But that is taken care of in this bill and there is an allowance for it. In the case where the life of the mother is at risk, this procedure is allowed, and that is proper and as it should be. We allow that to take place.

What I want to talk about more is that we have so many of these abortions happening in this country. What does it say about the culture and our own loss of care and our own loss of love? What does it say about us that this procedure is even allowed.

I want to point out to this body some of the things that have happened to American culture over the past 30 years that I think point out we have lost the care for other individuals and we have lost the compassion for others and even for babies.

Let us look at this chart, if I could share it with you. We are looking at child abuse and neglect reports in America, and this is 1976 to 1995. We are looking at numbers of reports in the millions. We are looking at about 600,000 in 1976, which is wholly too much, we are looking at 3 million, over 3 million in 1995.

The growth that has taken place during that period of time, what does that say about a loss of care and a loss of compassion in our society and in our culture?

I want to look at this next chart, violent crime offenses in our society. Look where we were in 1960. This is

rate per 100,000 individuals. For every 100,000 individuals in America, we had about 160 violent crime offenses in 1960.

Where are we today? In 1993, the latest we have numbers for, we are at 746 per 100,000 people. From 160 to 746 during that period of time of roughly about 30, 33 years.

I only point these out to ask, what is it today about our culture? I think our culture is in a great depression, that we are violent, we are not caring for our children, we are not doing the right things for them, and we are not doing the right things to try to correct it. We have to rebuild the culture, and I think we rebuild it by loving and caring for each other, and we will.

To me, that is what this debate is about. It is about banning a particular procedure used on babies, and it is about saying we should not, in a civilized society, allow this. We should not, in looking at this sort of violence and lack of caring and lack of respect in this society, let something like this go on. It is about those who are involved and it is about our conscience being pricked by this.

We see these charts—Senator SANTORUM has pointed to them —about the child being born, and we get uncomfortable; we don't like that because it is striking our conscience and it is saying it is not civilized for us to be doing and continuing this procedure. We see it and we do not like it. If we saw it happening to an animal, we would not like it, and we certainly feel that way towards a child.

That is why I urge my colleagues and the American people, let us reject this procedure as part of rebuilding our culture, as part of restaking this ground. We need to have is compassion and care and love for the most defenseless in our culture.

This is a child we are talking about. We must start turning these trends around and start caring for the most defenseless in this situation.

I think it is clear that we are going to pass this bill in the Senate. I hope we will pass it by an overwhelming majority and that we build on this from this point forward, saying let us change this culture. Let us bring it back to caring. Let us bring it back to compassion and love for everybody, especially the most defenseless.

With that, I yield back my time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDING THE IMMIGRATION AND NATIONALITY TECHNICAL CORRECTIONS ACT OF 1994

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 48, S. 670.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 670) to amend the Immigration and Nationality Technical Corrections Act of 1994 to eliminate the special transition rule for issuance of a certificate of citizenship for certain children born outside the United States.

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. SMITH of New Hampshire. Mr. President, I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The bill (S. 670) was considered read the third time and passed as follows:

S. 670

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF CERTIFICATE OF CITIZENSHIP TRANSITION RULE APPLICABLE TO CERTAIN CHILDREN.

(a) IN GENERAL.—Section 102 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416; 108 Stat. 4307) (as amended by section 671(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–1856)) is amended by striking subsection (e).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994.

ORDERS FOR THURSDAY, MAY 15, 1997

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:15 a.m. on Thursday, May 15. I further ask consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then immediately resume consideration of S. 4, as under the previous order.

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

Mr. SMITH of New Hampshire. I further ask consent that Members have until 10 a.m. to file second-degree amendments to S. 4.

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

PROGRAM

Mr. SMITH of New Hampshire. For the information of all Senators, tomorrow the Senate will resume consideration of S. 4, the Family Friendly Workplace Act, with a vote on the motion to invoke cloture to occur at approximately 10 a.m. Following that vote, there will then be a period for morning business until the hour of 11 a.m., to allow a number of Senators the opportunity to speak. By previous order, the Senate will then resume consideration of H.R. 1122, the partial-birth abortion ban bill, with Senator FEINSTEIN recognized to offer an amendment. Debate on the Feinstein amendment will last until approximately 2 p.m., when a vote on or in relation to the Feinstein amendment will occur.

Following disposition of the Feinstein amendment, Senator DASCHLE will be recognized to offer his amendment, and under the consent agreement there will be 5 hours of debate in order. Therefore, Members can expect rollcall votes throughout Thursday's session of the Senate.

Again, I appreciate Senators adjusting their schedules to accommodate floor action while we work through these important issues prior to the Memorial Day recess.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. SMITH of New Hampshire. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:18 p.m, adjourned until Thursday, May 15, 1997 at 9:15 a.m.

EXTENSIONS OF REMARKS

HUMANITARIAN AID—CHIAPAS, MEXICO

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. SAM JOHNSON of Texas. Mr. Speaker, as our relationship with Mexico becomes more and more important to the economic well-being of our Nation, I would like to bring to this body's attention the sacrificial effort of 48 young men, who at their own expense and under the invitation and direction of Gov. Julio Cesar Ruiz Ferro and Senator Pablo Salazar, have served the community of Nuevo San Miguel Micotic in the Chiapas region of Mexico. During the summer of 1996 as part of Operation Eagle 96–2, 96–3, and 96–4, they provided medical aid and construction assistance, met basic needs, and taught skills to better the community's living conditions and ability to benefit neighboring communities. Their work continues to be heralded throughout the state of Chiapas among the citizens and leaders of Mexico. Furthermore, their experience of cross-cultural service not only strengthens global relationships, but better equips them for work in their home communities.

LISTING OF STUDENTS AND (STATES)

Daniel Alexander (AK), Ryan Batterton (WA), Joel Beaird (TX), David Beskow (OR), Brian Biddle (OH), Daniel Boyd (TX), Philip Codington (SC), Steve Dankers (WI), Thomas Exstrum (AB), Andrew Farley (CA), Steve Farrand (CO), Scott Forrester (TN).

Joel George (CO), Joshua Gilbert (WA), Timothy Hammeke (KS), Avione Heaps (MT), William Hicks (CA), Cody Hornor (MD), Zachary Jaeger (IA), Hans Jensen (CA), Joshua Knaak (AB), David Kress (AL), Daniel Lamb (CA), Kristofer Lee (OR).

Paul Lee (TX), Andrew Leonhard (VA), Andrew Lundberg (WA), Stephen Lundberg (WA), Jason Mallow (GA), Andrew Monsbor (MI), Larry Mooney (OH), James Penner (OH), Daniel Powell (AL), Daniel Reynolds (MN), Gregg Rozeboom (MI), Chad Sikora (MI).

Kevin Staples (AB), Daniel Straban (IN), Nathonael Swanson (NB), Leon King Tan (Malaysia), David Thomas (MI), Roy Van Cleve (WA), Ariel Vanderhost (KS), Christopher Veenstra (MI), Jason Wenk (NY), Reese Wihite (TX), Nathan Williams (KS), Joshua Wright (AR).

WEI JINGSHENG

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. GILMAN. Mr. Speaker, I want to commend the gentlemen from California, Congressman COX and Congressman LANTOS, for arranging for this Special Order today.

Wei Jingsheng is a brave, articulate, and nonviolent fighter for democracy. He is a hero who one day we hope will be officially leading China. But today he is someone who struggles just to stay alive during his second 14-year prison sentence. He is sick. He has lost all of his teeth. And yet he still displays incredible courage.

Soon after the Tiannanmen Square massacre, in an incredible display of courage, Wei Jingsheng wrote to Deng Xiaoping stating:

So, now that you've successfully carried out a military coup to deal with a group of unarmed and politically inexperienced students and citizens, how do you feel? * * * I've long known that you are precisely the kind of idiot to do something foolish like this, just as you've long known that I am precisely the kind of idiot who will remain stubborn to the end and take blows with his head up. We know each other well; probably better than anyone can imagine. It's just that we have an intimate mutual disgust that probably also exceeds anyone's imagination.

During the fall of 1992, Wei wrote a document titled, "A Open Letter to Deng Xiaoping, The Director of the Tragedy of Tibet." In it he spoke of Deng's discrimination—or racism—against the Tibetans. And years before the current Panchen Lama was kidnaped by Deng's government, Wei wrote to Deng saying:

* * * the Chinese government should do away with the traditional policy of detaining Tibetan religious leaders as hostages * * * The Chinese government should eliminate the mentality of the so-called "great Han empire. * * * It was your one-sided propaganda that has resulted in this national discrimination against Tibetans * * * No matter what excuses you give the Tibetan People, they are not as stupid as you think. They know that you are not sincere in helping them so that they would not trust you.

Now that Deng is gone the Chinese Government has an opportunity to set things straight with the democracy movement in China and the Tibetan people.

We hope that the Chinese leaders read his letters and join the civilized world by releasing Wei and permitting the reforms that he calls for.

I ask that the full text of his open letter be printed in the RECORD at this point.

OPEN LETTER TO DENG XIAOPING, THE DIRECTOR OF THE TRAGEDY OF TIBET—OCTOBER 5, 1992

MR. DENG XIAOPING: I personally know only a little about Tibetan history. However, I believe that I am more clear-minded than you and your people. Therefore, I venture to write this letter to you and hope that you would create an academic atmosphere of free expression, so that people of knowledge could put forward more insight with regard to this issue and find out the problem. Only by doing so, could we avoid losing the last opportunity of settling the issue and avoid repeating the situation of the former Soviet Union and Yugoslavia.

The director of this tragedy is no other than you, Mr. Deng Xiaoping. As early as in the 1940s, the rulers of Tibet started the discussion of social reform in Tibet. What they wanted was a social system like that in Britain or India and moderate reform based on religious values. In accordance with custom over several thousand years, they wanted to carry out the reform by themselves. They did not like the idea of being reformed by foreigners or foreigner-like Han people (KMT managed to respect this tradition so that relations between KMT and Tibet were more harmonious).

During the early 1950s, the Chinese Communist Party was at its height. Like all other communist parties, it had little respect for sovereignty and national self-determination. Meanwhile, India, which just gained independence from British rule, could hardly afford to help Tibet in its struggle against the Chinese Communist Party. Therefore, the effort to refuse entry of the communists into Tibet ended in failure. Moreover, the ignorance of the young Dalai Lama and the corruption of the Tibetan bureaucracy were the major factors for the communist troops' smooth occupation of Lhasa.

Regretfully, the leaders of the Chinese Communist Party, Mao Zedong and yourself included, became big-headed with the "victory" of the Korea War and the recovery of the economy. At the same time when you carried out the "big leap forward" and ultra-leftist policies in the mainland, you began to implement leftist policies in Tibet by deciding to accelerate the democratic reform in Tibet. During the war and for a long while afterward, the mutual discrimination and contempt between the Tibetans and the Chinese added to the hatred which caused the killing of innocent people by the army, and torture by officials. The estrangement between the peoples deepened and the national struggle for independence escalated. The situation and pattern of confrontation between the two sides was just like that between the colonial powers and the colonies in the old days. It was also like the situation in today's Yugoslavia.

The societies that have already divided or are in the process of division are those that over-emphasize a limitless administrative power of one nation over other nations. The toughest obstacle facing the societies that have already achieved unity or in the process of achieving it is also the over-emphasis of sovereignty. The advantage of unity is obvious and the arguments against unity are also strong. Why should people put emphasis only on the arguments against unity? Can you find a case to show that unity could be maintained only by high pressure? Even if you could find one, it must be because the time for division has not come yet. You have all along advocated anti-colonialism and national independence. In fact, you do not understand what anti-colonialism and national independence are. You have only taken it as a convenient tool. This is precisely the root cause of your leftism.

Up until 1949, China had never oppressed Tibet nor had it forced Tibet to be a subject to China. The two sides had achieved sovereign unity voluntarily. Even today, chances of unity between China and Tibet are much better than that within the Commonwealth of Independent States and the European Community. In the early days of his forced exile, the Dalai Lama did not demand independence. Nor is he demanding it today. This shows there exists a very good chance of unity. However, you have adhered to the old ideas and policies and continued to

trust old bureaucracy. What you are doing is to push Tibet toward division. China has already lost nearly half of the territory left from the Qing Dynasty. Should this go on, our later generations would have to make a living by exporting labor and to revitalize the Chinese nation would be out of the question.

There is lot to do to eliminate the evil consequences caused by suppression and killings of the last 40 years and to return the China-Tibet relationship to the traditional track of normal development. The three pressing tasks are as follows:

1. First, mutual hatred and discrimination between the Han people and the Tibetans must be rooted out, especially the wrong concept in the minds of the Han about the Tibetans. Due to the propaganda of the last 40 years, cadres in Tibet have had a deep rooted discrimination against the Tibetans which, in turn, has deepened the hatred among the Tibetans against the Han. The real situation in this regard is beyond your imagination and it is not at all like what your people have told you.

When I was imprisoned in Tibetan areas, I overheard a lot of conversations which helped me to learn the discrimination and contempt of the Han cadres against Tibetans. Everything that has something to do with Tibet would be looked down upon. It is even worse than discrimination of the white people against the Indians. Frankly speaking, you yourselves have this discrimination against the Tibetans and it has its expressions in all the relevant documents, statements and other propaganda materials. This has deepened the estrangement between the Han people and the Tibetans which would eventually lead to division.

The labor camp in Qinghai Province which I was sent to was in the place where the Tibetan army defeated the 100,000 troops led by General Xue Rengui. However, none of the cadres in that region knew about the story. They all believed that the Tibetans were ''enlightened'' because of a Chinese princess. And they thought they were sent to Tibet to help the Tibetans to reclaim the barren land where the Tibetans had lived for generations. They acted and talked just like colonialists. It was your one-sided propaganda that has resulted in this national discrimination against the Tibetans.

2. Secondly, the government should speed up the development of the market economy in Tibet and establish closer economic relations between the inland areas and the Tibetan market. In the last 40 years or so, the Tibetan market has suffered great damage. The so-called ''socialist planned price'' fixed for the products of Tibet's mineral resources and livestock, which resembles colonialist exploitation, has caused tremendous loss to the Tibetan economy. Your aid could in no way make up their loss. What's more, most of your aid has been used to support apparatus of suppression or scientific research of the Han people. These include government offices of various levels, hospitals and hotels for the Hans, military facilities, observatories, geothermal power plants which are not what most needed in the Tibetan economy. No matter what excuses you give the Tibetan people, they are not as stupid as you think. They know that you are not sincere in helping them so that they would not trust you.

3. Thirdly, the Chinese government should do away the traditional policy of detaining Tibetan religious leaders as hostages. Both religious and non-religious Tibetans have a strong aversion to this policy. And this policy could hardly prove your respect of human rights. The Chinese government should eliminate the mentality of the so-called ''great Han empire'' and sit at the negotiating table with the Dalai Lama. He is concerned about your sincerity, because you failed to win his trust in the past. Therefore, you should let him choose the place for negotiation. He should be allowed to return to Lhasa if he wants to do so. All these are reasonable basic conditions. Even the appointment of the Dalai Lama's negotiating aides has to be approved by the Chinese Government. Isn't it too much?! To postpone the negotiations with these excuses is an indication that your people have no confidence in themselves. They are afraid that all their nonsense would be exposed under the sun should negotiations begin in real sincerity.

You would be rewarding your people with the national interest by continuing to tolerate them to act in defiance of the law or public opinion. The chances of Tibet remaining as part of China will be getting better with the beginning of negotiations. Therefore, negotiations should start with no pre-conditions. It would be desirable to invite the Dalai Lama to return to Lhasa.

The trend of the modern world is that unity is what will happen sooner or later. The advantage of unity overshadows its disadvantage. From what Dalai Lama has done in recent years, I believe he understand better than I do about the real issue.

WEI JINGSHENG.

TRIBUTE TO MAYOR THOMAS W. GREENE

HON. LINDSEY O. GRAHAM

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. GRAHAM. Mr. Speaker, the Honorable Thomas W. Greene, an exemplary public servant, selflessly served the city of North Augusta for 26 years. Better known as Tom to the citizens of North Augusta, SC, thanked the people for their support at his last city council meeting where he presided as mayor. The tearful event on Monday night, May 6, 1997, highlighted the resignation of a city icon.

Born in Atlanta, GA, Tom received his bachelor of science degree in industrial engineering from Georgia Institute of Technology. After graduating from Georgia Tech, Tom served in the U.S. Air Force for 4 years as a pilot. Tom returned to North Augusta and within a year President Kennedy recalled him for another year. Upon completion of his military career, Tom began his 36-year career at the U.S. Department of Energy's Savannah River site in Aiken, SC.

Tom began his political career in May, 1971, as a city councilman before being elected mayor of North Augusta in May, 1985. Tom's foresight and vision facilitated growth throughout the city of North Augusta—most of all done without a tax increase.

During his tenure, Tom's tireless efforts established a public safety department—merging the police and fire departments—along with the creation of a new municipal building and community center. His vision also encompassed the successful launching of the riverfront redevelopment on the banks of the picturesque Savannah River.

As an active member of the community, Tom recognized the need for a recreation facility in the city. His intuition led to the creation of Riverview Park which houses numerous baseball fields, a state-of-the-art facility with several gymnasiums and numerous meeting rooms, and a walking path, the ''Greeneway,'' named after the beloved mayor. Once again, Tom's creativity coupled with his vision enabled the city to capitalize on one of their biggest assets—the scenic Savannah River.

In addition to his support of community and economic development, Tom's desire to spiritually guide his city led him to organize the Mayor's Prayer Breakfast which is held annually on the National Day of Prayer. As an active member and Sunday school teacher at First Baptist Church of North Augusta, Tom relies on the Lord for guidance in all areas of his life—including his years in public office.

Tom also generously served his community in other areas outside his official position. Due to his experience at the Savannah River site, Tom served on the site's citizen advisory board and continues to serve on the board of directors for Citizens for Nuclear Technology Awareness. His community activity includes extensive involvement in the North Augusta Chamber of Commerce, past member of the board of directors for the United Way of Augusta, and member of the North Augusta American Legion Post. He currently serves as chairman of the North Augusta Crime Free Task Force.

While juggling the demands of a public official and community leader, Tom and his wife Barbara raised three children: Lynne, Susan, and Thomas, Jr. Tom is also a devoted grandfather of five beautiful grandchildren. Tom has always showered his family and city with love, concern, and patience.

The retirement of Tom as mayor of North Augusta closes a successful and eventful chapter in the history of North Augusta. Tom nurtured the city of North Augusta into a prosperous and growing city with a very bright future.

TRIBUTE TO ANSHE SHOLOM OF NEW ROCHELLE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mrs. LOWEY. Mr. Speaker, I rise to honor Anshe Sholom on its centennial anniversary. Congregation Anshe Sholom, of New Rochelle, with its long and distinguished history, is one of the preeminent religious institutions in Westchester County. For 100 years, Jews have prayed, questioned, celebrated, and discussed at Anshe Sholom.

Beginning in the 1890's, Anshe Sholom, or Ancy Scholam as it was known then, became a center for Jewish learning in Westchester. The initial services of Anshe Sholom, held in a simple home, replaced earlier services, which were held on empty street corners. Despite their simplicity, these services laid the foundations for the thriving Jewish community that currently exists in New Rochelle.

Anshe Sholom has come a long way since construction of the first synagogue was completed in 1904, and Rabbi Itzchak Leib Kadushin was hired, for the grand sum of $5 per week, as the congregation's spiritual leader. The original structure stood the test of time until the tenure of Rabbi Solomon Freilich, who assumed leadership in 1946. Two years later the entire synagogue, still located on Bonnefoy Place, was renovated and expanded.

Anshe Sholom's move to its current North Avenue location in 1959, under the tenure of Rabbi Philip Weinberger, marks the beginning of the modern age of the synagogue. It is hard to imagine Jewish life in New Rochelle without the influence of Anshe Sholom. As a mother of three, and a new grandmother, I know the impact that institutions such as these can have on the quality of life for local families. For generations, children have attended Hebrew school at the synagogue, become Bar/Bat Mitzvah, gone on to become active adult participants themselves in the synagogue, and had the good fortune to see their own children begin the process anew. Anshe Sholom has helped raise generation after generation of Jewish families for more than 100 years. As Rabbi Ely Rosenzveig leads the synagogue towards its second centennial, I would like to recognize the tremendous accomplishments and the future promise of Temple Anshe Sholom.

TRIBUTE TO PANZER COLLEGE

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mrs. ROUKEMA. Mr. Speaker, I rise to congratulate Montclair State University's Panzer School of Physical Education and Hygiene on the 80th anniversary of its founding. This institution of higher education has trained countless physical education and health teachers for New Jersey's public schools. It is, therefore, indirectly responsible for the good health and physical fitness of generations of New Jerseyans.

Panzer College began in 1917 as the Newark Normal School of Physical Education and Hygiene, founded in response to a new State law mandating the teaching of physical education in the State's schools. The name was changed to the Panzer College of Physical Education and Hygiene when the school moved to East Orange in 1925. The college's namesake was Henry Panzer, president from 1920 until his death in 1932.

In addition to Henry Panzer, his successor as president, Margaret C. Brown, was also instrumental in the school's success. It was under her leadership that Panzer, previously a 3-year school, became a 4-year institution and began granting bachelor's degrees.

Panzer College served as a single-purpose institution for more than four decades before merging with Montclair State in 1958.

Today, the Panzer School is the home of a highly respected human performance laboratory and a physical fitness center that benefits the entire campus.

Graduates of the school have worked as physical education and health education teachers, coaches, directors of athletics, and in other academic roles. Many have moved up as principals and assistant principals, with a number having risen to the post of school superintendent.

I commend the faculty, staff, and students of the Panzer School for their excellent work. Academic skills are vitally important but students must learn to keep themselves healthy and fit as well. The Panzer School has helped millions attain that goal.

COLORADO SCIENTISTS WIN INTERNATIONAL PRIZE

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. SKAGGS. Mr. Speaker, I am delighted to report to the House that two Colorado physicists have won the prestigious King Faisal International Prize in Science for 1997. This is among the four or five most significant international prizes that are awarded for science.

The Colorado scientists are Dr. Carl Wieman of the University of Colorado's Department of Physics and Dr. Eric Cornell of the Quantum Physics Division at the Commerce Department's National Institute of Standards and Technology [NIST] in Boulder. Both are Fellows of the Joint Institute for Laboratory Astrophysics [JILA], a joint institute of the University of Colorado and NIST.

In 1995, Dr. Wieman and Dr. Cornell and their team created the first Bose-Einstein condensate, a new form of matter predicted by Albert Einstein. The condensate occurs when several individual atoms meld into a single entity called a ''superatom'' at a temperature of 170 billionths of a degree above absolute zero. Dr. Wieman and Dr. Cornell cooled the superatoms to 20 billionths of a degree above absolute zero, the lowest temperature ever achieved. The discovery marks a breakthrough in the field of quantum mechanics and has already opened up new areas for scientific exploration, including the recently-demonstrated ''atom laser.''

On behalf of my colleagues, I congratulate Dr. Wieman and Dr. Cornell and their team for their scientific breakthrough and for winning the 1997 King Faisal International Prize in Science. I also congratulate NIST, the University of Colorado, and JILA for supporting this important project.

A TRIBUTE TO MARY BAKER

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. SHERMAN. Mr. Speaker, I rise today to recognize the work of Deputy Mary Baker of the Los Angeles Sheriff's Department. Ms. Baker's excellence both on and off duty is being awarded this week with the Valley Community Legal Foundation Award.

In 1969, Deputy Baker was one of a small group of women hired by the Sheriff's Department to work as a patrol deputy. Those women faced great obstacles as they were the first women to work patrol. Mary faced this challenge and not only overcame any adversity, but excelled. Mary and her colleagues were pivotal in opening up opportunities for all women that would follow in their path.

From patrol duty, Deputy Baker went on to work both as a detective and in custody duty in the East L.A. and Downtown stations. For the past 10 years she has worked as a detective in the Malibu/Lost Hills Station, during which time she has been called upon to handle both sensitive and high profile cases. A recent high profile case was that of the ''Long-Note-Bandit'' who was suspected in a string of 10 bank robberies. Mary's work was pivotal in both the identification and arrest of the suspect, who is currently awaiting trial.

Deputy Baker's diligence, investigative skills, and years of experience make her an invaluable asset to the Malibu/Lost Hills Station, as well as the residents of those communities. She handles cases ranging from theft and robbery to fraud and home invasion. Her excellence is well known in the surrounding communities as she has an extensive working background with several of the surrounding stations.

Sallust once noted that: '' * * * mental excellence is a splendid and lasting possession.'' This has certainly been the case with Deputy Baker as her excellent investigative skills and deductive logic have been a great asset to our community. Indeed, her years of distinguished service is truly remarkable. She is in every way a deserving recipient of the Valley Community Legal Foundation Award.

FLOOD RELIEF—MANCHESTER, OH

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. SAM JOHNSON of Texas. Mr. Speaker, in the wake of the flooding along the Ohio River in Ohio, I would like to recognize the following 27 men who gave of their personal money, time, and energy to assist with flood relief. At the invitation of Senator Doug White and under the direction of disaster relief coordinator Rodney Yates, they served in and around the town of Manchester, OH, from March 7–14, 1997. During this time they assisted the local emergency relief agencies in the salvage and cleanup in the aftermath of the flooding, while spreading goodwill, faith, hope, and charity wherever they went. Their sacrifice, diligence, and thoroughness conveyed a true sense of brotherly love to the citizens of Adams County. The experiences these men received while serving will enrich their lives permanently, causing them to become better citizens, and thus have a greater impact on the world around them.

LISTING OF STUDENTS AND (STATES)

Jonathan Barber (GA), Joel Beaird (TX), Jonathan Bendickson (BC), Evan Bjorn (WA), Jonathan Bowers (TN), Nathan Bultman (MI), Thomas Chapman (MI), Reuben Dozeman (MI), Jonathan Elam (IN), Paul Ellis (MS), Ron Fuhrman (MI), Matthew Harry (MI), Timothy Hayes (NY), Joshua Johnson (WA), Caleb Kaspar (OR), Jason Luksa (TX), David Mason (GA), John Nix (TX), Steve Nix (TX), Timothy Petersen (GA), Matthew Pierce (MS), Joshua Schoenborn (WA), Michael Shoemaker (IN), Daniel Strahn (IN), Nathanael Swanson (NB), Seth Tiffner (WV), and Jared Wickham (IL).

INTRODUCTION OF THE FAMILY BUSINESS PRESERVATION ACT

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Ms. HOOLEY of Oregon. Mr. Speaker, the two great certainties in life—death and taxes—

are making it difficult for heirs to hold onto family farms and small businesses. I believe that it is time to take action to reform the estate tax so that it will be easier for family farmers and small business owners to pass their operations on to their children.

The Family Business Preservation Act is a targeted tax exclusion that is designed to have the biggest possible impact on family business owners with the smallest possible impact on the Federal Treasury. The bill would exclude the first $1.2 million of value in a family-owned business interest from a decedent's estate. The new exclusion would be provided in addition to the unified credit which currently lets heirs protect up to $600,000 of their inheritance from the estate tax.

It is critical to take action on estate tax reform now. The $600,000 exemption to the estate tax has not been raised since the mid-1980's. And rising farmland costs coupled with an aging farm population makes swift action on this proposal critical.

I urge my colleagues to support this legislation. Please join me in taking a step to ensure that when a family has to face personal tragedy, such as the death of a parent or a loved one, they will not have to worry that it will also lead to the loss of their family farm or business.

MAKE A DIFFERENCE DAY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. BROWN of California. Mr. Speaker and colleagues, I am pleased to come before you today to pay tribute to the remarkable achievements of citizens in my home district and the County of San Bernardino.

As the proceedings concluded last month in Philadelphia at the President's Summit for America's Future, those who have contributed and made a difference in their communities were commemorated. Through both community service and volunteerism, the County of San Bernardino has made a difference.

Participating in the sixth annual ''Make A Difference Day,'' citizens of San Bernardino County defined the term intensely debated over the past few weeks: volunteerism.

In answer to the challenge of Make A Difference Day, San Bernardino organized a project, spearheaded by Mayor Tom Minor, entitled ''Community Cleanup: Our Fight Against Blight.'' As a result, 130 residents from various neighborhoods came out of their houses, set aside differences and worked on a common goal, making their city better. Given the opportunity to communicate and openly express concerns, any neighborhood can become a better place to live. This is exactly what happened on October 26, 1996.

As the fragmented lines that sometimes divide our communities along ethnic, social, and economic barriers were set aside, a single task united the County of San Bernardino.

On October 26, up to 10,000 cars and trucks lined the streets of San Bernardino, all in an effort to properly dispose of 3½ tons of trash. In addition, 5,000 tires were collected and 2,400 gallons of used oil and other hazardous waste were recycled and disposed.

Community Cleanup: Our Fight Against Blight, brought businesses, government, and residents together with a common goal of giving back to the community. This goal was realized by actions such as 16 of the county land fills being open free of charge, and the San Bernardino Refuse Department making free rounds collecting used and unwanted tires.

October 26 was clearly a day when individual residents took responsibility and gave back to the community. The separation of generations had no bearing, as members of all sectors of the community participated. From Girl Scouts collecting trash, to senior citizens cleaning a 4-mile radius of rubbish, the County of San Bernardino made a difference. The volunteers from San Bernardino County served as a shining example for residents of other neighborhoods and communities. Their efforts were so, exemplary that they were chosen as a top 10 winner of the sixth annual USA Weekend's ''Make A Difference Day'' project. The citizens of San Bernardino County have proven that when we come together as neighbors, under a common cause, we can truly make a difference.

DISASTER RELIEF—OAKFIELD, WI

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. SAM JOHNSON of Texas. Mr. Speaker, in the wake of the tornado disaster in Oakfield WI, I would like to recognize the following 25 men who gave of their personal money, time, and energy to assist with tornado relief. At the invitation of State Senator Carol Buettner, and under the direction of George Workman, Marquette County emergency management director, they served in and around the city of Oakfield, WI, for a period of 2 weeks from July 19 to July 29, 1996. During this time they coordinated relief efforts in removal of trees from homes and cleanup of house debris, while spreading goodwill, faith, hope, and charity wherever they went. Their sacrifice, diligence, and thoroughness conveyed a true sense of brotherly love to the citizens of Oakfield. The experiences these men received while serving will enrich their lives permanently, causing them to become better citizens, and thus have a greater impact on the world around them.

LISTING OF STUDENTS AND (STATES)

Matthew Bertholic (WA), Benjamin Blair (CA), Jonathan Bowers (TN), Jason Butler (AL), David Carne (OR), David Curlett (TX), Timothy Davis (CA), Paul Ellis (MS), Gerald Garcia (MI), Andrew Griffin (WA), Craig Guy (MO).

Trevor Hayes (NY), Joshua Kempson (NJ), Matthew Linquist (CA), Clayton Lord (KS), Russell Moulton (OK), Keon Pendergast (CA), Carl Popowich (CO), Jeremy Sikes (IA), Robert Smith (CA), John Tanner (MI), Matthew Watkins (CA), Matthew Wood (WA), John Worden (CA).

DISASTER RELIEF—BULLITT COUNTY, KENTUCKY

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. SAM JOHNSON of Texas. Mr. Speaker, in the wake of the tornado disaster in Bullitt County, KY, I would like to recognize the following 19 men who gave of their personal money, time, and energy to assist with tornado relief. At the invitation of state senator Lindy Casebier, and under the direction of the Army Reserve command post, they served in and around the cities of Brooks and Zoneton for a period of 2 weeks from May 31, 1996, to June 12, 1996. During this time they coordinated relief efforts in removal of trees from homes and cleanup of house debris, while spreading goodwill, faith, hope, and charity wherever they went. Their sacrifice, diligence, and thoroughness conveyed a true sense of brotherly love to the citizens of these communities. The experiences these men received while serving will enrich their lives permanently, causing them to become better citizens, and thus have a greater impact on the world around them.

Jason Allen, Ohio; Kory Boudreau, Illinois; T.W. Chapman, Michigan; Michael Forrester, Tennessee; Stanley Forrester, Tennessee; Timothy Hammeke, Kansas; Marvin Heikkila, Michigan; Jason Litt, Ohio; Jason Mallow, Georgia; Daniel Reynolds, Minnesota; Jeremy Sikes, Iowa; Ben Stixrud, Washington, John Tanner, Michigan; Joshua Tanner, Michigan; Justin Tanner, Michigan; Zachary Taylor, Wisconsin; Michael Shoemaker, Indiana; and Matthew Yordy, Indiana.

TRIBUTE TO COL. JAMES VAN EPPS IN HONOR OF HIS RETIREMENT FROM THE U.S. ARMY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to a man of great stature who is retiring after a distinguished career in the U.S. Army, Col. James Van Epps. Colonel Van Epps served in the U.S. Army with more than 30 years of dedicated service to our country.

For the past 2 years Colonel Van Epps has held the position of Commander, North Central Division, U.S. Army Corps of Engineers in Chicago, IL. In this position, Colonel Van Epps faced the daunting task of solving water and land resource related problems in a 12 State area from North Dakota to New York, from the Canadian border to parts of Missouri. Colonel Van Epps manages a $380 million budget and directed the engineering, scientific, and support staff of approximately 2,700 personnel who are engaged in civil works construction and environmental activities in this part of the United States. Included in this area are all of the Great Lakes and the upper Mississippi River, in addition to the Souris, Red, and Rainey River Basins. The division's major missions include navigation, flood control, and disaster assistance as well as environmental restoration, regulatory functions, and significant support to the International Joint Commission.

Colonel Van Epps has continually met challenges headon during his tenure, continuing the superb performance record of the North Central Division. Through his personal involvement, leadership and command attention, the Corps made notable progress in the pursuit of solutions to the unique problems which exist throughout the region.

Several very important projects were either initiated, underway or completed under his guidance. Projects which improved the quality of life in the North Central States included, the flood control projects at Fort Wayne and Little Calumet in Indiana; west Des Moines, IA; Chaska, MN; Souris River Basin and Devils Lake, ND and the Chicago Shoreline Project. Under his leadership, the division made great progress in the Mississippi River and Illinois River System Navigation Study and the Upper Mississippi River System—Environmental Management Program [EMP]. The EMP has provided funding to restore and improve the environmental aspects of numerous sites along the Upper Mississippi River System. The Mississippi and Illinois Rivers Navigation Study is the largest navigation study undertaken by the U.S. Army Corps of Engineers. The recommendations being developed under this study will affect and influence the economic well-being of the Nation in the next century.

Under the leadership of Colonel Van Epps, the North Central Division achieved a program execution rate of 92 percent and the division has been ranked No. 1 or 2 nationwide among the U.S. Army Corps of Engineers in project costs and meeting schedules. Colonel Van Epps' compassionate and caring leadership earned him the respect and trust of the employees under his command. Consequently, Colonel Van Epps' strong commitment to public service has served the citizens of this part of the Nation with honor and professionalism.

Colonel Van Epps graduated from the University of Illinois at Champaign-Urbana with a bachelor of science degree in civil engineering and earned a master of science degree in industrial engineering—operations research—from Kansas State University. He is also a graduate of the engineer officer advanced course, the U.S. Army Command and General Staff College, and the National War College. In addition, he has received a certificate in executive education from the Duke University's Fuqua School of Business.

Prior to the assignment to this position, Colonel Van Epps served as the U.S. Forces Command Engineer for 3 years and he served as Assistant Deputy Chief of Staff for Personnel and Installation Management.

His previous experience with the U.S. Army Corps of Engineers includes commanding the Huntington (WV) District from September 1990 to August 1992; serving as an Assistant Director of Civil Works at the Corps Headquarters in Washington, DC; and working as a civil engineer and program manager in the Chicago district.

Colonel Van Epps was commissioned a second lieutenant upon graduation as the Distinguished Graduate of his Officer Candidate class in September 1967. During his initial assignment, he served as a platoon leader and company commander of the 518th Engineer Company—Combat, and as a staff officer in Headquarters 193d Infantry Brigade in the Canal Zone. Subsequent assignments include senior advisor to the combat engineer battalion of the 9th Infantry Division—Army of the Republic of Vietnam; Commander, Central Chicago Area, U.S. Army Engineer Recruiting Command; S–3 Officer and Executive Officer—Combat, V Corps, U.S. Army Europe; Commander, 299th Engineer Battalion—Combat at Fort Sill, OK; and Engineer Colonels Assignment Officer, U.S. Army Military Personnel Center in Alexandria, VA.

His military decorations include the Legion of Merit, Bronze Star Medal—with Oak Leaf Cluster, the Meritorious Service Medal—with four Oak Leaf Clusters, the Air Medal, and the Army Commendation Medal—with Oak Leaf Cluster.

Colonel Van Epps is married to the former Jane Henderson Ryan. They have three children: Geoffrey, who is also in the U.S. Army, Andrew and Amanda.

I know you will all join with me and his employees in saying thank you to him for his loyal and dedicated service to our great country and to the citizens of the North Central Division region. Colonel Van Epps has given a major part of his life to the U.S. Army and is truly deserving of great honor for a career well served in the U.S. Army. We owe him a debt of gratitude for his many years of dedicated service to this country. Thank you Colonel Van Epps for your service to this country.

EQUITY IN ALLOCATION OF VA HEALTH CARE RESOURCES, H.R. 1580

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. GILMAN. Mr. Speaker, I rise today to introduce legislation to address some of the multitude of problems that have arisen out of the veterans equity resource allocation plan for VA health care.

In last year's veterans appropriations legislation, the Veterans Administration was mandated by Congress to develop and implement a more equitable method for allocating VA health care resources. In response, the VA has devised the veterans equity resource allocation [VERA] model and based their reallocation process on this plan.

The primary result of this has been the steady hemorrhaging of vital health care funds away from VA VISN's in the Northeast in favor of VISN's in the South and Southwest. While VA officials in the Northeast have gone out of their way to assure congressional offices that the quality of care will not decrease under VERA, this has not been the case.

While VERA is a noble effort, it is based on a fundamentally flawed model. As a research method, VERA is unfairly biased against older veterans in major metropolitan areas. These veterans are those in need of inpatient, comprehensive health care, and they will suffer if VERA is allowed to go forward as planned.

As it currently stands, the VERA model would reallocate health care resources based upon demand for VA health care. The argument that the VA has used with my congressional office is that there is greater demand for VA care in the South and Southwest, while the Northeast and Rust Belt have lower levels of demand.

Under current law, VA health care is freely available to all veterans for problems related to their service-connected disabilities. Non-service-connected care is available for World War I veterans, former prisoners of war, veterans receiving pensions and those who qualify under a means test. The means test is currently $21,660 for a single veteran with no dependents, and $25,660 for a married veteran.

The problem with a national means test, is that it benefits veterans living in low-income areas, such as Arizona, West Virginia and Mississippi, and penalizes veterans living in high-cost areas, such as New York, Washington, and Chicago. After all, $21,660 goes a lot farther in Jackson, MS, than in Manhattan.

A married veteran who is struggling to get by with an income of $27,000 in New York City would be unable to take advantage of free health care through the VA. Yet a similar veteran making $24,000 in Mississippi, would be living much more comfortably, as well as have the advantage of going to the VA for his health care. This shows that the means test does not accurately reflect the economic conditions for each geographic area.

The VERA model also fails to differentiate between the types of care delivered at VA facilities. Initially, it does appear that VA health care in the Southwest is delivered more efficiently than in the Northeast. The important point to consider, however, is the type of care delivered. VA hospitals in the Northeast tend to have more specialized care patients—spinal injury, alcohol/drug abusers, mental health patients, and homeless cases—which obviously cost more than the outpatient cases, which are more plentiful in the Southwest.

Logic would dictate that a true comparison be made between regions before any health care resources are reallocated. Yet the VA has not done this with the VERA model. Instead, the VERA model compares the apples of specialized care in the Northeast with the oranges of outpatient care in the Southwest.

This legislation corrects these inherent flaws within the VA model in three ways.

First, the bill would raise the income level in the means test by 20 percent for any veteran who lives in a standard metropolitan statistical area [SMSA] as defined by the Bureau of the Census. This would make the VA more accessible to veterans who live in high-cost areas, thus increasing the number of veterans who use VA in those regions. Consequently, there would be more outpatient cases treated in the Northeast and Rust Belt.

Second, the bill would move veterans with catastrophic health care expenses from category C—those would must meet the means test for non-service-connected care—to category A—those eligible for free non-service-connected care. These veterans are defined as those individuals whose medical expenses for the previous year exceeded 7.5 percent of their adjusted gross income.

Third, the bill would level the playing field between the Northeast and Southwest by removing the high-cost, inefficient speciality care programs from those funds which can be considered in reallocation calculations under VERA. The programs removed would include: readjustment counseling and treatment, counseling and psychiatric care for the mentally ill, drug and alcohol related programs, programs for the homeless, PTSD programs, spinal cord injury programs, aids programs and geriatric and extended care programs.

This provision protects the resources being used by those veterans most at risk, the majority of whom live in the Northeast and in major urban centers. The above programs help to remove these veterans from the immediate risk by providing them with sanctuary. They can then be diagnosed and treated after which they are reintegrated into society. This process takes time, and is expensive—some would say inefficient. Furthermore, it cannot be done very well on an outpatient basis—one

needs to remove substance abusers from the drug or alcohol in question before any treatment could be effectively initiated. The majority of VA facilities for such programs exist in the Northeast. It is foolish not to utilize them in the name of efficiency, especially when the comparison is between outpatient care and inpatient treatment—applies and oranges.

I believe that this bill adequately addresses the problems posed by the VERA-based model for VA health care reallocation. Rather than simply reacting to the VERA model, this legislation is proactive, and changes VERA to make for true equity in VA health care allocation. The VERA model does offer many constructive suggestions for improving the manner in which the VA delivers health care services. Yet these improvements should not benefit some veterans at the expense of others.

The veterans of the Northeast and the Rust Belt gave just as much for their country as their counterparts in the Sun Belt and Deep South. There is no reason why they should be punished with their VA health care, simply due to where they have chosen to live.

Accordingly, I urge my colleagues to join me in supporting this important legislation which will guarantee true equity in the allocation of veterans health care funding.

H.R. 1580

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CRITERIA FOR REQUIRED COPAYMENT FOR MEDICAL CARE PROVIDED BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) EXCEPTION BASED ON PRIOR CATASTROPHIC HEALTH CARE EXPENSES.—Subsection (a) of section 1722 of title 38, United States Code, is amended—

(1) by striking out ''or'' at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof ''; or''; and

(3) by adding at the end the following new paragraph:

''(4) the veteran's expenses for medical care (as defined in section 213 of the Internal Revenue Code of 1986) for the previous year are in excess of 7½ percent of the veteran's adjusted gross income for the previous year (as determined for purposes of the personal income tax under the Internal Revenue Code of 1986).''.

(b) ADJUSTMENT IN INCOME THRESHOLDS FOR VETERANS RESIDING IN SMSAS.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

''(3) The amounts in effect for purposes of this subsection for any calendar year shall be increased by 20 percent for any veteran who resides in a Standard Metropolitan Statistical Area (SMSA), as defined by the Bureau of the Census.''.

(c) AMENDMENTS WITHIN EXISTING RESOURCES.—The Secretary of Veterans Affairs shall carry out the amendments made by this section for fiscal years 1998 and 1999 within the amount of funds otherwise available (or programmed to be available) for medical care for the Department of Veterans Affairs for those fiscal years.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1998.

SEC. 2. SERVICES FOR MENTALLY ILL VETERANS.

(a) MEMBERSHIP OF COMMITTEE ON CARE OF SEVERELY CHRONICALLY MENTALLY ILL VETERANS.—Section 7321 of title 38, United States Code, is amended—

(1) in subsection (a), by inserting ''and members of the general public with expertise in the care of the chronically mentally ill'' in the second sentence after ''chronically mentally ill''; and

(2) by adding at the end the following new subsection:

''(e) The Secretary shall determine the terms of service and (for members appointed from the general public) the pay and allowances of the members of the committee, except that a term of service may not exceed five years. The Secretary may reappoint any member for additional terms of service.''.

(b) CENTERS FOR MENTAL ILLNESS RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES.—Paragraph (3) of section 7320(b) of such title is amended to read as follows:

''(3) The Secretary shall designate at least one center under this section in each service network region of the Veterans Health Administration.''.

SEC. 3. ALLOCATION OF MEDICAL CARE RESOURCES FOR THE DEPARTMENT.

(a) IN GENERAL.—(1) Chapter 81 of title 38, United States Code, is amended by inserting after section 8116 the following new section:

''§ 8117. Allocation of medical care resources

''In applying the plan for the allocation of health care resources (including personnel and funds) known as the Veterans Equitable Resource Allocation system, developed by the Secretary pursuant to the requirements of section 429 of Public Law 104–204 (110 Stat. 2929) and submitted to Congress in March 1997, the Secretary shall exclude from consideration in the determination of the allocation of such resources the following (resources for which shall be allocated in such manner as the Secretary determines to be appropriate):

''(1) Programs to provide readjustment counseling and treatment.

''(2) Programs to provide counseling and treatment (including psychiatric care) for the mentally ill.

''(3) Programs relating to drug and alcohol abuse and dependence.

''(4) Programs for the homeless.

''(5) Programs relating to post-traumatic stress disorder.

''(6) Programs relating to spinal cord dysfunction.

''(7) Programs relating to AIDS.

''(8) Programs relating to geriatric and extended care.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8116 the following new item:

''8117. Allocation of medical care resources.''.

(b) EFFECTIVE DATE.—Section 8117 of title 38, United States Code, as added by subsection (a), shall apply with respect to the allocation of resources for each fiscal year after fiscal year 1997.

TRIBUTE TO WADE SHEELER

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. SHERMAN. Mr. Speaker, I rise today to recognize the outstanding work of Wade Sheeler, a student in my community. Wade's one act play ''Vortex'' recently won a national competition and was honored at the Kennedy Center's America College Theater Festival, here in our Nation's Capital.

While growing up in Woodland Hills, Wade's love of theater and film was nurtured by his father taking him to see classic films at the Los Angeles Museum of Art. He continued his study in radio, TV, and film at California State University, Northridge. Wade is currently a student at the California Institute of the Arts in the Directing for Theater, Video and Cinema Program. It seems his education and inclination toward theater have served him well, as ''Vortex'' is an exceptional work.

The storyline of the play is of a gunman on the run from the law that meets up with a mysterious holy man, and how the two must learn to trust and rely upon one another for their own survival. The enthralling relationship of these two men captivates the audience and proves to be the driving force of the play. In the one act production the audience gets a glimpse into the life and mind of Wade Sheeler. Indeed Wade poured himself into this work and his passion is evident in the play's exhilarating highs and believable lows.

''Vortex'' competed against hundreds of plays to win the National Short Play Award, truly a remarkable accomplishment. This feat is particularly impressive in light of the fact that most of the plays it was competing against were faculty-directed or produced, while ''Vortex'' was an entirely student-operated production. In recognition of this honor Wade will be awarded a membership in the Dramatist's Guild and ''Vortex'' will be published.

I am pleased to represent such a talented individual as Wade. I wish him the best in what promises to be a long and inspiring career as a successful playwright.

THE COURAGE TO STAND ALONE—THE PUBLICATION OF LETTERS AND WRITINGS OF CHINESE DEMOCRACY LEADER, WEI JINGSHENG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me today in paying tribute to an outstanding voice for human rights in the People's Republic of China, and to join me in demanding his immediate release from prison.

Wei Jingsheng, a former soldier and an electrician at the Beijing Zoo, has become the best known pro-democracy activist in China today. He challenged China's authoritarian system first in the late 1970's by mounting posters calling for freedom and democracy on the famous ''Democracy Wall'' in Beijing. For the ''crime'' of speaking out for democracy, he was jailed on charges of ''counter-revolutionary'' activities in 1979 and remained a prisoner of conscience until September 1993.

Immediately after his release from prison in 1993, Wei Jingsheng was threatened and intimidated by Chinese authorities for speaking out publicly in support of democracy and freedom of speech. He also continued to maintain contacts with foreigners, including my good friend, the Assistant Secretary of State for Democracy, Human Rights and Labor, John Shattuck.

Shortly after meeting with John Shattuck, Wei Jingsheng was again arrested, and in a blatant violation of Article 48 of the Chinese Criminal Procedure Law—which stipulates that a person can only be held for 10 days without charge—he was held incommunicado for almost 20 months. Prior to his trial, his family

had no information about his whereabouts or the charges being brought against him. In a trial which leading human rights groups called a mockery of justice, Wei Jingsheng was charged with activities aimed at toppling the Chinese Government, and he was sentenced to 14 years in prison on December 12, 1995.

Today, Mr. Speaker, we are marking the publication of Wei Jingsheng's remarkable book ''The Courage To Stand Alone: Letters From Prison and Other Writings.'' It is the determination, the tenacity, and the courage of men and women such as Wei Jingsheng that will change China, that will bring a new day of respect for human rights in China. Clearly we have not yet reached a time when freedom and democracy flourish in the People's Republic of China, but the brave pioneers of a better and more human future for China, such as Wei Jingsheng, will bring about that day. We in the United States Congress must continue our support for their struggle, for respect by the Chinese Government for human rights.

A TRIBUTE TO FORMER CONGRESSMAN ANTONIO B. WON PAT ON THE 10TH ANNIVERSARY OF HIS DEATH

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. UNDERWOOD. Mr. Speaker, I rise today to pay tribute to a leading figure in Guam's history. Last week on May 1, the people of Guam marked the 10th anniversary of the passing of an elder statesmen and beloved leader, former Congressman Antonio B. Won Pat.

Antonio B. Won Pat was born in Sumay on December 10, 1908. His father Ignacio, was originally from China and his mother was native to the village of Sumay. He began his professional life by becoming a teacher and later a school principal. In 1936, Mr. Won Pat was elected to serve in the Guam Congress, the forerunner of the Guam Legislature. Although the Guam Congress was not a law making body and instead advised the Naval governor on matters concerning the island, he served his constituency with pride and was an outspoken critic of Naval policies which he believed were unfair and oppressive.

After the Japanese occupation of Guam during World War II ended, the first post-war elections were held and Antonio Won Pat was overwhelming elected to the lower house of assembly of the Guam Congress. There, he obtained the confidence of his colleagues and was elected president of the assembly. Along with his colleagues, Assembly President Won Pat co-led a protest demonstration known as the walkout of the Guam Congress. The assembly protested their lack of authority as elected officials by refusing to convene for session. This bold move continues to be a turning point in Guam's history and is a great source of inspiration for Guam's current leadership and their pursuit of commonwealth status.

In an effort to secure civil liberties for the people of Guam and to clarify Guam's political status with the United States of America, Antonio Won Pat became a leader of the movement which advocated U.S. citizenship and self-government for the people of Guam. The movement secured the passage of the Organic Act of Guam, which granted the Chamorro people with U.S. citizenship, created civilian government for Guam that ended over 52 years of Naval government, and established Guam as an unincorporated territory of the United States.

As time progressed, Antonio Won Pat and other Guam leaders continued to press for more governmental reform and more self-government. In the 20 years that followed, Congressman Won Pat participated in the call for elective governorship for the people of Guam and in 1968, Congress passed the Guam Elective Governorship Act.

Participation in the national government also became an issue of concern to the people of Guam. In 1965, the Eighth Guam Legislature passed a law to create a Washington Representative from Guam and in that election, Antonio Won Pat resigned from his seat in the Guam Legislature and was elected to become the first Washington Representative to Washington. Through much of his own efforts and with those of other Guam leaders, the U.S. Congress passed legislation giving Guam and the U.S. Virgin Islands nonvoting delegates to the U.S. House of Representatives and in 1972, Antonio B. Won Pat became a Member of Congress.

Here in the U.S. House of Representatives, Congressman Won Pat fought hard for Guam to be included in a myriad of Federal programs. He worked on issues concerning education, health, welfare, civil defense, social security, agriculture, airport development, and highways. He closely monitored military activities on Guam by his membership on the Armed Services Committee. He safeguarded the interests of Guam's large veteran population by his membership on the Veterans Affairs Committee.

In 1979, Congressman Won Pat gained the confidence and trust of the other members of this body when he was selected to be the chairman of the Subcommittee on Insular and International Affairs of the House Committee on Interior and Insular Affairs. Having attained the chairmanship of this committee, Congressman Won Pat laid the groundwork in which the leadership of Guam continued to pursue a new political status. He did this by coordinating a series of meetings between the leadership of Guam and a bipartisan congressional delegation in Guam and in Albuquerque. At those meetings, an agreement was made to submit a draft commonwealth act to Congress.

Reflecting on Congressman Won Pat's life and work in Washington, former Senator J. Bennet Johnston of Louisiana entered the following statement in the CONGRESSIONAL RECORD in 1987:

Won Pat was an exceptional advocate and negotiator who understood the true value of face-to-face negotiations. When he added his personal touch to a request, I found it very difficult to say no and when you look at the record of what Tony accomplished in his twelve years in Congress, I'd say my experience was the norm, not the exception. Like all good teachers, Tony always had his facts together and had carefully thought through his presentation. He was patient, as good teachers are, but he also had the other quality good teachers have—persistence and diligence. It was this unique combination which made him so successful.

I had the personal pleasure of knowing the Won Pat family when they were my neighbors in the village of Sinajana. He and Mrs. Ana Won Pat were close friends of my own parents and they shared many of the same experiences.

When I was in high school, Mr. Won Pat was running for the seat of Washington Representative. He was my personal hero and a role model for many young people on Guam. He was the major elected official on Guam for the generation that grew to adulthood in pre-World War II Guam. His character, forged in the humiliating circumstances of Naval colonial rule and tested by a cruel foreign occupation, stands as testimony to the strength of the people of Guam.

Si Yu'os ma'ase' Tun Antonio.

FAIRNESS FOR JONATHAN POLLARD

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. ENGEL. Mr. Speaker, I am entering two articles into the CONGRESSIONAL RECORD which deal with the case of Jonathan Pollard. It is important to have these articles printed because the American people deserve to understand all aspects of Jonathan Pollard's case.

I do not believe that what Jonathan Pollard did was right. It was wrong; it broke the law and Jonathan Pollard deserved to be punished. Jonathan Pollard is the first to admit that. In fact, at a recent meeting I had with him at the Federal prison in Butner, NC, where he is incarcerated, he told me that he was wrong and deserved to be punished.

My problem with the entire Jonathan Pollard case is that while I don't expect him to be treated any better than anyone else committing similar acts, I certainly don't expect him to be treated any worse. The fact of the matter is that Jonathan Pollard has now served more than 11 years of a life sentence, far greater than anyone else convicted of similar crimes. In fact, a number of people convicted of spying for enemy countries, such as the former Soviet Union, have been given lighter sentences than Mr. Pollard—who was convicted of spying for a friendly country.

It is my understanding that Mr. Pollard pled guilty and avoided going to trial in exchange for a promise that the Justice Department would not ask for a life sentence for him. Although the Justice Department did not per se request a life sentence, others, including Caspar Weinberger, did. Thus, Mr. Pollard was given a life sentence, even though he had been led to believe he would face lesser punishment.

The two articles I am submitting into the CONGRESSIONAL RECORD tell of the disparity of the Pollard case when contrasted with another person who passed classified information to Saudi Arabia. As one can tell from the articles, the indictment of the person accused of spying for the Saudis was subsequently dropped in exchange for a last minute plea bargain agreement offered by the Navy in which the alleged perpetrator spent not 1 day in jail and received only an other-than-honorable discharge.

I believe that questions of fairness and equity need to be addressed in the Jonathan Pollard case. It is my contention that Jonathan Pollard has not been treated justly when one contrasts his length of incarceration with others who have been convicted of similar crimes. People should be punished when they break the law. No one, however, should be singled out for harsher treatment than others convicted of similar crimes. I believe this happened in the case of Jonathan Pollard.

I ask that articles by Alex Rose, entitled ''A Tale of Two Spies,'' and Morton Klein, entitled ''Double-Standard Spying,'' be printed at this point in the RECORD.

A TALE OF TWO SPIES

(By Alex Rose)

From November, 1992 to September 1994, Lt. Cmdr. Michael Schwartz delivered secret national defense information to Saudi Arabia. A 15-year Navy veteran, Schwartz was subsequently arrested and indicted for violating both the Uniform Code of Military Justice and various federal statutes.

The indictment stated that while he was assigned to the U.S. Military Training Mission in Riyadh, Schwartz had willfully compromised sensitive information ''with intent or reason to believe it would be used to the injury of the United States, or to the advantage of the Kingdom of Saudi Arabia.'' According to press reports, the documents in question included classified digests, intelligence advisories and tactical intelligence summaries. These documents were classified up to the secret level and specified ''no foreign disclosure.''

Although Schwartz was scheduled to be court-martialled for his action, he accepted a last-minute plea agreement offered by the Navy. While such arrangements are not unusual, particularly in espionage cases involving American allies, Schwartz' so-called ''punishment'' was unprecedented: ''other-than-honorable'' discharge from the Navy. In other words, Lt. Cmdr. Michael Schwartz was not obliged to spend a minute in jail.

For a remarkably similar offense—giving classified information to an ally—Jonathan Pollard received a life sentence with a recommendation that he never be paroled.

What are the differences between the two cases?

The obvious ones have anti-Semitic overtones: Schwartz is not Jewish, and Pollard was spying on behalf of Israel. Not nearly as apparent is that the U.S. Government—which had expressed official outrage at Israel's ''arrogance'' in the Pollard case and proclaimed loudly (without offering any evidence) that his espionage was the worst in American history—has handled the Schwartz case with kid gloves and virtual silence.

Even the Jewish War Veterans, whose lack of sympathy for Pollard is a matter of record, was nevertheless moved to revulsion by the Schwartz affair. The JWV said that it believes ''that when compared to other crimes of espionage by Navy personnel, both to enemy and friendly governments, the punishment is a farce. In each of the other cases, harsh prison sentences, including life-time sentences, were meted out.'' The Jewish veterans also questioned what information was passed to the Saudis, and who in the Saudi royal family knew of the Schwartz espionage.

Other questions, as well, beg answers:

Have the Saudis been asked for a formal apology?

Have they promised not to recruit any more American intelligence officers or to close the intelligence unit responsible for the affair? Have the Saudis agreed to allow participants in the operation to be questioned by American counter-espionage authorities? Have they returned all the stolen documents? What other countries may have seen the information Schwartz gave to the Saudis? (This item loomed large in the Government's assessment of Pollard. Why did it lose its relevance for Schwartz?)

Granted, the Navy's unwillingness to address any of these issues may be understandable; but it's also important to recognize the fact that a mindset like theirs, which subordinates American interests to protecting Saudi sensitivities at all costs, can have deadly consequences. Anyone doubting this need only recall the bombing of our Khobar Towers facility in Dhahran two years ago. Reacting to the inadequate security precautions that allowed this outrage to occur, a Washington Post editorial of July 12, 1995 observed that ''The suggestions of American reluctance to offend the culturally delicate Saudis by demanding more attention to the security of Saudi Arabia's American protectors amount to an intelligence failure of a profound sort.'' No doubt this same type of craven fear of ruffling Saudi Arabia's feathers was the principal reason why Schwartz did not have to stand trial nor suffer a jail sentence, and was not referred to by the Secretary of Defense as a ''traitor''—something which Pollard, by the way, was falsely accused of being by Caspar Weinberger.

Although the Government subsequently apologized for Weinberger's groundless charge, this episode should remove any doubt as to what the Department of Defense's actual attitude towards Israel was at the time of Pollard's arrest. It also tends to confirm what many in the Jewish community have believed all along; namely that the Pollard affair was used by certain elements within our national security establishment as a means of tarnishing the popular perception of Israel as both a valuable and reliable ally. After all, if Pollard was a ''traitor'' as Weinberger had stated who, then, was the ''enemy''? That Schwartz was never used to smear the country he served, further highlights the politically-driven distinction our government drew between these two cases of ''friendly'' espionage.

There are, of course, other aspects of the Schwartz case which President Clinton obviously never even considered before he turned down Pollard's last clemency appeal. For example, the Government's decision not to prosecute Schwartz calls into question CIA arguments that Pollard cannot be released because he knows too much. This is an absurdity. Schwartz was spying until recently, whereas Pollard has been in prison for more than 11 years! How is it that Schwartz is not a threat to national security but Pollard is?

The President also seems to have been heavily influenced by the views of Joseph DiGenova, the U.S. attorney who prosecuted Pollard. Briefly put, DiGenova feels that individuals caught spying for close allies like Israel should actually be punished more harshly than those caught spying for enemies, since there is a greater ''danger'' that individuals would feel more predisposed to help friends. If there is any merit to this logic, it has been totally lost in the government's refusal to prosecute Schwartz vigorously, rather than to have set him free. But nobody, apparently, brought this to the President's attention.

Lastly, our government sought to justify its decision not to prosecute Schwartz by claiming that the information he provided Saudi Arabia was ''less sensitive'' than what Pollard gave to Israel. One needs to recall, though, that Schwartz was indicted and confessed to a serious crime. Clearly, some punishment was therefore warranted beyond his mere ''less-than-honorable'' discharge from the Navy. The fact that this did not occur demonstrates that extra-legal considerations came into play in the disparate treatment. In other words, politics was allowed to corrupt the U.S. judicial system. Anything, then, the national security establishment might have to say about the relative sensitivity of Schwartz' information is simply too tainted to be believed. Yet, the same intelligence and defense agencies who rescued Schwartz from prosecution are the very ones who have counselled President Clinton to adhere to a policy of ''selective prosecution'' towards Pollard. So how objective could their advice have been?

It seems, though, that nobody has seen fit to point this out to the President; and unless somebody does, Clinton will never know why his refusal to commute Pollard's sentence threatens to undermine one of our most important legal traditions: namely, the assurance that when a person is convicted of breaking the law, he or she will receive approximately the same punishment that any other person would receive for a similar violation that was committed under comparable circumstances. However, given the way Schwartz was preferentially handled, this principle of equal justice has been grossly violated in the case of Jonathan Pollard. But Clinton not only declined to correct this situation by granting Pollard clemency, he did so in a way that placed his own imprimatur on Pollard's clearly-aberrant life sentence.

What a growing number of people are slowly recognizing, though, is that if our legal system does not work for Pollard because of who and what he is, it could fail each and every one of us, as well, both as Jews and as Americans.

In our society, justice cannot simply be a theoretical concept—it must be seen to be done. Only in this way will our much-touted system of checks and balances have meaning. It is critical, therefore, that Congress investigate how a Saudi spy (Schwartz) was permitted to act with impunity while an Israeli spy (Pollard) was treated as an enemy agent. Two spies, two countries and two vastly different punishments cannot help but leave one with the distinct feeling that there is a double standard in need of challenging.

[From the Jewish Press, Apr. 11, 1997]

DOUBLE-STANDARD SPYING

(By Morton Klein)

We all know what happens to an American who illegally passes classified U.S. intelligence data to Israel: life imprisonment, repeated refusals by the President to grant clemency, leaks to the media of false allegations against the defendant and against Israel. That's what happened in the Jonathan Pollard case. He broke the law and he was, understandably, punished for doing so.

In the case of Pollard, he helped a country that is America's closest ally in the Mideast. The information Pollard illegally gave Israel helped protect it from Arab aggression.

What happens, on the other hand, when an American illegally passes classified U.S. intelligence data to an Arab dictatorship that can hardly be described as a reliable ally of the United States? Lieutenant-Commander Michael Schwartz was last year arrested for providing such data to Saudi Arabia. A U.S. Navy grand jury indicted him on the charge of espionage, which carries a sentence of life imprisonment. His punishment? An ''other than honorable discharge.''

Not a day in jail. Not a penny in fines. And not a word of concern from any Clinton Administration official about the fact that Saudi Arabia, which is supposed to be an ally of the United States, was using a spy to steal American intelligence secrets, just months after American soldiers were dying in defense of Saudi Arabia during the Gulf War.

U.S. officials would not even publicly admit that the Saudis had recruited Schwartz; they told The Washington Post that Schwartz had not been hired by Saudi Arabia, but rather ''was only trying to be friendly and cooperative to a U.S. ally.''

The government's handling of the Schwartz case is particularly troubling in view of the many recent Saudi actions that fell far short of what one would expect from an ally:

Saudi Arabia refused to let the U.S. use its territory to launch the recent missile strikes against Iraq.

The Saudis rejected America's request to let the FBI interrogate four terrorists who were involved in last year's attack against U.S. Army personnel in Saudi Arabia.

The Saudi authorities prevented the U.S. from capturing one of the world's most wanted terrorists, Imad Mughniyah of the Syrian-supported Islamic Holy War group, who was responsible for the 1983 bombing that killed 241 American Marines in Lebanon. Mughniyah was on an airplane that was scheduled to land in Saudi Arabia, and the U.S. informed the Saudis that they intended to arrest him during the stopover. The Saudis responded by preventing the plane from landing, so that Mughniyah could escape.

I recently had the opportunity to speak with Jonathan Pollard by telephone, from his prison cell in Buttner, North Carolina. He is now in his 12th year of incarceration, although no other individual convicted of a similar type of spying for an ally of the U.S. has ever served more than five years in prison. Jonathan asked me: ''Why am I still in jail, while Michael Schwartz is walking free?'' Good question—one that Jewish leaders should be asking Clinton Administration officials at every opportunity.

THE INTRODUCTION OF ''THE ESOP PROMOTION ACT OF 1997''

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. BALLENGER. Mr. Speaker, I come before the House today to introduce legislation to promote more employee ownership in America. I believe this is a modest proposal which can be deemed technical and clarifying in many respects. Entitled ''The ESOP Promotion Act of 1997,'' this bill is virtually the same, except for one new provision, as legislation I introduced in the 102d, 103d and 104th Congresses with bipartisan support. Nearly 100 sitting members of this House have cosponsored this legislation over the years and, if former members are included, the number is over 200.

Mr. Speaker, let me make the point that the last Congress repealed a modest tax law incentive that aided the creation of Employee ownership through Employee Stock Ownership Plans [ESOP's]. Since this provision affected the creation of about 25 to 40 new ESOP's a year, I believe it was a step backward by the last Congress. This action was taken in the Small Business Job Protection Act of 1996, Public Law 104–188, or the minimum wage bill, a legislative battle in which I was very involved.

So, I now encourage my colleagues in the 105th Congress to stand up for employee ownership and to create a positive record for one of the most positive economic trends in America today—ownership by employees of stock in the companies where they work through an ESOP. Allow me to explain each section of my bill:

Section 1: Names the bill ''The ESOP Promotion Act of 1997.''

Section 2: Corrects and clarifies the provision in last year's Small Business Job Protection Act that permits a subchapter S corporation to sponsor an ESOP. Last year's provision was added by Senator JOHN BREAUX in the Senate Finance Committee, and has been part of my ESOP bills since 1990. The effort to have these small businesses offer employee ownership to their employees started in 1987. Many private sector groups, representing both professionals and businesses, support permitting subchapter S corporations to sponsor ESOP's.

Unfortunately, the provision adopted last year was not perfected and literally is not workable. In addition, it does not permit the subchapter S corporation to sponsor an ESOP under the same ESOP promotion rules the C corporations do.

Section 2 extends the ESOP rules to subS ESOP's, and makes the technical changes necessary to have ESOP's operation in the context of a subchapter S company.

Section 3: From 1984 until 1989 there was a provision of the tax code, former Internal Revenue Code section 2210, that cost the Federal Treasury no more than $5 million per year, that was an effective way to create more employee ownership. The former law permitted certain small estates that had closely held stock owned by the descendent at time of death to transfer that stock, or some of it, to an ESOP of the closely held company, and the company would pay the estate tax on the value of the stock. No estate tax is being avoided here; it is just shifted from the estate to an American, closely held corporation that has employee ownership through an ESOP.

Section 4: This section actually is a simplification of how the current law provision permitting deductions on dividends paid on ESOP stock operates. Under current law, an ESOP sponsor may deduct the value of dividends paid on ESOP stock if the dividends are passed through to the employees in cash, or if the dividends are used to pay the loan used to acquire the stock for the ESOP, and if the employees get more stock equal in value to the dividends.

My proposal would permit the deduction if the employee in the ESOP has the option to get the dividends in cash, or if he or she directs that the dividends are reinvested in more stock of the company.

Why is this simplication? Because, under a very complex chain of events, that the IRS has approved in a series of letter rulings, the employee can have ''constructive receipt'' of the cash dividend, and then ''constructively'' take the dividend money back to the payroll office and reinvest it. Since the employee has received the dividend in cash, the deduction is allowed, although in reality it was reinvested.

My proposal says cut the chase. Where the employee has made clear a desire for the dividends to be reinvested, why have an expensive, confusing system that the IRS has to review after the ESOP sponsor spends dollars on designing the scheme? There is no reason.

Section 5: This section would correct what I feel is an anomaly in the current law. Under current law, Internal Revenue Code section 1042 permits certain sellers to an ESOP to defer the capital gains tax on the proceeds of the sale if he or she reinvests the proceeds in the securities of an operating U.S. corporation, and the ESOP holds at least 30 percent of the corporation at the conclusion of the transaction.

This provision plays a major role in the creation of over 50 percent of the ESOP companies in America. Currently it benefits owner-founders, and outside investors of closely held companies, but is not available for employees who own stock in the company due to their working for the company.

The anomaly arises due to some IRS letter rulings in the mid-1980's, and an out of date provision in section 1042 from 1984. The current law states that if an employee has stock because of exercising a stock option grant from the employer, that stock is not eligible for a 1042 treatment. The IRS has expanded this provision to prohibit all stock, even if bought for full market value by the employee to be ineligible for 1042.

My bill erases this prohibition; and for stock that was obtained with an exercise of a tax qualified stock option, if sold to the ESOP, the corporation is not permitted a tax deduction for the value of the option. This makes the provision fair, and prevents a double tax advantage—either the employee takes the 1042 treatment, or the corporation takes a deduction, not both.

This provision also corrects another technical anomaly in current law. As presently written, Code section 1042 provides that any holder of 25 percent of any class of stock in a company cannot participate in the ESOP with 1042 stock. My bill would change the measure so that the 25 percent would be measured by the voting power of the stock, or the value of the stock in terms of total corporate value. This kind of measure is used in other sections of the Code.

Section 6: My final section is another modest estate tax provision, that in prior years the Joint Committee on Taxation has estimated would cost the Treasury less than $1 million per year. This provision would help create employee ownership in those limited situations where an owner of a closely held business wants to ensure his or her spouse has income from the business during their remaining years, and then after his or her death the stock passes to the ESOP, as if it were eligible as a charity. With plenty of restrictions to ensure that there are no family beneficiaries of the ESOP created with the stock, this does not affect revenue because the decedent can create one of these trusts, called a charitable remainder trust for his or her spouse, and have its corpus go to charity in any event.

Mr. Speaker this explains my bill. This bill, except for the two estate tax provisions, was introduced by Senator JOHN BREAUX and Senator ORRIN HATCH on April 30 this year as S. 673.

I urge those of my colleagues who want to encourage employee ownership in America to join me, and to work hard to include these provisions in the tax bill that will soon be considered by the House Ways and Means Committee.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. BECERRA. Mr. Speaker, on May 1, 1997, I was unavoidably detained during roll-call vote No. 98, the vote on agreeing to House Resolution 129, providing amounts for the expenses of certain committees of the House of Representatives in the 105th Congress.

Had I been present for the vote, I would have voted ''no.''

WITCZAK'S HARDWARE CELEBRATES 100TH ANNIVERARY

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. BORSKI. Mr. Speaker, I rise to recognize a Philadelphia business institution in my congressional district as it marks its 100th anniversary in providing a valuable service to the community.

On May 17, 1897, Stella and Stanislawa Witczak, two Polish immigrants seeking to serve the needs of a growing community in Philadelphia, opened the doors to Witczak's Hardware.

One hundred years later, Witczak's hardware is still serving the needs of this tightly-knit Port Richmond community. Its owner, Michael Witczak, is proud to be the third generation owner of one of one of the oldest privately owned hardware stores in a city that is steeped in history.

Mr. Speaker, Witczak's Hardware is a living example of what the American Dream is all about. For a century, the business has continued to provide the community with nuts, bolts, plumbing supplies, electrical items, spring plants, snow shovels, and a variety of other household and hardware items.

It has evolved in much the way the community it served has changed over a century. Where once customers would go to buy pull chains for water closets, coal oil and globe oil for lamps, customers now go for paints, keys, and window screens.

While the items have changed to meet the demands and expectations of a fast-paced society, the store itself hasn't changed much over the years. Customers are still old friends, the wooden floors are a familiar fixture and the owner can still help customers find that perfect gadget or tool to aid in home improvement projects.

This very presence is what is so important to a community and to the people it serves. Witczak's business, firmly rooted in the Port Richmond neighborhood, is an example for many generations to see.

These businesses provide examples for other future business owners that offering a service to a neighborhood is convenient, important and still needed in our country. It is the business strategy that made our Nation become the world economic leader it is and it is the hub in the wheel that made our neighborhood prosper.

At a time when, competition is at an all-time high and super stores and mega-malls are increasing, stores like Witczak's are facing tough obstacles. Nonetheless, their role as the ''little mom and pop'' stores once so prevalent in our neighborhoods are needed.

The immigrants who started these businesses are to be commended for the spirit and energy they displayed in making their American dream of prosperity come true.

Mr. Speaker, I ask you and my colleagues to congratulate Witczak's Hardware for serving as a fine example of an American business that blossomed, remains strongly entrenched in its community, and continues to provide a service to the neighborhood. May it stand as an example for future business owners that one family's vision can lead to a century of accomplishment.

LIMA-ALLEN COUNTY RADIOTHON

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. OXLEY. Mr. Speaker, I rise today to offer my best wishes and support to the Lima-Allen County, OH, branch of the NAACP, as its members make their final preparations for their annual radiothon. The event, planned for May 24 at the Bradfield Community Center in Lima, will join the Lima-Allen County branch with other branches of the NAACP from across the Nation in an effort to attract new members from the Lima-Allen County community, as well as to inspire old members to renew their commitment.

The chapter president, Rev. Robert Curtis, and my friend, Malcolm McCoy, deserve special recognition for their work with the organization. I wish them success in their upcoming radiothon and particularly commend their positive influence on the young people of Lima-Allen County.

CRAIG THORN III RECEIVES COLUMBIA COUNTY ASSOCIATION'S DISTINGUISHED CITIZEN AWARD

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. SOLOMON. Mr. Speaker, on May 15, 1997, the Columbia County Association will bestow its Distinguished Citizen Award on Craig Thorn III. Anyone who knows him realizes how well-deserved this honor really is.

Mr. Thorn's career is notable for the degree to which he moved on the State and national political scene while maintaining his local business presence. Since Gov. Nelson Rockefeller's 1966 reelection campaign, Mr. Thorn has been actively involved in State politics. In 1968, he served as an advance man in Rockefeller's Presidential campaign. Later, he served as the upstate director of the Duryea gubernatorial campaign in 1978 and was the chief of staff for New York State Assembly Republicans from 1979 to 1982.

The creativity, enthusiasm and initiative that Mr. Thorn demonstrated in State politics also have been carried over into his civic activities. Currently, he serves as a vice chairman of the board of trustees of Columbia Memorial Hospital and chairman of the Columbia-Greene Community Hospital Foundation, which last year kicked off a Second Century of Caring Capital Campaign that already has secured $2 million toward a new emergency wing with surgical facilities.

Additionally, Mr. Thorn is a trustee of Columbia Economic Development Corp. and secretary of Hudson Development Corp. as well as a member of the board of managers of the Columbia Hudson Partnership, the umbrella economic development organization for the county and city. In this role, he has been an enthusiastic proponent of waterfront development in the city of Hudson and an active player in the complex negotiations that are now resulting in the removal of several longstanding oil tanks by the river, making way for a new public park.

Mr. Thorn also conceived and set in motion a Flag Day parade that will take place in Hudson on Saturday, June 14, and honor not only the American flag but the entire spectrum of volunteer organizations in Columbia County.

I could go on and list all of Mr. Thorn's other accomplishments, but I think I would run out of time and space. Needless to say, I commend the Columbia County Association's selection of Craig Thorn as the recipient of its Distinguished Citizen Award. His long record of serving his community and his State are a model for other citizens to follow.

TAKING A STAND FOR HEALTHY CHILDREN

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. FROST. Mr. Speaker, I rise today to salute the Stand for Healthy Children Day that will be held on June 1. All across the Nation groups will be holding community health fairs focusing on the needs of our children. Ensuring that our children are healthy should be a top priority in this country and an issue that requires attention at all levels.

The Children's Defense Fund, in cooperation with communities all over the Nation will be working with local officials to educate parents and renew their commitment to improving the quality of our children's lives. Prevention and education is the key to giving children the healthy start they need.

In step with this important nationwide movement I am proud to participate in the Stand for Healthy Children for the 24th district at the Resource Center in Fort Worth, TX. This family picnic, sponsored by the National Stand for Children and the Community Health Foundation, will focus on teaching kids and parents about preventative health and safety. Free children's health screenings will be offered, and officers from the Fort Worth Police Department will be making identification cards for children. In addition, kids from all over Forth Worth will be able to participate in fun-filled activities, like art contests, story-telling, and other events.

Bringing families together to talk about their children's health care is essential. By holding these health fairs, we can address concerns and work effectively to improve the quality of life for our children.

COMMENDING LACASA ON ITS 1997–98 PROGRAM YEAR

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. VISCLOSKY. Mr. Speaker, I would like to commend the Latin American Community Alliance for Support and Assistance of Northwest Indiana, Inc. [LACASA], its Adult Education Learners, its Head Start Students, and its Agency Volunteers, on the achievements earned during the 1997–98 program year.

LACASA is dedicated to serving the Hispanic residents of northwest Indiana, who experience difficulty in obtaining needed social and educational services. Some quality services which the organization offers include: an adult education program, geared toward students at all levels; a Head Start program, which provides training in parenting skills, and an opportunity for parents to become empowered in the education of their children; and Access Assistance, a program stressing job search and person and community leadership preparation. Currently, LACASA is working to develop additional programs meant to improve the quality of life for northwest Indiana's Hispanic population. For those in need, LACASA hopes to provide transportation services to its programs, as well as to agencies where its clients are referred. The organization would also like to establish health stations in an effort to assist families in understanding their basic health needs and inform them about how to access the existing health care system. Finally, LACASA hopes to expand its services to the elderly by familiarizing them with in-home care options to prevent unnecessary institutionalization.

Students who have participated in LACASA's 1997–98 Adult Education Learners Program include: Juan Luis Alvarado, Juan Manuel Alvarado, Maria C. Alvarez, Maria Magdalena Alvarez, Armando Arellano, Lesly I. Arellano, Maria Z. Avila, Patricia A. Avila, Alejandra Ayala, Maria Barajas, Joseph Bialorucki, Barry D. Billinghsley, Enrique Camacho, Jesus Camacho, Carmen Maria Carrillo, Phung S. Choi, Maria I. Concepcion, Filomeno Contreras, Juan L. Contreras, Gladys M. Coronado, Hiram D. Crespo, Maria L. Cuba, Efrain Delcid, Maria Margarita Delreal, Agustin Diaz, Carmen Flores, Eduardo Garcia, Galdino Garcia, Nestor Garcia, Patricia E. Garcia, Roman Garza, Juse Luis Gonzalez, Magdalena Gonalez, Sonda D. Gooch, Mary Guerrero, Herhsy Gunn, Carmen Haro, Patricia A. Hayden, Carolos Hermosa, Juan Hernandez, Maria Herrera, George Howard, Alicia Huizar, Vicente Huizar, Matha Ann James, Hermila Lopez, Herminia Lopez, Luis Lopez, Charlean Mack, Luz M. Magana, Maria A. Magana, Marilu Maldonado, Ana Rosa Martinez, Erick J. Martinez, Georgina C. Martinez, Guadalupe G. Martinez, Miguel A. Martinez, Flavia Maya, Lisa M. Medina, Maria Merlos, Urbano Merlos, Egan Morgan, Fidel Nava, Gerardo Nunez, Ruben Ordonez, Alma Rosa Ortiz, Isabel Paz, Carmen Perez, Maribel Ponce, Marcos Juan Puebla, Mase T. Reed, Luis Eduardo Rivera, Danetta M. Robinson, Caridad Rodriguez, Elizabeth Rodriguez, Jose Mario Rodriguez, Nancy Rodriguez, Roberto Rodriguez, Zuleima Rodriguez, Jose L. Rojas, Omayra Rosario, Griselda Salas, Fermin Sanchez, Maria Santos, Juan M. Soto, Mary Soto, Warren G. Strange, Arthur K. Thomas, Jheaneth Thomas Ernesto Tinoco, Michael Torres, Teresa Torres, Teresa Tril, Katrina D. Triplett, Charleane Vaughn, Lourdes Vazquez, Jose Vera, Ramon Villanueva, and Guadalupe M. Zurita.

The 1997–98 LACASA Head Start Program participants include: Jessica Acevedo, Yahaira Aguayo, Emilio Flores, Cinthia Garcia, Casandra Guerrero, Harlene Haro, Anneliese Hartonian, Saul Hernandez, Henry James, Yarelis Nieves, Heraclio Herrera, Tabitha Pearson, Marissa Perez, Amanda Ramos, Alfonso Rodriquez, Javier Torres, Kristian Torres, Zuleyka Chavez, Crystal Cuadra, Enrique Cuanetl, Selena Flores, Stefanos Glinos, Rosa Hernandez, Fabian Herrera, John Jacquez, Marcus James, Alejandro Herrera, Maria Martinez, Sabrina Millsap, Mathew Ortiz, Jeffrey Perez, Abimael Ramos, Christopher Salgado, Michael Walker, Alberto Irizarry, and Kayla Cheek.

LACASA Agency Volunteers for 1997–98 include: Mary Belle Ang, Kysha Amour-Porter, Amy Abrego, John Breckenridge, Janis Breckenridge, Terrance Martinez, Ray Acevedo, Manuel A. Roman, Carmen Fuentes, Marilu Maladonado, Maria Cuba, Georgina Martinez, Eloisa Vizcaria, Rosa Magana, Fannie Torres, Mr. Maldonado, Nelson Flores, Nora Valtierra, Samantha Long, Erica Ocasio, Dyron Long, Betty Magana, Luz Magana, Gladys Reyes, Juan Luis Alvarado, Aurora Glinos, Zuleima Rodriquez, Gabriel Magana, Jr., Albina Venegas, Jennifer Ash, James Ash, Helen Williams, Manuel Alvarez, Elena Hernandez, Stanly Garlarki, and Pat Garlarki.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in commending the LACASA Adult Education Learners, Head Start Students, and Agency Volunteers for their dedication to the pursuit of education. I would also like to congratulate LACASA for its continuing efforts to preserve the Hispanic culture, while improving the quality of life for the Hispanic residents of northwest Indiana.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. BECERRA. Mr. Speaker, on May 5, 1997, through May 7, 1997, I was officially traveling with the President on his first state visit to Mexico and was therefore unable to vote during four rollcall votes. This includes two rollcall votes, numbered 103 and 104 on H.R. 2, the Housing Opportunity and Responsibility Act; one rollcall vote numbered 108 on the Boehlert amendment to H.R. 478; and one rollcall vote numbered 109 on House Resolution 143, providing for consideration of H.R. 3, a juvenile justice bill.

Had I been present for the votes, I would have voted ''yes'' on rollcall votes numbered 103, 104, and 108. I would have voted ''no'' on rollcall vote numbered 109.

TRIBUTE TO EDWIN OHKI

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Ms. WOOLSEY. Mr. Speaker, I rise today to pay tribute to an outstanding and courageous individual, Edwin Ohki. The death of Mr. Ohki on October 23, 1996, was a sad day for all of Sonoma County, where he was a longtime resident.

Born in Livingston, CA, in 1923, Ed and his family were placed in a Japanese internment camp when World War II began. After being forced to live in the camp for over a year, Ed volunteered for the U.S. Army, even though as a Japanese-American he was offered combat duty only.

Ed joined the famed 442d Infantry Battalion, the most decorated unit in U.S. Army history. During combat in Italy, he was injured and then returned to the United States to spend over four painful months in the hospital. Ed was awarded the Purple Heart for his actions. Despite his heroism and being honorably discharged from the Army, Ed was sent back to an internment camp.

After the war, Ed returned to California and graduated from the University of California, Davis. He moved to Santa Rosa, in 1951, where he later joined his family's landscape business. Ed also served as secretary of the Sonoma County Landscape Gardeners Association.

Ed was very active with the First United Methodist Church of Santa Rosa, and the local Buddhist community. In addition, he served as president of the Sonoma County Japanese-American Citizen League. Ed will forever be remembered as a bridge builder—as someone who reached out to people of all racial and religious backgrounds.

Mr. Speaker, Ed Ohki served his country and his community well. He consistently extended himself on behalf of many people for a variety of important causes. Our Nation owes a great deal of gratitude to him for his tireless efforts. I extend my deepest sympathies to his wife, Anne, and their family. He will be missed by all.

A MAN OF COURAGE, AN INSPIRATION FOR MANKIND

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. HAMILTON. Mr. Speaker, I wish to take a moment today to remind my colleagues of the heroic struggle being waged by Wei Jingsheng

Wei has spent all but one of the past 18 years in Chinese prisons, jailed for the crime of advocating political democracy. Released briefly in 1993, as China sought to tidy up its public image in an effort to win the 2000 Olympic Games for Beijing, Wei was rearrested in 1994, only days after meeting with the United States Assistant Secretary of State for Democracy, Human Rights and Labor, and sentenced to 14 additional years in prison. Today, he languishes in jail while his health deteriorates. His requests for urgent medical attention have gone unanswered.

Mr. Speaker, I am a friend of China. I support the Clinton administration's policy of engagement with China. I believed that American interests are best served by a policy that seeks to draw China into the international community.

But, Mr. Speaker, even those of us who advocate friendly ties with China are deeply offended by China's treatment of its own citizens. And in this respect unfortunately, Wei Jingsheng is only one of many Chinese who have been imprisoned unjustly.

Mr. Speaker, I wish today to join my colleagues who have asked the Chinese leaders to release Wei Jingsheng. To halt their campaign of repression against their own people. To respect the promises of their own laws and constitution. And to live up to the glory of their country's past by joining the rest of the civilized world in recognizing that a nation's true greatness is measured by how that nation's government treats its dissenters.

ON JONATHAN W. HODGES' ATTAINMENT OF EAGLE SCOUT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor Jonathan W. Hodges of Avon Lake, Oh, who will be honored this month for his recent attainment of Eagle Scout.

The attainment of Eagle Scout is a high and rare honor requiring years of dedication to self-improvement, hard work and the community. Each Eagle Scout must earn 21 merit badges, twelve of which are required, including badges in: lifesaving; first aid; citizenship in the community; citizenship in the nation; citizenship in the world; personal management of time and money; family life; environmental science; and camping.

In addition to acquiring and proving proficiency in those and other skills, an Eagle Scout must hold leadership positions within the troop where he learns to earn the respect and hear the criticism of those he leads.

The Eagle Scout must live by the Scouting Law, which holds that he must be trustworthy, loyal, brave, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, clean, and reverent.

And the Eagle Scout must complete an Eagle Scout Project, which he must plan, finance, and evaluate on his own. It is no wonder that only two percent of all boys entering scouting achieve this rank.

My fellow colleagues, let us join Boy Scouts of America Troop 41 in recognizing and praising Jonathan for his achievement.

TRIBUTE TO DON FONTANA

HON. ZACH WAMP

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. WAMP. Mr. Speaker, I'd like to take a few moments to acknowledge Don Fontana, an outstanding leader in the mental health community from the Third District of Tennessee. Don recently retired as chief executive officer of Volunteer Behavioral Health Care System. His contributions to this organization and to the community and State, are many.

I'd like to highlight just a fraction of Don's accomplishments. It was with great vision as the CEO of Johnson Mental Health Center, that Don saw the future and the necessity for community mental health centers to meet the challenges of managed care.

Under Don's leadership, several community mental health centers joined together and the Volunteer Behavioral Health Care System was created. Today, the center consists of Johnson Mental Health Center, Hiwassee Mental Health Center, and Plateau Mental Health System.

Don has served not once, but twice as the president of the Tennessee Association of Mental Health Organizations, as well as a task force member for Children's Services. He has extended behavioral health care services to 27 counties within Tennessee. In addition, one of the most notable contributions he has made is the establishment of safe, supervised housing for severely mentally ill adults where 75 of our community members live.

Mr. Fontana's commitment to affordable mental health services for those who could not otherwise afford them has made him a giant in the mental health community. His extraordinary service and commitment of 19 years will be missed, but because of his leadership and guidance the programs he has established in our community will continue.

Personally, I worked with Don years ago as a volunteer member of the advisory board of the Joe Johnson Mental Health Center. I know first hand of his true commitment to those in need.

I am proud to have the opportunity to publicly acknowledge Don Fontana's fine service in the mental health field and wish him well in the future.

MARCH FOR JESUS DAY

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. BLUNT. Mr. Speaker, I rise today to voice my support for the upcoming nationwide ''March for Jesus Day.'' This event on May 17, 1997, will provide more evidence that America is returning to the values of belief in God and family that have made our country great. Last year church related groups and congregations in over 600 cities in the United States and 170 nations participated in the march. In Joplin, MO, almost 70 area congregations of different denominations representing 18 communities from the 4-State region will march together and in other southwest Missouri towns and cities Christians will step forward on this day.

This Nation was founded upon Judeo-Christian principles that our country should continue to recognize and hold high. I am reminded of John 13:34 where Jesus said '' A new command I give you: Love one another. As I have loved you, so you must love one another. By this all men know that you are my disciples, if you love one another.'' The March for Jesus is truly an opportunity to show others the love which Christ modeled for us. Our Nation needs to be shown the love and grace of Christ Jesus. For too long, we have been willing to neglect the necessity of spiritual fulfillment and today we see the overwhelming consequences of such actions with families separated by divorce, drug use accelerating rapidly in our society, and juvenile crime out of control.

As the Christian community gathers to March for Jesus it can truly be an example of others of the change He has made in our own lives and the lives of our families and friends. We need to live the command Jesus gave us in the book of Matthew where He said, ''Love your neighbor as yourself.'' What a great opportunity as Christians gather together to march to remember in our daily lives to show others Jesus and his love. It is important that we not forget to display the love of Christ to our neighbors by helping them in times of need.

Christians should be guided by the words of the Apostle Paul where in II Timothy 1:7–12 he says,

> For God did not give us a spirit of timidity, but a spirit of power, of love and of self-discipline. So do not be ashamed to testify about our Lord, or ashamed of me his prisoner. But join with me in suffering for the gospel, by the power of God, who has saved us and called us to a holy life—not because of anything we have done but because of his own purpose and grace. This grace was given us in Christ Jesus before the beginning of time, but it has now been revealed through the appearing of our Savior Christ Jesus, who has destroyed death and has brought life and immortality to light through the gospel. And of this gospel I was appointed a herald and an apostle and a teacher. That is why I am suffering as I am. Yet I am not ashamed, because I know whom I have believed, and am convinced that he is able to guard what I have entrusted to him for that day.

The March for Jesus is an excellent opportunity to testify to others about Jesus as families walk their city streets with fellow believers of all denominations. I am encouraged as Christians unite together to take an active role in their witness to others.

INTRODUCTION OF THE FAIR HEARING ACT

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. FAWELL. Mr. Speaker, today, I am introducing the Fair Hearing Act, legislation which will require the National Labor Relations Board [NLRB] to conduct hearings to determine the appropriateness of bargaining units in cases where a labor organization attempts to organize employees at one or more facilities of a multifacility employer and where there is no agreement as to the appropriate bargaining unit.

As many Members know, our attention was drawn to this issue by the NLRB's proposed rulemaking of several years ago announcing the Board's intention to impose a rule on the appropriateness of single location bargaining units that would have applied to virtually every industry. That proposal would have extended to all employers, except for those in the specifically excluded utility industry, construction industry and seagoing crews in the maritime industry. Fortunately, the NLRB was prevented from pursuing this disruptive rulemaking

through language included in the Labor-HHS-Education funding bill for the past 2 fiscal years.

While I have long decried the litigation orientation of many of this nation's labor and employment laws, I do have concerns about rulemaking the area of bargaining unit determinations as such determinations, by their nature, require the type of fact specific analysis that only case-by-case adjudication allows. I believe strongly that the imprecision of a blanket rule limiting the factors considered material to determining the appropriateness of a single location unit detracts from the National Labor Relations Act's goal of promoting stability in labor-management relations. Thus, I feel equally strongly that legislation is necessary to ensure that a specific analysis of the appropriateness of a bargaining unit given the facts and circumstances of a particular case, is conducted through a hearing.

A hearing process regarding the appropriateness of single facility bargaining units will allow a more complete examination of the comprehensive approach to human resource policies and procedures pursued by many employers today that may influence the bargaining unit determination. To limit consideration of relevant factors potentially would undermine the ability of employers to develop flexible solutions to the needs and demands of their work forces and would greatly increase the cost, complexity and uncertainty of labor-management relations where centralized personnel policies are maintained by employers with numerous locations.

The Fair Hearing Act recognizes both the realities of human resource management in today's competitive economic environment and the complexity of bargaining unit determinations, particularly in cases where multifacility employers are involved. The legislation does not attempt to define when a single location bargaining unit is appropriate, but merely requires the NLRB to consider all of the relevant factors in making that determination. I urge my colleagues to support this important legislation.

JUSTICE ON TIME ACT OF 1997

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. GOODLING. Mr. Speaker, today, I am pleased to introduce the Justice on Time Act of 1997, legislation which would address the profound concern expressed by several of my constituents who have experienced long delays in the processing of their cases by the National Labor Relations Board [NLRB]. The Justice on Time Act of 1997 would require the NLRB to issue a final decision within 1 year on all unfair labor practice complaints where it is alleged that an employer has discharged an employee in an attempt to encourage or discourage union membership.

The Justice on Time Act recognizes that the lives of employees and their families, wondering whether and when they will get their jobs back, are hanging in the balance during the long delays associated with the National Labor Relations Board's processing of unfair labor practice charges. The act also recognizes that the discharge of an employee who engages in union activity has a particularly chilling effect on the willingness of fellow employees to support a labor organization or to participate in the types of concerted action protected by the National Labor Relations Act [NLRA].

Thus, the legislation requires the Board to resolve discharge cases in a timely manner to send a strong message to both employers and employees that the NLRA can provide effective and swift justice. The Justice on Time Act ensures that employees who are entitled to reinstatement will quickly get their jobs back and employers will not be saddled with liability for large backpay awards.

The median time for National Labor Relations Board processing of all unfair labor practice cases in fiscal year 1995 was 546 days and has generally been well over 500 days since 1982. This length of time is a disservice to the hard-working men and women who seek relief from the Board for unfair treatment in their workplaces. The Justice on Time Act tells the National Labor Relations Board that, at least when it comes to employees who may have wrongly lost their jobs, it must do better and must give employees a final answer on whether they are entitled to their jobs back within 1 year.

AGAINST CENSUS SAMPLING

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. PACKARD Mr. Speaker, I rise today in opposition to the Census Bureau's proposed use of sampling in determining population figures. Counting just 90 percent of our citizens and simply guessing who the rest of us are will have a devastating effect on our ability to accurately assess our needs and budget for the future.

Sampling also undermines the integrity of our political system. Representation in this very House is determined by population. A State could be forced to reduce its number of Representatives solely on the basis of a politically tainted guess.

Mr. Speaker, I do not want to exclude anyone in America from the census by relying on a guesstimate. The right to proper representation should never be compromised, for any reason.

Sampling may cost nominally less, and my Republican colleagues and I are committed to reducing spending—but why go through the trouble and cost of counting 90 percent and then leaving the rest up to speculation? Why spend the money at all? We have a census to get the most exact count possible of our population and their demographics. Anything less than that is just a guess—plain and simple.

Sampling our population simply has no worth. Our next census will cost $4.2 billion. If sampling is used, that price tag will likely fall to $4.1 billion. The real difference however, is that the taxpayer will not be footing the bill for an accurate count of this Nation's population—but instead will be paying a high price for nothing more than a guess.

At a cost of $4.1 billion, Mr. Speaker, the American people will surely want more than a soft estimation. Anything other than a full count of citizens, where all can be represented, is simply unacceptable.

CLATSKANIE HIGH SCHOOL STUDENTS RAISE FOOD FOR CHILDREN

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Ms. FURSE. Mr. Speaker, I rise today to recognize an outstanding group of high school students in Oregon for not only their vision, but for their dedication and hard work to make dreams become reality.

In 1990, Clatskanie High School student, Gennie Sluder Harris, started a program called Help Hungry Kids with the belief that one person can make a difference. Seven years later, her dream has caught on with nearly 4.5 million pounds of food being collected throughout the country to help feed disenfranchised children.

Often, Americans pride themselves on a prosperous lifestyle, but in truth, according to research of Clatskanie's, Help Hungry Kids students, 1 in 4 children in this Nation goes to bed hungry—a silent hunger.

The program is simple: If you already have a food drive established in your high school, report your totals to Clatskanie. If you don't have a food drive—start one and report your totals. The food and money raised stays in your community and State. With just two cans of food and $1, schools can participate and States can compete against another, with the top State being recognized at the national conference of the National Association of Student Councils.

The students of Clatskanie High School urge kids across the Nation to catch the dream and show how to make a positive difference. I encourage kids across the Nation to engage the schools in this incredibly worthwhile program to help those less fortunate and work toward the goal—to make sure no child goes to bed hungry.

ADDRESS OF JUSTICE ANTONIN SCALIA AT THE NATIONAL DAYS OF REMEMBRANCE CEREMONY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. LANTOS. Mr. Speaker, at an extremely moving ceremony in the rotunda of the U.S. Capitol last Thursday, Members of Congress, the Diplomatic Corps, representatives of our Nation's executive and judicial branches, and hundreds of survivors of the Holocaust with their friends and family gathered to commemorate the National Days of Remembrance. This was an occasion when we take the time to remember the horror and inhumanity of the Holocaust.

Mr. Speaker, in recognition of the unspeakable horror of the Holocaust and the importance that we never forget that tragedy, the U.S. Holocaust Memorial Council was established by Congress to preserve the memory of the victims of the Holocaust. One of the most important tasks in this effort is the annual Days of Remembrance commemoration in the rotunda of our Nation's Capitol. This year, Antonin Scalia, Associate Justice of the U.S.

Supreme Court gave the principal address at the ceremony.

Mr. Speaker, I am inserting the remarks of Justice Scalia into the RECORD, and I urge my colleagues to give thoughtful attention to his excellent comments:

Distinguished Members of the United States Senate and House of Representatives; Members of the Diplomatic Corps; Survivors of the Holocaust; Ladies and Gentlemen:

I was profoundly honored to have been invited to speak at this annual ceremony in remembrance of those consumed in the holocaust. But it is not, I must tell you, an easy assignment for a non-Jew to undertake. I am an outsider speaking to an ancient people about a tragedy of unimaginable proportions that is intensely personal to them. I have no memories of parents or children, uncles or cousins caught up in and destroyed by the horror. I have not even that distinctive appreciation of evil that must come from knowing that six million people were killed for no other reason than that they had blood like mine running in their veins.

More difficult still, I am not only not a Jew, but I am a Christian, and I know that the antisemitism of many of my uncomprehending coreligionists, over many centuries, helped set the stage for the mad tragedy that the National Socialists produced. I say uncomprehending coreligionists, not only because my religion teaches that it is wrong to hate anyone, but because it is particularly absurd for a Christian to hate the people of Israel. That is to hate one's spiritual parents, and to sever one's roots.

When I was a young man in college, spending my junior year abroad, I saw Dachau. Later, in the year after I graduated from law school, I saw Auschwitz. I will of course never forget the impression they made upon me. If some playwright or novelist had invented such a tale of insanity and diabolical cruelty, it would not be believed. But it did happen. The one message I want to convey today is that you will have missed the most frightening aspect of it all, if you do not appreciate that it happened in one of the most educated, most progressive, most cultured countries in the world.

The Germany of the late 1920's and early 1930's was a world leader in most fields of art, science and intellect. Berlin was a center of theater; with the assistance of the famous producer Max Reinhardt, playwrights and composers of the caliber of Bertholt Brecht and Kurt Weil flourished. Berlin had three opera houses, and Germany as a whole no less than 80. Every middle-sized city had its own orchestra. German poets and writers included Hermann Hesse, Stefan George, Leonhard Frank, Franz Kafka and Thomas Mann, who won the Nobel Prize for Literature in 1929. In architecture, Germany was the cutting edge, with Gropius and the Bauhaus school. It boasted painters like Paul Klee and Oskar Schlemmer. Musical composers like Anton Webern, Alban Berg, Arnold Schönberg, Paul Hindimith. Conductors like Otto Klemperer, Bruno Walter, Erich Kleiber and Wilhelm Furtwängler. And in science, of course, the Germans were preeminent. To quote a recent article in the Journal of the American Medical Association:

In 1933, when the National Socialist Party came to power in Germany, the biomedical enterprise in that country was among the most sophisticated in the world. German contributions to biochemistry, physiology, medicine, surgery, and public health, as well as to clinical training, had shaped to an important degree the academic and practice patterns of the time, and clinical training and research experience in the great German clinics and laboratories had been widely sought for decades by physicians and basic scientists from around the world.

To fully grasp the horror of the holocaust, you must imagine (for it probably happened) that the commandant of Auschwitz or Dachau, when he had finished his day's work, retired to his apartment to eat a meal that was in the finest good taste, and then to listen, perhaps, to some tender and poignant Lieder of Franz Schubert.

This aspect of the matter is perhaps so prominent in my mind because I am undergoing, currently, the task of selecting a college for the youngest of my children—or perhaps more accurately, trying to help her select it. How much stock we place in education, intellect, cultural refinement! And how much of our substance we are prepared to expend to give our children the very best opportunity to acquire education, intellect, cultural refinement! Yet those qualities are of only secondary importance—to our children, and to the society that their generation will create. I am reminded of words written by John Henry Newman long before the holocaust could even be imagined.

''Knowledge is one thing, virtue is another; good sense is not conscience, refinement is not humility, . . . Liberal Education makes . . . the gentleman. It is well to be a gentleman, it is well to have a cultivated intellect, a delicate taste, a candid, equitable, dispassionate mind, a noble and courteous bearing in the conduct of life. These are the connatural qualities of a large knowledge; they are the objects of a University. . .

Yes, to the heartless.

It is the purpose of these annual holocaust remembrances—as it is the purpose of the nearby holocaust museum—not only to honor the memory of the six million Jews and three or four million other poor souls caught up in this 20th-century terror, but also, by keeping the memory of their tragedy painfully alive, to prevent its happening again. The latter can be achieved only by acknowledging, and passing on to our children, the existence of absolute, uncompromisable standards of human conduct. Mankind has traditionally derived such standards from religion; and the West has derived them from and through the Jews. Those absolute and uncompromisable standards of human conduct will not endure without an effort to make them endure, and it is to that enterprise that we rededicate ourselves today. They are in the Decalogue, and they are in the question put and answered by Micah: ''What doth the Lord require of thee, but to do justly, to love mercy, and to walk humbly with thy God.''

For those six million Jews to whom it was not done justly, who were shown no mercy, and for whom God and his laws were abandoned: may we remember their sufferings, and may they rest in peace.

RECOGNITION OF THE INTERNATIONAL ATHENA FOUNDATION

HON. DEBBIE STABENOW

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Ms. STABENOW. Mr. Speaker, as Members of the Michigan congressional delegation we wish to recognize the International ATHENA Foundation for their important support of women in the workplace.

The International ATHENA Foundation identifies outstanding professional and business women in the community and encourages the opening of leadership opportunities for women in the workplace.

The International ATHENA Foundation issues awards in coordination with local chambers of commerce recognizing individuals for business and professional accomplishments, community service, mentoring, and for providing role models to encourage women to achieve their full leadership potential.

Recipients of the International ATHENA Award for achievement, service, and assistance to others are honored in their communities annually and recognized for excellence as honorees among a select group rather than as competitors.

The ATHENA Awards encourage communities, States, and nations to achieve a representative balance of leadership by identifying and honoring those individuals and companies who assist women in reaching their full leadership potential.

We are very pleased to support these causes and are happy their national conference will be taking place in Michigan this year.

LYNN N. RIVERS, VERNON J. EHLERS, PETER HOEKSTRA, DALE E. KILDEE, JOHN DINGELL, JOHN CONYERS, JR., JIM BARCIA, DAVID E. BONIOR, SANDER LEVIN, CAROLYN C. KILPATRICK, BART STUPAK, AND DEBBIE STABENOW.

CONCERNING THE DEATH OF CHAIM HERZOG

SPEECH OF

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. STOKES. Mr. Speaker, I wish to thank the gentleman from Indiana, Mr. BURTON, for bringing this resolution to the House floor today. I rise in support of House Concurrent Resolution 73, and to recognize the passing of a statesman of the highest order, former Israeli President Chaim Herzog.

Mr. Herzog was an accomplished man who led an extraordinary life and guided Israel to new heights on the world stage. He was a scholar, warrior, lawyer, diplomat, author, politician, and above all, a gentleman. With his passing we mourn the loss of an internationally recognized advocate of diplomacy and peace.

Throughout his life, Chaim Herzog was a strong and effective leader. Born in Ireland in 1918, he was educated in Jerusalem and London and became an officer in the British Army during World War II. During the war, Chaim Herzog served as head of British intelligence in Germany, aided in the liberation of concentration camps, and landed on the beaches of Normandy.

Mr. Speaker, Chaim Herzog returned to what was then Palestine as part of the Jewish underground, and became an officer in Israel's War of Independence in 1948. With the creation of Israel, Mr. Herzog became the first formal head of the Military Intelligence Branch in 1950, and his distinguished father became chief rabbi. Chaim Herzog then came to Washington in 1954 as Israel's defense attaché, a post he held until his return to Israel.

After leaving the Army in 1962, Mr. Herzog applied his experience and education to law and business, eventually becoming a radio commentator, and author. Chaim Herzog was

a leading voice as a military commentator during the Six-Day War, the Yom Kippur War, and the War of Atonement, and also became a leading author on Israeli military history.

These episodes led him into service as the first military governor of the West Bank. In 1975, Chaim Herzog became Israel's Ambassador to the United Nations, and in 1981 he emerged as a Labor Party member to Israeli's parliament, the Knesset. But it was his election as Israel's President in 1983 that demonstrated to the world the solid and impressive leadership he had displayed throughout his life.

Chaim Herzog knew that the hardest struggle would be that for Middle East peace, which he nobly sought during his two-term Presidency. His experience as a warrior taught him that the battle of peace could be won, and his endeavors laid much of the groundwork for the peace process that continues today.

Mr. Speaker, Chaim Herzog was a man of courage who shared a close friendship with the United States. He was a brilliant and learned individual who devoted his formidable intellect and energy to the advancement of Israel, and ultimately peace. It is with sadness for the Herzog family, to whom I extend my deepest condolences, and with optimism for the prospect of stability and peace in the Middle East, that I join my colleagues in rising to recognize the remarkable life of Chaim Herzog.

IRISH DEPORTEES

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise today to bring to your attention the possible deportation of a number of Irish nationals to Northern Ireland. This is an extremely important issue and one that we, as policymakers, must address.

I'd like to share with you the plight of one family which will be torn apart if deportation occurs. Matthew Morrison came to our Nation from the town of Derry in Northern Ireland. He came to America to escape a life of hardship and oppression. As a young man, he had been a member of the Irish Republican Army, and had been imprisoned as a ''special category'' political prisoner by the British. He was convicted of crimes without the benefit of a jury or an impartial court.

Upon his release, Matt traveled to America where he met his wife Francie Broderick, who testified before the Ad Hoc Committee on Irish Affairs in February of this year. The couple have two children and live a peaceful and productive life in St. Louis, MO. Matt has never been in trouble with the law here.

Matt's only crime since coming to the United States has been that he has listened to his conscience. He has been a vocal critic of the human rights violations by the British in Northern Ireland, and has actively worked to enlighten those around him.

I would like the record to reflect that Matt Morrison has lived peacefully in the United States since December 22, 1985. I am strongly opposed to any action which would jeopardize his right to fair and impartial justice. I am also very concerned about the effect that his return would have on the peace and stability that we all seek in Northern Ireland. Our Government, which values family and community, should consider the impact on the Morrison family that deporting the father of two young children would bring.

KEVIN AND JOYCE CROSSAN

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. BORSKI. Mr. Speaker, I rise today to bring to the attention of the House the case of Kevin and Joyce Crossan. As you may know, Kevin is one of several Irish nationals who faces deportation from the United States.

As an 18-year-old in Northern Ireland, Kevin was arrested and charged with murder. He was ultimately convicted in a ''Diplock'' court, which hears only political offenses, and he spent 14 years in Long Kesh Prison. His crime was recognized by the British Government as a political crime.

While serving his time in Long Kesh, Kevin developed a relationship with Joyce Farrell, an American citizen. Joyce moved to Belfast after Kevin was released, but the two became subjects of constant harassment from the Royal Ulster Constabulary [RUC]. Kevin and Joyce moved to the United States in 1991 and they married in 1992. After their arrival, Kevin filed for an adjustment of status for legal alien residence. However, on June 20, 1995, Kevin's adjustment for status was denied and he was told that he ''will be contacted with procedures to effect his departure from the United States.'' He has also been denied work authorization for almost 2 years.

Last month, I had the pleasure of meeting Joyce Crossan, who has become actively involved in the cases of her husband and others facing deportation. She explained to me how she was treated during her brief residence in Belfast. Because of her relationship with Kevin, Joyce was repeatedly harassed by the RUC—even arrested and detained in Castlereagh Prison for 3 days. Clearly, sending Kevin and Joyce back to that environment would lead to continued harassment and mistreatment.

Mr. Speaker, the Crossans are one of several families facing these extraordinary circumstances. The Irish nationals involved in all of these cases are men who have served their time and are no longer wanted for any crimes. They are married to American-born citizens, and many of them have children. In each of these cases, these families are upstanding members of their communities, and they pose absolutely no threat to anyone.

Last February, I cosigned a letter to President Clinton, asking for his personal intervention on behalf of these families. I urge my colleagues to send similar letters to help ensure that families like the Crossans are able to stay in the United States.

IMPLEMENTING LEGISLATION FOR THE CHEMICAL WEAPONS CONVENTION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. HAMILTON. Mr. Speaker, today Mr. CONYERS and I are introducing, by request H.R. 1590, the administration's draft legislation to implement the Chemical Weapons Convention. The purpose of this bill, the Chemical Weapons Convention Implementation Act of 1997, is to both implement the convention, and to make sure that U.S. domestic law conforms with international legal obligations, now that the United States is a State Party to this Convention. The Senate acted to ratify the convention on April 24, 1997, and it entered into force on April 29, 1997.

The Chemical Weapons Convention contains a number of provisions that require implementing legislation to give them effect within the United States. These include: International inspections of U.S. facilities; declarations by U.S. chemical and related industry; and establishment of a national authority to serve as the liaison between the United States and the international organization established by the Chemical Weapons Convention and States Parties to the Convention.

The purpose of introducing this bill is not to speak definitively on how the CWC should be implemented. Committees of jurisdiction can and should work their will. The purpose of introducing this bill is help move the process forward, and to ensure that the views of the administration are available to our colleagues.

The text of a letter I received from Arms Control and Disarmament Agency Director Holum follows:

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY,
Washington, DC, March 27, 1997.

HON. LEE H. HAMILTON,
Ranking Democratic Member, Committee on International Relations, U.S. House of Representatives.

DEAR REPRESENTATIVE HAMILTON: On behalf of the Administration, I hereby submit for consideration the ''Chemical Weapons Convention Implementation Act of 1997.'' This proposed legislation is identical to the legislation submitted by the Administration in 1995. The Chemical Weapons Convention (CWC) was signed by the United States in Paris on January 13, 1993, and was submitted by President Clinton to the United States Senate on November 23, 1993, for its advice and consent to ratification. The CWC prohibits, inter alia, the use, development, production, acquisition, stockpiling, retention, and direct or indirect transfer of chemical weapons.

The President has urged the Senate to provide its advice and consent to ratification as early as possible this year so that the United States will be an original State Party and can continue to lead the fight against these terrible weapons. The CWC will enter into force, with or without the United States, on April 29, 1997. If the United States has not ratified by that time, we will not have a seat on the governing council which will oversee implementation of the Convention and U.S. nationals will not be able to serve as inspectors and in other key positions. Here at home, the U.S. chemical industry could lose hundreds of millions of dollars and many well-paying jobs because of CWC-mandated

trade restrictions against non-Parties. As Secretaries Albright and Cohen have recently underscored, ratifying the CWC before it enters into force is in the best interests of the United States.

The CWC contains a number of provisions that require implementing legislation to give them effect within the United States. These include: carrying out verification activities, including inspections of U.S. facilities; collecting and protecting the confidentiality of data declarations by U.S. chemical and related companies; and establishing a ''National Authority'' to serve as the liaison between the United States and the international organization established by the CWC.

In addition, the CWC requires the United States to prohibit all individuals and legal entities, such as corporations, within the United States, as well as all individuals outside the United States, possessing U.S. Citizenship, from engaging in activities that are prohibited under the Convention. As part of this obligation, the CWC requires the United States to enact ''penal'' legislation implementing this prohibition (i.e., legislation that penalizes conduct, either by criminal, administrative, military or other sanctions).

Expeditious enactment of implementing legislation is very important to the ability of the United States to fulfill its obligations under the Convention. Enactment will enable the United States to collect the required information from industry, to provide maximum protection for confidential information, and to allow the inspections called for in the Convention. It will also enable the United States to outlaw all activities related to chemical weapons, except CWC permitted activities such as chemical defense programs. This will help fight chemical terrorism by penalizing not just the use, but also the development, production and transfer of chemical weapons. Thus, the enactment of legislation by the United States and other CWC States Parties will make it much easier for law enforcement officials to investigate and punish chemical terrorists early, before chemical weapons are used.

As the President indicated in his transmittal letter of the Convention: ''The CWC is in the best interests of the United States. Its provisions will significantly strengthen United States, allied and international security, and enhance global and regional stability.'' Therefore, I urge the Congress to enact the necessary implementing legislation as soon as possible.

The Office of Management and Budget advises that there is no objection to the submission of this proposal and its enactment is in accord with the President's program.

Sincerely,

JOHN D. HOLUM,
Director.

IN SUPPORT OF WEI JINGSHENG

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. SCHUMER. Mr. Speaker, I wish to join my colleagues today in submitting a CONGRESSIONAL RECORD statement on behalf of Mr. Wei Jingsheng, a Chinese dissident and political prisoner.

Mr. Jingsheng's book, ''The Courage To Stand Alone: Letters from Prison and Other Writings,'' was scheduled for publication yesterday. I would like this statement to stand as support for Mr. Jingsheng, his fight for freedom of speech, and for the cause of democracy in China today. Eighteen years of prison confinement have not caused him to waver in his quest for freedom. In the face of relentless attacks, his spirit remains unbroken.

He has endured unlawful imprisonment, by China's own standards, for expressing his belief in democracy for China. He is allowed to be tormented by his prison cellmates, his mail has been confiscated, his reading material is censored, and he is barely permitted to see his family. His lengthy and torturous prison term has led to the severe deterioration of his physical health. He is in dire need of medical attention which the Chinese Government continues to deny to him. This oppression and injustice must stop.

I urge the Chinese Government to reconsider its actions and treatment against Mr. Jingsheng. I urge my colleagues to join with me and speak out against the abuses being suffered by Mr. Jingsheng. Let us not turn a blind eye to the plight of Wei Jingsheng and others like him in the world who believe in the promise of democracy. The end to this suffering will only come when we, as a collective, consistently speak out against the violation of human rights throughout the world.

SEAT BELTS ON SCHOOL BUSES

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. KLECZKA. Mr. Speaker, today I am introducing legislation to require seat belts on school buses. Since this is National SAFE KIDS Week, this is an appropriate time to introduce a bill to improve the safety of school bus travel for our Nation's children.

My legislation would prohibit the manufacture, sale, delivery, or importation of school buses that do not have seat belts, and impose civil penalties for those that do not comply. Our Nation's schoolchildren deserve safe transportation to and from school, and their parents deserve peace of mind. We have a responsibility to provide both.

National SAFE KIDS Week is dedicated to preventing unintentional childhood injury, the No. 1 killer of children ages 14 and younger. Since 1985, over 1,478 people have died in school bus-related crashes—an average of 134 fatalities a year. School bus occupants accounted for 11 percent of these deaths. Just last year in my State of Wisconsin, there were more than 950 school buses involved in crashes and over 450 occupant injuries.

Every year, approximately 394,000 public schoolbuses travel about 4.3 billion miles to transport 23.5 million children to and from school-related activities. These numbers argue for the highest level of safety we can provide. I believe my bill is a step in this direction.

I urge my colleagues to also support this important legislation, which has been endorsed by the American Medical Association and the American College of Emergency Physicians. We must work together, at the local, State, and Federal level to prevent school bus injuries.

MAKING DEMOCRACY WORK

HON. WALTER H. CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. CAPPS. Mr. Speaker, as a Representative for the 22d District of California, I am honored to bring to the attention of my colleagues the achievement of Yi-Hui Lee, a senior at Dos Pueblos High School. Yi-Hui Lee was awarded a $500 scholarship by the Santa Barbara League of Women Voters for her paper entitled ''Making Democracy Work.''

I commend Yi-Hui Lee on her outstanding essay and hope that her enthusiasm for American democracy will continue as she enters the University of Los Angeles next year. I would like to present this paper to my colleagues.

MAKING DEMOCRACY WORK

(Yi-Hui Lee)

American democracy is a system of government that serves the people through representation. This is achieved through the collaboration of a Constitutional bureaucratic framework, the Bill of Rights, and political tolerance. The United States' Constitution, and its inevitable bureaucratic framework, is structured to maintain checks and balances within the government, which, in return, prevents the rise of any unscrupulous demagogue and seeks the true interests of the people. The Bill of Rights further extends this objective by ensuring individuals' rights to liberty, thus, fostering a higher development in people's political efficacy and involvement. Nevertheless, even with this established Constitutional framework, the public's minimal tolerance is essential in making democracy work. The absence of any one of these factors will make *participatory* democracy different from the one existing in the United States today.

By decentralizing governmental powers and providing an equitable bureaucratic structure, the Constitution makes American democracy into the currently practiced, Aristotle definition of the ''rule of many.'' This type of government exists under the creation of a shared power among the judicial, executive, and legislative branches, each one of which watches over the other and assures the checks and balances of the system. As a result, when no one body of government has potential to dictate, the ideal of American democracy that all may be heard is preserved. On a smaller scale, the structure of Congress was adjusted to counteract the difference in population of the states by working under a bicameral legislature. In order to maintain a democratic freedom, in which both majority and state views are heard, the ''Great Compromise'' was organized and established. The Great Compromise reconciled the interests of both small and large states by creating a House of Representatives—apportioned on the basis of population—and a Senate—consisting of two senators for each state. By working under this bureaucratic framework, the checks and balances made through decentralization and equal representation allows all sides to present their views.

The Bill of Rights is another crucial element in making participatory democracy possible in America. Because Americans live under the protection of the first ten amendments, they find themselves more open to publicly voicing their opinions and raising their political efficacy and involvement. The youth of this generation have actively demonstrated their high awareness of and deep concern for some of the most controversial

issues affecting their community. Students at the University of California at Santa Barbara expressed their disapproval of Proposition 209 by protesting on campus. More recently, students have petitioned to raise the political awareness that the Nike industry is thriving under the operation of numerous sweat shops. These events, in which people were entitled to be heard under the public light, were only possible because of the First Amendment—freedom of speech and the right to peaceably assemble and petition.

Furthermore, the extent to which democracy can exist is most dependent upon Americans' political culture to tolerate one another's right to his or her opinion as exemplified in the peaceful assembles and petitions previously mentioned. At least minimal political tolerance must be expected in order to preserve the objective of a democracy. If Catholics were denied the right to hold public meetings, if government militia were the norm to breaking up peaceful immigrant protesters, if pro-life groups bombed every abortion clinic, then democracy would fail. National Opinion polls, conducted by Samuel Barnes and Max Kasse, have shown that under the American political culture the public has become more tolerant over the last few decades. These surveys reveal that as more citizens support an oppression-free atmosphere, democracy is able to meet its goal of a participatory government.

American democracy distinguishes itself from all other systems of government by maintaining the exercise of its Constitutional bureaucratic framework, the Bill of Rights, and political tolerance. The United States' participatory democracy genuinely allows for equal representation in an environment where the voice and concerns of the people can be heard.

IRISH DEPORTEES

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. ENGEL. Mr. Speaker, I rise to call attention to the plight of several Irish nationals facing deportation from the United States.

As an executive board member of the Ad Hoc Committee on Irish Affairs, I am deeply disappointed by our Government's policy. These men facing deportation left their homeland in the face of political persecution and now live peaceful, productive lives in the United States.

Even so, in what we know as the land of freedom, they are now pursued by our own government. Most of the subjects of deportation proceedings are married to American citizens or legal permanent residents. Most have children who are American citizens. Most would be entitled to permanent residence in the United States, except for their involvement in the Irish political struggle. And, most would face severe persecution if forced to return to Northern Ireland.

Two of those facing deportation, Gabriel Megahey and Robert McErlean, live in my congressional district. Two days ago, a person named Sean Brown, a man from Mr. McErlean's village in the north of Ireland, was brutally assassinated. Only 59 years old and not deeply involved in politics, Sean Brown's death only adds weight to my constituents' assertions that the would face persecution if forced to be deported to their homeland.

Mr. Speaker, 3 months ago, the Ad Hoc Committee for Irish Affairs held an unprecedented forum on the Irish deportees. After hearing from a representative of the administration and family members of the deportees, more than 60 Members of the House of Representatives wrote to President Clinton pleading for justice for those facing deportation. Today, I renew that appeal and once again request that President Clinton meet with a delegation from the Ad Hoc Committee to discuss our Government's unjust policy toward the deportation cases.

CONCERNING THE DEATH OF CHAIM HERZOG

SPEECH OF

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. BUNNING. Mr. Speaker, it is with sadness that I rise today to recognize the passing of a true hero of Israel, President Chaim Herzog. His leadership and perseverance are examples of why Israel remains the only freely elected country in the Middle East.

Chaim Herzog dedicated his life to the creation and preservation of a free and independent Israel. As a true patriot, Mr. Herzog bravely fought the Nazis as Director of British Intelligence in northern Germany and after the war served as an officer in the Israeli Army during the war of independence in 1948. With Israel's independence secured, Chaim Herzog took on the responsibility of heading Israel's military intelligence branch and served as the country's defense attaché here in Washington, DC until 1954. After a long and distinguished career, Mr. Herzog retired from the army in 1962, with the rank of major-general.

Even after leaving military service, Mr. Herzog continued his work to ensure Israel's freedom. During the Six-Day War, Mr. Herzog was a voice for his people by providing in-depth analysis of the victorious Israeli Army and Air Force. Afterward, he became the first military governor of the West Bank.

Mr. Herzog soon returned to public service by serving as Israel's Ambassador to the U.N. from 1975 to 1978, where he argued against the U.N. resolution equating Zionism with racism and led the charge in defending the triumphant rescue of Israeli hostages in Uganda.

Mr. Herzog, returned to Israel where he was elected to the Knesset in 1981, serving until 1983. In 1983, Mr. Herzog was chosen as the sixth President of the State of Israel and served two terms, until 1993. During this time he improved relations between our two countries and continued Israel's efforts to bring peace to the Middle East.

Israel has lost a great hero with the passing of Chaim Herzog and America has lost a great friend.

TRIBUTE TO EL CENTRO DE AMISTAD

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to El Centro de Amistad, which this year is celebrating its 20th anniversary. Now led by Angel Perez, El Centro has established an impressive record of providing help to at-risk youth and their families in the San Fernando Valley. Anyone who wants to see young people off drugs and away from gangs is grateful to El Centro for its efforts.

Founded in 1977, the original advisory board worked directly with the agency responsible for its development, the San Fernando Community Mental Health Centers, Inc. Seven years later the advisory board assumed the role of governing board, and El Centro de Amistad was born. A bilingual/bicultural nonprofit organization, El Centro offers health, mental health, education, and community action services. Many of its clients are poor Latinos, and many of these are recent immigrants.

El Centro focuses on reducing risk factors that can lead to violence, school failure, gang affiliation, and child abuse. The organization offers youth counseling, afterschool tutoring, and summer activities/youth job placement as healthy alternatives to destructive behavior. In 1996 El Centro provided direct services to 13,000 clients and an additional 10,000 family members. It's numbers such as these that vividly illustrate the importance of El Centro to the entire San Fernando Valley.

In 1989 El Centro opened a satellite center in the city of San Fernando to address the needs of an overwhelmingly Latino population. Eight years later, the San Fernando Satellite Center is an unqualified success. Among its many important duties, the Satellite Center has provided psychological counseling to residents in the aftermath of the devastating Northridge earthquake.

I ask my colleagues to join me today in saluting El Centro de Amistad, which has made a difference in the lives of so many people. Its dedication to making this a better world inspires us all.

IRISH DEPORTEES

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. LAZIO of New York. Mr. Speaker, I rise today in support of seven families now living in the United States. The fathers in these families, Noel Gaynor, Robbie McErlean, Gabriel Megahey, Matt Morrison, Charles Caufield, Kevin Crossan, Brian Pearson, are all Irish nationals, all married to American citizens or legal residents, and are facing deportion.

Earlier this year, I listened to the testimony of many of these families at a hearing before the Congressional Ad Hoc Committee for Irish Affairs. They have been living and working in the United States for many years, some for more than two decades. However, they live under the constant threat of deportation. Because of past political involvement, these men, their wives, even their children would most likely face violence and harassment if forced to live in Northern Ireland.

After years of living in turmoil, these men came to the United States to settle and raise their families. Mr. Speaker, they deserve no less than true, unbiased judgment by our laws.

A TRIBUTE TO SIMON GRATZ HIGH SCHOOL ON THE OCCASION OF ITS 70TH ANNIVERSARY

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. FOGLIETTA. Mr. Speaker, I rise today to pay tribute to Philadelphia's Simon Gratz High School in my district, which this year celebrates its 70th anniversary. Named for the noted Philadelphia civic leader, legislator, educator, and philanthropist, Simon Gratz High School has been serving the north Philadelphia community since 1927. This is a truly comprehensive high school that provides a sound education to over 2,200 students with diverse needs and backgrounds, and serves as the ''flagship school'' of the Gratz cluster.

Simon Gratz has established six small learning communities within the school, designed to meet the needs and special interests of the students. These small learning communities include: the Automotive Academy, the Business Institute, the Center for Creative Communications, Crossroads for the Arts and Sciences, Magna Carta—Learning through Law, and Springboard—Allied Health and Teaching Careers. In addition to these special programs, Simon Gratz has a job training program and a teen parent educational center, the Constance E. Clayton Teen Parent Center, this named after our great, former superintendent of schools.

A matter of great pride for Simon Gratz High School and the surrounding community is its great tradition of excellence in athletics. The high school's comprehensive athletic program boasts particularly strong wrestling, football, baseball, and basketball teams. In fact, two recent Simon Gratz graduates were just in the national spotlight as teammates on the Portland Trailblazers team that made this year's NBA playoffs. Those two young men, Rasheed Wallace and Aaron McKie, are the latest in a long line of Simon Gratz scholar/athletes who have gone on to national prominence from their Philadelphia roots. Other famous Simon Gratz graduates include: Pat Kelly, former manager of the Minnesota Twins; Meldrick Taylor, a 1984 Olympic boxing gold medalist; Leroy Kelly, formerly of the Cleveland Browns; and Baseball Hall of Famer, Roy Campanella.

Other outstanding graduates include: our former colleague, William Gray III; the Honorable John Green, sheriff of Philadelphia County; Herman Mattleman, former president of the Philadelphia Board of Education; the Honorable Judge Katherine Streeter Lewis of the Philadelphia Court of Common Pleas; and the current principal of Simon Gratz High School, James G. Slaughter.

On Sunday, May 18, the administration, faculty, staff, and students of Simon Gratz High School will celebrate the 70th anniversary of the school by inviting back alumni, former faculty and administrators, and friends from the community. Mr. Speaker, I ask that my colleagues join with me today in honoring Simon Gratz High School for 70 years of excellence and service to the community of north Philadelphia.

GUAM STUDENT JENNY ANDREA TOVES TO REPRESENT SIMON SANCHEZ HIGH SCHOOL AT NATIONAL YOUTH SUMMIT TO PREVENT UNDERAGE DRINKING

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. UNDERWOOD. Mr. Speaker, yesterday, I met with Jenny Andrea Toves, a 14-year-old student from Simon Sanchez High School on Guam and her advisor, Mrs. Shirley Ruiz. Jenny was selected to represent Guam at the National Youth Summit to Prevent Underage Drinking that is being held here in Washington. The summit, which is sponsored by Mothers Against Drunk Driving, targets underage drinking as part of its overall effort to combat drunk driving.

Jenny came to attend the summit to gain ideas on how to raise the legal drinking age in Guam from 18 to 21. She is a member of her school's drug prevention club and is active in the young women's organization at her church. She is a member of the Guam Show Choir, the Board of Governing Students, and the student body association.

During our meeting, Jenny presented me with the top three youth summit recommendations that were adopted by summit participants. These include the automatic loss of license for those under 21 on their first alcohol-related offense, that zero tolerance laws for those under 21 have strong sanctions and include a strong media campaign to raise awareness, and that requirements be made for alcohol advertisers to pay for public service announcements to counter alcohol advertisements. It is clear from their recommendations that the direction from our youth is to seriously deal with these issues and to pursue them here in Washington and back home in their respective communities.

Jenny was sincerely excited about participating in the summit and has expressed her commitment to carry on with this work. I was proud to know that she will continue to lead, coordinate, and participate in educational and peer efforts designed to combat drunk driving and underage drinking at home on Guam. We should take notice of the willingness of Jenny and the other participants of the summit to work on these issues and commend them for their efforts. I know that I will be seriously considering these proposals and hope that my colleagues will do the same.

IRISH DEPORTEES

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. PAYNE. Mr. Speaker, I rise today to voice my personal concern about an issue of great importance to a number of families in New Jersey, an issue of fundamental fairness. Irish-Americans and their families have been discriminated against for many years. On February 6 of this year, many Irish-American families testified about their imminent deportation. These heartfelt testimonies conclude that deportation divides husband and wife, father and son, and mother and daughter. The separation divides the family unit and causes undue stress on extended family members. So, you can see why I am particularly concerned about the deportation of innocent Irish-Americans who in many cases have been denied due process.

Cases of individuals being targeted for prosecution by the Immigration and Naturalization Service include Noel Gaynor, Robbie McErlean, Gabriel Megahey, Matt Morrison, Kevin Crossan, Charles Caulfield, and Brian Pearson, who all share a number of similarities.

These men suffered political persecution in Northern Ireland. Several served time as special category political prisoners after being convicted through torture and extorted confessions. None of these men are currently wanted for any crime in Ireland, Northern Ireland, or Britain.

These are men who have led exemplary lives as productive, law-abiding members of their community. They are no threat to national security and their threatened deportation goes against the moral fiber of the United States.

In spite of these factors, the United States is zealously pursuing deportation proceedings against these men. The legal cost and not to mention the emotional strain are overwhelming and have taken a devastating toll on each of these families.

The Justice Department is seeking to have anyone imprisoned by the British for a political offense automatically deported regardless of how long they have lived in the United States.

Mr. Speaker, I would call to the attention of my colleagues the graphic portrayal of continuing British injustice toward the Irish in the movie ''In the Name of the Father,'' based on a true and very tragic case.

I believe that due process of the law should be given to Noel Gaynor, Gabriel Megahey, and Brian Pearson, all of whom face deportation.

I have written letters to urge the administration to stop these unfair proceedings. If these individuals are deported, American families will suffer.

HONORING PATRICIA FORD, GERALD GRANTNER, AND MARVIN MCLAUGHLIN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to three individuals who have given so much of themselves in their duties as public servants to the citizens of Michigan. On Thursday, May 15, the staff of the Michigan Jobs Commission will recognize Ms. Patricia Ford, Mr. Gerald Grantner, and Mr. Marvin McLaughlin as they retire after many years of dedicated service.

Ms. Patricia Ford has been an advocate for disabled individuals for over the last quarter century. As a member of the group Disabled in Action, she successfully fought for the passage of the Rehabilitation Act of 1973. She began her employment with the State of Michigan in 1978 as a vocational rehabilitation counselor. Throughout her career, Ms. Ford

has worked diligently with severely and multiply disabled individuals and has become a strong community advocate as well, developing effective partnerships with other community agencies. Her selfless and pleasing manner was responsible for her being named Michigan Rehabilitation Services Counselor of the Year in 1989.

Mr. Gerald Grantner is leaving after almost 30 years of service to the citizens of Michigan. Beginning in 1968 as a vocational rehabilitation counselor, Mr. Grantner became district manager of the office in Flint, MI, in 1970. In addition to his working tirelessly on behalf of the public, he has also developed affiliations with groups such as the Bentley School Board of Education, Goodwill Industries of Mid-Michigan, and the Burton, MI, Planning Commission, among others.

Mr. Marvin McLaughlin also began his career with the State of Michigan as a vocational rehabilitation counselor, first in 1965, and then again in 1969 after receiving further education. In the nearly 30 years, he has worked with the jobs commission, the citizens he has worked with have benefitted greatly from his determination and ambition. To those close to him, Mr. McLaughlin has been called a man of high professional and ethical standards, qualities that he has exhibited time and time again in both his professional and personal life.

Mr. Speaker, it seems only fitting that these three, who have practically begun their careers together as a team, shall bring their careers to a close together as well. I am exceptionally proud of the service they have provided to many throughout the State, and I am sure that their deeds shall provide a worthy example to emulate.

HONORING OUR PROTECTORS

HON. JON CHRISTENSEN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. CHRISTENSEN. Mr. Speaker, I rise today in appreciation of police men and women across this country. This week the National Peace Officers' Memorial Service will be held on the west front of the U.S. Capitol. This memorial service is a tribute to peace officers who have put their lives on the line for the safety of our neighborhoods and communities. I wish we didn't have to have these memorials—I wish that we never had to mourn the loss of a single police officer. But sadly we do.

Unfortunately, we seem to be losing more officers each year. In our Nation's capital, we have lost three officers in just a few months.

Almost 2 years ago, my district lost a true hero. Jimmy Wilson Jr. was on duty with the Omaha Police Department and was shot while he was in his patrol car, still restrained by his seat belt, and in a position where he could not defend himself. Jimmy Wilson Jr. was killed in cold blood. He gave his life defending me, defending my family and friends, and defending all those who make Omaha their home. I honor him today and all of the other officers whose lives have been taken prematurely and without cause or warning.

When will this senseless killing come to an end? It won't end until we start making the penalty fit the crime and get rid of the antipunishment mentality that exists.

If I have learned anything over the past year in Congress, it's that there are two opposing views on crime in our country. There are those who believe that crime is not necessarily an issue of personal responsibility, but of environment. They tend to believe that the criminal lawyers, liberal jurists, and endless death penalty appeals have been a good development for our criminal justice system. They advocate rehabilitation, lenient sentences and legal loopholes, often in the name of compassion.

Then there are those like myself—those who are sick and tired of criminals preying on our police officers, our families and children. We're tired of our kids being afraid to walk to school alone. We're tired of the illegal drugs that are poisoning our youth and eating away at their futures. We're tired of seeing our prisoners treated better than the working men and women in this country.

If we are to rebuild the American dream, it is here where we must begin. Stone by stone, brick by brick—we must rebuild the foundation of this great Nation to ensure freedom from fear, freedom from drugs, and the opportunity to achieve the American dream.

This isn't a battle that we can win overnight. But, we must begin to rebuild our foundation before it is too late. How many more senseless killings must occur before we realize that our current criminal justice system is not working; before we realize that crimes that go unpunished send a message of tolerance to criminals and do nothing to help our Nation rebuild its foundation; before we realize that leaving criminals in our community fails to protect our citizens and neighborhoods.

We must act now. The sooner we take action the sooner we can make the law of the land actually mean something again.

A TRIBUTE TO THE ROTARY CLUB OF MUGELLO, ITALY, ON THE OCCASION OF ITS 20TH ANNIVERSARY

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. FOGLIETTA. Mr. Speaker, I rise today to pay tribute to the members of the Rotary Club of Mugello, Italy, who have provided civic and humanitarian services to their community for the past 20 years.

Established in 1977 in the town of Mugello, nestled in the beautiful hills of Tuscany in Italy. Its members from Firenze, Scaperia, and Borgo San Lorenzo represent business and professional leaders of Tuscany, Italy. They include, physicians, dentists, architects, engineers, high fashion clothing designers, heavy machinery manufacturers, publishers, government officials, cattle ranchers, and businessmen.

This club has established twin-club relationships in France, Greece, and Philadelphia. Through Rotary International, the Rotary Club of Mugello has established scholarship funds for Italian graduate students to study at graduate schools in the United States of America.

This club has close ties to America through Judge Joseph C. Bruno and his wife, Kathie of Philadelphia, U.S.A. Judge Bruno, past governor of Rotary International District 7450, is an honorary member of the Rotary Club of Mugello and along with his wife, Kathie, visits with the club members every year in Tuscany. He reports that the humanitarian services rendered internationally by the Rotary Club of Mugello, are admired by rotary clubs around the world.

The Rotary Club of Mugello, under the leadership of its President, Paolo Collini, and its incoming President, Alvaro Baglioni, will celebrate 20 years of ''Service Above Self'' which is the motto of Rotary International.

The following are members of the Rotary Club of Mugello: Agostini Alfredo, Ariani Lamberto, Aspesi Pierangelo, Azzurri Gianfranco, Baglioni Alvaro, Bartolini Riccardo, Berretti Alessandro, Beretti Antonio, Bertetti Luciano, Berti Leonardo, Bettini Franco, Billi Carletto, Borgioli Adriano, Cafulli Felice, Calo Armando, Catini Marino, Cerchiai Umberto, Chelazzi Giovannino, Chini Ferdinando, Collini Paolo, D'Agliana Giancarlo, Diani Pier Francesco, Fiorentini Giorgio, Fronticelli Paolo, Gambi Siro, Grazzini Massimo, Greco Giuseppe, Guandalini Carlo, Guarnieri Guliano, Lapucci Enrico, Livi Daniele, Lorenz Rudolf, Malhotra Chandra Parkash, Manini Angiolo, Maini Benito, Manneschi Luca, Margheri Mario, Mercatali Luifi, Michienzi Pasquale, Muraro Giovanni, Naldoni Desiderio, Nencetti Mario, Nencetti Roberto, Niccilai Giancarlo, Niccolai Raffaello, Paladini Guseppe.

50TH ANNIVERSARY OF THE I.A.M.A.

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. PALLONE. Mr. Speaker, on Saturday, May 17, 1997, the Italian American Memorial Association [IAMA] of Long Branch, NJ, will celebrate its Golden Anniversary—50 years of serving the community. As a life-long resident of Long Branch and the son of a World War II vet, I am indeed proud to pay tribute to this great center of civic and social life in our community.

Mr. Speaker, the IAMA was established as a living memorial to Italian-Americans who made the supreme sacrifice for their country, giving their lives in World War II. Its prime purpose is to promote physical fitness, build good character in our youth, and aid in the development of the mind and body through civic, social, recreational, and athletic services in the city of Long Branch.

On April 19, 1947, a certificate of incorporation for the IAMA, drawn up by Attorney Theodore Mirabella, was approved by the New Jersey Secretary of State. Its charter members were Joseph Tomaine, Leon Giordano, Angelo Francese, Philip Tomaine, and Joseph P. Tomaino. Membership was originally limited to men of Italian descent, although the membership has since been opened up to other ethnic groups.

Association meetings were at first held in members' homes, but as the membership grew the organization moved to several different locations until 1953, when the members purchased Temple Beth Miriam on North Bath Avenue. Two years later, a youth baseball league was established by IAMA. But in 1958, disaster struck: the IAMA hall burnt to the

ground as members were preparing for a New Year's Eve Gala. But the members did not let this tragic incident stop them. They went back to meeting in basements, homes, and businesses until they purchased from the city of Long Branch, in 1959, a piece of land on West End avenue. The facility was later physically moved to the corner of West End and Indiana avenues, with IAMA members pitching in to do the construction, carpentry, and other work.

Into the 1990's, IAMA continues its work of promoting social, cultural, and recreational activities for the citizens of Long Branch, especially the young people. In addition to starting the baseball league, the IAMA organized a Pop Warner football team and the Long Branch Boxing Association, and holds drug and alcohol-free dances for high school students. Each holiday season, the organization donates to the Long Branch Middle School Thanksgiving Food Drive and Christmas food baskets, as well as the school's Operation Sleighbell project, which distributes toys to kids who might not get Christmas gifts otherwise. IAMA has raised money for children in need of special medical attention at Ronald McDonald House. It supports forensic and debating teams at Long Branch High School, as well as special programs for disabled athletes. The IAMA building also houses a variety of athletic facilities and equipment. The association always comes up with a variety of exciting and enjoyable activities to raise funds for these worthy goals.

Albano Hall was dedicated last November in memory of Anthony Albano, a life member who was noted for bridging the gap between the new and the old organization, and the man responsible for restarting the memorial services after a 25-year lapse.

As a recent article in the Atlanticville newspaper of Long Branch put it, the IAMA is an organization that has become part of the identity of the community it serves. Mr. Speaker, I am proud to pay tribute to the 50th anniversary of the IAMA, and I look forward to participating in the celebration of this momentous occasion.

A TRIBUTE TO ALFRED AND DARYL SAUNDERS

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. SHERMAN. Mr. Speaker, I rise today to recognize the work of a remarkable couple, Alfred and Daryl Saunders. Their work as educators, entrepreneurs, parents, and community leaders has been a model of civic duty within our community. This commitment to their community is not a recent trend, rather it is a lifelong pursuit.

As a young man, Al followed his dream and became a baseball umpire, after several years of umpiring he returned home to his family in California. A short time later he was called to serve his country and did so as a supply sergeant in the Korean war. Upon completing his tour of duty he entered the publishing business and he later established Newcastle Publishing Co. where he now serves as president and chief financial officer.

Daryl's family moved to southern California when she was a young girl. She graduated from California State University-Northridge and went on to teach at the elementary school level. After years of teaching she elected to use her skills to assist low-income families by helping them find quality child care. She currently assists Al in the family's publishing business.

In the Saunders' 30 years of marriage they have volunteered their time to several charitable organizations. The Shriners, Valley Jewish Business Leaders and City of Hope just to name a few. They also have served as volunteers and leaders in their local temple, the Temple Ner Maarav. In their 20 years at the temple, they have each served as president and vice-president on various committees and have been involved in virtually all aspects of the temple. Their dedication to their local community through their leadership and voluntarism is truly remarkable.

It is an honor to represent Al and Daryl. In their hard work, close knit family and spirit of voluntarism they exemplify those characteristics that make this Nation great.

COMMENDING THE HUMAN INVESTMENT PROJECT FOR OUTSTANDING WORK IN PROVIDING AFFORDABLE HOUSING IN SAN MATEO COUNTY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in commending the Human Investment Project, Inc. [HIP] for its outstanding efforts to provide affordable housing opportunities to low-income persons who wish to reside in San Mateo County, CA. I am enormously proud of HIP's record of accomplishment and am honored to be able to praise its good work.

In these times of budgetary constraints, when Federal, State, and local governments are forcing the most vulnerable members of our society to fend for themselves, we inevitably turn to private, nonprofit organizations to step in and help. HIP meets that challenge by serving the housing needs of the community with an emphasis on those with special needs including single parent families, seniors, and the homeless.

Founded in 1972, HIP set out to assist the disadvantaged and disabled living in San Mateo County. As times changed and new housing challenges arose, however, HIP developed new and innovative responses. HIP began with the homesharing help and information program, a service linking people with housing to share with others needing a place to live at an affordable price. Since its creation, HIP has made more than 7,000 homesharing placements and has become the largest provider of shared housing in the Nation.

In 1985, HIP created the lease-a-home program where it leases properties on the open market and then sublets them to people with special needs at an affordable price. HIP also manages properties through its property development program where it manages group share homes and apartment units for low-income and homeless persons and developmentally disabled adults.

In 1987, HIP established the home equity conversion program to assist seniors in turning their home equity into cash that allows them to keep living at home. Due to this program's outstanding reputation statewide, lenders and services providers have been referring clients to HIP for counseling.

HIP's efforts to help low-income single-parent families—undoubtably the most underserved segment of the population in terms of affordable housing—resulted in several programs aimed at self-sufficiency for single parents. The group share program established in 1988 provides shared living for single-parent families with two or more children. In 1991, HIP began its self-sufficiency program to subsidize rent and utilities for single parents who live in HIP owned or managed property so that they can continue their education or job training and find employment. HIP's mentor program supplements the self-sufficiency program by matching participants with volunteer mentors. Mentors provide guidance and support for professional growth and career advancement.

Most recently in 1993, HIP embarked on its homelessness prevention program. This effort targets those who are homeless or at the greatest risk of homelessness: the disabled, persons with special needs, single parents, the working poor, and others in affordable housing. The program matches these candidates with very low rent opportunities or opportunities to provide services in lieu of rent.

As a result of its commitment to the citizens of San Mateo County, HIP has received well-deserved recognition. The 102d U.S. Congress cited HIP for its ''innovative solution to vexing housing problems.'' In addition, the American Society on Aging granted HIP its Best Practice Award for its work with the elderly.

Mr. Speaker, once again, I urge my colleagues to join me in commending the Human Investment Project for making a tremendous and lasting contribution to the citizens of San Mateo County. Standing out among the myriad activities and projects that occupy our daily lives, HIP struggles to keep homelessness at bay for thousands of people. In its perseverance and dedication, the Human Investment Project humbly reminds us that we are our brothers' and sisters' keeper.

FRANKLIN COUNTY WELCOMES NISSAN

HON. VAN HILLEARY

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. HILLEARY. Mr. Speaker, this is a proud and happy day for the citizens of Franklin County, TN. Today, Nissan will formally dedicate its all-new $80 million powertrain assembly plant in Decherd, TN.

This new plant—Nissan Motor Manufacturing Corp.'s first expansion site outside of Smyrna, TN—will assemble 200,000 engines and 300,000 transaxles annually. The engines will be installed on Nissan's Altima passenger sedans manufactured in Smyrna, and the transaxles will be placed on Altimas and Nissan/Quest/Mercury Villager minivans built in Avon Lake, OH.

Nissan's expansion means that over 400 new jobs will be created in middle Tennessee.

These are good jobs, which also serve as a catalyst for economic growth in Franklin County. That's good for everybody, not just the people who get jobs with Nissan.

The opening of this new plant is only the latest chapter in Nissan's long record of investment in Tennessee and in America. Nearly 40 years ago, Nissan sold its first vehicle in the United States. Almost 15 years ago, Nissan build its first truck in Tennessee. Since then, Nissan has grown tremendously, changing from a company that exclusively imported cars and trucks to a major U.S. automotive manufacturer with investment in the United States totalling over $2 billion. Fifteen years ago, Nissan made no vehicles here and bought few parts from U.S. suppliers. Now, over 70 percent of the Nissan cars and trucks sold in America are made here, and Nissan buys over $4 billion worth of parts and materials from U.S. suppliers each year.

Nissan's powertrain assembly plant is a good example of how international investment and trade can benefit people in places like Franklin County. We all hear about companies shutting down their American plants and moving operations overseas. Nissan, however, has turned this ''conventional wisdom'' on its head. The engines that will be made in Decherd have up till now been produced in Mexico and imported into the United States. Likewise, the transaxles that will be made at the Decherd facility have previously been assembled in Japan.

I applaud Nissan's confidence in America and extend our warmest welcome to Franklin County, TN.

THE BUDGET AGREEMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. HAMILTON. Mr. Speaker, I am inserting my Washington Report for Wednesday, May 14, 1997, into the CONGRESSIONAL RECORD.

THE BUDGET AGREEMENT

President Clinton and congressional leaders recently reached an outline agreement on a plan to balance the budget in the year 2002. The agreement was reached principally because of the benefits of a roaring economy. Some tough decisions were made; many more were postponed. The agreed outline is a significant political achievement, but its economic impact remains to be seen.

Balancing the budget would be a major accomplishment. It would show that the federal government can get its fiscal house in order, and it would boost the economy. But I have been uneasy with the extravagant rhetoric accompanying the agreement. Several proponents have labeled it ''historic'', yet the plan makes fewer tough fiscal choices than the 1990 and 1993 budget agreements. I think there is a little less here than meets the eye.

The agreement is only a broad outline of budget policies. It calls for Medicare savings of $115 billion and Medicaid savings of $15 billion. Tax changes include $135 billion in reduced taxes, which may include a child tax credit and modest capital gains and estate tax relief. The agreement also reportedly includes education tax credits.

Details Unknown: The outline of this agreement is vague and missing critical details. Almost nothing is in writing. Negotiators disagree on interpreting key details, and the entire agreement may be in jeopardy. Congress must divide the money for tax cuts among popular competing proposals. New education programs must be fleshed out, and politically unpopular spending cuts must be approved. Disagreement on any of these unknown details could derail the agreement.

Economic Projections: One thing is clear: this agreement will fail to balance the budget if we have a recession before 2002. The longest period without a recession in the United States was 8 years and 10 months, from 1961 to 1969. We are now 6 years and 2 months into the expansion that began in March 1991; five more years without a recession would be unprecedented.

Final agreement was reached only when last-minute favorable economic forecasts gave negotiators an additional $225 billion to play with. This dramatic, overnight change demonstrates the power the economy has on the federal budget. With strong growth, deficits remain low. But if the economy falters, income falls and deficits soar, and it is difficult to rejuvenate economic activity. For this reason, budgets should be evaluated not just on bottom-line spending, but on the specific details with potential for long-term economic growth. The specifics in the following areas will be critical for the economy's future.

Tax Cuts: The proposed tax cuts include some measures, such as a child tax credit, that few economists believe will increase economic activity. They also do not reform payroll taxes, which hit low- and moderate-income families hardest and deter job creation.

Education: Investing in education can increase economic potential, but we must be careful to avoid tax credits or spending programs that will just drive up college tuition. The focus must be on training skilled workers for today's competitive, hi-tech markets.

Infrastructure: A successful budget will provide and maintain the roads, bridges, airports, water systems, and information networks necessary to keep the economy running smoothly. In southern Indiana, virtually all of the growth in the past few decades has coincided with improved infrastructure.

Long-term outlook: There is little in this agreement to avert the spending problems caused by our aging population. No serious Medicare policy changes are in this agreement, and negotiators did not consider proposals to improve the long-term health of Social Security. Also worrisome is the long-term impact of the proposed tax cuts. The proposed tax cuts will reduce revenue by $85 billion in the first five years, but they double in cost over the next five years. The previous five budget plans (1978, 1981, 1983, 1986, and 1990) all projected long-term balance, but Congress backed down when confronted with later-year tough decisions.

Winners and Losers: I have concerns about the fairness and equity of this plan. It will further imbalance a society that already has a sharp divide between well-to-do and moderate-income Americans. The agreement apparently gives tax breaks to the well-to-do and the middle class. These cuts are attractive, but they are offset by spending reductions in programs for the poor. We continue our recent habit of putting most of the balanced budget burden on the backs of people with modest means. The cuts in food stamps, job training, and public assistance have been substantial.

Like most successful negotiations, each party claimed victory, but they also gave things away. The congressional majority will get tax cuts for investors and the middle class, but they had to accept many of the President's spending priorities. The President got some extra money for education, children's health, and environmental protection, but he had to accept some of congressional leaders' tax and spending cuts. For this budget to be enacted, both parties will have to vote for specific proposals they find distasteful.

If a balanced budget is achieved, many Americans will gain. Interest rates will fall, savings and investment will rise, the trade deficit will shrink, and the economy should grow a little faster for a longer period of time. But older persons will pay more for Medicare, and physicians and hospitals will be squeezed. Defense industries will see some reductions, and airline travelers will continue to pay a ticket tax. Lower income Americans, who receive housing, heating, and nutrition support, are likely to see those programs reduced.

Conclusion: This budget agreement is significant more for the political consensus it represents than any great policy shift. I will reserve judgment until I see more than a vague outline. The plan may or may not reach balance in 2002, but it was achieved in an atmosphere of civility that can be important for the future. I am hopeful this spirit will give all parties confidence to work together on greater challenges in the future. These challenges must include a serious effort to address the longer-term budget issues that have been pushed to the side.

IN RECOGNITION OF IRISH FAMILIES FACING DEPORTATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mrs. MALONEY of New York. Mr. Speaker, I rise today in order to bring attention to the cases of Mr. McErlean, Mr. Megahey, Mr. Morrison, Mr. Crossan, Mr. Caulfield, and Mr. Pearson—Irish men who live in fear of being deported. They are all here legally, some have been here for over 20 years. They are married to American women or legal citizens and have American children and grandchildren.

They are not criminals, nor wanted for any crime in Ireland, Britain, or America.

However, these men are being targeted by the INS because they were imprisoned in Britain as political prisoners.

If the INS proceeds with their deportation, American families will suffer either the specter of having their family torn apart or having to move back to the North of Ireland where the persecution will resume.

There is no good reason to pursue these deportations. I think our justice system is the fairest in the world, but I think if we allow these men to be pulled away from their productive lives in America, justice will not be served and may endanger the lives of these American families.

I stand by my friends in the Committee for Irish Affairs who are making only a small plea for basic human rights for people who are our neighbors.

TRIBUTE TO DAVID EATON REYNOLDS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to pay tribute to David Eaton Reynolds, a young man from Eaton, CO, who had planned to celebrate this day, his last day of high school, with friends and classmates. However, for reasons known only to the Almighty, David was called home to the Lord on Monday, April 7, 1997.

The proud son of Allen and Lynda Reynolds, David was a very courageous young man who loved participating in life despite a long-term illness. He was a manager on the Eaton High School football team and a member of the Knowledge Bowl. He had a keen interest in current events, especially political issues, and ran his own newspaper, The Eaton Gazette. He also enjoyed traveling and doing things with his three brothers and cousins.

I came to know David when he volunteered on my congressional campaign last fall. He faithfully came to our headquarters and became an integral part of our volunteer effort, cheerfully performing important tasks such as telephoning people and asking for their vote. He carried out each assignment with much enthusiasm and determination, as if the outcome of the election was solely his responsibility.

As a devoted Christian, David was a member of the United Congregational Church of Eaton. He lived his faith every day exemplifying the principles of honesty, compassion, charity, and love.

Mr. Speaker, I am honored to pay tribute to David. He is going to be missed by so many in the community, most especially his parents and brothers, and his many friends including myself, but we can say our lives were enriched because we knew David Eaton Reynolds, a young man who loved his family and living life to its fullest. Surely, at the gates of Heaven he is able to say, as the Apostle Paul did, ''I have fought the good fight, I have finished the race, I have kept the faith.''

MATT MORRISON

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 1997

Mr. CLAY. Mr. Speaker, I rise to protest the deportation of Matt Morrison. Mr. Morrison is a highly respected member of the St. Louis community where he has lived as a model citizen for more than 11 years. He is married to a native St. Louisan and is the father of two young children. My office has received thousands of pleas from Missourians who support Matt Morrison's request for political asylum.

The Immigration and Naturalization Service's arbitrary interpretation of the law in the case of Mr. Morrison and other Irish nationals is an abominable injustice. There is absolutely no evidence to support that Mr. Morrison is now or has ever been a criminal or a terrorist. Mr. Morrison is a man of principle and conscience. As a college student he was involved in the struggle for freedom in Northern Ireland, he engaged in political protest activities and without benefit of a jury trial, he was jailed for his beliefs.

The Justice Department is wrong to deport Matt Morrison. The fabrications about Mr. Morrison jeopardize the integrity of our laws. There is no legitimacy to the actions our Government has taken against Matt Morrison. I implore Attorney General Reno and President Clinton to halt the persecution of Irish nationals in our country. Rather than serving the cause of justice, the deportation of Matt Morrison will only compound the inequities that inhibit peace and understanding.

CONCERNING THE DEATH OF CHAIM HERZOG

SPEECH OF

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Ms. BROWN of Florida. Mr. Speaker, yesterday the House of Representatives unanimously approved a resolution honoring one of Israel's greatest leaders—President Chaim Herzog.

I want to express my true sympathies to Chaim Herzog's family and the people of Israel for having recently lost one of their favorite sons.

Born in 1918, Chaim Herzog was son to Yitzhak HaLevi Herzog, the Chief Rabbi of Ireland. To protect his son from the hazards of the Irish revolution, the elder Herzog sent his son from Dublin's Irish-Jewish ghetto to Palestine for schooling. In his formative years, Judaism taught him to respect the law so greatly that Herzog went on to eventually receive his bachelor of law degree at the University of London and a degree of barrister at law from The Honorable Society of Lincoln's Inn in London.

But Herzog's belief in one true Jewish homeland was never far from his heart. He returned to Jerusalem in 1935 and served in the Jewish Defense Forces, commonly known as the Haganah, during the Arab revolt that lasted from 1936 to 1938.

As Nazi Germany's evil empire began to overtake Europe, Herzog knew of his obligation to fight for and protect the Jewish Diaspora. A graduate of the Royal Military College, Herzog fought in World War II for the British Army, rising up to be the head of intelligence in northern Germany.

As one of the first soldiers to liberate the concentration camp of Bergen Belsen, Herzog was left with an indelible impression of the horrors of the Holocaust. This experience underscored his belief that Jews needed their own homeland.

Soon after his return to Palestine, Herzog fought in 1948 as an officer in Latrun, one of the bloodiest battles in Israel's War of Independence. From Herzog's success as an officer and intelligence experience in World War II, he created Israel's superb military intelligence infrastructure. In fact, he served as the head of the Israeli Defense Force's Military Intelligence Branch from 1948 to 1950 and 1959 to 1962. In between his terms as intelligence head, Herzog served as defense attaché in Washington, DC., at the Israeli Embassy. He continued to further his military career until 1962, when Herzog retired from active duty as a Major General.

When one would have preferred a private life at this point in his life, Herzog was thrust back into the military arena as the leading military commentator on Israeli radio during the 1967 Six-Day War. After the war, Herzog was appointed as the first military governor of the West Bank.

At the age of 57, Herzog made the jump from military leader to diplomat. In 1975, Herzog was sent to New York to serve as the country's Ambassador to the United Nations. During the 3-year period he served as the Ambassador, Herzog is most known for speaking against the U.N. resolution that equates Zionism with racism.

Herzog continued his political career when, in 1981, he was elected to Israel's Parliament, the Knesset, on the Labor Party ticket. As a Member of the 10th Knesset, Herzog served on the Foreign Affairs and Defense Committee and the Legislation and Judiciary Committee. in 1983, he was chosen as the sixth President of the State of Israel. From there, Herzog went on to be the longest serving President in Israeli history until 1993.

Throughout his life, Herzog has reported his life's observations. Some of his national writings include ''The Arab-Israeli Wars,'' ''Israel's Finest Hour,'' and ''The War of Atonement.'' In his final book, ''Living History,'' Herzog writes:

> When I disembark, I hope that everything my generation and I dreamed of and fought for will have come true * * * I pray that the world will have taken even greater steps toward Democracy and the guarantee of human rights, and that dignity will have become the universally accepted value of mankind.

Because of Chaim Herzog, I believe his dreams have come true. President Herzog—a soldier, a diplomat, and a voice to the world. He has truly been a light unto the nations.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 15, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 16

10:00 a.m.
Labor and Human Resources
To hold hearings to examine adult education programs.
SD–430

MAY 19

11:30 a.m.
Energy and Natural Resources
Energy Research and Development, Production and Regulation Subcommittee
To hold hearings on H.R. 363, to extend through 1998 the Electric and Magnetic Fields Research and Public Information Dissemination Program, along with corresponding deadlines for the submission of certain reports concerning the extent to which human health is affected by exposure to electric and magnetic fields produced by electric energy.
SD–366

2:00 p.m.
Special on Aging
To hold hearings to examine the current Medicare payment system, focusing on managed care payment.
SD–562

MAY 20

9:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of the Interior.
SD–124

9:30 a.m.
Judiciary
Immigration Subcommittee
To hold hearings on proposed legislation granting lawful residence to Michel Meili.
SD–226

10:00 a.m.
Armed Services
To hold hearings on the Quadrennial Defense Review, focusing on the impact of its recommendations on national security entering the 21st century.
SD–106

Labor and Human Resources
To hold hearings to examine the quality of various health plans.
SD–430

Commission on Security and Cooperation in Europe
To resume hearings to examine the process to enlarge the membership of the North Atlantic Treaty Organization (NATO).
SD–538

10:30 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Capitol Police Board and the Congressional Budget Office.
S–128, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for foreign assistance programs, focusing on international financial institutions.
SD–138

Commerce, Science, and Transportation
Communications Subcommittee
To resume hearings to examine the Federal Communications Commission implementation of the Telecommunications Act of 1996, focusing on efforts to implement universal telephone service reform and FCC proposals to assess new per-minute fees on Internet service providers.
SR–253

MAY 21

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine program efficiencies at the Department of Transportation.
SR–253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD–366

Indian Affairs
To hold oversight hearings on programs designed to assist Native American veterans.
SR–485

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on Air Force programs.
SD–192

Finance
To hold hearings to examine the Federal Employees Health Benefit Plan as a model for Medicare reform.
SD–215

Foreign Relations
To hold hearings on United States implementation of prison labor agreements with China.
SD–419

2:00 p.m.
Armed Services
To continue hearings on the Quadrennial Defense Review, focusing on its impact on the future years defense program.
SH–216

Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold hearings on S. Res. 57, to support the commemoration of the bicentennial of the Lewis and Clark Expedition, S. 231, to establish the National Cave and Karst Research Institute in the State of New Mexico, S. 312, to revise the boundary of the Abraham Lincoln Birthplace National Historic Site in Larue County, Kentucky, S. 423, to extend the legislative authority for the Board of Regents of Gunston Hall to establish a memorial to honor George Mason, S. 669, to provide for the acquisition of the Plains Railroad Depot at the Jimmy Carter National Historic Site, and S. 731, to extend the legislative authority for construction of the National Peace Garden memorial.
SD–366

MAY 22

9:30 a.m.
Commerce, Science, and Transportation
To hold oversight hearings on the professional boxing industry.
SR–253

Energy and Natural Resources
To resume a workshop to examine competitive change in the electric power industry, focusing on the financial implications of restructuring.
SH–216

Labor and Human Resources
Public Health and Safety Subcommittee
To hold hearings to review the activities of the Substance Abuse and Mental Health Services Admninistration, Department of Health and Human Services.
SD–430

2:00 p.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 442, to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet.
SR–253

Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold a workshop on the proposed ''Public Land Management Responsibility and Accoutability Act''.
SD–366

Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings to examine the antitrust implications of the college bowl alliance.
SD–226

JUNE 4

9:00 a.m.
Judiciary
To hold oversight hearings on the Federal Bureau of Investigation, Department of Justice.
SD–226

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.
SD–192

JUNE 11

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.
SD–192

JUNE 12

9:30 a.m.
Energy and Natural Resources
To resume a workshop to examine competitive change in the electric power industry, focusing on the benefits and risks of restructuring to consumers and communities.
SH–216

POSTPONEMENTS

MAY 15

2:00 p.m.
Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To hold hearings on the export of the Iranian revolution.
SD–419

MAY 20

10:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on NASA's international space station.
SR–253

Wednesday, May 14, 1997

Daily Digest

HIGHLIGHTS

Senate passed Individuals with Disabilities Education Act.

Senate Ratified the CFE Flank Document Agreement.

The House passed H.R. 2, the Housing Opportunity and Responsibility Act of 1997

Senate

Chamber Action

Routine Proceedings, pages S4401–S4505

Measures Introduced: Seven bills were introduced, as follows: S. 738–744. **Page S4479**

Measures Passed:

Individuals with Disabilities Education Act: By 98 yeas to 1 nay (Vote No. 66), Senate passed H.R. 5, to amend the Individuals with Disabilities Education Act, clearing the measure for the President. **Pages S4406–13**

Prior to this action, Senate completed consideration of S. 717, Senate companion measure, after taking action on amendments proposed thereto, as follows: **Pages S4401–09**

Rejected:

Gorton Amendment No. 243, to permit State and local educational agencies to establish uniform disciplinary policies. (By 51 yeas to 48 nays (Vote No. 64), Senate tabled the amendment.) **Pages S4402–04**

Smith Amendment No. 245, to require a court in making an award under the Individuals with Disabilities Education Act to take into consideration the impact the granting of the award would have on the education of all children of State educational agencies and local educational agencies. (By 68 yeas to 31 nays (Vote No. 65), Senate tabled the amendment.) **Pages S4404–05**

Withdrawn:

Gregg Amendment No. 241, to modify the provision relating to the authorization of appropriations for special education and related services to authorize specific amounts or appropriations. **Pages S4401–02**

Subsequently, S. 717 was returned to the Senate calendar. **Page S4413**

Use of Capitol Grounds: Senate agreed to H. Con. Res. 66, authorizing the use of the Capitol grounds for the sixteenth annual National Peace Officers' Memorial Service. **Page S4418**

Immigration and Nationality Technical Corrections: Senate passed S. 670, to amend the Immigration and Nationality Technical Corrections Act of 1994 to eliminate the special transition rule for issuance of a certificate of citizenship for certain children born outside the United States. **Page S4505**

Partial-Birth Abortion Ban: Senate began consideration of H.R. 1122, to amend title 18, United States Code, to ban partial-birth abortions. **Pages S4431–51**

A unanimous-consent agreement was reached providing for further consideration of the bill and certain amendments to be proposed thereto, on Thursday, May 15, 1997. **Page S4451**

Resolution of Ratification/Flank Document Agreement-CFE Treaty: The following treaty having passed through its various parliamentary stages up to and including presentation of resolution of ratification, by a unanimous vote of 100 yeas (Vote No. 67), two-thirds of the Senators present having voted in the affirmative, the resolution of ratification was agreed to with respect to the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990, adopted at Vienna on May 31, 1996 (the "Flank Document") (Treaty Doc. 105–5), with 14 conditions. The Flank Document is Annex A of the Final Document of the first CFE Review Conference. **Pages S4451–78**

During consideration of this treaty today, Senate also took the following action:

Adopted Kerry Amendment No. 279 (to condition No. 5), to require a compliance report on Armenia and other States Parties in the Caucasus region. **Page S4459**

Messages From the House: **Page S4479**

Measures Referred: Page S4479
Statements on Introduced Bills: Pages S4479–89
Additional Cosponsors: Pages S4489–90
Amendments Submitted: Pages S4491–96
Notices of Hearings: Pages S4496–97
Authority for Committees: Page S4497
Additional Statements: Pages S4497–S4505

Record Votes: Four record votes were taken today. (Total—67) Pages S4404–05, S4411, S4475–76

Adjournment: Senate convened at 9:15 a.m., and adjourned at 7:18 p.m., until 9:15 a.m., on Thursday, May 15, 1997. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S4505.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS—OFFICE OF DRUG CONTROL POLICY

Committee on Appropriations: Subcommittee on Treasury, Postal Services, and General Government held hearings on proposed budget estimates for fiscal year 1998 for the Office of National Drug Control Policy, receiving testimony from Barry R. McCaffrey, Director, Office of National Drug Control Policy.

Subcommittee recessed subject to call.

COMMERCE MANAGEMENT REFORM

Committee on Commerce, Science, and Transportation: Committee concluded hearings to examine certain management and program areas in need of reform to improve efficiency and effectiveness at the Department of Commerce, after receiving testimony from Frank DeGeorge, Inspector General, and Raymond G. Kammer, Jr., Acting Chief Financial Officer and Assistant Secretary for Administration, both of the Department of Commerce; and L. Nye Stevens, Director, Federal Management and Workforce Issues, General Government Division, General Accounting Office.

DOLPHIN CONSERVATION

Committee on Commerce, Science, and Transportation: Subcommittee on Oceans and Fisheries held hearings on S. 39, to implement the Declaration of Panama, an agreement signed by the United States and certain other nations on October 4, 1995, to protect dolphins, tunas, and other species involved in the eastern tropical Pacific tuna fishery, receiving testimony from Senators Boxer and Biden; Eileen B. Claussen, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs; D. James Baker, Under Secretary of Commerce for Oceans and Atmosphere; James Joseph, Inter-American Tropical Tuna Commission, La Jolla, California; and Suzanne Iudicello, Center for Marine Conservation, and Jeffrey R. Pike, Dolphin Safe/Fair Trade Campaign, both of Washington, D.C.

Hearings were recessed subject to call.

BUSINESS MEETING

Committee on Energy and Natural Resources: Committee ordered favorably reported the following business items:

The nomination of Elizabeth Anne Moler, of Virginia, to be Deputy Secretary of Energy;

S. 430, to protect the permanent trust funds of the State of New Mexico from erosion due to inflation and modify the basis on which distributions are made from those funds; and

H.J. Res. 32, to consent to certain amendments enacted by the Legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920.

CAMPAIGN FINANCE REFORM

Committee on Rules and Administration: Committee held hearings to examine the campaign finance system for Presidential elections, focusing on the growth of soft money and other effects on political parties and candidates, receiving testimony from former Senator McCarthy; Lamar Alexander Jr., former Secretary of Education; Larry J. Sabato, University of Virginia, Charlottesville; and Bradley A. Smith, Capital University Law School, Columbus, Ohio, on behalf of the Cato Institute.

Hearings were recessed subject to call.

SBA FINANCE PROGRAMS

Committee on Small Business: Committee resumed oversight hearings on the management of Small Business Administration finance programs, focusing on the 504 Development Company Loan Program and the Small Business Investment Company program, receiving testimony from Aida Alvarez, Administrator, Small Business Administration; Deryl K. Schuster, Business Loan Center, Wichita, Kansas, and Anthony R. Wilkinson, Stillwater, Oklahoma, both on behalf of the National Association of Government Guaranteed Lenders, Inc.

NOMINATION

Select Committee on Intelligence: Committee resumed closed hearings on the nomination of George John Tenet, of Maryland, to be Director of Central Intelligence, where the nominee further testified and answered questions in his own behalf.

Hearings were recessed subject to call.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee will meet again tomorrow.

House of Representatives

Chamber Action

Bills Introduced: 17 public bills, H.R. 1590–1616; 1 private bill, H.R. 1618; and 2 resolutions, H. Con. Res. 79 and H. Res. 148, were introduced.

Pages H2678–80

Reports Filed: One report was filed as follows:

H. Res. 149, providing for consideration of H.R. 1469, making emergency supplemental appropriations for recovery from natural disasters, and for overseas peacekeeping efforts, including those in Bosnia, for the fiscal year ending September 30, 1997 (H. Rept. 105–97). **Page H2678**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Stearns to act as Speaker pro tempore for today.

Page H2595

Emergency Supplemental Appropriations: By a yea-and-nay vote of 193 yeas to 229 nays, Roll No. 125, the House failed to agree to H. Res. 128, the rule to provide for consideration of H.R. 1469, Emergency Supplemental Appropriations Act for FY 1997. **Pages H2600–09**

Committee Election: The House agreed to H. Res. 148 electing Representative Hinojosa to the Committee on Small Business and Representative Rodriguez to the Committee on Veterans' Affairs.

Pages H2609–10

Housing Authority and Responsibility Act: By a recorded vote of 293 ayes to 132 noes, Roll No. 127, the House passed H.R. 2, to repeal the United States Housing Act of 1937, deregulate the public housing program and the program for rental housing assistance for low-income families, and increase community control over such programs. The House completed debate on Wednesday, April 30 and considered amendments to the bill on May 1, May 6, May 7, May 8, and May 12. **Pages H2619–47**

Rejected the Kennedy of Massachusetts motion to recommit H.R. 2 to the Committee on Banking and Financial Services with instructions to reconsider the bill for the purposes of improving the income targeting provisions of the bill by reserving more housing assistance for very low-income families of various incomes and eliminating provisions in the bill creating unnecessary bureaucracies.

Pages H2645–47

Agreed to the Committee Amendment in the nature of a substitute as amended. **Page H2645**

Rejected the Kennedy amendment in the nature of a substitute that sought to combine public housing programs into two grant programs; requires annual management plans from housing authorities; increases the HUD authority to take action against troubled housing authorities; targets housing assistance with 40 percent of units for families with incomes less than 30 percent of median income and 90 percent of units for families with incomes less than 60 percent of median income; targets 75 percent of tenant-based rental assistance to families with incomes less than 30 percent of median income; establishes minimum rents of between zero and 25 dollars; and requires housing authorities to encourage tenants to volunteer in their community (rejected by a recorded vote of 163 ayes to 261 noes, Roll No. 126). **Pages H2619–45**

The Clerk was authorized to correct section numbers, cross references, and punctuation, and to make such stylistic, clerical, technical, conforming, and other changes as may be necessary to reflect the actions of the House in amending the bill. **Page H2647**

On April 30, the House agreed to H. Res. 133, the rule that provided for consideration of the bill.

Pages H2035–38

Amendments: Amendments ordered printed pursuant to the rule appear on page H2681.

Senate Messages: Message received from the Senate today appears on page H2614.

Quorum Calls—Votes: One yea-and-nay vote and two recorded votes developed during the proceedings of the House today and appear on pages H2609, H2644–45, and H2646–47. There were no quorum calls.

Adjournment: Met at 10:00 a.m. and adjourned at 7:55 p.m.

Committee Meetings

USDA—INFORMATION TECHNOLOGY PROCUREMENT PRACTICES

Committee on Agriculture: Subcommittee on Department Operations, Nutrition, and Foreign Agriculture held a hearing to review the information technology procurement practices of the USDA. Testimony was heard from Anne Thomson Reed, Chief Information Officer, USDA; and Joel Willemssen, Director, Information Resources Management Issues, GAO.

LABOR-HHS-EDUCATION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education continued appropriation hearings. Testimony was heard from Alexis M. Herman, Secretary of Labor.

FINANCIAL MODERNIZATION

Committee on Banking and Financial Services: Continued hearings on Financial Modernization, including H.R. 10, Financial Services Competitiveness Act of 1997. Testimony was heard from public witnesses.

Hearings continue May 21.

FINANCIAL SERVICES REFORM

Committee on Commerce: Subcommittee on Finance and Hazardous Materials held a hearing on Financial Services Reform, focusing on Consolidation in the Brokerage Industry. Testimony was heard from public witnesses.

SAVINGS ARE VITAL TO EVERYONE'S RETIREMENT ACT

Committee on Education and the Workforce: Ordered reported amended H.R. 1377, Savings Are Vital to Everyone's Retirement Act of 1997.

FIGHT AGAINST ILLEGAL DRUGS—NATIONAL GUARD SUPPORT

Committee on Government Reform and Oversight: Subcommittee on National Security, International Affairs, and Criminal Justice held a hearing on National Guard Support in the Fight Against Illegal Drugs. Testimony was heard from Brad Owen, Lt. Governor, State of Washington; Michael Bowers, Attorney General, State of Georgia; and public witnesses.

MISCELLANEOUS MEASURE; ISSUANCE OF SUBPOENAS; COMMITTEE BUSINESS

Committee on House Oversight: Ordered reported S. Con. Res. 26, to permit the use of the rotunda of the Capitol for a congressional ceremony honoring Mother Teresa.

Committee adopted a motion to authorize issuance of two subpoenas to the Immigration and Naturalization Service in connection with the Contested Election in the Forty-sixth District of California.

The Committee also considered other pending committee business.

CARIBBEAN: AN OVERVIEW

Committee on International Relations: Subcommittee on the Western Hemisphere held a hearing on the Caribbean: An Overview. Testimony was heard from the following officials of the Department of State: John Hamilton, Deputy Assistant Secretary, Central America and the Caribbean; and Joseph Sullivan, Special Coordinator for Haiti; and public witnesses.

SECURITY AND FREEDOM THROUGH ENCRYPTION ACT; CONSTITUTIONAL AMENDMENT—PROHIBITING FLAG DESECRATION

Committee on the Judiciary: Ordered reported the following measures: H.R. 695, amended, Security and Freedom Through Encryption (SAFE) Act; and H.J. Res. 54, proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

APPREHENSION OF TAINTED MONEY ACT

Committee on the Judiciary: Subcommittee on Commercial and Administrative Law held a hearing on H.R. 1494, Apprehension of Tainted Money Act of 1997. Testimony was heard from, Robert S. Litt, Deputy Assistant Attorney General, Criminal Division, Department of Justice; Lawrence M. Noble, General Counsel, FEC; and public witnesses.

JUDICIAL REFORM ACT

Committee on the Judiciary: Subcommittee on Courts and Intellectual Property held a hearing on H.R. 1252, Judicial Reform Act of 1997. Testimony was heard from Representatives Hyde, Bryant and Manzullo; Henry A. Politz, Chief Judge, U.S. Court of Appeals, Fifth Circuit; Anne Williams, District Judge, U.S. District Court, Northern District of Illinois; from the following officials of the State of California: Dan Lungren, Attorney General; and Richard Mountjoy, Senator; and public witnesses.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Committee on Rules: Granted by voice vote, an open rule providing 1 hour of debate on H.R. 1469, 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, Including Those in Bosnia.

The rule waives all points of order against consideration of the bill. The rule provides that the amendment printed in the rule shall be considered as adopted.

The rule waives points of order against provisions in the bill for failure to comply with clause 2 (prohibiting unauthorized or legislative provisions in a general appropriations bill) or clause 6 (prohibiting reappropriations in a general appropriations bill) of Rule XXI, except as specified in the rule.

The rule also waives all points of order against each amendment printed in the Rules Committee report which may only be offered in the order specified, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall be offered only by the member designated in the report, and is not amendable.

The rule accords priority in recognition to those Members who have pre-printed their amendments in the Congressional Record prior to their consideration. The rule also allows the Chairman of the Committee of the Whole to postpone votes during consideration of the bill, and to reduce the vote to 5 minutes on a postponed question provided that the vote follows a 15 minute vote.

The rule waives points of order against all amendments for failure to comply with clause 2(e) of rule XXI (prohibiting non-emergency designated amendments to be offered to an appropriations bill containing an emergency designation). Finally, the rule provides one motion to recommit with or without instructions.

DEPARTMENT OF ENERGY POSTURE

Committee on Science: Held a hearing on Department of Energy Posture. Testimony was heard from Federico Pena, Secretary of Energy.

COMMERCIAL VESSEL SAFETY

Committee on Transportation and Infrastructure: Subcommittee on Coast Guard and Maritime Transportation held a hearing on Commercial Vessel Safety. Testimony was heard from Rear Adm. Robert C. North, USCG, Assistant Commandant, Marine Safety and Environmental Protection, U.S. Coast Guard, Department of Transportation; and public witnesses.

VETERANS ADMINISTRATION'S COMPENSATION AND PENSION SERVICE

Committee on Veterans' Affairs: Subcommittee on Benefits held a hearing on operations within the VA's Compensation and Pension Service using Government Performance and Results Act (GPRA) principles, to review the adequacy of VA's efforts in the processing of Persian Gulf War claims for compensation, and to discuss legislation to limit the liability for compensating and treating veterans with smoking-related diseases. Testimony was heard from Kristine Moffitt, Director, Compensation and Pension Service, Department of Veterans Affairs; Stephen Backhus, Director, Veterans' Affairs and Military Health Care Issues, GAO; and representatives of veterans organizations.

COMMITTEE MEETINGS FOR THURSDAY, MAY 15, 1997

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations, Subcommittee on Foreign Operations, to hold hearings on proposed budget estimates for fiscal year 1998 for foreign assistance programs, focusing on combatting infectious diseases worldwide, 10:30 a.m., SD–138.

Committee on Banking, Housing, and Urban Affairs, to hold hearings to examine the United States and allied efforts to recover and restore gold and other assets stolen or hidden by Germany during World War II, 10 a.m., SD–106.

Committee on Commerce, Science, and Transportation, to hold hearings on S. 255, to provide for the reallocation and auction of a portion of the electromagnetic spectrum to enhance law enforcement and public safety telecommunications, 9:30 a.m., SR–253.

Subcommittee on Science, Technology, and Space, to hold oversight hearings on staff reductions for fiscal years 1997 and 1998 for the National Weather Service, 2 p.m., SR–253.

Committee on Energy and Natural Resources, Subcommittee on Forests and Public Land Management, to hold joint hearings with the House Committee on Resources Subcommittee on Forests and Forest Health to review the Columbia River Basin Environmental Impact Statement, 2 p.m., SD–366.

Committee on Finance, Subcommittee on International Trade, to hold hearings to examine market access issues for United States agricultural exports, 2 p.m., SD–215.

Committee on Foreign Relations, Subcommittee on African Affairs, to hold hearings to examine terrorism in Sudan, 10:30 a.m., SD–419.

Committee on Labor and Human Resources, to resume hearings on proposed legislation authorizing funds for programs of the Higher Education Act, focusing on student aid delivery systems, 10 a.m., SD–430.

Committee on Small Business, to resume hearings on the Small Business Administration's finance programs, 9:30 a.m., SR–428A.

Committee on Veterans Affairs, to hold hearings to examine allegations of sexual harassment in the Department of Veterans Affairs, 9:30 a.m., SH–216.

Select Committee on Intelligence, to hold closed hearings on intelligence matters, 2 p.m., SH–219.

NOTICE

For a listing of Senate committee meetings scheduled ahead, see pages E933–34 in today's Record.

House

Committee on Agriculture, Subcommittee on Livestock, Dairy, and Poultry, hearing to review the USDA's progress in implementing the dairy reforms in the Foreign Agriculture Improvement and Reform Act of 1996, 10 a.m., 1302 Longworth.

Committee on Banking and Financial Services, hearing on Department of Treasury study of Cash Surpluses at the San Antonio Branch of the Dallas Federal Reserve Bank, 10 a.m., 2128 Rayburn.

Committee on the Budget, to mark up the Fiscal Year l998 Budget Resolution, 2 p.m., 210 Cannon.

Committee on Commerce, Subcommittee on Health and Environment and Subcommittee on Oversight and Investigations, to continue joint hearings on Review of EPA's Proposed Ozone and Particulate Matter NAAQS Revisions, 10 a.m., 2123 Rayburn.

Committee on the Judiciary, Subcommittee on Courts and Intellectual Property, oversight hearing on Judicial Misconduct and Discipline, 9 a.m., 2237 Rayburn.

Committee on National Security, Subcommittee on Military Research and Development and the Subcommittee on Military Procurement, joint hearing on National Missile Defense, 10:30 a.m., 2118 Rayburn.

Committee on Resources, Subcommittee on Fisheries Conservation, Wildlife and Oceans, hearing on H.R. 741, Migratory Bird Treaty Reform Act of 1997, 10 a.m., 1324 Longworth.

Subcommittee on National Parks and Public Lands, oversight hearing on Bureau of Land Management Law Enforcement Authorities, 10 a.m., 1334 Longworth.

Committee on Rules, to consider H.R. 1385, Employment, Training and Literacy Enhancement Act of 1997, 2 p.m., H–313 Capitol.

Committee on Small Business, Subcommittee on Tax, Finance, and Exports, hearing on ''Does OPIC Help Small Business Exporters?'' 10 a.m., 2359 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Aviation, hearing on One Year After Valujet Crash—FAA Response to Hazmat and Cargo Fire Protection Issues, 9:30 a.m., 2167 Rayburn.

Subcommittee on Public Buildings and Economic Development, hearing on Innovative Financing for Acquiring Federal Real Estate and Scoring Issues, 10 a.m., 2253 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Health, to mark up H.R. 1362, Veterans Medicare Reimbursement Demonstration Act of 1997; and proposals on both Medical Care Cost Recovery and physician's special pay, 9:30 a.m., 334 Cannon.

Committee on Ways and Means, Subcommittee on Trade, oversight hearing on U.S. Customs Service, 2 p.m., B–318 Rayburn.

Permanent Select Committee on Intelligence, executive, briefing on North Korea, 10 a.m., H–405 Capitol.

Joint Meetings

Joint Hearing: Senate Committee on Energy and Natural Resources, Subcommittee on Forests and Public Land Management, to hold joint hearings with the House Committee on Resources Subcommittee on Forests and Forest Health to review the Columbia River Basin Environmental Impact Statement, 2 p.m., SD–366.

Next Meeting of the SENATE

9:15 a.m., Thursday, May 15

Senate Chamber

Program for Thursday: Senate will resume consideration of S. 4, Family Friendly Workplace Act, with a cloture vote to occur on the modified committee amendment.

Also, Senate will resume consideration of H.R. 1122, Partial-Birth Abortion Ban Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, May 15

House Chamber

Program for Thursday: Consideration of H.R. 1469, Emergency Supplemental Appropriations Act for FY 1997 (open rule, 1 hour of debate).

Extensions of Remarks, as inserted in this issue

HOUSE

Ballenger, Cass, N.C., E919
Becerra, Xavier, Calif., E920, E921
Berman, Howard L., Calif., E927
Blunt, Roy, Mo., E922
Borski, Robert A., Pa., E920, E925
Brown, Corrine, Fla., E932
Brown, George E., Jr., Calif., E914
Bunning, Jim, Ky., E927
Capps, Walter H., Calif., E926
Christensen, Jon, Neb., E929
Clay, William (Bill), Mo., E932
Engel, Eliot L., N.Y., E917, E927
Fawell, Harris W., Ill., E922
Foglietta, Thomas M., Pa., E928, E929
Frost, Martin, Tex., E920
Furse, Elizabeth, Ore., E923
Gilman, Benjamin A., N.Y., E911, E915
Goodling, William F., Pa., E923
Graham, Lindsey O., S.C., E912
Hamilton, Lee H., Ind., E921, E925, E931
Hilleary, Van, Tenn., E930
Hooley, Darlene, Ore., E914
Johnson, Sam, Tex., E911, E913, E914
Kildee, Dale E., Mich., E928
Kleczka, Gerald D., Wisc., E926
Kucinich, Dennis J., Ohio, E922
Lantos, Tom, Calif., E916, E923, E930
Lazio, Rick, N.Y., E927
Lipinski, William O., Ill., E914
Lowey, Nita M., N.Y., E912
McCarthy, Karen, Mo., E931
Maloney, Carolyn B., N.Y., E925
Oxley, Michael G., Ohio, E920
Packard, Ron, Calif., E923
Pallone, Frank, Jr., N.J., E929
Payne, Donald M., N.J., E928
Roukema, Marge, N.J., E913
Schaffer, Bob, Colo., E932
Schumer, Charles E., N.Y., E926
Sherman, Brad, Calif., E913, E916, E930
Skaggs, David E., Colo., E913
Solomon, Gerald B.H., N.Y., E920
Stabenow, Debbie, Mich., E924
Stokes, Louis, Ohio, E924
Underwood, Robert A., Guam, E917, E928
Visclosky, Peter J., Ind., E921
Wamp, Zach, Tenn., E922
Woolsey, Lynn C., Calif., E921

Congressional Record The public proceedings of each House of Congress, as reported by the Official Reporters thereof, are printed pursuant to directions of the Joint Committee on Printing as authorized by appropriate provisions of Title 44, United States Code, and published for each day that one or both Houses are in session, excepting very infrequent instances when two or more unusually small consecutive issues are printed at one time. ¶Public access to the Congressional Record is available online through *GPO Access,* a service of the Government Printing Office, free of charge to the user. The online database is updated each day the Congressional Record is published. The database includes both text and graphics from the beginning of the 103d Congress, 2d session (January 1994) forward. It is available on the Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/su_docs, by using local WAIS client software or by telnet to swais.access.gpo.gov, then login as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required). For general information about *GPO Access,* contact the *GPO Access* User Support Team by sending Internet e-mail to gpoaccess@gpo.gov, or a fax to (202) 512–1262; or by calling Toll Free 1–888–293–6498 or (202) 512–1530 between 7 a.m. and 5 p.m. Eastern time, Monday through Friday, except for Federal holidays. ¶The Congressional Record paper and 24x microfiche will be furnished by mail to subscribers, free of postage, at the following prices: paper edition, $150.00 for six months, $295.00 per year, or purchased for $2.50 per issue, payable in advance; microfiche edition, $141.00 per year, or purchased for $1.50 per issue payable in advance. The semimonthly Congressional Record Index may be purchased for the same per issue prices. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington, D.C. 20402. ¶Following each session of Congress, the daily Congressional Record is revised, printed, permanently bound and sold by the Superintendent of Documents in individual parts or by sets. ¶With the exception of copyrighted articles, there are no restrictions on the republication of material from the Congressional Record.