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House of Representatives

The House met at 10 a.m.

PRAYER

Rabbi Yisrael Meir Lau, Chief Rabbi of Israel, offered the following prayer:

Our Father in Heaven, bless and grace the House of Representatives of the United States of America, and lead them in the right way to bring peace in the United States of America and in the entire universe, for the benefit of all mankind.

I am very happy to be here and to thank you for the declaration and proclamation offering the Congressional Golden Medal and tribute in honor of the Lubavitcher Rebbe, Rabbi Menachem Mendel Schneerson, spiritual leader not only for the Jewish people but for all mankind, leading us as a scholar, as a guide, in the period, in the age of the end of the Second World War, out of the Holocaust, from the darkness of the Holocaust, which I was personally very lucky to be one of its survivors, to show us there is a light in the edge of the tunnel. He showed us the way of spirit, of hope, of faith, of education, to all the good and the best it can be.

His colleagues, his students, his followers, the Chabad Movement of Lubavitch, in its over 2,000 educational and social institutions, bring to a world which will be improved in peace, in health, in happiness.

So I appreciate on behalf of the State of Israel, of the people of Israel, of the people, the Jewish people all over the world, your brilliant idea, the House of Representatives of the leaders of the free world, United States of America, for this contribution to peace all over the world.

Let us say, all of us, He, the Almighty who makes peace in His heights, will make peace upon us, upon the entire universe.

And let us say: Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. The Pledge of Allegiance will be led by the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS 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.

OPENING PRAYER BY ISRAELI CHIEF RABBI YISRAEL MEIR LAU

(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, I join our colleagues in welcoming to the House this morning the Chief Rabbi of Israel, Yisrael Meir Lau, who today led our opening prayer in Congress.

We are very honored to have Israel's Chief Rabbi, Rabbi Lau, present with us as we commemorate the awarding of a Congressional Gold Medal to the late leader of the Lubavitch Chassidim, Rabbi Menachem Mendel Schneerson, of blessed memory.

Rabbi Lau has come to the United States because of his admiration for the late Rabbi Schneerson, and because of his commitment to the Jewish people as a child survivor of the Holocaust.

Prior to his becoming Chief Rabbi of Israel, Rabbi Lau served as the Chief Rabbi for the cities of Netanya and Tel Aviv.

I know my colleagues join in extending our heartiest good wishes upon his visit to the United States, and look forward to being with him at today's historic events.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DUNCAN). The Chair will announce that there will be 10 1-minutes per side starting at this time by previous order of the Speaker and with agreement of the minority leader.

HONORING THE LUBAVITCHER REBBE

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

Mr. LAZIO of New York. Mr. Speaker, today the President will fulfill a congressional mandate to honor a lifetime of good words and good deeds by the late Rabbi Menachem Mendel Schneerson, the Lubavitcher Rebbe, by presenting a Congressional Gold Medal in his memory.

I am honored this morning to speak about a very extraordinary American.

Born in Russia in 1902, educated at Sorbonne University in Paris, Rabbi Schneerson emigrated to America and built a worldwide organization dedicated to goodness out of the ashes of the Holocaust.

The Rebbe exemplified the meaning of Chabad—an acronym that stands for wisdom, understanding, and knowledge. The Chabad movement he led became the world's largest Jewish education and outreach organization, active in 42 countries and almost every State in our Union.

We honor his memory today because the Rebbe's work on behalf of morality, education, and charity and his essential goodness made him a respected and

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beloved religious leader around the world. The Rebbe's good work reached far beyond the Chassidic community he led so well from a small brownstone building in the Crown Heights section of Brooklyn.

Awarding a Congressional Gold Medal in the Rebbe's memory is a fitting tribute to a great humanitarian whose work on behalf of all people will never be forgotten.

TRIBUTE TO RABBI MENACHEM MENDEL SCHNEERSON

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

Mr. DEUTSCH. Mr. Speaker, I also join my colleagues in a very special opportunity to remind the world and this country and this Congress about the work of the Rebbe Menachem Mendel Schneerson, someone who in his lifetime probably influenced as many people as anyone else maybe in the history of the world in terms of good works and good deeds.

I also thank the Chief Rabbi of Israel for being with us today and being part of a ceremony. Most Members, I think, are aware that today the gold medal that this Congress voted for the late Rebbe will be given at a ceremony at the White House, and there are activities throughout the day in terms of speeches in memory of the Rebbe.

I can speak, in a sense from a personal perspective, from the community that I represent in south Florida. Before I move to that community, there was no presence of the Chabad movement. In the near 15 years, there are six centers of learning, a school that has several hundred students. It is not just a community that, in a sense, the Rebbe taught to, but the entire community of the world in terms of education and really faith that we have the opportunity today in a special way to thank and to bless his memory.

OCALA: ALL-AMERICAN CITY

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

Mr. STEARNS. Mr. Speaker, I rise today to commend the city of Ocala, FL. This past weekend it won the prestigious title of All-American City from the National Civic League.

Competing against 30 other communities from across the Nation. Ocala-Marion County was one of 10 towns to earn recognition for its ability to creatively overcome problems and bring its citizens together. In a time when civic pride and strong community spirit are on the wane, it is refreshing to see a city like my hometown travel a different course, one where the residents still embrace the duties and reap the rewards of citizenship.

This city is worthy of this honor. Ocala-Marion County is a town experiencing rapid growth while at the same time preserving those values—thrift, industry, faith, and patriotism—that keep America strong. This Nation could do far worse, and could hardly do better, than to make Ocala a model for communities everywhere.

Mr. Speaker, I want to wish Ocala-Marion County continued good fortune, and I encourage the citizens and all its elected officials to wear their new title of All-American City with pride. Truly, they have earned it.

HONORING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES ADVOCACY DAY

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

Mr. CLAY. Mr. Speaker, today is denoted as Historically Black Colleges and Universities Advocacy Day.

HBCU presidents have taken on the challenge to confront the wrong-headed assault on knowledge being waged by this Congress.

Slashing education funding in general and funding for the Nation's historically black colleges and universities in particular is not only shortsighted, it is counterproductive. HBCU's have been in the forefront of providing leadership for black communities and for America.

If you look at the ranks of virtually any profession, you see the indelible mark made by historically black colleges and universities. No group of institutions has done so much with so little for so long.

I want to commend those presidents and chancellors who are here today to participate in this significant undertaking. I want to encourage them to inform Members of Congress of the critical role these schools play in educating a segment of the population that only they are capable, experienced, and proficient in educating.

I also want to pledge my support to help preserve and strengthen the unique and critical role played by historically black colleges and universities.

REPUBLICANS ARE KEEPING THEIR PROMISES

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

Mr. CHABOT. Mr. Speaker, the budget plan the House will debate and vote on this week is one of the most important pieces of legislation this Congress will vote on for the next 2 years. It is important because this Federal Government cannot continue on the path it has been on for generations now.

We can no longer afford massive social spending programs that have little impact on the problems they were created to solve. We can no longer afford to bury future generations under a mountain of debt.

Mr. Speaker, the time has come to put to rest the idea the Government has all the answers and if we throw more money at the problems we can solve those problems.

It is time to let American families keep more of what they earn. Republicans are keeping our promises. We are finally balancing the budget, not by raising taxes but by cutting spending.

VIOLATION OF THE RULES OF THE HOUSE

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

Mr. VOLKMER. Mr. Speaker, Members of the House, this little book here many Members undoubtedly have not read, but it is the rules of the House that were adopted January 4, and the majority of Republican Members said they were going to reform the House, and you could only serve on four subcommittee.

Well, how come 30 Members of the majority now serve on 5 or 6 subcommittees? Are the rules made just to be broken?

I would like to ask the couple of gentleman from North Carolina, the gentlewoman from New York, the gentleman from Indiana, the gentleman from Maryland, all freshmen, do you tell your children that rules are made to be broken, because that is what you are doing? Or do you teach them that you do not have to follow the rules, because you are in the majority, and as long as you are running the place you can do whatever you want to do, no matter what the rules say? Because that is what you are doing right now.

That is the Republican majority. They are violating the rules, because they have more than four subcommittees, and the rules say you can only have four subcommittees.

ALLOWING FAMILIES TO KEEP MORE OF THEIR OWN MONEY

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

Mr. KNOLLENBERG. Mr. Speaker, Republicans in Congress are keeping our promises to the American people. Our budget resolution eliminates the deficit, saves Medicare from bankruptcy, and lowers taxes on working families.

Contrary to the rhetoric emanating from the other side of the isle, our tax relief package will not bust the budget. Our tax cuts represent only 2 percent of the $12.1 trillion in Federal spending over the next 7 years, and are fully paid for.

Furthermore, we prove our commitment to balancing the budget, by delaying the implementation of our tax cuts until CBO certifies we have produced a plan that eliminates the deficit by 2002.

Our fiscal house is in chaos because the Government spends to much money—not because it taxes too little. Lowering taxes will help families get ahead, stimulate the economy, and create new jobs and businesses.

Mr. Speaker, as we work to eliminate the deficit and reduce the size and scope of the Federal Government, we should also allow families and businesses to keep more of what they earn.

JAPAN: OPEN YOUR MARKETS

(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, American trade experts are saying that the White House and the Congress should not go forward with trade sanctions against Japan because they have clear, convincing evidence that Japan is going to open their markets, and they are saying that this new evidence can be found in the fact that Miller beer can now be sold in Japan and this new chug-a-lug attitude in Japan is going to lead to bigger and better things.

Mr. Speaker, bigger and better things? Pizza? Potato chips? A few Slim Jims?

Beam me up. There is only one way to get the attention of the land of the rising sun: Midnight tonight put the sanctions on Japan. You have been screwing us for years. Open your markets or pay the price.

The pocketbook is the only thing Japan will understand. Think about it, Congress.

SALUTE TO THE ISRAELI CENTER FOR INTERNATIONAL COOPERATION

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I rise to salute the Israeli Center for International Cooperation, and the 47-year-long United States-Israeli partnership.

The center is known by its Hebrew initials as Mashav, and has developed a remarkable record in nation building all over the world.

Thanks to Mashav, Israel has developed an international reputation for its leadership in agriculture, medicine, and education.

I would like to especially note the impact that Mashav has had throughout Africa.

In Kenya, Malawi, and Zambia, eye-surgery clinics set up by Mashav have restored sight to thousands of people.

Israeli irrigation technology helps to provide food and sustenance for millions.

Mr. Speaker, I recall an old saying ''give a man a fish, and he eats for a day. Teach him to fish and he eats for a lifetime.''

This perfectly describes the influence that Israel, a small but dynamic friend of the United States, is having throughout the developing world.

There is a reception at 5:30 today at 2168 Rayburn. Please join us to hear more about Mashav.

FLY THE FLAG, DO NOT AMEND THE BILL OF RIGHTS

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

Ms. KAPTUR. Mr. Speaker, deception is at work in this House today as Congress considers an amendment to our Bill of Rights in the name of respecting our flag, when just last week the Speaker of this House and his emissaries voted to terminate the American flag service here in our Nation's Capital.

This flag office has served millions of Americans, and over the last decade over 1 million flags were purchased for special occasions by our citizens at cost; I underline ''at cost.''

Nobody should profit excessively from flying our flag. All Americans, even if they are not rich enough to travel here to Washington, should be able to get a flag flown over this Capitol.

Now that Speaker GINGRICH will close down this patriotic service, are we to stick a red, white, and blue feather in our caps for passing a constitutional amendment when we cannot get flags anymore?

□ 1020

Mr. Speaker, the best way to show respect for our flag is to fly it. Shame on those who have put a price on flying our flag, and shame on those who would trample on our Constitution.

BALANCED BUDGET PLAN AND A TAX CUT ARE LONG OVERDUE

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

Mr. SAM JOHNSON of Texas. Mr. Speaker, I say to the gentlewoman, ''I agree with you, MARCY.''

Mr. Speaker, as my colleagues know, for the past 40 years the Federal Government has supported its wasteful spending habits by increasing taxes on our businesses, our seniors, our families, our children. This week that destructive pattern will finally come to an end. Republicans will pass the first balanced budget plan in 26 years, and provide needed tax cuts to spur the economy and give money back to the people who earned it.

Despite the whining from critics, I know tax cuts and deficit reduction go hand-in-hand. The only way to reduce the amount of money the Government takes is to reduce taxes. I say to my colleagues, ''The Government takes in taxes from you, the people, and I feel compelled to remind everyone in this body it is not our money. It belongs to the American taxpayers.''

Let us help America. Let us give them back what they deserve, a big old whopping mother of a tax cut and a balanced budget. Both are long overdue.

IS THIS ANY WAY TO TREAT THE CONSTITUTION?

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

Mr. DEFAZIO. Mr. Speaker, today the House will vote on an amendment to the Constitution, and for the first time ever probably vote a change in the Bill of Rights.

Now, changing the Bill of Rights is of such importance that surely this will take place with due deliberation. Well, actually not. It will be a closed rule, no amendments, no substitutes, and precious little debate. One hour for the first change ever to the Bill of Rights in over 200 years.

Is this any way to treat the Constitution and the Bill of Rights? This is not the first instance of disrespect for the Constitution and the Bill of Rights under the Republican majority. We had the infamous H.R. 666, a direct attack on the fourth amendment by authorizing warrantless searches.

Mr. Speaker, now, at the end of all this the flag might fly on high, but the Constitution and the Bill of Rights will lie torn and tattered at our feet.

REPUBLICANS ARE TOUGH ON CRIME

(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, President Clinton has launched a $1.8 million media barrage to showcase his record on crime to the American people. Well, what is the President's record on crime?

For starters, the ill-conceived 1994 crime bill, which cost the taxpayers $30 billion was filled with empty rhetoric and meaningless social welfare programs.

Remember President Clinton's pledge to put 100,000 new police officers on the American streets? But his program only funded 20,000 cops.

Well, while President Clinton and his advisers talk about being tough on crime, the Republicans have passed legislation in the Contract With America which will keep thousands of criminals off of our streets and in the prisons.

Mr. Speaker, President Clinton's solution to fighting crime is to throw billions of dollars into failed social experiments and then to spend millions more trying to convince the American people that he is tough on crime.

The Republicans have proven to the American people that they are tough on crime.

Americans will plainly see the results of our crime bill as they feel safe again on their streets not locked fearfully in their homes forced to watch deceptive campaign commercials.

COMPACT-IMPACT AID

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

Mr. UNDERWOOD. Mr. Speaker, what do you get when you combine an unfunded mandate with unrestricted immigration? You get one messed up Federal policy.

Under the terms of the compacts between the United States and the former islands of the trust territory, the citizens of these newly independent countries can immigrate to the United States with absolutely no restrictions. To offset the expected costs of this immigration, the Federal Government also promised to reimburse the local governments for this impact.

Guam has incurred costs of $70 million for this immigration, and Guam has received a whopping $2.5 million in reimbursement. The Interior appropriations bill for fiscal year 1996 contains nothing for compact reimbursement.

I urge my colleagues to support my amendment to restore the compact-impact reimbursement of $4.58 million requested for Guam. It is time for the Federal Government to pay up, and to end this ridiculous immigration policy.

THINK ABOUT THE BAD SITUATION OF THE JAPANESE ECONOMY BEFORE DRIVING THEM OVER THE CLIFF

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

Mr. KOLBE. Mr. Speaker, it is come to this. We are down to the last few hours of what is a dangerous game of chicken with Japan. Tonight we will know whether we are going over the cliff or if one or both sides are going to blink in this dispute.

Well, everyone knows that Japan-bashing is popular. After all, the proposed sanctions are only going to hurt a few rich people who drive a car like Lexus, or did they ever think about Sam, who I met this last Friday at the Lexus dealership, who takes great pride in servicing those Lexuses and is very much a middle-class American?

It seems to me there is no game plan here; there is no end game. If we go all the way through with this, the economic and political ramifications for our relationship with Japan are going to be enormous. What happens if the other side retaliates? What will happen to Boeing and General Electric who are doing business in Japan today? Did the administration consider how little room the Japanese have to negotiate, given the bad situation of their economy today?

Mr. Speaker, all we can do by driving them over the cliff is to harden their resolve and allow them to blame the United States for the problem. Mr. Speaker, the time has come for some responsible action in this area, to get Japan to do fundamental deregulation, not to get voluntary import quotas accepted by Japan. We need a different strategy.

HOW DO REPUBLICANS BALANCE THE BUDGET?

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

Mr. STUPAK. Mr. Speaker, tomorrow we begin another debate on the budget. The issue is how will we balance the budget? Who will be helped and who will be hurt?

The answer is now clear. The Republican majority wants to help only the richest 1 percent in this country, the millionaires, the billionaires. The Republican majority wants to help the military-industrial complex by buying more toys like the B–2 bomber that the Pentagon told us we did not even need.

Mr. Speaker, how do Republicans balance the budget? By giving the wealthiest a tax break and buying more toys for the Pentagon.

How do Republicans pay for this? By cutting the programs that will help out our seniors, our veterans, our students; by cutting Medicare, by cutting Medicaid, by cutting the veterans' programs, by cutting $10 billion out of financial student assistance programs and by cutting social security.

The issue is, who will we help and who will we hurt? Will it be the millionaires and billionaires that will be helped? Will it be the seniors and the veterans and the students that will be hurt? I and the Democrats will stand with the seniors, the veterans and the students.

THE JEWISH HOSPITAL OF ST. LOUIS

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

Mr. TALENT. Mr. Speaker, I rise in recognition of the outstanding work of the Jewish Hospital of St. Louis. In conjunction with BJC Health System and Washington University School of Medicine, the hospital will be honored in a White House Ceremony today. It is being awarded a multiyear humanitarian grant to work with health care facilities in Riga, Latvia.

The St. Louis health professionals will be working with three hospitals including Riga's State Hospital for Children, as well as the maternity and local jewish hospitals. Working to improve the quality and delivery of health care, the St. Louis mission will lend its expertise to a community that needs guidance modernizing medical techniques and privatizing its healthcare system.

The staff of the Jewish Hospital of St. Louis is reaching across geographical, linguistic and ideological barriers to help those who need it most, the children and the infirm.

It is my pleasure to be able to express our gratitude for the work of the Jewish Hospital of St. Louis which has healed so many lives at home and will now heal many lives around the world.

REPUBLICANS BALANCING THE BUDGET ON THE BACKS OF OUR NATION'S SENIORS

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

Mr. NADLER. Mr. Speaker, I rise today to express my outrage with the Republican proposal to balance the budget on the backs of our Nation's senior citizens. The Republican budget proposal would force our seniors to pay more than $1,000 out of pocket each year while giving the very wealthiest 1 percent of Americans a windfall of $20,000 a year in tax cuts.

It is outrageous that, at a time when our Nation's seniors are struggling more than ever to make ends meet, the Republicans have chosen to make it harder than ever for them to access quality health care. While it is important to work toward a balanced budget, we cannot force seniors to pick up the tab, while to add insult to injury, giving a tax break to the very wealthiest Americans. The Republicans claim that they must cut Medicare, because they project that the entire system will be out of money in 7 years.

Mr. Speaker, I say to my colleagues, ''But even if you accept the Republican figures, and I don't, their Medicare cuts are 2½ times greater than called for to make their figures balance. The real purpose of this drastic cut in Medicare is to pay for a windfall for the very wealthy, not to save the future of Medicare for seniors.''

Again I say, Mr. Speaker, ''For shame.''

WHO SAID WHAT ABOUT MEDICARE?

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

Mr. HOKE. Mr. Speaker, as my colleagues know, the beauty of the well is that one can say anything that they want at any time, regardless of what the facts may be. Let us look at Medicare and who said what about Medicare.

The President's trustees, the President's trustees, three members of the President's Cabinet, have said that the Medicare Trust Fund will be broke, bankrupt, out of money—without anything—in 6 to 7 years. That is under

the median case scenario. It could be even shorter if things are worse.

What are the Republicans doing? What we are doing is we are spending right now in 1995 about $400 per month per beneficiary on Medicare. That will go up in the year 2000 to about $550 per month, per beneficiary. That is for one person over the age of 65 who is getting the benefits of Medicare.

I say to my colleagues, ''Now you have really got to believe that that cup is completely half empty all of the time and that we must have Federal Government bureaucrats who are going to solve all these problems for us, if you don't believe that the private sector with $550 month can deal with Medicare.''

WOMEN MUST HAVE SAME HEALTH CARE RIGHTS AS MEN DO

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

Mrs. SCHROEDER. Mr. Speaker, today, many of us are introducing a bill to protect women's health and the constitutional right to choose. It saddens me that this bill is necessary.

Mr. Speaker, I am one of the few Members who was here when Roe versus Wade came down and we started finally getting politics out of doctors' offices and medical schools, and we said to politicians, ''Really women need some advances in their health care, and they don't need political opinions. We would like medical opinions, the same kind men get.''

Well, we made those terrific gains, and now we see the extremism coming back in this whole new primary era, and what is the battleground? The battleground once is women's health and trying to roll us back.

Mr. Speaker, this bill is saying we will not go back. It codifies the gains that we have, and we hope every Member who believes women should be full and equal citizens and have the same health care rights that men should have will join us in saying to the extreme right: ''No, no, you don't play in women's health care. Keep your politics somewhere else.''

We hope many of you will join us in this bill.

PERMISSION FOR COMMITTEE ON INTERNATIONAL RELATIONS AND COMMITTEE ON SCIENCE AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole under the 5-minute rule: The Committee on International Relations and the Committee on Science.

It is my understanding the minority has been consulted and that there is no objection to these requests.

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

Mr. WISE. Reserving the right to object, Mr. Speaker, the gentleman is correct. The Democrat leadership has been consulted, has not objections to these requests.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 79, CONSTITUTIONAL AMENDMENT TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 173 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 173

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 79) proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States. The joint resolution shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit. The motion to recommit may include instructions only if offered by the minority leader or his designee. If including instructions, the motion to recommit shall be debatable for one hour equally divided and controlled by the proponent and an opponent.

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

Mr. SOLOMON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], 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. SOLOMON asked and was given permission to revise and extend his remarks, and to include extraneous matter.)

Mr. SOLOMON. Mr. Speaker, this rule provides a fair and reasonable way to consider the proposed constitutional amendment to allow Congress and the States to prohibit the physical desecration of the flag of the United States of America.

Let me go through the steps we will follow and Members in their offices should pay attention.

First there is the 1 hour of general debate on this rule that we are taking up right now, which is equally divided between the majority side and the minority side, half and half. After voting on the rule, there will then be an hour of general debate on the proposed constitutional amendment.

That time also is equally divided between the chairman and ranking minority member of the Committee on the Judiciary, who happen to be on different sides of the issue: again equal time, half and half. Then the rule allows for a motion to recommit which may include instructions if offered by the minority leader or his designee.

If the motion to recommit includes instructions, it may be debated for a full hour under the terms of this rule, not 10 minutes, a full hour. That hour would be controlled by a proponent and an opponent. That hour would be controlled by a proponent and an opponent. This would be the opportunity for the minority to offer an amendment or a substitute and have it voted on in the House.

For the record, I should note that in the full Committee on the Judiciary markup only one amendment was offered, only one, and we should remember that the proposed constitutional amendment before us is only one sentence. It is a simple concept.

The proposed amendment says, and I quote, ''The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States of America.''

That is all the amendment does; it speaks to principle, not to detail.

Now, while short and simple, this proposed amendment to the Constitution carries great significance for me, and for many veterans, and for large numbers of patriotic citizens across this Nation. It is terribly, terribly important.

I want to express my special thanks to the chairman of the Committee on the Judiciary, the distinguished gentleman from Illinois [Mr. HYDE], and the subcommittee chairman, the gentleman from Florida [Mr. CANADY], who have really carried this in the Committee on the Judiciary. I thank the other Committee on the Judiciary members for all their work in moving this amendment to restore the Constitution to what it was, and that is exactly what we are doing, restoring it to what it was before the Supreme Court made what I consider to have been a very, very bad decision back in 1989.

As we begin this historic debate, I would like to provide some background on how we got to where we are now.

Prior to the Supreme Court decision in Texas versus Johnson back in 1989, 48 States, and one has to remember this, 48 States and the Federal Government had laws on the books prohibiting the desecration of that flag behind you, Mr. Speaker. In the Johnson case the Supreme Court held that the burning of an American flag as part of a political demonstration was expressive conduct protected by the first amendment to the Constitution.

In response to the Johnson decision, Congress passed the Flag Protection

Act of 1989 under suspension of the rules by a record vote of 380 to 38, 380 to 38. That means a vast majority of this Congress, representing the vast majority of the American people, voted for that bill.

□ 1040

Then in 1990, in the case of the United States versus Eichman, the Supreme Court, in another 5-to-4 decision, struck down that statute, ruling that it infringed on expressive conduct protected by the first amendment.

Within days, the House responded by scheduling consideration of a constitutional amendment identical to the one we have on the floor here today. That amendment received support from a substantial majority of the House, but fell short of the necessary two-thirds vote for a constitutional amendment. The vote was 254 to 177. We needed 290, and we did not get it.

Since that time, 49 States have passed resolutions calling on the Congress of the United States to pass an amendment to protect the flag of the United States from physical desecration and send it back to the states for ratification. I invite all of you to come over here and look. Your State, every State but the State of Vermont, has memorialized this Congress to pass the identical constitutional amendment.

Ladies and gentleman, that is what we are here today for. None of us undertake this lightly. I certainly do not. The Constitution is a document that has stood the test of time for over 200 years, and our Founding Fathers wisely made it very difficult to amend. It is almost impossible to amend the Constitution. It has only been done a very few times over 200 years.

Our goal is not really to change the Constitution, and for some of the Members that worry about freedom of speech, I think you ought to pay attention. Our goal is to restore the Constitution to the way it was understood for the first 200 years of our Nation's history, until 1989. Had the Supreme Court not suddenly read into the Constitution by a very close 5-to-4 vote, something that was never there before, we would not even be here today. We would not be debating this issue. But the Supreme Court did take away the right of the people, acting through their elected representatives, to protect that flag, and today we propose to restore the right of the people to protect our American flag.

Mr. Speaker, this is not an idea that just a few people dreamed up. We are responding to the will of the overwhelming majority of the American people by restoring to the States and the Congress the power to protect the flag of this Nation.

Some of the opponents of this proposal have tried to make it sound as if there is some kind of a threat to freedom of speech. But I will note that the power to protect the flag was used judiciously for over 200 years. For 200 years no one thought it denied them anything. They thought it protected the flag. Well, 200 years later, 80 percent of the American people still want that flag protected. In a recent poll by Gallup, 80 percent of the American people said they want this amendment. That is why we are here today, to do just that, to protect Old Glory.

Mr. Speaker, I could go on, but we have other speakers who want to speak on this important issue. I ask a yes vote on this fair rule, and a yes vote on the constitutional amendment that will follow later on this afternoon.

Mr. Speaker, for the RECORD, I include the following report showing the number of open rules in the 103d Congress and 104th Congress.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of June 27, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	31	72
Modified Closed[3]	49	47	11	26
Closed[4]	9	9	1	2
Totals:	104	100	43	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of June 27, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1.	Balanced Budget Amdt.	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95)
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95)
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95)
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95)
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95)
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95)
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95)
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95)

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of June 27, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95)
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95)
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191; A: 233–183 (6/13/95)
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95)
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95)
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95)
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

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

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

Mr. Speaker, I thank the gentleman from New York, the distinguished chairman of the Committee on Rules, for yielding the customary 30 minutes of debate time to me.

Mr. Speaker, we strongly oppose this closed rule for considering House Joint Resolution 79, which proposes, as you all know, an amendment to the Constitution that seeks to protect the flag of the United States from desecration. This is a controversial and important resolution, and it deserves a more open and fair procedure for its consideration that that which has been granted by our Republican colleagues on the Committee on Rules.

The rule provides for 1 hour of debate on the amendment as proposed by the Committee on the Judiciary, and provides as well, as the rules of the House actually require, for a motion to recommit with or without instructions, which in this instance is debatable for 1 hour, instead of the usual 10 minutes. As I noted, and is always the case with a proposed amendment to the Constitution of the United States, this is an important and serious question, and it is thus deserving of more than passing consideration.

We sought in the Committee on Rules to modify this closed rule by proposing that a number of amendments be made in order, so that Members would have the opportunity to vote for protecting the flag, both through an alternative amendment to the Constitution, and also through legislation that would seek to achieve the same ends without the necessity of a constitutional amendment. All were defeated on straight party line votes.

We sought first to make in order the substitute constitutional amendment offered by the gentleman from Texas [Mr. BRYANT] that would provide Congress and the States the authority to prohibit the burning, trampling, or rending of the flag, and also provide that Congress determine what constitutes the flag of the United States. Without this amendment, the terms of House Joint Resolution 79 are so open-ended that they give no guidance as to its intended constitutional scope or parameters. The resolution would, in fact, give enormous authority to State legislatures and the Congress in determining the crucial terms desecration and flag. It would also grant open-ended authority to State and Federal governments to prosecute dissenters who use the flag in a manner deemed inappropriate. Mr. BRYANT's substitute is an effort to cure many of the defects in the writing of House Joint Resolution 79. It would also have allowed Congress to adopt a single uniform definition ever of the term ''U.S. flag'' rather than leaving the definition to 50 different State legislatures.

Unfortunately, Mr. Speaker, even though the chairman of the Committee on the Judiciary requested in writing and again orally yesterday at the Committee on Rules that at least one substitute amendment be made in order, and despite the promise of the Committee on Rules chairman that such a substitute would be in order, we were denied that request. Instead, Mr. Speaker, we were told that the majority is giving the minority the right to offer the substitute in the motion to recommit.

I would remind my colleagues that the motion to recommit is not a gift from the majority. It has since 1909 been a protection for the minority. In fact, the majority would have been prevented under the standing rules of the House from even bringing up the rule for consideration if they denied the minority the motion to recommit. We should have been allowed the promised substitute, as well as the motion to recommit, which we should have been able to construct on our own. This is a serious denial of our rights. It is especially significant because we are being denied this right during a serious change in our Constitution.

The majority on the committee also denied the gentleman from Colorado [Mr. SKAGGS] the opportunity to offer his amendment, which consisted of the text of House Concurrent Resolution 76 and expresses respect and affection for the flag of the United States, and states our abiding trust in the freedom and liberty which the flag symbolizes. We felt the House should have been able to consider this thoughtful proposal as an alternative to amending the Constitution.

Mr. Speaker, the committee also refused to make in order the amendment by the gentleman from Arkansas [Mr. THORNTON] consisting of the text of H.R. 1926, which provides for the protection of the flag by statute, rather than through a constitutional amendment.

Lastly, the majority also turned down our request for an open rule for House Joint Resolution 79, another example of broken promises by the Republican majority that we seem to be seeing more and more often these days.

Mr. Speaker, as Members certainly are aware, this is a troubling and a difficult question, and it is not completely clear how Congress can or should go about the perfectly proper business of successfully and constitutionally prohibiting the highly offensive act at which this proposed amendment is directed.

Those of us who served in previous Congresses have, the great majority of us, voted for legislation to outlaw desecration of the flag. We deeply regret the Supreme Court has struck down those statutes, holding that such Federal and State laws infringed upon an individual's right to free speech and expression as protected under the First Amendment to the Constitution. Many of us feel that this act of desecration is not in fact an expression of an idea or thought, and that protecting the flag should not, therfore, be held unconstitutional. It seems to most of us no one would have lost any freedom under those laws except that of burning the flag. Americans would have been just as free as they had been before to express themselves in speech or in writing or demonstrating on behalf of or against any idea or issue.

However, this proposed amendment to our Constitution would, for the first time in our Nation's history, modify the Bill of Rights to limit the freedom of expression, and is thus wrong, we believe, as a matter of principle. This is unpopular expression, but it deserves protection, no matter how much we may deplore it. That is the test of our commitment to freedom of expression, that it protects not just freedom for the thought and expression we agree with, but, as has often been said, freedom for the thought we hate.

Second, and of great relevance, we believe there is no compelling case to be made that there is a need for this amendment. We thankfully see no great need for it. Infuriating as these instances of contempt for a symbol we all love are, they do not happen often. As the gentleman from Colorado [Mr. SKAGGS] testified at the Committee on Rules, only three such incidents occurred in 1993 and 1994. Indeed, studies indicate that from 1777 through 1989, there are only 45 reported incidents of flag burning. There have been very few and isolated instances of flag burning in the past several years, and, frankly, there is every reason to leave well enough alone. Let these misfits who

desecrate our flag remain in obscurity, where they deserve to be.

Finally, Mr. Speaker, such an amendment, even though it seeks to remedy an act truly abhorrent to all of us in this Chamber, trivializes the Constitution. We do not amend the Constitution very often, and for good reason. When we do, the reasons should be compelling and necessary to resolve a truly important question.

In general, we reserve our Constitution, this great, basic document upon which all of our laws are based, to be the repository of the fundamental principles underlying the Governance of this great Nation. This matter of flag burning, important as it is, does not rise to such a level of constitutional consideration. It does not resolve any great matter that cries out for resolution.

In addition, its passage would open a Pandora's box of litigation. The terms of the resolution concerning what is desecration and what is the flag are too vague and give no guidance to the states. It could well lead to 50 separate State laws, defining both the flag and the act of desecration in different ways, so that an act that is entirely lawful in one State may result in imprisonment were it to be performed in another.

Mr. Speaker, this is a difficult matter for Members to resolve in a proper manner, and it is for that reason exactly that we are so seriously concerned that the majority party is not allowing this House the opportunity to consider other possible alternative means to the end desired by all of us. So we urge your opposition to this unnecessarily restrictive rule.

I end with two quotes which Members may find helpful, as I have. The first is from Charles Fried, who served with distinction as Solicitor General under President Reagan, and who said when he testified against a similar proposed amendment in 1990:

> The flag, as all in this debate agree, symbolizes our Nation, its history, its values. We love the flag because it symbolizes the United States, but we must love the Constitution even more, because the Constitution is not a symbol. It is the thing itself.

And this, finally, Mr. Speaker, from a letter to the editor of my local newspaper a couple weeks ago from a woman named Carla O'Brian.

> America cannot be harmed by the destruction of its symbols, but it can be damaged by abridging the freedom for which so many have died, even if this very freedom allows a sensation seeker to burn the flag. Those who seek to dishonor this country by trampling on symbols are only difficulties honoring themselves. Like a child throwing a tantrum, their goal is to draw media attention and their actions should be fittingly dealt with. Let's not make constitutional martyrs out of these people in the name of patriotism. Instead, give them the treatment they really deserve. Ignore them.

Mr. Speaker, I urge a ''no'' vote on the previous question, and I reserve the balance of my time.

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

Mr. Speaker, I would have to just disagree with the gentleman. You know, the flag of the United States is the most important symbol we have. It is what makes us all Americans, regardless of where we came from, what country the immigrants who came to this country came from.

Mr. Speaker, having said that, I yield 2 minutes to the gentleman from Florida [Mr. DIAZ-BALART], a truly great American, serving on the Committee on Rules with me.

Mr. DIAZ-BALART. Mr. Speaker, I thank the chairman for yielding.

Mr. Speaker, I recognize the seriousness of this subject. Any time that we are proposing to amend the Constitution of the United States, it is a serious subject that merits and requires treatment with the utmost consideration and seriousness. Precisely I think because we are such a diverse nation, multiethnic nation, in fact, we are a multilingual nation, the symbol, the environment of our sovereignty, the symbol of our Nation, the symbol of our national unity, I think deserves protection.

There should certainly be no bar to protection of that symbol of our Nation and our national unity and that environment of our sovereignty itself. There should be no bar to protection by Congress or the States to that most important symbol of our national unity.

What we are proposing with this constitutional amendment is precisely to eliminate the prohibition against the protection of that enshrinement of our sovereignty. That is what we are seeking to do. So that is why it is so important.

I commend the chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON], for having brought forth this amendment. I think it is appropriate and important, and I would say that it is compelling and I would say that it is necessary, precisely because of our diversity and because of the great not only ethnic, but linguistic diversity and reality of our Nation.

So, with respect to the arguments of the gentleman from California [Mr. BEILENSON], I would disagree with him. I would say that it is precisely compelling that we go forth and propose this amendment and let the States decide, because this is a symbol that deserves our protection and should not be prohibited. That protection should not be prohibited. That is what we are doing today.

Mr. BEILENSON. Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I am very disturbed about the free speech aspects, but not of the constitutional amendment, but of the rule. I do not think that this pattern of shutting us up and stopping substantive debate ought to go forward without comment

A pattern has very clearly developed, no matter what the intentions of the chairman of the Committee on Rules. And I do not question his intentions, but unfortunately I am not governed by his intentions, but by the actions he is required to take within the context of the whole House.

We have had a pattern of more restrictive rules for debate recently than in any previous time. We just debated the military authorization bill under the most restrictive terms in my 15 years in Congress. We were told we did not have time to debate fundamental issues in that bill, and then we adjourned on Thursday afternoon, I believe, with hours to go when we were still in session on a Friday. We have had these rules where you get a fixed time, and quorum calls take away the chance of Members to offer important amendments.

Today it is almost a mockery when we are discussing free speech, and this is a difficult issue, and I have great admiration for the patriotism that drives many with whom I disagree, but to debate this under so restrictive a situation. No amendment was allowed. The Committee on Rules used its discretion to say no to any alternative.

It then had the inconvenient fact that the minority is entitled, entitled, to the motion to recommit. And what do they do? They even played with that, because the motion to recommit is usually available to any member on the minority side in descending order, the ranking member of the committee on down. They said only if it is the minority leader or his designee. Apparently some ploy to try to engage the minority leader.

Why was it not the usual recommit? That does not say the minority leader or his designee. We in the past have said OK, look, here is our major amendment, and you use the recommit, frankly, for strategic or tactical purposes. You engage in debate. You have always had the right on the recommittal motion to come up with something and suggest it and come forward with it. And that has been taken away.

It is unseemly in the defense of the great American flag, symbolic of the freest nation in the world, to come forward in the legislative body with debate under such restrictive terms. I think this is a very grave error.

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

Mr. FRANK of Massachusetts. I am glad to yield to the gentleman from Michigan, the ranking minority member, who has always been victimized by this undemocratic rule.

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

Mr. CONYERS. Mr. Speaker, I thank my colleague from Massachusetts for yielding.

Mr. Speaker, the gentleman from Massachusetts has made the case ably. I would like to just reiterate that the rule on a constitutional amendment

before us permits no amendments to be offered, despite the fact that numerous alternatives, both statutory and constitutional, were granted. Instead, the Committee on Rules is making merely in order a motion to recommit, which is more a procedural tactic as it has been used in the House.

So the promise on opening day, that the Committee on Rules chairman promised, that 70 percent of the bills would be brought up under open rules, has not occurred. As a matter of fact, almost the opposite has occurred; 62 percent of all the legislation has been brought to the floor under closed or restrictive rules.

The irony is this is on a constitutional amendment designed to restrict free rights of the first amendment of the United States.

Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I hate to take the time of the body when we really should be debating the issue of the constitutional amendment, but I would say to my good friend who mentioned it before, rule XI(4)(b) applies if offered by the minority leader or a designee. The gentleman perhaps ought to read that.

And let me just say to the other gentleman that the last time the ERA was brought before the House, it was brought on a suspension of the rules. That means no motion to recommit, no amendments, no anything. And I would just say the press does not agree with his assessment of the Rules Committee. They say we have had 72 percent open rules since January.

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Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Sanibel, FL [Mr. GOSS], a very distinguished Member of this body, and a member of the Committee on Rules who has been a leader on this effort.

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

Mr. GOSS. Mr. Speaker, I certainly thank the distinguished chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON], who is also the author of this very, very important amendment.

I am pleased to rise in support of what I think is a very fair and responsible rule, especially relative to how we have dealt with this in the past and also in support of the underlying legislation. This rule works within the time constraints that we have been given, and I think it ensures the careful, structured, scrutiny of what we are about here.

Equally important, this rule does provide the minority with a chance to offer a substitute. I do not understand the problem on that. We have a motion to recommit there, and we will have debate, and we are going to debate the alternative for the same amount of time—the full hour—that we are going to give to the Solomon proposal. So I think that is a pretty good deal. Each side gets the same amount of time. I commend the chairman for this very fair approach, and I frankly think all Members should support it.

With respect to the amendment itself, I am generally very hesitant to support changes to the Constitution. Our Founding Fathers exhibited, I think very uncanny long-sightedness in establishing the framework for the greatest democracy on Earth. But their tremendous forethought also allowed them to recognize that there might be times when the American people would want to join together and seek to make measured changes to the living document that the Constitution is. It has actually happened 27 times, a very small number to be sure, but most of those 27 amendments established and reinforced bedrock principles of our free society.

I venture to guess that even those who strongly oppose today's proposed amendment would agree that the American people have thus far used the awesome power of amending the Constitution in a very wise and judicious way. There is no reason to doubt that this time will be any different.

There is much misinformation about what this legislation does and does not do. In my view, simply put, it takes back from the nine individuals of the Supreme Court, who are not accountable, and it gives to the people, all the people in their States, in their home communities, wherever, it gives them the decision on how best to treat the flag. In sum, I trust the people of our country more than the Supreme Court on this matter, which is close to the heart of every American.

Mr. BEILENSON. Mr. Speaker, I yield 30 seconds to the gentleman from Texas [Mr. COLEMAN].

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

Mr. COLEMAN. Mr. Speaker, originally as a cosponsor of the legislation, my name was placed on that as a matter of fact, and it was a mistake for it to have been done so. I know it is too late to withdraw the name because the bill has been reported, but I would simply say that in speaking, in planning to vote against the present proposal, I tried to honor and defend what the flag stands for, and that is freedom.

I thank the gentleman for permitting me to make this statement prior to the time that we have any recorded votes on either the rule or the constitutional amendment.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Mississippi [Mr. MONTGOMERY].

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

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from California for yielding time to me.

Mr. Speaker, as one of the chief sponsors of this bill, along with my good friend, the gentleman from New York [Mr. SOLOMON], I rise in strong support of the legislation and support the rule.

Mr. Speaker, I have made the point several times over the past few weeks that this is a bipartisan effort. This is not Democrat or Republican. It is a matter of protecting the single most recognized symbol of freedom and democracy in the world.

We tried in 1990 to simply pass a law to protect the flag. Most of us voted for it. But the Supreme Court ruled it unconstitutional. That means the only way that we can achieve this goal is by a constitutional amendment.

This amendment will not infringe on anyone's first amendment rights. We are the most tolerant country on Earth when it comes to dissent and criticism of our Government. But I really draw the line on the physical desecration of this great flag. I think the American people agree. In fact, the gentleman from New York [Mr. SOLOMON], has a folder that shows 49 of our States have passed resolutions in support of our efforts.

Each session of the House of Representatives, when we are opening session, we start off, as you know, Mr. Speaker, with a prayer and the Pledge of Allegiance. Every time we have a group of students that are in the gallery from elementary school on up, they proudly join in, and you will see it this week. They will join in. You will hear their young voices ring out: I pledge allegiance to the flag of the United States of America. They know the pledge, and they know what the flag means to our country.

They do not understand why anyone should be allowed to desecrate the flag. Mr. Speaker, neither do I.

The flag has rallied our troops in battle, and it has brought us together in times of national tragedy because it holds such an emotional place in our lives. And I am emotional, too. It is worthy of the protection we seek in this legislation .

Now, our Founding Fathers never dreamed someone would desecrate the flag. If they had, the protection would have been written into the Constitution 219 years ago.

Mr. Speaker, over a million Americans have died in defense of this flag. We owe it to them to adopt this amendment. God bless our great country.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Seneca, SC [Mr. GRAHAM], a 6-year veteran of the Armed Forces, with 4 years overseas, a great American.

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

Mr. GRAHAM. Mr. Speaker, I would like to echo what my good friend from Mississippi has just said. I would like to encourage Members to support this rule.

I know that many of the colleagues in this body are concerned about adopting this rule and approving the amendment, that it will harm the Bill of Rights and the right to free speech. I

do not question their patriotism. One cannot be in this body without being an American patriot. We all disagree at times on many issues. So I understand the right to disagree. I certainly respect that.

But let me say that the Bill of Rights and free speech issues and desecrating the flag in my opinion are not related. I would like to encourage every one in this Nation, conservative, liberal, and moderate, to speak out loudly if they feel the Government is wronging them or that we are off track. Speak loudly, speak boldly. Do it in constructive form, write, call, protest, take to the streets, tell everybody how you feel and in a manner that will encourage them to listen.

Burning the flag, in my opinion, does not legitimize one's position or allow anybody to listen to you. If you feel the need to burn something, burn your Congressman in effigy, burn me, do not burn the flag. If you cannot yell fire in the movie for public safety concerns, you should not be able to burn the flag because of national concerns.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes and 15 seconds to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, this is a debate about desecration. And goodness knows, we have had a significant amount of desecration in this country. Not desecration of the flag. In fact, you can go all the way across the 50 States these days and you will see few, if any, Americans now or at any other time in our recent past, even since this decision, who think so little of this country that they would dare desecrate this flag.

There are, of course, a handful of the super rich in this country who have regularly desecrated their citizenship by repudiating that citizenship so they could burn any sense of patriotism and burn the American treasury at the same time. And, of course, this amendment does nothing about that desecration, just as our Republican colleagues have sat around on their hands throughout this session of Congress and have rejected the notion of effectively doing something about those who desecrate their American citizenship.

But I must say in this rules debate, what really troubles me is the desecration that goes on in this body every day and is going on today with this very rule. And that is the desecration of the rules of the House of Representatives. You would think that someone who proposes to give the House of Representatives the job, along with this Congress, of protecting Old Glory would be concerned about protecting the dignity of its own rules.

We sat here on the first day of this Congress and heard about reform, about revolution, about opening the House of Representatives to do truly the people's business. And what have we got? Certainly not reform.

The chairman of the Committee on Rules stood on this floor and told us, we will have at least 70 percent open rules. Do we have an open rule today to consider something as important as how we protect Old Glory? No, sir, we do not.

Why is it that there is such fear, if we are so proud of Old Glory, why is there such fear of having true openness? And the same thing is true with regard to the way the rules of this House are being desecrated today and every day of this session by those who refuse to abide by the rule that they serve on a limited number of subcommittees and committees. Thirty Republican Members of this House today desecrate that rule, as they have desecrated this rule for an open House.

Mr. SOLOMON. Mr. Speaker, there is an old saying going on around here, ''GERRY SOLOMON has the longest memory in the House of anybody.'' I will not comment any further.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. KIM], one who came to this country, a great American and a very respected Member.

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

Mr. KIM. Mr. Speaker, I cannot quite understand the argument, talking about the flag burning issue. I rise today in support of this rule and flag burning constitutional amendment. Many, many people have come to this great country in search of American dream, myself included. To these people to become an American citizen is the ultimate dream. To these people, the American flag is the essence of what being an American is all about. How would you like to see somebody burning the symbol of hope, symbol of dream?

I have been hearing this argument that this amendment is a direct attack on freedom of speech under the Constitution. I do not buy this argument. I understand it is illegal for anybody to run around naked in a public place trying to express their freedom of speech. I place burning the American flag in the same category. I do not buy this argument that burning the flag occurs only less than six times a year. I do not care if it is once in a century, that should not be allowed.

I have also heard this argument about some alternatives should be allowed. What kind of alternatives are we talking about? It is going to either allow or not allow, simple as that, up or down vote. I do not see any other argument about we should allow more alternatives.

I personally am more insulted by watching someone burn our flag than watching someone running around naked trying to express their freedom of speech. Therefore, I call on my colleagues to support this rule. It is OK. Pass this much-needed constitutional amendment.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

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

Mr. TRAFICANT. Mr. Speaker, I support the Constitution. I support the first amendment. My comments are not to demean the intentions of anybody in the House. I support this rule, and I support this bill. I want to talk about a few facts.

In America today, it is illegal in many cities to kiss or hug in public. It is illegal to burn leaves. It is illegal to rip that little tag off the back of those newly bought pillows. You cannot rip those tags off. It is actually a Federal law, my colleagues, to desecrate or violate a mailbox. First amendment rights do not apply to a mailbox. But in America, my colleagues, it is absolutely legal to burn the flag.

Desecrate the flag. You can defecate and urinate on Old Glory to make a political statement, but you cannot touch a mailbox. My colleagues, when did we start pledging allegiance to the mailboxes of our country?

I do not mean to make light of this. But a Congress of the United States that will allow the same flag that was carried into battle after battle on the shoulders of fighting personnel, military personnel, knowing full well they would be slain and also knowing someone else would grab that flag, take that flag on into battle, try and mount that flag to preserve our great freedoms, knowing full well that their successor may be slain, a Congress that will allow that same flag to be burned by a dissident is out of touch. We have gotten so fancy there is no common sense left.

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Mr. Speaker, I support the first amendment. Damn it, if we could set a mailbox aside, we can set the flag apart. Let the flag alone. If Members want to burn something dissident, they should burn their bra, burn their underwear, burn their money, and see how many will make that statement. However, the Congress of the United States has to say ''You cannot violate Old Glory.''

This is not about the flag, this debate today; it is about respect, it is about pride, it is about values, and there is only one reason why flags are violated in America, only one; the Congress of the United States, the Congress of the United States allows the flag to be violated. Statutes are not going to work. Members know it. Let us not politically posture. Laws are not going to address it. It will take a constitutional amendment. I support that constitutional amendment, and I applaud the leaders for bringing it forward. Burn your bra, burn your pantyhose, burn your BVD's, see how many burn their money, but let the flag alone.

Mr. SOLOMON. Mr. Speaker, let me just say amen to the previous speaker. He is a great American.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Miami, FL, Ms.

ILEANA ROS-LEHTINEN, another extremely important Member of this body. I know she speaks from her heart on this issue.

Ms. ROS-LEHTINEN. Mr. Speaker, the American flag is a sacred symbol of freedom and justice, not just in the United States, but throughout the world.

I know this in a very special way. I was born under a different flag. After a brutal dictatorship took control of Cuba, the land of my birth, I journeyed to freedom and came to the United States as a refugee.

I remember well that day when I raised my right hand and swore allegiance to this great country.

All of us who came to this country as refugees from a brutal tyranny know how much the American flag means for lovers of liberty and democracy.

And we know jut how great and important are the American values that have led so many American soldiers, sailors, marines and airmen over the centuries, to pick up our flag and march into battle against those who threaten our freedom.

This year we have celebrated the 50th anniversary of the final year of World War II.

One of the memorable occasions of that war, was when the marines climbed to the top of Mount Surabachi, to raise the American flag.

Six thousand, eight hundred and fifty-five men gave their lives to place that flag on that mountain, and their sacrifice can never be forgotten.

We have heard a lot from those who oppose protecting our flag from desecration and dishonor.

We have heard words, and legalisms, and theories, and all the sort of things you find in books. I respect those words taken from books.

Consult the book of America's heroes—patriotic young men who gave their lives for us. Put down your law books, and drive over to Arlington Cemetery, and gaze at the long rows of headstones of our fallen heroes.

Then drive over to the Iwo Jima memorial, and stand there in silent tribute to America's heroes. Feel the wonder of what they have done for us.

See beyond the cold bronze and the polished granite, and see those young men who were out there, thousands of miles from their loved ones, surrounded by the temporary graves of thousands of their fellow marines, and surrounded by field hospitals, where thousands more other marines lay wounded.

See those young men, and then feel what they were feeling that day, knowing that any at a moment their lives could be taken.

And then think about what it was that they felt that day about the American flag.

Then you will understand this issue.

Men have died under that flag.

Those who served with them, those who loved them, and those who honor their memory today must stop those who dishonor them by burning or desecrating the American flag.

And we can put a stop to this, by supporting an amendment to protect this sacred symbol from abuse.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from Colorado [Mr. SKAGGS], a former Marine and Vietnam veteran.

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

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

Mr. Speaker, I would say to the gentleman from New York [Mr. SOLOMON], the chairman, he and I were proud to serve our country in uniform. We were proud to serve under our Nation's flag. One of the reasons for the pride that the gentleman and I share was that we believed in a country that was strong enough to tolerate diversity and dissent, and to rise above it, because our freedoms and our values are stronger than the occasional jerk that wants to treat the American flag in a disrespectful way.

Today, we are debating an amendment to the Constitution that, for the first time in the history of this country, will diminish our freedom of expression. I think it is ironic, maybe poetic, that the rule proposed for this debate itself shuts down freedom of expression in this House. There is no justification for this, absolutely none. Not even a substitute allowed in the regular order. This rule is a shame. It is shameful. It should not be allowed.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute the gentleman from Wisconsin [Mr. SENSENBRENNER], a gentleman who came with me to this body 17 years ago. He is a member of the Committee on the Judiciary, and would like to rebut what was just said.

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of this rule. Back in 1983, I would bring to the attention of my Democratic colleagues, the equal rights amendment was brought up on the floor with the support of most of them, under suspension of the rules.

There were no amendments allowed, there was no motion to recommit, and because I was the manager on the Republican side, in fairness, I yielded half of my time to Republican supporters of the ERA, but the Democrats did not yield any of their time to Democratic opponents of the ERA, so the split in the 40 minutes that we had to debate that important constitutional amendment was split 3 to 1 for the supporters, because of the unfairness of the folks on the other side of the aisle.

Mr. Speaker, this rule is fair. It will allow for an extensive debate. I think that, given what the other side did with another important constitutional amendment, maybe they ought to take up a collection to build a statue to the gentleman from New York [Mr. SOLOMON], because of the fair rules that he puts together.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Speaker, today I am wearing an American flag tie that my son picked out for me, and American flag earrings that my 13-year-old daughter picked out for me for the Fourth of July. I love the flag, and when I see the flag flying here over the Capitol, I choke up.

However, we are talking not just about the symbol of our country today, we are talking about the Constitution that governs our country. The first amendment says ''Congress shall make no law abridging the freedom of speech.'' The Bill of Rights has served our country for 204 years. An hour of debate to discuss amending the Bill of Rights is not good enough.

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to my good friend from Puyallup, WA [Mr. TATE], another freshman Member of this body which is really changing the face of this country.

Mr. TATE. Mr. Speaker, I rise in strong support of H.R. 79, the Flag Protection Act. The purpose of this amendment is simple: To empower States and Congress to provide constitutional protection for the symbol of our Nation and all for which she stands.

When you think of our national flag, Mr. Speaker, you think of our national heritage, our history, our culture; you think of the principles it embodies.

America ultimately stands on the principle of freedom. Her soldiers have died on battlefields, her leaders have resisted foreign threats, and she herself has endured the risk of internal destruction rather than give up the ideal. All America is and all that she hopes to be can be found in this principle.

The American flag is the symbol of that freedom. Its colors represent peace, liberty, and the blood her people have spilled. Its stars represent her parts, the 50 States of which 49 have urged us to pass this amendment. Taken as a whole, the flag represents America and the best of her traditions and hopes.

Yet that freedom does not come without responsibility. Those who would dream her dreams must also share in her burdens. The right to free speech carries with it a corresponding responsibility to respect others and exercise that right in an appropriate manner.

H.R. 79, Mr. Speaker, seeks to protect the symbol of the American Dream. If that hope of freedom can be freely desecrated, the freedom of our future will not long stand. I urge my colleagues to support the rule and pass the Flag Protection Act.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Speaker, I thank the gentleman from California for yielding me time.

Mr. Speaker, as a Democrat, a former Marine, like our chairman, the gentleman from New York [Mr. SOLOMON], and our good colleague, the gentleman

from Colorado [Mr. SKAGGS], and as an original cosponsor of House Joint Resolution 79, I rise in strong support of this rule to provide for the consideration of this proposed amendment to the U.S. Constitution which would permit Congress and the States to prohibit the physical desecration of the American flag.

Mr. Speaker, I fully appreciate the comments many of my colleagues in opposition to this proposed amendment have made regarding the first amendment.

I, too, hold dearly the protections and privileges guaranteed to all Americans under the Bill of Rights, and in particular the first amendment right to free speech. The Bill of Rights is the foundation upon which this great Nation was built.

But it is that greatness and resiliency of the Constitution and this Nation that are symbolized by the American flag. The desecration of the American flag is not just a simple expression of free speech. It is a profound and brutal attack on the very soul and history of our country.

Old Glory has carried Americans to war and shrouded those who gave the ultimate sacrifice in the defense of freedom and liberty. The American flag that is carefully folded and passed on to the family of a fallen hero is more than just a symbol. It embodies who we are as a nation.

On June 14, 1915, President Woodrow Wilson paid high tribute to the American flag when he said:

> The flag is the embodiment, not of sentiment, but of history. It represents the experiences made by men and women, the experiences of those who do and live under that flag.

The American flag is a unique and important part of America. Let us pay tribute to the flag, to this Nation and to our Constitution by passing this rule and this amendment today.

Mr. SOLOMON. Mr. Speaker, I will say to the gentleman who just spoke that he may be a Democrat but he is a good marine and a good American.

Mr. Speaker, I yield 1 minute to the very distinguished gentleman from Maryland, Mr. ROSCOE BARTLETT.

(Mr. BARTLETT of Maryland asked and was given permission to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, I carry always with me a copy of the Constitution, and one of the previous speakers mentioned the first amendment, which has, of course, several very important protections in it: ''Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or of the right of the people peaceably to assemble.''

Obviously, these are very important rights that are guaranteed to us, but we have recognized as a country that there are some limits to these. For instance, the right of free speech will not permit you to get up in a crowded motion picture theater and yell ''fire, fire'' when there is not a fire. I think that this proposed amendment, which protects our flag against desecration, is at least the equivalent of denying the person the right to yell ''fire, fire'' in a crowded theater.

This flag is a symbol of this great Republic. It stands for the whole history of our country. I think there is just no reasonable rebuttal to this very important amendment which four out of five Americans support.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. BRYANT].

(Mr. BRYANT of Texas asked and was given permission to revise and extend his remarks.)

Mr. BRYANT of Texas. Mr. Speaker, I thank the gentleman from California for yielding time to me.

Mr. Speaker, there is always an abundance in this House Chamber, and I guess in every body in America, of people who are willing to come down here and do the easy parts.

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The easy part is to stand up here and make a patriotic speech that articulates our shared sentiments about the flag. We have heard 8 or 10 of them already. Everybody agrees with them. But the hard part that a real patriot, I say to the gentleman from New York [Mr. SOLOMON], would believe to be his obligation is to write law that will protect our public and last for the long term.

What you have brought to us today with a rule that says we cannot amend it except with a motion to recommit is not a workable proposal. I fear that many of the Members who in a well-meaning fashion have come up here and spoken about it do not realize what it does.

What does it do? It says that all 50 States can define what a flag is and all 50 States can define what desecration is as well as the Federal Government and the District of Columbia. That means, of course, that a citizen has no way of knowing from one State to the next what desecration of the flag is or even what a flag is.

You probably have not bothered to check, but the current statute that defines what a flag is defines it as a 48-star flag; the other 2 stars were added by Executive order.

I asked the gentleman from Florida [Mr. CANADY], the chairman of the subcommittee, during debate in the full committee would it be a desecration of a flag if you desecrated a 49-star flag and his answer was, ''That will depend upon the enactment passed by the Congress and the States.''

We have tried to bring an amendment to the floor here today. We asked permission to bring an amendment to the floor today here and it will have to be offered as part of the motion to recommit now that says the Congress can pass a law defining what a flag is and making it against the law to burn, to trample, to soil or rend a flag. It makes it clear exactly what the flag is and what desecration is. Instead, we have been brought one out here that no one can interpret.

Is it desecration of the flag to wear a flag on the back of your coat? Is it desecration of the flag to wear it on the seat of your pants? On a tie? Is it desecration of the flag for the Olympic team to wear a uniform that has a flag emblazoned across the shoulders? What about a Hell's Angel or a protester who wears the same thing? Nobody knows.

We tried to bring an amendment to the floor to your proposal that says very clearly what it is, the flag is what the Congress says it is and desecration is burning, trampling, soiling, or rending. But you would not let us offer that amendment. It will, however, be offered as part of the motion to recommit.

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

Mr. BRYANT of Texas. I will yield to you on your time as much as you want to, but I have very little time so I do not want to use it up yielding.

Mr. SOLOMON. The gentleman's amendment is in order.

Mr. BRYANT of Texas. I ask for regular order, Mr. Speaker, I will be happy to yield to the gentleman on his own time.

The easy part is to come down here and make great speeches, extolling the flag and talking about patriotism. Everybody agrees with those. But the hard part is writing legislation that will last for the ages and it will not subject our public to accidentally breaking laws they do not intend to break. Why would you not let us offer that amendment on the floor?

Well, we will offer it as part of the motion to recommit. I commend it to the Members to vote for the motion to recommit, vote for one that will work.

Mr. SOLOMON. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. QUILLEN], the chairman emeritus of the Committee on Rules and one of the longest serving Members of this body.

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

Mr. QUILLEN. Mr. Speaker, in 1967, I was an original cosponsor of a bill to make desecration of the American flag a Federal offense, punishable by up to 1 year in prison and up to a $1,000 fine. That bill passed both Houses almost unanimously and was signed into law by the President.

By 1989, 48 States and the Federal Government had laws on the books prohibiting the desecration of our beloved American flag. And as we all know, in 1989 the Supreme Court struck down a Texas statute which prevented flag burning, and declared such an outrageous act an expression of speech protected by the first amendment.

In response to that decision, another Federal law was enacted banning flag desecration, which the Supreme Court ruled unconstitutional.

Since then, 49 of our 50 States have passed resolutions calling on the Congress to pass an amendment to the Constitution to protect the flag of the United States from physical desecration and to send it back to the States for swift ratification. It is clear that the States want us to act on this issue.

I support this rule for House Joint Resolution 79, proposing a constitutional amendment authorizing Congress and the States to prohibit the physical desecration of the flag. It would be a shame and a disgrace if we sit idly by and let our beloved American flag—the greatest symbol of liberty and freedom—continue to be disrespected and desecrated. Our flag is a part of the soul of America, not merely a piece of cloth.

I would challenge the Members of this body to remember that our freedom is not without cost—it comes with the high price of the sacrifice of human life. From the shores of Iwo Jima to the sands of Desert Storm, American men and women have given their lives for what the flag represents. If our flag is worth dying for, it is worth protecting. I urge all of the Members of this body to support this rule and this measure.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to a Member from my home State, the gentleman from Hamburg, NY [Mr. QUINN].

Mr. QUINN. Mr. Speaker, as an original cosponsor of House Joint Resolution 79, it is with great pride that I rise to urge my colleagues to support the rule for its consideration.

This amendment gives Congress and the States the power to enact legislation prohibiting the physical desecration of the flag of the United States.

Forty-nine States have passed resolutions calling on Congress to propose this constitutional amendment. A recent Gallup survey found that 79 percent of those asked would vote for a constitutional amendment and that 81 percent belived they should have the right to vote on the issue.

Mr. Speaker, let us give the American people what they want and what our flag deserves.

The American flag represents this great Nation and is something to be revered—not destroyed or mutilated or treated with disrespect. This amendment helps to preserve a symbol of our country—a united nation where values transcend political party, ethnic group or socio-economic class and reflects pride in the principles of democracy and freedom upon which this country was founded.

Mr. Speaker, I want to thank the chairman of the Rules Committee for bringing this rule and his leadership on this important issue and once again I would urge my colleagues to support the rule and ask that they vote ''yes'' on final passage.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Buies Creek, NC [Mr. FUNDERBURK], one of the outstanding new Members of this body who is changing the outcome of votes this year since he arrived in January.

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

Mr. FUNDERBURK. Mr. Speaker, I am proud to support the Solomon anti-flag desecration amendment, House Joint Resolution 79.

Many years ago the distinguished jurist, Felix Frankfurter, was asked, ''What is America?'' Mr. Justice Frankfurter noted:

> We are nothing more than the symbols we cherish. We live by our symbols because a civilization that does not nurture and cherish its symbols is in danger of withering away. The ultimate foundation of a free society is the binding tie of cohesive sentiment.

That is why we honor the flag. It is the tie which binds us together. We remember that tie every time we see it draped on the coffin of a soldier or sailor who gave his life fighting to preserve our freedoms.

For 6 years I lived in a communist country where I saw people cry and salute when they saw the U.S. flag. They venerated our flag as a symbol of freedom from tyranny and they considered it an inexplicable sign of weakness for us to tolerate desecration of our most cherished symbol.

A few years ago, the Supreme Court sent America a very clear message; desecrating the flag, they said, is somehow an act of free speech protected by all of the force of the U.S. Constitution. Now it is up to us to send a response to the Supreme Court. It is time to send, as one U.S. Senator put it, ''A We the People response'', that there should be no tolerance for those who deliberately dishonor the flag and all of the precious things that it stands for.

Opponents of this amendment argue that the Constitution permits absolute freedom of speech. They declare that if freedom of expression is not protected absolutely, it is by definition diminished. But history can lead us to the opposite conclusion. When every conceivable outrage is permitted in the name of free speech, law and order soon breaks down and the rights of every citizen are threatened. 2,500 years ago Socrates warned that, ''Excessive freedom leads to anarchy and anarchy leads to tyranny''.

As we enter this fight, we must remember that the Constitution of the United States belongs not to the U.S. Congress, not to the Supreme Court, not to the media; it belongs to all of the American people. Let the people in the States decide. Let the people decide because, after all is said and done, it is their flag.

Mr. BEILENSON. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise to oppose this rule. Is it not ironic that this closed rule that we are dealing with today comes on a constitutional amendment that is designed to restrict the free speech rights of the first amendment of the U.S. Constitution? Is it not even more ironic that tomorrow we are going to be dealing with the Republican budget resolution, the final budget resolution which will be on the floor and that budget resolution makes cuts in veterans' medical care and benefits, a resolution that cuts $32 billion out of veterans' programs over the next 7 years.

Under that resolution by the year 2002, more than half of the veterans who presently are served by the VA health care system, more than half of them will not be served. Thousands of beds will be closed, rationing of their health care will be imposed, and the prescription drug payments will be increased dramatically.

Is it not ironic that those people who have served the flag, served this Nation the most, will see those kinds of cuts, and it is going to be covered up by this particular debate.

Mr. Speaker, our flag generates the most intense national pride and reverence. Our flag is in no danger whatsoever of losing that position of pride and reverence. As such, anyone who burns or tramples the flag contemptuously as a part of dissent defeats their very cause. The proposed amendment that we have before us would be the first amendment adopted to the Bill of Rights to restrict free speech. It is not necessary, the flag is not in danger, but the adoption of this amendment endangers every American citizen's free speech rights.

Mr. BEILENSON. Mr. Speaker, I yield myself the balance of my time to close if I may.

Mr. Speaker, I include the following data on floor procedure for the RECORD:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPLIED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPLIED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a ''Queen of the Hill'' procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a ''Queen of the Hill'' procedure; All points of order are waived against the amendments.	5D; 26R
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D
H.R. 655	Hydrogen Future Act	H. Res 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives c1 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives c1 7 of rule XVI, c1 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery of the State of Iowa	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.0
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D;1R
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	.....
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waivers sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. XXX	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A

*Contract Bills, 67% restrictive; 33% open. **All legislation, 62% restrictive; 38% open. ****Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. ****Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

Mr. BEILENSON. Finally, Mr. Speaker, as I said at the very outset, this is a controversial, important and difficult question to resolve. It deserves a more open and fair procedure for its consideration than that which was granted by our Republican colleagues on the Committee on Rules.

Mr. Speaker, I urge my colleagues to defeat the previous question. If the previous question is defeated, I shall offer a substitute amendment to the rule. The alternative rule will allow 2 hours of general debate and make in order the Bryant substitute, the Skaggs substitute, and the Thornton substitute, with each substitute debatable for 1 hour. At this point, I include the rule I intend to offer in the RECORD; as follows:

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H. RES. 173

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

That upon 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 the consideration of the joint resolution (H.J. Res. 79) proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States. The first reading of the joint resolution shall be dispensed with. General debate shall be confined to the joint resolution and shall not exceed two hours equally divided and controlled by the Chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five

minute rule and shall be considered as read. No amendment shall be in order except the following amendments in the nature of a substitute printed in section 2 of this resolution: (1) an amendment in the nature of a substitute offered by Representative Bryant of Texas or his designee; (2) an amendment in the nature of a substitute offered by Representative Skaggs of Colorado or his designee; and (3) an amendment in the nature of a substitute offered by Representative Thornton of Arkansas or his designee. The amendments in the nature of a substitute shall be considered as read, are each debatable for one hour equally divided and controlled by the proponent and an opponent thereto and are not subject to amendment. All points of order are waived against the amendments in the nature of a substitute printed in this resolution. At the conclusion of the consideration of the joint resolution for amendment the Committee shall rise and report the joint resolution to the House with such amendment as may have been adopted. The previous question shall be considered as ordered on the joint resolution and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2.

(1) Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

''ARTICLE—

''SECTION 1. The Congress and the States shall have power to prohibit the burning, trampling, soiling, or rending of the flag of the United States.

''SECTION 2. For the purpose of this article of amendment, the Congress shall determine by law what constitutes the flag of the United States, and shall prescribe procedures for the proper disposal of a flag.''.

(2) Strike the resolving clause and all that follows and insert the following:

''Whereas freedom and liberty protected by the Constitution are fundamental and precious rights of each American;

Whereas the flag of the United States is an historic and revered symbol of that freedom and liberty;

Whereas generations of Americans have fought with valor under the flag to protect the sacred values it represents;

Whereas all the people of the United States, and their representatives in Congress, should show respect and affection for the flag;

Whereas the flag has been a source of inspiration for freedom-seeking people around the world;

Whereas deeply held respect and affection for the flag have caused many to propose an amendment to the Constitution to protect the flag from desecration; and

Whereas an amendment to the Constitution, expanding the powers of government to prohibit offensive behavior, would entail a limitation on freedoms previously protected under the First Amendment: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States expresses deep respect and affection for the flag of the United States, and states its abiding trust in the freedom and liberty which the flag symbolizes.''

(3) Strike the resolving clause and all that follows and insert the following:

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 ''Flag Protection Act of 1995''.

SEC. 2. FLAG PROTECTION.

Each copy of the flag of the United States that is intended to be displayed as a flag and is made after the date of the enactment of this Act shall belong to the people of the United States and be held in trust for them by the Government of the United States. The United States therefore has a property interest in each such copy, and such copies are subject to rules and regulations made under section 3 of article IV of the Constitution of the United States. On this basis, the Secretary of the Treasury is authorized to make rules for the use and disposition of such copies. Such rules shall allow for the sale and transfer of the rights to possess and use such copies. Any damage to or destruction of such a copy that is in violation of such rules is a depredation against the property of the United States for the purposes of section 1361 of title 18, United States Code.

Mr. BEILENSON. Mr. Speaker, I urge Members to vote against the previous question and against the rule.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time to close debate on this rule.

Mr. Speaker, we have heard a lot of criticism of this rule. I would welcome Members to come over and look at the CONGRESSIONAL RECORD of 1983 when the equal rights amendment was brought before this body under suspension of the rules, 40 minutes of debate, no motion to recommit, no amendments allowed, no substitutes allowed. We have not done that.

Let me tell what we have done. We are debating a rule now that has 1 hour of debate, and it is equally divided. Those in opposition have half an hour, we have half an hour. Then we go into the general debate on the constitutional amendment. That is equally divided. Both sides have equal time. Then we go into what is allowed in the motion to recommit, and that is any germane amendment, any germane substitute that the opponents would care to offer.

I have just heard my good friend, the gentleman from California [Mr. BEILENSON], say that his motion to defeat the previous question would make in order 3 kinds of substitutes. One is a constitutional amendment that was offered by the gentleman from Texas [Mr. BRYANT], who never bothered to come to the Committee on Rules in defense of his amendment, never bothered to even come up there.

□ 1145

Among the other two, one is a sense-of-Congress resolution by the gentleman from Colorado [Mr. SKAGGS] that is not germane to a constitutional amendment. It is simply a sense of Congress. The other is a statute. But you cannot allow substitutes in the form of statutes to a constitutional amendment.

So, Mr. Speaker, what we are allowing is what is allowed under the rules of the House: the Bryant amendment in whatever form he cares to offer it, as an amendment, as a substitute, as a motion to recommit. That is in order and that will be immediately brought to the floor, if he cares to ask for it, after the one hour of general debate.

Ladies and gentlemen, what we have before us today is a simple one-sentence amendment that has been asked for by 49 States; every State but Vermont. It simply says the Congress and the States shall have power to prohibit the physical desecration of the flag of the United States of America.

Pay attention to that, because that is not a constitutional amendment that bans physical desecration of the flag. It does not do that at all. What it does is empower the 50 States, one at a time, to pass a law which would provide for criminal penalties for those that would physically desecrate the American flag. Or the Congress could pass such a law.

That is what we are doing. If we pass this today, we will then send it out to the States to be ratified by those States. Three-quarters of the States have to ratify it. That is all we are asking, that 80 percent of the American people be allowed to have their vote.

This is it. Look at it. And here are over a million signatures gathered by the veterans organizations that are sitting in this gallery and that are all out in the halls and around this complex today.

All they want is the right to ratify. Give them that chance. That is what this country is all about. I urge a yes vote on the previous question and a yes vote on the rule.

And then, ladies and gentlemen, we are going to pass that constitutional amendment. Two-thirds of this Congress is going to speak on behalf of those 80 percent of the American people who demand this right to vote on the constitutional amendment.

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

The previous question was ordered.

The SPEAKER pro tempore (Mr. DUNCAN). The question is on ordering the previous question.

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

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

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

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5(b)(1) of rule XV, the Chair may reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adopting the resolution.

The vote was taken by electronic device and there were—yeas 258, nays 170, not voting 6, as follows:

[Roll No. 428]

YEAS—258

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—170

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moran
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Woolsey
Wyden
Wynn
Yates

NOT VOTING—6

Gibbons
Hoyer
Kasich
Moakley
Reynolds
Torres

□ 1209

Mr. MASCARA changed his vote from ''yea'' to ''nay.''

Mr. GORDON changed his vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DUNCAN). The question is on the resolution.

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

RECORDED VOTE

Mr. BEILENSON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. By a previous order of the Chair, this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 271, noes 152, not voting 11, as follows:

[Roll No. 429]

AYES—271

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)
Zeliff
Zimmer

NOES—152

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt

Geren	Mascara	Rush
Green	Matsui	Sabo
Gutierrez	McCarthy	Sanders
Hall (OH)	McDermott	Sawyer
Hamilton	McHale	Schroeder
Harman	McKinney	Schumer
Hastings (FL)	McNulty	Scott
Hefner	Meehan	Serrano
Hinchey	Meek	Shays
Holden	Mfume	Skaggs
Jackson-Lee	Miller (CA)	Slaughter
Jacobs	Mineta	Spratt
Jefferson	Minge	Stark
Johnson (SD)	Mink	Stenholm
Johnson, E. B.	Moran	Stokes
Johnston	Nadler	Studds
Kanjorski	Neal	Stupak
Kaptur	Oberstar	Tanner
Kennedy (MA)	Obey	Tejeda
Kennedy (RI)	Olver	Thornton
Kennelly	Ortiz	Thurman
Kildee	Orton	Torricelli
Kleczka	Owens	Tucker
Klink	Pallone	Velazquez
LaFalce	Pastor	Visclosky
Lantos	Payne (NJ)	Ward
Levin	Pelosi	Waters
Lewis (GA)	Peterson (FL)	Watt (NC)
Lofgren	Poshard	Waxman
Lowey	Rangel	Williams
Luther	Reed	Woolsey
Maloney	Richardson	Wyden
Markey	Rivers	Yates
Martinez	Roybal-Allard	

NOT VOTING—11

Burton	Livingston	Reynolds
Gibbons	Meyers	Vento
Hoyer	Moakley	Young (FL)
Hyde	Pomeroy	

□ 1218

Ms. VELÁZQUEZ and Mr. BERMAN changed their vote from ''aye'' to ''no.''

Mrs. CLAYTON changed her vote from ''no'' to ''aye.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, I missed the last rollcall vote, No. 429. I ask that the RECORD reflect had I been present I would have voted ''aye.''

PERSONAL EXPLANATION

Mr. POMEROY. Mr. Speaker, I inadvertently missed rollcall vote 429. I was just off the House floor meeting with North Dakotans on legislative matters. Had I been present, I would have voted ''nay.''

CONSTITUTIONAL AMENDMENT TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 173, I call up the joint resolution (H.J. Res. 79), proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States, and ask for its immediate consideration in the House.

The clerk read the title of the joint resolution.

The text of House Joint Resolution 79 is as follows:

H.J. RES. 79

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

''ARTICLE—

''The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States.''.

The SPEAKER pro tempore. Pursuant to House Resolution 173, the gentleman from Florida [Mr. CANADY] and the gentleman from Michigan [Mr. CONYERS] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is no greater symbol of our unity, our freedom, and our liberty than our flag. In the words of Justice John Paul Stevens:

> It is a symbol of freedom, of equal opportunity, of religious tolerance, and of good will for other peoples who share our aspirations.

Our flag represents We the People—the most successful exercise in self-government in the history of the world.

In 1989 in Texas versus Johnson, the Supreme Court of the United States in a narrow 5 to 4 decision, invalidated the laws of 48 States and an act of Congress depriving the people of their right to protect the most profound and revered symbol of our national identity. In 1990, Johnson was followed by the decision in United States versus Eichman, which held unconstitutional a Federal statute passed by Congress in the wake of the Johnson decision.

House Joint Resolution 79 proposes to amend the Constitution to restore the authority of the Congress and the States—which was taken away by the Supreme Court—to pass legislation protecting the flag from physical desecration.

I believe, as do many of my colleagues, and eminent jurists such as former Chief Justice Earl Warren and Justice Hugo Black—ardent defenders of the first amendment—that the Constitution, properly interpreted, allows Congress and the States to prohibit the physical desecration of the U.S. flag.

Justice Black bluntly stated:

> It passes my belief than anything in the Federal Constitution bars a State from making the deliberate burning of the American flag an offense.

The Solomon-Montgomery amendment will overturn the opinions of the Supreme Court in Johnson and Eichman by restoring the authority to Congress and the States to prohibit the physical desecration of the flag.

This amendment poses no threat to free speech. As legal commentator and columnist Bruce Fein testified before the Subcommittee on the Constitution:

> I don't think [the flag desecration amendment] really outlaws or punishes a person's ability to say anything or convey any idea. Indeed, every idea that is conveyed by burning a flag can clearly be conveyed without burning the flag using your vocal cords, for example, and therefore it doesn't, in my judgment threaten to dry up rich political debate.

As Chief Justice Rehnquist stated in his dissent in the Johnson case, the physical desecration of the flag:

> . . . is the equivalent of an inarticulate grunt or roar that, it seems fair to say, is most likely to be indulged in not to express any particular idea, but to antagonize others.

In protecting the flag from physical desecration we will do nothing to impede the full and free expression of ideas by Americans.

The people of the United States—through their elected representatives—have the power and the right to amend the Constitution under article V. After the amendment is ratified by the States, legislation will need to be crafted to prohibit the physical desecration of the flag.

In an unprecedented demonstration of public support, the legislatures of 49 States have called on this Congress to exercise its power under article V and to submit a flag protection amendment to the States for ratification. We should not ignore the 49 legislatures which have called for action. We should listen to them and pursuant to article V.

Our flag was raised at Iwo Jima, planted on the moon and drapes the coffin of every soldier who has sacrificed his or her life for our great country. It is a national asset, a national asset which deserves our respect and protection. Indeed our flag is a national asset which deserves to be protected from physical desecration as much as the Capitol Building itself, or the Supreme Court, or the White House.

I say to my colleagues, ''If you want to protect the flag, this unique national asset, from physical desecration, you must support the Solomon-Montgomery constitutional amendment. There is no other way.''

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

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that the majority be granted an additional 10 minutes of time for general debate to be controlled by the gentleman from Mississippi [Mr. MONTGOMERY] and that the minority be granted an additional 10 minutes of general debate to be controlled by the gentleman from Arizona [Mr. KOLBE] which would give each side 40 minutes of general debate.

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

There was no objection.

Mr. CONYERS. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, my colleagues, I rise as a patriotic American and a veteran today to debate under a very restricted rule the consideration of a constitutional amendment to outlaw the physical desecration of the flag of the United States. If adopted, this amendment would represent the first time in our Nation's history that we will have altered the Bill of Rights to limit freedom of expression.

Along with other constitutional amendments being considered, this Congress, relating to the budget, to term limits, to school prayer, the flag desecration proposal can be viewed, in my view, as a broad-ranging effort by the Republican majority to alter our fundamental national charter and to unintentionally undermine our commitment to individual liberty.

I deplore flag burning, but I am concerned by amending the Constitution we will be elevating a symbol of liberty over the liberty that it protects and provides itself. What I mean is that the true test of any nation's commitment to freedom, to freedom of expression, lies in its ability to protect unpopular expression such as flag desecration. As Justice Oliver Wendell Holmes wrote as far back as 1929, the Constitution protests not only freedom for the thought and expression we agree with, but freedom from that thought that we hate. By limiting the scope of the first amendment's free speech protections, the supporters of the flag desecration amendment will be setting a most dangerous precedent. If we open the door to criminalizing constitutionally protected expression related to the flag, it will be difficult to limit further efforts to censor speech; certainly it would be hard to justify a constitution which bans flag burning but does not prohibit burning a cross or the Bible.

Mr. Speaker, once we decide to limit freedom of speech, limitation of freedom of speech and religion will not be far behind. I quote former solicitor general Charles Free, who testified:

> Principles are not things that you can make an exception to just once. The man who says that you can make an exception to a principle may not know what a principle is, just as a man who says that only once let's make two plus two equal five does not know what it is to count.

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

Mr. CANADY of Florida. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules.

□ 1230

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I cannot tell you how excited I am that finally we are going to have the chance to pass this amendment that will restore the flag to its rightful position of honor. It has been a long time coming since that tragic day back in 1989 when five Supreme Court Justices decided it was OK to burn the flag and thereby hurt so many feelings around this country. Just ask all of the supporters you see here in this gallery and all over this Capitol here today in their uniforms, who put thousands of hours into the grassroots effort to pass this amendment. That is why I am so proud to be on the floor today sponsoring this amendment on behalf of the American people.

Mr. Speaker, today we are going to hear the same arguments against this amendment that we have heard for years now. I respect the opinions of those opponents. That is their first amendment right. But, Mr. Speaker, supporters of this amendment come to the floor today with the overwhelming support of nearly 80 percent of the American people. All around this Capitol today you see all of the major veterans organizations who, along with 100 organizations making up the Citizens Flag Alliance, have asked for this amendment to be put forth to the American people. They are the people who have spearheaded this grassroots effort. In fact, you can see for yourself the stack of over 1 million names of all our constitutions that are right here on the table. One million. I invite all Members to come over here and take a look at them.

Mr. Speaker, perhaps most impressive is the resounding support from the States around this country. Forty-nine out of the 50 States, and that is what is in this book, 49 of 50 States, have asked Congress to pass this flag protection amendment and send it to them for ratification. This amendment, not one watered-down or changed by amendment. Mr. Speaker, when have 49 out of 50 States agreed on anything?

Mr. Speaker, some opponents of this amendment claim it is an infringement of their First Amendment rights of freedom of speech, and they claim if the American people knew it, they would be against this amendment. Well, there is a recent Gallup poll taken of people outside the beltway, that is real people, you know, real down-to-earth people. Seventy-six percent of the people in that poll say no, a constitutional amendment to protect our flag would not jeopardize their right of free speech. In other words, they do not view flag burning as a protected right, and they still want this constitutional amendment passed, no matter what.

Mr. Speaker, we should never stifle speech, and that is not what we are seeking to do here today. People can state their disapproval for this amendment. They can state their disapproval for this country, if they want to. That is their protected right. However, it is also the right of the people to have a redress of grievances and amend the Constitution as they see fit. They are asking for this amendment.

Therefore, I am asking you to send this amendment to the States and let the American people decide. That is really what this is all about, speaking of Old Glory, Mr. Speaker, and America. It is what makes us Americans and not something else. Over the past two centuries, especially in recent years, immigrants from all over this world have flocked to this great country. They know little about our culture, they know nothing about our heritage, but they know a lot about our flag. They respect it, they salute it, they pledge allegiance to it.

Mr. Speaker, it is the flag which has brought that diverse group together. It is what makes them Americans. No matter what our ethnic differences are, no matter where we come from, whether it is up in the Adirondack Mountains of New York where I come from, whether it is Los Angeles, CA, it does not matter what our ideology is, be it liberal or conservative, we are all bound together by those uniquely American qualities represented by that flag behind you, Mr. Speaker.

It is only appropriate that the Constitution, our most sacred document, include within its boundaries a protection of Old Glory, which is our most sacred and beloved national symbol. All that lies before us now, all that is required, is for each of us to get the patriotic fire burning in our belly and come over here and vote for this. We need 290 votes. Get over here and let the American people decide. Put this out to them.

Mr. BRYANT of Texas. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Texas.

Mr. BRYANT of Texas. If we are going to do what the gentleman is advocating, why don't we describe what the flag is here in the Congress and pass a constitutional amendment permitting the Congress to prohibit flag burning? Otherwise all 50 States write a different definition of desecration and all 50 States write a different definition of what the flag is.

Mr. SOLOMON. Mr. Chairman, is it not funny, for 200 years nobody infringed on this? We are just going to put the Constitution back to where it was before five out of nine judges tore down this Constitution and said this protection of the flag was invalid.

Mr. BRYANT of Texas. Three of the five judges were Republicans, Mr. SOLOMON.

Mr. SOLOMON. So what?

Mr. BRYANT of Texas. So why not pass laws here today that will stand the test of time, rather than having 50 different laws? We have a substitute that just says it is going to be one law. Does that not make more sense?

Mr. SOLOMON. The gentleman's substitute is in order. Offer it.

Mr. BRYANT of Texas. I will. I hope you vote for it.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in strong opposition to House Joint Resolution 79.

Mr. Speaker, I rise in strong opposition to House Joint Resolution 79. This legislation typifies the GOP leadership's mad rush throughout the 104th Congress to stifle individual rights and freedoms in our great country merely to appease certain constituencies. Last week we saw over 1 million Americans denied representation when voting was cut off in this Chamber so that Republicans could get to a fund-raising dinner.

Every time I turn around the Republicans are trying to amend the Constitution which has served this country well for all these years. They want to amend the Constitution against a woman's right to choose. They want to amend the Constitution to mandate the balancing of the budget. They want to amend the Constitution to mandate school prayer. They want to amend the Constitution to mandate term limits. Now they want to amend the Constitution so they can cut off the very free speech and open expression that defines our democracy simply because they feel benefits will flow to them politically by its passage. I say: let us end this charade once and for all.

I agree with my colleagues and the vast majority of Americans who find the act of desecrating the flag absolutely distasteful. However, it is a form of expression and, therefore, must be protected under the first amendment.

When it comes to amending the Constitution, we must always ask the questions Is it the right thing to do? and What would James Madison and the other framers of the Constitution do?

It is my belief that, with respect to flag desecration, they would not favor any change in the Constitution which they wrote and none in the Bill of Rights, the rock upon which our democracy has stood for over 200 years.

When I ask myself ''What makes America great?'' at the top of the list is the first amendment. Worldwide, millions have struggled, fought, and died to experience the freedom of expression which is such an integral part of our society that it is often taken for granted. On the hierarchy of national treasures, it reigns supreme.

Madison knew this. The first amendment was not drafted with exceptions. A few have since been created by the Supreme Court for public safety and the like, but never for what some, or even most of us, might deem to be offensive forms of political speech or protest. Political demonstrations were the foundation of our Nation and remain a vital part of the democratic process. That heritage is not ours to change. When we took the oath of office, ''to support and defend the Constitution of the United States,'' no one suggested an exception for popular campaign issues.

The good fortune which all of us in America share is the right to live in and enjoy the benefits of the greatest country in the world. I love the United States and bristle at anyone who chooses to defile any national symbol, including the flag.

However, for me, the bottom line is simply the question of which is more important: the flag or the Constitution. One is a treasured symbol of our pride and patriotism, made of cloth that some people will tear, burn, or trample. The other is a set of basic principles which embody the best of what is American.

Mr. Speaker, does it make sense to canonize the symbol by utterly destroying what it represents? I do not believe so and, therefore, do not support House Joint Resolution 79. It is misguided and it is wrong-headed.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Hawaii [Mrs. MINK].

(Mrs. MINK of Hawaii asked and was given permission to revise and extend her remarks.)

Mrs. MINK of Hawaii. Mr. Speaker, I rise in opposition to House Joint Resolution 79.

Mr. Speaker, the first amendment is the touchstone of our constitutional democracy. It enriches our national discourse by permitting all views—however obnoxious—to enter public debate. It guarantees the political equality of all citizens by protecting the right of the least popular among us to express our opinion.

The first amendment represents a national promise to tolerate dissent. The Supreme court repeated that promise not too long ago when it ruled that any meaningful protection of speech must protect political speech even when we do not like it, even when it involves dishonoring the flag.

The flag is a beautiful symbol of the United States, of our history, of our constitutional principles—and of our struggles to be a more perfect democracy. It is precisely because of its power as a political symbol of the liberties we have fought to defend and extend that we need to uphold the right of individuals to free expression. To amend the Constitution to censor the content of political expression would erode the very liberties for which the flag is a symbol.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I must say one of the reasons our flag has become so important and such an important symbol is because there was such substance behind it. I find it very sad that we are rushing today to change this Constitution with very little debate, after over 200 years of not doing it, when at really the same time we are going to have a budget coming shortly that is going to take $32 billion worth of cuts out of veterans programs and another $7 billion worth of cuts out of veterans health care over the next 7 years. It seems to me we are going to be gutting the substance that this very symbol stands for.

We also, in this great rush to do this today, are dealing with the time where we just have the majority decide they are going to close the flag office. No more flag flying over the Capitol for American citizens who buy those flags and want that symbol.

What does that mean?

I think we are really trying to distract people almost from what is really going on in this body by this action today, and I find it very sad. When you read this amendment, this amendment does not say flag burning. This amendment says flag desecration. What does that mean? A 32-cent stamp with a flag on it could be cancelled and someone could consider that desecration, because we the Congress will not just be the only ones defining that. All the States will be able to define what that means, too. It could very clearly be different in different places.

So you hear flag burning, but you better read, because when you read, it is something entirely different, and the standard is going to be very different. I wonder why this rush, why this hustle, why we cannot really debate this openly and why this now.

When you look at what the facts are, they tell us that there were just a few flag burnings. In fact, there were three in 1994, and there were none that they had on record, according to Congressional Research, the year before. Yes, zero, none.

So why the rush to this symbol? I think it is to fog what we are doing to the subtance of being an American.

Mr. Speaker, I submit for the RECORD an editorial from the June 21 Rocky Mountain News that I think puts the flag desecration issue in perspective.

I'm personally affronted by flag desecration, but, like the editorial writer, I am more affronted by big government efforts to stifle the free speech the flag represents.

That's why I have joined my colleagues, Representative DAVID SKAGGS of Colorado and Representative JIM KOLBE of Arizona, in sponsoring the alternative resolution to the proposed constitutional amendments to ban flag desecration that the editorial talks about. The resolution simply reaffirms the place of honor that the American flag holds and states that respect for the flag cannot be mandated, especially at the expense of the first amendment guarantee of free speech.

[From the Rocky Mountain News, June 21, 1995]

SYMBOLISM TO THE FORE

According to the Congressional Research Service, there were three flag-burning incidents in 1994—yes, all of three. There were none the year before. Zero. Doesn't flag-burning sound like a practice that is virtually irrelevant to the vast majority of this nation's 260 million citizens?

Yes, but even so, flag-burning remains an irresistible topic for many politicians. This has been the case since 1989, when the Supreme Court ruled that flag-burning was a form of expression protected by the First Amendment. That decision was seized by President George Bush and others, and the political impetus for a constitutional amendment has never died.

Indeed, no fewer than 279 members of the U.S. House of Representatives are now cosponsoring a resolution that would amend the Constitution to permit Congress and the states to prohibit physical desecration of the flag. A vote could occur this month.

Needless to say, we hold no brief for the odd flag burner, but simply see little point in passing a constitutional amendment to outlaw the practice. At the very least, such amendments should deal with issues of great moment, for which there is an upsurge of popular demand. Congressional term limits would be a good contemporary example. Many issues of an older vintage come to mind, too, such as voting rights and the prohibition, and then legalization, of alcoholic beverages.

But there has been no great popular movement for a constitutional amendment on flag-burning. If asked by a pollster, most citizens indicate they favor the idea, but it has been driven forward since its inception by politicians.

As Democratic Rep. David Skaggs points out, not the least of the problems with flag-burning amendments is how far to extend the protection. What about flags with 48 stars? Or small American flags attached to clothing? How about those mini-flags that are planted atop tables and cakes? And what constitutes desecration?

To be sure, the authors of the Bill of Rights probably meant only to protect speech involving actual verbal or written utterances. Yet even if the Supreme Court's flag-burning decision is dubious, there is no doubt that the protest act itself is meant as a political statement. Why such eagerness to suppress dissident, if obnoxious, views?

Skaggs and Rep. Jim Kolbe, R-Ariz., are offering an alternative resolution to the House that honors the flag but leaves the Constitution untouched. Don't expect it to succeed, though. Not when there is a chance to corral a practice that has occurred an average of 1½ times annually during the past two years.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of House Joint Resolution 79.

Mr. Speaker, what is proposed here today is not unprecedented. We are proposing to overturn a Supreme Court decision which is wrong, just as wrong as the Dredd Scott decision which provoked the 13th, 14h and 15th amendments to be proposed by Congress, just as wrong as the Supreme Court's decision invalidating the income tax which resulted in a constitutional amendment, and just as wrong as the Supreme Court's decision in the first decade under our Constitution on court jurisdiction that provoked the 11th amendment to be ratified by the States after being proposed by the Congress.

So the question before us here today is whether or not you agree with the 5-to-4 majority of the Supreme Court that flag burning is protected free speech. If you think it is protected free speech, go ahead and vote no on this constitutional amendment. If you object to the Supreme Court's decision, vote aye, and you are not setting a new precedent, because that has been done at least five times in the history of this country, when Congress and the States have flat out said those judges over there are wrong. They are wrong this time, and we ought to pass this amendment and send it to the States for ratification.

The SPEAKER pro tempore. Under the unanimous-consent agreement, the gentleman from Arizona [Mr. KOLBE] is recognized for 10 minutes.

Mr. KOLBE. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, I rise today in opposition to House Joint Resolution 79, a proposed constitutional amendment to ban flag burning.

I am a Vietnam veteran, a combat veteran. I am not sure I know why I have to state that credential, as though somehow my credentials would not be valid to speak in opposition to this amendment were I not a combat veteran. Let me lay that issue to rest. You can be for this amendment or against it whether you ever served in uniform or in combat. We are all Americans and our patriotism should not be questioned wherever we stand on this issue.

Mr. Speaker, this House is bringing fundamental change to the Federal Government. We are altering the very relationship Washington has with the States and the American people. And that should continue to be our focus.

This year we have voted on two constitutional amendments—one to require Congress to balance the budget, the other to limit terms of Members of Congress. I supported both amendments. They either proposed to alter the institutions of our National Government or to fundamentally change the way Congress conducts its business.

Mr. Speaker, there is not a crisis of disrespect for the American flag as a symbol of this great country. There is not a rash of flag burning. In fact, the Congressional Research Service reports that there were all of three incidents of flag-burning in 1994. We can count on our fingers the flag burning incidents since the Supreme Court ruled that such behavior—despicable though it may be—is constitutionally protected. I disagreed with that Court decision. I do not believe our Founding Fathers contemplated that a physical act of desecration of the flag would be construed as speech. Nonetheless, that is the ruling, and it is one that we can live with.

Mr. Speaker, I will not dwell on the many questions this proposed amendment raises—does it include flag patches or a uniform? Are partial reproductions of flags covered by the intent of the amendment? Suffice it to say that this amendment very simply is not necessary.

We honor our flag with our behavior every day. We show our respect in large ways and in small ways. But this body could do nothing more fundamental to honor our country—and its symbols—than by restoring fiscal responsibility to this Government.

So let us get on with the business we were sent here to do. Let us balance the budget, let us return responsibilities to the States, let us empower the American people. We do not need to pass a constitutional amendment on the flag to show that we love and respect this great symbol of America. We cannot legislate patriotism and we cannot pass laws to make people love their flag.

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

The SPEAKER pro tempore. The gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, we need to set the record straight. They are saying that flags had not been burned around the country, and they are going back to 1994. Only two blocks from here, Mr. Speaker, they burned two flags on June 14. A fellow had a nice cake down there and was passing out the cake, and two nuts came up and started burning the American flag. The Interior Department tried to stop them.

So we need this bill. They are burning the flags only two blocks from here.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

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

Mrs. KENNELLY. Mr. Speaker, some years ago, this House voted on a constitutional amendment to prohibit desecration of the flag. I voted against that amendment because I felt—and still do—that the Constitution should be amended only as a last recourse. I had hoped a statute prohibiting desecration of the flag would reach the same end. The statute passed but was overturned by the Supreme Court.

Once again, Congress is considering a flag desecration amendment. This time, I plan to vote for it.

It is not that my views about the flag have changed; I have always felt that desecration should be against the law. And it is not that my views about the Constitution have altered; changes to this document must be kept to a strict minimum. But given the fact that a law will not stand, I believe a constitutional amendment is warranted. I do not believe we endanger our freedoms by protecting our flag.

Like every Member of Congress, I am constantly aware of our flag. I salute it on the House floor in the morning; I often bring a flag to a school or a firehouse when I am home. When I review a parade—on Memorial Day, Veterans Day, or the Fourth of July—I never see the flag pass without my heart expanding with love.

And I am constantly aware of how Americans revere their flag.

The various anniversary celebrations of World War II demonstrated so strongly the significance our flag has for veterans. Men and women who had never heard of Okinawa or Iwo Jima followed the flag to those distant battlefields so democracy could survive.

To Americans, our flag is unique. This amendment recognize this uniqueness in our Constitution in a special way.

I have only once before supported a Constitutional amendment, believing that the Constitution was a near-perfect document. I now believe that the Constitution will be brought even closer to perfection by adding to it a special place for our flag. For this reason, I will support this amendment today.

□ 1245

Mr. CONYERS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York [Mr. SERRANO], an outstanding member of the Committee on the Judiciary.

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

Mr. Speaker, to my right here is the reason why this amendment makes very little sense. Let me first preface by saying that I, too, like the gentleman from New York, served our country's armed services. I was doing it to protect not only the flag but what the flag stands for. I, too, like the gentleman, if I am walking on the street and I see someone hurting our flag, will grab him and slap him around, not because he does not have the right to do it but because he is being stupid.

The problem with this amendment is that it really cannot be enforced fairly. Here are symbols of the flag. The question to be asked is, does this amendment cover these symbols? Will every State uniformly speak to this issue? So if you wear a soccer shirt with the American symbol on it and you sweat it up or you are a terrible soccer player, will that offend somebody and therefore be covered by this amendment?

How about those tacky ties to the far right? One is orangy red; the other one gets even worse because it tries to imitate the flag in a miserable way. That tie really does not look good on anyone, but will it look better on someone and, therefore, be OK? That is a question.

On July 4, this weekend, people throughout this country will be eating cake made out to look like the American flag. Some will be light. Some will be full of cholesterol. Is that offensive to someone? That is a question to be asked.

Get ready for this. You see this flag here? This could be covered by this amendment. This flag was made in Taiwan. If you really want to talk about offending the flag, should not all flags be made in this country by American workers? Buy America, only American flags.

Right here we have a young woman who looks very good in a flag. She has got a flag skirt on. How about someone who does not look good in that flag?

Up here is the symbol of my hometown, Mayaguez, PR, where I was born. It has the Puerto Rican flag and the American flag as symbols of the Commonwealth. Some statehooders use that symbol to express their desire to be the 51st State. Some people who believe in independence or Commonwealth find that offensive to put both flags together. Some might decide that that is improper for their flag or for their Commonwealth, and how would they be protected under this amendment?

The point is a simple point. Do any of these symbols of the American flag get covered under this amendment? If so, why will you not let us discuss the issue of what constitutes the flag and what constitutes desecration of the flag?

I realize that we have an amendment, but we wanted to amend piece by piece to be able to discuss this. The gentleman from New York should know that.

I would think, my colleagues, that the best way to protect our flag is not to worry about what constitutes the flag and what constitutes desecration. If that flag could speak to us, it probably would tell us to stop this silly debate and to do what it stands for. It would tell us to feed the children that are hungry. It would tell us to take care of the senior citizens who need Medicare. It would tell us to stop disliking each other along racial lines. It would tell us to respect each other. If you do that, you honor the flag. If you put this as a question, you make a mockery of the flag.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. BARR].

Mr. BARR. Mr. Speaker, let there be no doubt about it, this is the American flag. I do not think there is any, and I certainly hope there is no, school child in America from the seventh district of Georgia to the first district of New York to the third district of California that does not know that this is the American flag. It is defined in statute. And even if it were not, there is a very commonsense and very broad understanding in America, obviously not to some Members of this Chamber on the other side, as to what is the American flag.

Let us be very clear, Mr. Speaker, about what we are not doing here today, just as we are clear about what we are doing here today. We are not amending the Bill of Rights. We are not limiting free speech, which is what the Bill of Rights talks about. We are limiting offensive conduct. Congress does that every year when we look at our criminal code. There is nothing wrong with that. There are precedents for it every single year of our Union. That is all that we are doing.

The constitutional amendment that is contained in this resolution is very narrow; it is very clear. And more important, Mr. Speaker, the American people are demanding it.

They are demanding that we do for them the one thing, the only avenue that they have left open to them by the Supreme Court of the United States: To give voice to their sentiments, to give voice to their patriotism and protect this flag. If we were today to deny them that opportunity, and that is all I would say to my colleagues on the other side of the aisle, that is all we are doing, is giving them the opportunity to do what the Supreme Court has said: This is the only way you can accomplish what you, the American people, want to do. If we deny them that right, that would be the height of everything that we do not stand for here in this Congress. We stand for representative democracy based on our Constitution.

Let us not, Mr. Speaker, let us not deny to the American people what they are demanding in overwhelming numbers. The stack here before me is but a very small token of that. I urge strong support and adoption of this resolution for the American people.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Indiana [Mr. VISCLOSKY].

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

Mr. VISCLOSKY. Mr. Speaker, I rise in opposition to the pending amendment.

Mr. Speaker, as we debate a constitutional amendment to ban flag desecration, the following questions must be answered. Do people have greater freedom in Communist China and Iraq, where protests that offend the government are crushed violently? Or do people in the United States have more freedom, where offensive political protest is constitutionally protected? In the United States, the flag flies on the mast of freedom and liberty. In China and Iraq, the flag flies on the mast of totalitarian oppression. In which country does the flag fly as a true symbol of national pride?

Some people have said that the last election was a call for freedom from Government intrusion. According to this analysis, people across the Nation who felt that Government had become an oppressive force voted for less Government and more individual freedom. The constitutional amendment to ban desecration of the flag turns this analysis on its head.

I am disgusted and offended by the act of burning the American flag. Burning or otherwise desecrating the flag is a stupid, mean, and reprehensible act. I cannot comprehend why anyone living in our great Nation would want to desecrate this beloved symbol of our country. However, the Supreme Court has ruled that burning the American flag is symbolic political speech, protected by the first amendment to the Constitution—the cornerstone of our freedoms.

As Roger Pilon of the Cato Institute said, ''The principles at stake could not be more simple or clear. Indeed, they are the principles at the core of the American vision. The right of the individual to be free is the right to do what one wishes short of violating the rights of others. That includes the right to do or say what is popular, for sure. But it includes, as well, the right to do or say the unpopular. For it is then, when our actions give offense, that our freedom is put to the test. It is then, precisely, that we learn whether we are free or not.'' Pilon then quotes Sir Winston Churchill's observation that ''the United States is the land of free speech.''

When I was sworn into office, I took an oath to uphold the Constitution of the United States. That document and the principles it embodies have made our country the greatest in the history of the world. For more than 200 years, it has endured—through times of tranquility and tremendous crises. Through two world wars and a civil war bloodier and more costly to our country than both world wars combined, the Constitution has preserved our freedom. Through the Korean war and then through the long years of wrenching involvement in Vietnam, the Constitution has protected the freedom of the people from the oppression of Government.

The U.S. Constitution has made ours a better country than any in the world because it

has guaranteed that certain basic individual rights are more important than the powers of Government. The Constitution says that certain inalienable rights, such as liberty, cannot be invaded by Government—Federal or State—no matter how well-meaning the Government might be.

At times in our history, when we feared the Constitution was not strong enough to protect the rights of every citizen regardless of their situation in life, we amended it to provide greater protection of individual rights. For example, the 13th amendment prohibited slavery and the 19th amendment allowed women to vote.

But never, never, in our history, not because of our greatest fears or in our darkest despair, never have we jeopardized our Bill of Rights. We may very well do that today. And for what terrible threat are we willing to risk our most fundamental constitutional right? Has there been an epidemic of flag desecration sweeping the Nation? Have any of any colleagues seen anyone desecrate the flag? Why, when we have been through such tough times and accomplished so much as a Nation, why would we let a few jerks who have desecrated the flag limit everyone's freedom.

I have two sons, Tim and John. I would not be my father's son if I left my children—or any other American—with fewer freedoms than my father has given me. We are the greatest Nation on Earth in no small part because of the individual freedoms contained in the Constitution and the Bill of Rights. If the Constitution and Bill of Rights were good enough for Washington, Madison, Jefferson, and Franklin and good enough for our Nation to become the world's greatest, it is good enough for this Congress and this Nation.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. REED], a distinguished member of the Committee on the Judiciary.

Mr. REED. Mr. Speaker, I rise in opposition to this amendment. My respect for the flag and reverence for the flag stems from many, many years of service as an Army officer, a graduate of West Point. Indeed, this is not just rhetorical reverence, it is reverence born by experience.

I am offended when the flag is abused, deeply offended. But today we are considering a constitutional amendment which I think, although attempting to preserve the symbol of our freedom, encroaches substantially on the substance of our freedom. I cannot describe that phenomenon any better than the words of James Warner, a former marine flier in Vietnam who was a POW. He wrote an opinion letter back in 1989, when this was being debated before.

Mr. Warner was captured by the Vietnamese. He was being tortured. In fact, at one point the Vietnamese officer showed him a picture of American protesters burning a flag and the interrogator said, ''People in your country protest against your cause. That proves you are wrong.''

Mr. Warner replied, ''No, that proves I am right. In my country, we are not afraid of freedom, even if it means that people disagree with us.''

I do not think we should be afraid of freedom. I think we should in fact support freedom. If we were to pursue a constitutional approach to preserving the flag, it cannot be this approach, because just on technical merits, this fails miserably. As my colleague, the gentleman from New York [Mr. SERRANO], indicated, physical destruction or desecration of the flag is something that encompasses a range of things. Is underwear in the shape of the flag a physical desecration? I believe in many, many cases, it is disrespectful, but is it constitutionally desecration?

More than that, some States could say it is; some States could say no. We would be living in a situation where if you were wearing an American flag tie in one State and crossed the border, you could be arrested. We must reject this amendment. Indeed, we must support the substance of our freedoms.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. GOODLATTE].

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

Mr. GOODLATTE. Mr. Speaker, as an original cosponsor, I fully support this amendment which an overwhelming majority of the American people support and feel strongly that it is an important addition to the Constitution. Through their elected representatives, the people have spoken: 49 of the 50 State legislatures, including my State of Virginia, have passed resolutions calling on Congress to pass this amendment.

The American flag is the most powerful symbol of the United States. It represents the ideals of freedom, equality and liberty on which this Nation was founded. The Stars and Stripes have led our Nation, our Armed Forces in conflict time and again, reassuring our troops and reminding them of what they were fighting for.

Many Americans have given their lives carrying that flag and protecting it. Many Americans are outraged when we think of our grand flag being desecrated. We are not altering the Bill of Rights as some in the minority has said. I am a staunch defender of first amendment rights. I do not believe that burning a flag is free speech despite what the Supreme Court has said in two wrong-headed decisions.

Talking about the flag is free speech. Criticizing America and its Government, for those who care to do so, is free speech. But physically desecrating an American flag is not. Americans know speech when they see it, and they know that what Gregory Lee Johnson and Sara Eichman, the defendants in those court cases, did to the American flag is not free speech.

The American people want us to confirm what one of the verses of America the Beautiful asks our Nation, ''confirm thy soul in self-control, thy liberty in law.''

Pass the amendment.

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MASCARA], a member of the Committee on Veterans' Affairs, a new Member of Congress and a great patriot.

Mr. MASCARA. Mr. Speaker, I thank the gentleman from Mississippi for yielding time to me.

Mr. Speaker, I rise to express my support for House Joint Resolution 79, the amendment to protect the flag. Many members of my immediate family including myself have served in the Armed Forces to protect the American flag. My father, a decorated veteran of World War I, was the first member of my family to serve in the Armed Forces of the United States of America.

He did not fight in World War I and earn a Silver Star for someone to burn the flag that he served under. My brothers, veterans of World War II, did not fight for someone to burn the flag that they fought to defend. From my family's record of service I have learned both great respect and love for my flag.

Moreover, I have long supported the effort to protect the American flag from desecration. Unlike my father and brothers, my battle is not on foreign soil. But I defend our flag in the most ironic of all places—the floor of the U.S. House of Representatives. I have joined them in the battle to protect our flag.

Our American flag must be protected. It is more than a mere symbol of our Nation. Our flag is the living embodiment of what this Nation stands for, freedom, liberty, justice, and equality. When someone destroys our flag he is saying that he would destroy those values for which our flag stands. He is saying that he does not believe in justice. He does not believe in liberty. He does not believe in equality. He does not believe in the United States of America.

I assure my well meaning opponents, this debate is not about curtailing protest or an infringement of first amendment rights. Most forms of protest are patriotic and very American. In fact, many competing protest movements have as their center piece our American flag.

Our flag flies above the protesting factions proudly casting a shadow on the protesters below. Our flag unites these people. Our flag proves to the world that while we may disagree, we all are united by one common bond—we are Americans.

In closing I would like to share with you a section of a poem given to me by one of my constituents, Mary Smith, of Fayette County, PA.

''Old Glory'' is my nickname and proudly do I wave on high. Honor me, respect me and defend me with your lives and fortunes. Never, never let the enemy bring me down from this place that I hold so high because, if you do—If you do—I may never return.

Please, vote to protect the flag.

□ 1300

Mr. KOLBE. Mr. Speaker, I yield 2½ minutes to the gentleman from Maryland [Mr. GILCHREST].

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

Mr. Speaker, as the House moves closer to a constitutional amendment to ban flag burning, I am reminded strangely enough of the book of Exodus. When the Israelites were given the Ten Commandments, they were warned against graven images as symbols of God. The wisdom of this is obvious. It is easy to confuse the symbol of something with what that symbol represents, and what that symbol symbolizes, so one worships the statue instead of what the statue represents.

Mr. Speaker, the House is about to make a similar mistake, confusing the flag with what it symbolizes. I remember when I came home from Vietnam, after spending 4 years in the Marine Corps, I read about incidents where students were insulting servicemen and waving North Vietnamese flags instead of American flags, and I started to think ''Is this what I and members of my platoon were fighting and dying for?''

It took a few years for me to realize that the right to be obnoxious, the right to be unpatriotic, was the essence of what we are fighting for. Freedom means the freedom to be stupid, just as surely as it means the freedom to be wise. No government should ever be so powerful as to differentiate between the two.

I understand the anger and the frustration of people when they hear about malcontents who burn the flag, and most of the time they do that to get attention. I was raised to respect the flag, and I cannot understand anybody that would do otherwise. However, if these malcontents can get us to alter the Constitution, the very premise and foundation of this country, then they have won and we have lost. I read about a southern State legislator who said that nothing is more stupid than burning the flag and wrapping oneself in the Constitution, except burning the Constitution and wrapping oneself in the flag.

When we accept the principle of free speech, we have to recognize that it is both a blessing and a curse. We have to understand that the reasoned voices of good men will often be drowned out by the blustering of fools. We have to understand that the government will not be able to protect us from speech which is imprudent or offensive, in most cases, and we accept all of this as the price of freedom.

The work of Betsy Ross is beautiful. The flag is an honored symbol which deserves reverence and respect. However, it is meaningless without the work of Jefferson and Madison. How do we protect and show respect for the flag? We are good family members, we are good fathers, good mothers, we serve our country, we serve our community, we serve our Nation, and we serve our family.

Mr. CONYERS. Mr. Speaker, I am delighted to yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

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

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

Mr. Speaker, I revere the flag, I respect the Constitution, and for those reasons, I rise in opposition to the constitutional amendment.

Mr. CONYERS. Mr. Speaker, I am delighted to yield such time as he may consume to the gentleman from Maryland [Mr. CARDIN].

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

Mr. CARDIN. Mr. Speaker, I rise in support of our flag and Constitution and against this constitutional amendment.

Mr. Speaker, 2 weeks ago today, on June 14, I rose on the floor of this Chamber to lead the House in the Pledge of Allegiance to the flag. On June 14, of course, we celebrate Flag Day.

It will come as no surprise to my colleagues to learn that Flag Day is observed with a great sense of history and pride at Fort McHenry, in Maryland's Third Congressional District, which I have the honor to represent. At 7 p.m. that evening, 8,000 Marylanders gathered at the fort from which Francis Scott Key watched the rockets' red glare, to participate in the Pause for the Pledge.

The Pause for the Pledge is organized and directed by the National Flag Day Foundation, which is also based in Baltimore. The foundation began in 1982 to promote Flag Day. Since then, the foundation has received more than 100,000 requests from all over the United States for information on scheduling ceremonies to observe the Pause for the Pledge. This year, more than 600,000 Americans will visit Fort McHenry, seeking to learn more about the stirring events that occurred there in the War of 1812.

We are here to debate the very serious issue of amending the Constitution. Since Francis Scott Key peered through the ''dawn's early light'' for a glimpse of the ''broad stripes and bright stars'', we have added only a dozen new provisions to the Constitution, and none that would compromise the Bill of Rights, as the constitutional amendment before us today would do.

The overwhelming majority of my colleagues now propose that we provide a measure of constitutional protection for the flag, our most treasured national symbol. I understand their feeling for the flag, and their anger at those few misguided fools who would seek attention by desecrating it.

According to the Congressional Research Service, in the past 2 years there have been three instances of individuals burning our flag. The Supreme Court has ruled, wrongly in my judgment, in a 5-to-4 decision, that State statutes aimed at criminalizing such behavior do not stand constitutional scrutiny.

Considering the split opinion on the Supreme Court, we should continue to pursue statutory means of protecting our flag. By pursuing a statutory approach, we will protect both our flag and our Constitution.

Today we are here debating a constitutional amendment to protect our flag. The Republican leadership has given us no opportunity to vote on a statutory approach. In thinking about whether the flag needs protection, however, I have found no need to look to the Constitution. Instead, I would encourage my colleagues to look to the American people. There they will find the flag in good hands, and well-protected.

I have mentioned the events 2 weeks ago at Fort McHenry, and the work of the National Flag Day Foundation. Flag Day provides a special occasion on which Americans proudly show their colors and demonstrate their love of our country and our flag.

Next week we will observe another special day for honoring the red, white, and blue. On July 4, Independence Day, millions of Americans will march in parades, attend festivals, wave the flag, watch fireworks, and gather with their neighbors and friends to celebrate our country's birth.

These 2 days, Flag Day and Independence Day, provide special opportunities for honoring our country and our flag. But we do not need to look at these 2 days a year to find evidence of the American people's feeling for their flag.

This past weekend, more than 180,000 fans filed into Oriole Park at Camden Yards in Baltimore. Before they settled in to watch the Red Sox and the Orioles, they joined in the tradition of singing the national anthem, ''The Star Spangled Banner.''

Every day of the school year, which ended for most Maryland children the day before Flag Day, begins with the Pledge of Allegiance. In my congressional district, nearly 100,000 school children, from kindergartners through high school, know the Pledge of Allegiance and respect the flag.

Mr. Speaker, every day, in ball parks, in school classrooms, at historic sites like Fort McHenry, millions of Americans from all parts of the country and all walks of life affirm their affection for their country and their flag. I salute their patriotism. We have nothing to fear from the pathetic handful of misfits who would burn or otherwise dishonor the flag.

The Constitution sets forth the freedoms we guarantee to every American. The flag symbolizes the freedoms protected in the Constitution. It has been that way for all of our Nation's history.

In the minds and hearts of the overwhelming majority of Americans, the flag and the Constitution stand together. Neither needs protection from the other. Indeed, both the Constitution and the flag derive the protection they need from the American people.

Mr. CONYERS. Mr. Speaker, I am delighted to yield 2 minutes to the gentleman from Virginia [Mr. SCOTT], one of the great constitutional members of the Committee on the Judiciary.

Mr. SCOTT. Mr. Speaker, I think first we want to put what we are doing in perspective. Every year over 2,300 murders occur in my congressional district. We are having cutbacks in health care, we are reducing funding for homelessness, we are reducing funding for veterans' health care, veterans' pensions, we are cutting back on our future by cutting back in education, and here we are, discussing the flag.

Whatever we do with this amendment, Mr. Speaker, there will be no more respect for the flag. Not one of those million people will respect the flag any more or less, depending on what we do. What we will have if we pass this amendment is a legal quagmire about what is a flag and what is desecration. The flag is burned more today in American Legion halls and Boy Scout troops than anywhere else, because that is the ceremony you use for disposing of the flag.

Mr. Speaker, the flag and the principles for which it stand do not need protection from the occasional imbecile who protests without realizing that he is destroying the very symbol of his right to protest, and somebody that cannot figure out that his method of protesting cannot possibly benefit his cause.

Finally, Mr. Speaker, if we do not pass this amendment, we will be sending a message to the American people that we are saying that Americans do not need the criminal code to enforce their patriotism.

Mr. Speaker, I would hope that we would defeat this amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. FLANAGAN].

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

Mr. FLANAGAN. Mr. Speaker, as an original cosponsor of House Joint Resolution 79, I am proud to be here today along with Congressmen SOLOMON and MONTGOMERY, as well as all those patriotic Americans, past and present, who are with us today in the galleries and in spirit, as we take this giant step forward in our long struggle to adopt an amendment to the Constitution which will forever protect our majestic and glorious flag from those ungrateful and disingenuous individuals that purposefully desecrate it. I believe this amendment will be an excellent addition to our Constitution—a document I believe to be the greatest invention ever created by the mind and hands of man—and I urge all my colleagues to support it.

When the Court ruled in 1989, in a 5 to 4 decision, that flag burning in public protest was an act of free speech protected by the first amendment, it did not only free Gregory Johnson, a miscreant who danced around a burning flag chanting, ''Red, white and blue, we spit on you!,'' it also nullified the flag-protection laws in 48 States.

A vast majority of Americans were, and still are, outraged over the Texas versus Johnson decision. Unfortunately, the only sure way of reversing this decision is for the Congress to report to the States for ratification this wonderfully crafted constitutional amendment. The Congress has failed in its previous attempts, but this time I think we have the votes to push it through.

This amendment is long overdue, and while being a veteran is no litmus test of patriotism, as a veteran especially, I feel it is imperative that our beloved symbol of nationhood and freedom be guaranteed the respect that it deserves since it represents the souls of all those departed American heroes who fought so valiantly to protect it for over the last 200 years.

Mr. Speaker, before closing, I want to reiterate my strong support for House Joint Resolution 79 and thank those grassroots groups, especially the veterans organizations, who worked so tirelessly to rally the necessary support for this measure.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York [Ms. SLAUGHTER].

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

Ms. SLAUGHTER. Mr. Speaker, as a 10th generation American who realizes that every country has had a flag and most have a constitution, I would remind my colleagues the one thing that makes us unique is the Bill of Rights. I do not think we need to trifle with it. I rise in opposition to this legislation.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. LOFGREN], a distinguished member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Speaker, debating the rule, I showed everyone my tie that my son got me, and my wonderful flag earrings that my 13-year-old daughter got me. I wore it today because if this amendment were to become part of the Constitution, I could be arrested for wearing this.

I do not feel unpatriotic. We fly our flag at home on holidays. I love my country. I love the flag. What I love more than the flag, Mr. Speaker, is the Constitution that stands behind that flag. We have had our Bill of Rights for 204 years. I have heard that this is not about the first amendment. That is not so, because the Supreme Court has made a ruling, and the Constitution provides that it is the Court that decides final questions of law, not the Congress.

Mr. Speaker, I will never vote to amend the first amendment. I think real conservatives do not want to amend the first amendment or any of the Bill of Rights. Real conservatives do not try to amend the Constitution three times in 6 months.

Mr. WILLIAMS. Mr. Chairman, will the gentlewoman yield?

Ms. LOFGREN. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Speaker, I asked the gentlewoman to yield for the purpose of saying to people, particularly our veterans, I encourage Members to look at the timing of this, the timing of it. Within 24 hours this House, including a majority who vote for amending the Constitution, will vote to cut $17,900,000,000 out of veterans' benefits.

Within 24 hours from where that clock is now, the House of Representatives, and a majority of whom are going to vote for this amendment, will have voted to cut $32 billion below today's veterans services. Do Members know what the timing of this amendment is? It is a duck, a dodge, a camouflage. It is a dupe, a ruse, a subterfuge.

If people are veterans and they are worried about fewer hospitals, they should not worry about that, we are going to save the flag for them. They should not worry about too few outreach centers or losing physicians or losing pharmacies, the Republican leadership is going to save the flag for them. They should not worry that they do not have any veterans' nursing homes; my veterans' friends, the Republicans, are going to save the flag for them. If they are Desert Storm victims, they should not worry about the fact that they are getting inadequate service.

Rudyard Kipling a long time ago wrote about a fellow that came back named Tommy Atkins, a veteran. This is what he wrote:

Now it's Tommy this, an' Tommy that, an' ''Tommy go away;''
But it's ''Thank you, Mister Atkins,'' when the band begins to play.
Now it's Tommy this, an' Tommy that, an' ''Tommy fall be' ind,''
But it's ''Please to walk in front, sir,'' when there's trouble in the wind.
You talk o' better food for us, an' schools, an' fires, an' all:
We'll wait for extra rations if you treat us rational.
Yes, it's Tommy this, an' Tommy that, and ''Chuck him out, the brute!''
But it's ''Savior of his country'' when the guns begin to shoot.
Yes, ''It's Tommy this, an' Tommy that, and anything you please;
But Tommy ain't no blooming fool, you know, Tommy can see.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, the veterans of our country are the first to recognize that the march toward a balanced budget is absolutely necessary for the national security of our Nation, for the standard of living that applies to every American citizen, and for the future security of our country and everyone in it. The veterans are in the front on that march, just as on every other march.

In the meantime, there is a missing element in this debate. That is the heart of Americans. That heart, that collective heart, was horrified beyond belief when they watched on television the hostage crisis in Iran, when our enemies were burning the American flag and otherwise desecrating it. That horror was magnified a thousand times when they saw American citizens, our fellow Americans, doing the same thing on domestic grounds.

That heart can tolerate no longer any further desecration of the symbol that binds all our American hearts together. If I had it in me, I would add

another amendment to make the English language the language of our Nation, because only the flag and the language are the unifying symbols of our country.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. WATT], one of the great new constitutionalists on the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker, I have risen many times in this cherished Hall in defense of the Constitution of the United States. I do so again today. Our flag is but a symbol of our democracy, but our democracy and the freedoms which make it unique and strong are not defined by a symbol, but by the guarantees in our Constitution and our Bill of Rights.

Most of those guaranteed freedoms often do not enjoy a majority support. In some cases, they were written into the Constitution to protect them against the majority. That is what makes our democracy unique. That is what makes America America. What do we gain by protecting the symbol if we fail to protect the rights it symbolizes?

The supporters of this amendment will argue that they are the true patriots, but where were these patriots when the constitutional principles of our democracy were under attack during the first 100 days of this Congress? Where were these patriots when we voted on the language of the fourth amendment?

Mr. Speaker, I come from North Carolina, a State that refused to ratify the U.S. Constitution until the Bill of Rights was incorporated into it. It is a State that recognized in 1792 that our fundamental rights were so important that they had to be delineated in the charter of this Nation. Today I stand in support of that same charter, and I stand patriotically in support of that same charter.

□ 1315

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Speaker, I was in the Hall as I heard the remarks from the gentleman from Montana which were quite disturbing to me, being a Desert Storm veteran.

We all have the intellectual abilities to spin this however we want. Those who are going to vote against this amendment are going to be scared to death going back to their districts. I can understand that. I also respect your intellect. None of us here challenges your patriotism.

Let me do say, though, that I believe that the flag is definitely a national symbol that is worthy of respect and should be protected against acts of disgrace. That is what this issue is about. None of us that will vote to support this amendment challenge the patriotism of those who are going to vote against this amendment, so stop the spinning there and trying to spin politics into this one, also.

I think this is a great credit to our system, where we have 49 States out there come to us and they say, this is what the American people are asking of us. There are some in this body that are going to say no to that. I think that is really unfortunate.

We should listen to the American people. Because the American people when they say, ''We are upset with the direction of the country,'' there are a lot of things that they say about that. One of these is a symbolic vote and one of substance here by supporting this amendment to prevent desecration of the flag.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Colorado [Mr. SKAGGS], who has worked very, very energetically on the proposal before us.

Mr. SKAGGS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, amending the Constitution, and for the first time amending the Bill of Rights, is an extremely serious step. We should take it only under the most compelling circumstances. The few idiots who misguidedly believe that flag desecration will further their cause should not cause us to weaken the first amendment.

What is the grave danger to the Republic that will be remedied by this amendment? There is none. What case can be made that this amendment enhances our constitutional order? None. And absent a significant evil to be avoided, or a significant improvement to be made, we should not undertake the most serious step of all acts of Congress—an amendment to the Constitution.

We have heard a lot this year about cost-benefit analysis in other contexts. What about now? The costs: a real if subtle paring down of the rights of open and free expression; a softening up of the first amendment, making subsequent and more damaging cuts into its protection of freedom that much easier; perhaps the prospect of years of litigation about the multiplicity of definitions of ''flag'' and ''desecration'' which will abound under this amendment.

The benefits: Old Glory will be protected, even as the magnificent freedoms for which it stands are diminished.

Our Nation was founded on the ideals of democracy and freedom, the freedom to speak our minds without interference from Government. And while isolated acts of disrespect for the flag may test our tempers, we should not let them erode our commitment to freedom of speech.

The first amendment and its guarantee of free and open political expression is at the very heart of this Nation's tradition of freedom and self-government. We change it at our great peril.

We do not need to amend the Bill of Rights to show our respect for the flag. Respect for the flag should not be mandated, especially at the expense of the first amendment's guarantee of free speech. It cannot be mandated. That respect, to be genuine, to be a respect that truly honors the flag, cannot be a legal requirement. It must flow from the natural love of our freedom-loving people for the beautiful standard of our Nation and the exquisite symbol of our freedoms.

The great irony here is that a constitutional amendment will ultimately render respect for the flag into a Government mandate, and so sadly will contribute to its own undoing.

Let us not leave a tear in the Bill of Rights.

Mr. Speaker, for the first time in our history, we are on the verge of amending—and weakening—the Bill of Rights. What a shame.

I can think of no better invocation on this debate than the words of Justice Oliver Wendell Holmes: '' * * * we should be eternally vigilant against attempts to check the expression of opinions we loathe * * *''

As a veteran, I have great pride in the American flag. I know the strong feelings of patriotism and pride in flag and country which motivate the supporters of this proposal.

I too am fiercely proud of the values and ideals the flag symbolizes. Our flag should command the deepest respect. I believe the flag commands that respect because it stands for a nation and a community strong enough to tolerate diversity and to protect the rights of those expressing unpopular views, and even expressing them on some regrettable occasions in an offensive manner. It is our Nation's strong commitment to these values, not the particular design of our flag, that makes the United States an unparalleled model of freedom and, in my opinion, the greatest of all the nations.

As an American, I am deeply offended by any act of disrespect to the flag, including physical desecration such as flag burning. But it would be a mistake if, in the attempt to prohibit disrespect for the flag, we show greater disrespect for the Constitution and for the essential liberties of a free people now guaranteed by the Constitution.

There are only a handful of flag burning incidents each year—according to the Congressional Research Service, only three in the past 2 years.

Amending the Constitution, and for the first time amending the Bill of Rights, is an extremely serious step. We should take it only under the most compelling circumstances. The few idiots, who misguidedly believe that flag desecration will further their cause, should not cause us to weaken the first amendment.

What is the grave danger to the Republic that will be remedied by this amendment? There is none. What case can be made that this amendment enhances the constitutional order? And absent a significant evil to be avoided, or a significant improvement to be made, we should not undertake the most serious of all acts of Congress—an amendment to the Constitution.

We've heard a lot this year in other contexts about cost/benefit analysis. What about now? The costs—a real, if subtle, paring down of the rights of open and free expression; a softening up of the first amendment, making subsequent and more damaging cuts into its protection of freedom that much easier—a school

prayer amendment, perhaps; the prospect of years of litigation about the multiplicity of definitions of ''flag'' and ''desecration'' that will abound under this amendment. The benefits—Old Glory will be protected—even as the magnificent freedoms it stands for are diminished.

Our Nation was founded on the ideals of democracy and freedom—the freedom to speak our minds without interference from Government. While isolated instances of disrespect for the flag may test our tempers, we should not let them erode our commitment to freedom of speech. The first amendment, and its guarantee of free and open political expression, is at the very heart of this Nation's tradition of freedom and self-government. We change it at our great peril.

We do not need to amend the Bill of Rights to show our respect for the flag. Respect of the flag should not be mandated, especially at the expense of the first amendment guarantee of free speech. I cannot be mandated. That respect, to be genuine, to be a respect that truly honors the flag, cannot be a legal requirement. It must flow from the natural love of our freedom-loving people for the beautiful standard of the Nation and the exquisite symbol of our freedoms. The great irony here is that a constitutional amendment will ultimately render respect for the flag into a Government mandate and so, sadly, will contribute to its own undoing.

Mr. KOLBE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, the first amendment to the Constitution, the supreme law of our Nation, proclaims that, ''Congress shall make no law abridging the freedom of speech or of the press.'' This principle of free speech is an absolute, without proviso or exception. The citizens of the newly free colonies had lived through the tyranny of a repressive government that censored the press, prevented meetings, and silenced those who would speak out to criticize it. They wanted to make certain that no such government would arise in their new land of freedom and the first amendment—as with all 10 amendments of the Bill of Rights—was a specific limitation on the power of the Government to prevent free expression.

We have lived for more than 200 years true to that original principle: that personal utterances, expressions or writings, however offensive to others, or however critical of our Government, cannot be repressed by a majority in our Congress.

Now there are those who would like to write an exception, who would for the first time in our history to qualify that right written by the first Congress 200 years ago. Their burden is a heavy one. Only the most dangerous of acts to the very continuance of our Republic could possibly be of sufficient import to require us to qualify in any way the principle which lies at the bedrock of our free society.

That act they claim is the desecration of the flag, in protest or criticism of our Government, I submit, Mr. Speaker, that such an act is exactly the kind of expression our Founders intended to protect, that they themselves had torn down, spit on, and burned the Union Jack in protest of the British Government's oppression; and that their greatest fear was of a central government of our own so powerful that individual protests and criticisms could be silenced.

We have lost our way in America if we believe criticism of the Government should now be curtailed. We have forgotten our history. We have laid our Constitution and the Bill of Rights aside.

The act of desecrating the American flag is abhorrent in the extreme, an outrage to the sensibilities of patriotic Americans and representative only of the perpetrators' small minds, lack of judgment, and ignorance of the history and meaning of our country. But Mr. Speaker, it is not an act that threatens in the least our existence as a Nation. Rather, our toleration of it reaffirms our commitment to free speech, and to the supremacy of individual expression over governmental power, which is the essence of our history, the essence of America.

The real threat to our Nation, to the principles that have guided us for 200 years, comes from changing them.

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

Mr. Speaker, I think that this debate has been good for all of us. We are all learning more about the Constitution, and that is what it is all about.

I was reading opinions from constitutional scholars, Steven Presser of Northwestern University among them, and they keep coming back to the idea that blowing up of buildings, doing crazy things on the streets is really not an expression of freedom and goes beyond common sense. Therefore, burning the flag is beyond common sense and, therefore, the flag amendment does not hurt the first amendment freedom of speech. I think that is a very, very strong point, that when you burn the flag, you are going beyond the common speech or the common sense that individuals are entitled to in this country.

Mr. Speaker, there are more signatures—and I have been around here for quite a while—that is the most signatures I have ever seen from the American people, over 1 million signatures saying that they want a constitutional amendment. I want to commend the American Legion and other veterans' organizations, plus the Citizen Flag Alliance, for going out. This is what the people want, Mr. Speaker. They want a constitutional amendment; over 80 percent of them in a poll have said that. We ought to give them what they want.

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

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

Mr. HUNTER. Mr. Speaker, I thank the gentleman for leading this fight and for the great work he has done. I have to agree with him with respect to burning the flag. That is not a statement, that is not speech. That, as Judge Rehnquist said, is an inarticulate grunt. There are a lot of other ways to express yourself rather than lighting a fire, and this is not speech. I think the gentleman is right on that. I thank him for his leadership.

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

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT of Nebraska. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise today to express my strong support for House Joint Resolution 79. As has already been stated, this amendment is supported by 49 State legislatures and more than 80 percent of the American public. I hope that when the day ends, it will also have received the resounding support of this Chamber.

Since the birth of our country, the flag has been the accepted symbol of our national unity, pride, and commitment to democracy. It was the inspiration for our national anthem, was raised in victory for the immortalized moment of Iwo Jima, was placed on the Moon to proclaim the U.S. conquering of space, and is waved by millions of Americans at parades, rallies, and sporting events.

The flag is not just a piece of cloth. It is the embodiment of all that the brave men and women of our country have fought, sacrificed, and laid down their lives for.

We cannot allow the U.S. flag to be set on fire, spit upon, and trampled as a form of political expression. These acts are not speech; they are examples of destructive conduct that insult every patriotic American.

Mr. CONYERS. Mr. Speaker, I am proud to yield 3 minutes to the gentleman from Michigan [Mr. DINGELL], the dean of the House.

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

Mr. DINGELL. Mr. Speaker, behind you stands the great flag of this beloved country, the symbol of our liberty, the sign of our freedom, the hopes of our people. I love it, I revere it, and I have served it in World War II and for 40 years in this body. It is a precious national treasure, and it deserves to be honored by all.

But I have also in my hand something else which is even more precious to any free man in this country. It is the embodiment of our liberties. It defines our freedom, it lays out the structure of our Government. It sets forth those things which distinguish Americans from any other race in the world. It is the document which defines how an American is different from any citizen of any other Nation.

This morning I had a call from a veteran who, like me, served his country. In that he urged me to protect the flag, but he said to do so by protecting the

Constitution. He shares with me the disgust for those who would dishonor the flag. However, he reminded me, more importantly, that by voting for this amendment I would create a monster that would trample the rights that he fought to protect.

If this amendment is adopted, it will be the first time in the entire history of the United States that we have cut back on the liberties of Americans. That is not something which I want on my record.

The flag is precious. It deserves honor. But remember, it is the symbol of the country and of the Constitution. The Constitution, however, Mr. Speaker, is the soul of this country. It, above all things, must be preserved and protected.

I would remind my colleagues that we take with pride and pleasure the privilege of pledging allegiance to the flag of the United States. But each 2 years when we are sworn in to the Congress of the United States, we take a solemn oath to defend and protect the Constitution of the United States against all enemies, foreign, and domestic. The Constitution is one of the most extraordinary documents ever written. Insofar as Government is concerned, it is the most perfect document of Government ever written. It is the freedom of expression which is set forth in this great document which the Supreme Court has said is at stake here.

In two recent decisions, the Supreme Court has ruled that it is unconstitutional for the States and the Federal Government to enact laws prohibiting flag burning. I find that regrettable, but on careful evaluation, I understand that we are talking really about the protection of rights of American citizens regardless of how odious that exercise might be.

We do not protect the flag by defaming the Constitution. The flag is the symbol. I urge my colleagues to protect the Constitution, the definer and the glory of our liberties.

□ 1330

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. STENHOLM], a leader in this Congress.

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

Mr. STENHOLM. Mr. Speaker, I rise today in support of this amendment, I learned early in life that the flag of the United States represents something very special and should be treated with respect. My parents, as descendants of Swedish immigrants who came to this great land in search of opportunity, taught me to respect the flag by their example. I learned to remove my hat when the flag passes by; to never let the flag touch the ground; and, with hand over heart, to be silent as the Star Spangled Banner is played and the flag is raised.

Today, you can barely hear the national anthem above the noise at athletic games, school assemblies and other public events. People wear shirts and shorts made out of the U.S. flag, and receptions feature flag cakes—which will be cut—and flag napkins—which will wipe mouths. As those examples illustrate, flag desecration takes many forms. However, the worst abuse has occurred when some individuals have burned this cherished national symbol in protest.

In 1989, the Supreme Court by a 5-to-4 margin struck down a Texas law—and all other State and Federal efforts—making flag desecration a crime, arguing that such a statute was inconsistent with freedom of expression as guaranteed by the first amendment to the U.S. Constitution. In reviewing Chief Justice Rehnquist's dissenting opinion, I found myself in agreement with his perspective when he wrote:

> For more than 200 years, the American flag has occupied a unique position as the symbol of our Nation . . . The flag is not simply another 'idea'' or ''point of view'' competing for recognition in the marketplace of ideas. Millions and millions of Americans regard it with an almost mystical reverence regardless of what sort of social, political, or philosophical beliefs they may have. I cannot agree that the First Amendment invalidates the Act of Congress and the laws of 48 out of the 50 States, which make criminal the public burning of the flag.

Justice Rehnquist went on to reference a unanimous 1942 Court decision which said:

> It is well understood that the right of free speech is not absolute at all times and under all circumstances. There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include insulting or ''fighting'' words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace.

This year, our own Texas Legislature commemorated the 50th anniversary of the raising of the U.S. flag on Iwo Jima by voting to ask Congress for a constitutional amendment to exempt flag desecration from first amendment protection. The grassroots support for such an amendment is so strong that 49 legislatures have pledged to ratify such an amendment.

Amending the U.S. Constitution should be done only in rare circumstances. I still believe we must be very cautious about limiting the freedom of expression and speech as guaranteed in the Bill of Rights. However, during the past 5 years I also have been deeply troubled by the increasing cynicism and negativism toward our Government. The culmination of these negative feelings resulted in the tragedy in Oklahoma City. While I will continue to defend the right of every citizen to petition the government for a redress of grievances, I am disturbed both by the violence of a few individuals and the nonviolent but pervasive cynicism many Americans feel towards their country. It is time for us to better encourage a respectful attitude toward the American ideals which our flag represents.

I always have believed that physical desecration of the flag should be prohibited. At the same time, I sincerely have hoped that we could protect our flag without amending our beloved Constitution. After much deliberation, a review of recent court history, and a deep concern about a growing, negative and disrespectful national attitude, I have come to the conclusion that the way to honor the flag at this time is by amending the Constitution.

I wish that recent circumstances were not dictating this course of action. However, with a somber attitude and a great love of the country for which our flag stands, I urge my colleagues to support this amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the tentleman from Massachusetts [Mr. BLUTE].

Mr. BLUTE. Mr. Speaker, this morning an elderly gentleman from Massachusetts, Mr. Stephen Ross, stoped by my ofice to speak with me. Mr. Ross is a survivor of Dachau, where he was imprisoned and tortured by the Nazis for over 5 years, starting when he was a 9-year-old boy.

He was liberated from that hellhole, where almost his entire family was killed, in 1945 by the U.S. 7th Army. One young American tank commander stopped to comfort him as the young Mr. Ross wept. That Army commander wiped away the boy's tears with a piece of cloth and gave it to him.

Later on, Mr. Ross realized that the cloth was a small American flag taken from the tank. Since that day, Mr. Ross has carried that flag with him every single day in a small velvet bag, a sacred symbol.

Mr. Ross wants that flag to be protected. As he said to me, ''Protest if you wish. Speak loudly, even curse our country and our flag. But please, in the name of all those who died for our freedoms, do not physically harm what is so sacred.''

I understand and respect the arguments of those who oppose this bill, but I urge my colleagues to support this amendment.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. LEWIS], a distinguished civil rights proponent before he came to the Congress.

Mr. LEWIS of Georgia. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong opposition to this amendment.

Our flag is a powerful symbol. It represents the freedoms and individual liberty that make the United States the greatest democracy on earth. It makes me sick to see any person burn our flag.

But I am appalled when I hear my colleagues try to tell that person that he or she cannot burn the flag.

I would say to my colleagues the right to desecrate our flag is protected by the most important document in our country—the Bill of Rights.

There would be no United States of America without the Bill of Rights. The States refused to join the union until they were assured that the rights of our citizens would be protected.

And what is the first freedom guaranteed in the Bill of Rights? Freedom of speech. The freedom to disagree. The freedom to have political beliefs—and to express those beliefs publicly and openly.

More than any other freedom, this is what makes our country great.

Our freedom, our individual rights and liberties, are what our flag represents. When we deny our citizens the

right to desecrate the flag, we diminish these freedoms. When we diminish our freedoms, we diminish our flag, our country, and ourselves.

Our flag, while a great symbol, is still just a symbol—a symbol of our rights and freedom. What is worse, destroying a flag, or destroying the liberty that flag represents?

Mr. Speaker, we must not choose the symbol over the real thing. This resolution is an affront to the flag. It is an affront to the Bill of Rights. This amendment will do more to desecrate the flag than any bonfire—or any protest.

If Old Glory would speak, she would cry for us. She would weep.

Old Glory is strong. She has stood the test of time. She has stood the test of the Civil War, World War I, World War II, and Vietnam. Old Glory does not need 435 Members of Congress to defend her. She is not crying out for our help.

I urge each and every one of you to look within yourself, to stand up for freedom. Show the world that the United States is, indeed, the greatest Nation on earth.

Mr. Speaker, I ask my colleagues to vote against this amendment—it is the only way, the sure way, to protect our flag.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. FOX].

(Mr. FOX of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. FOX of Pennsylvania. Mr. Speaker, the flag is a symbol of our country. The founders of our country, when they contemplated free speech, did not envision the burning of our national symbol.

There are many forms of expression that are legitimate, and this is not one of them. Servicemen and women have died in support of the country and what the flag represents. Burning the flag is as inappropriate as yelling ''fire'' in a crowded theater when no fire exists.

I was proud to sponsor and vote for the Pennsylvania House resolution in 1989 that recommended that we in Congress now approve a constitutional amendment to prohibit the desecration of our flag. Forty-eight other States have now joined.

I am hoping that the House will, in fact, pass this and move it on to the Senate and the people of the United States will know that we, in fact, uphold the flag, believe in the flag, and believe in this country. God bless you all.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker I have been preceded in the well by several Members who spoke eloquently and personally of reverence for our freedoms as symbolized by the flag: the gentlewoman from Florida who fled the oppressive Castro regime for her freedom; the gentleman from Korea who immigrated to America for great freedom and opportunity. In Castro's Cuba, South Korea, mainland China, and the old Soviet Union, there was one common thread. Show disrespect to the hammer and sickle, you go to jail. In Cuba, China, Korea, all the tottering oppressive regimes, show disrespect to their symbol, you go to jail.

Until today, America was different. We had a Bill of Rights that was the beacon of liberty to oppressed people around the world. When they throw off the chains of oppression, they do not endeavor to copy our flag. They endeavor to copy our Bill of Rights and our Constitution.

Vote ''no''. Do not be afraid to be free. Save the Constitution and the Bill of Rights.

Mr. CANADY of Florida. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, there are two compelling reasons to support this legislation—the letter and the spirit of the law.

Title 36, chapter 10, section 176 of the U.S. Code states that ''The flag represents a living country and is itself considered a living thing.'' If it is illegal to commit acts of violence against persons or property as a means of expression, and the flag is considered a living thing, then prohibiting acts of violence against the flag is entirely consistent with previous interpretations of the first amendment.

Just as important, Mr. Speaker, is the spirit of that law, which makes it clear that our flag is more than a piece of cloth, it is the symbol of freedom to millions of people around the world.

Whether it is being flown by a Navy ship off some foreign shore, waving proudly over the U.S. Capitol, or fluttering from the window of a house on the Fourth of July—our flag represents everything for which this Nation stands—and as such, it should be treated with respect.

Mr. Speaker, I urge my colleagues to support House Joint Resolution 79.

Mr. CANADY of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from South Carolina [Mr. SPENCE].

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

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

I was sitting there just listening and it occurred to me that we are trying to decide what speech means and the protection of speech and expression under our Constitution and Bill of Rights. I have said on other occasions that our Maker has endowed us with minds that can allow us to look at the same set of facts and arrive at conclusions 180 degrees apart from one another.

I use that to justify the thinking of Members on the other side sometimes, but this is carrying it too far. Anyone, including the Supreme Court, that cannot look at a dictionary definition of what speech means and expression means and decide the correct way on this question is beyond me.

If we were to say that burning or desecrating a flag is speech and expression, we could also say that tossing a bomb into a building is our way of free speech and expression. Put another way, you can cuss the flag, you can call it all kind of names, you can speak at length against the flag, but you cannot do the act of desecrating or destroying it.

Mr. MONTGOMERY. Mr. Speaker, I yield 1 minute to the gentleman from Texas, Mr. GENE GREEN, who has been a strong supporter of this amendment.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise as a proud cosponsor of this resolution. There is a need to set aside our flag as a special item and in a special place; an exception to the freedom of speech. That is what this constitutional amendment is about.

We can disagree on particular language that we have, and I am sure that the U.S. Senate will even make some changes in it. But I think what we are doing today is so important. We need to make the flag designation a separate symbol of our country. Once again, I rise again in proud support of this resolution.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. ENGEL].

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

I love our country and I love our flag, and several years ago in this body I voted for a law, a statute, that would have made it illegal to desecrate the American flag. I would vote for such a statute again, but the Supreme Court in its wisdom declared such a law unconstitutional, and may I point out that the Supreme Court appointees, conservative Republican appointees, appointees of Reagan and Bush, declared the law unconstitutional.

So the question we have now is should we amend the Bill of Rights for the first time in American history? Should we tamper with our Constitution, which is sacred, to do something which really is not a threat to the Republic? The idiots that burn the American flag, and I hate them, are not that many. Why highlight them? They are no threat to the Republic. This is what they want.

I do not think we should tamper with the Constitution. I do not think we should amend the Constitution. Several years ago, someone before mentioned Nazi Germany, Nazi Germany had a statute to make it a crime to desecrate their flag. I do not think we want to follow in their footsteps. While we abhor what these idiots do, we should not desecrate our Constitution. Vote ''no.''

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there have been many points made in the debate today. I want to read a statement by Chief Justice Rehnquist which I think puts this issue in perspective in a way that we have not seen it put in perspective thus far. The Chief Justice said:

The significance of the flag, and the deep emotional feelings it arouses in a large part of our citizenry, cannot be fully expressed in the two dimensions of a lawyer's brief or of a judicial opinion. But if the Government may create private proprietary interests in written work and in musical and theatrical performances by virtue of copyright laws, I see no reason why it may not . . . create a similar governmental interest in the flag by prohibiting even those who have purchased the physical object from impairing its physical integrity. For what they have purchased is not merely cloth dyed red, white, and blue, but also the one visible manifestation of 200 years of nationhood—a history compiled by generations of our forefathers and contributed to by streams of immigrants from the four corners of the globe, which has traveled a course since the time of this country's origin that could not have been ''foreseen . . . by the most gifted of its begetters.''

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

□ 1345

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the most thoughtful gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker and Members, I love America. I love the Constitution. I love all of the symbols of our free society, our democracy.

My ancestors loved America. They loved America even when America did not love them. My ancestors loved America when they were not free to pray to their God. They loved America when they were not free to rally or protest. They loved America even when they had to die to help America live up to her ideals.

Their sacrifices instilled in me an undying loyalty and commitment to always defend the Bill of Rights. It is the Bill of Rights that gave my ancestors hope that there could be a democracy for all people, even people who look like me.

This amendment being offered here today endangers the most profound protection guaranteed to us by the Bill of Rights, the right to disagree, the right to confront, the right to rally, the right to march, the right to protest.

The flag is, indeed, a precious symbol, a powerful symbol, but no symbol is more powerful than the powerful ideas embodied in the Bills of Rights that guarantees to us all the freedom of expression, the right to express ourselves as a proud and determined people.

Mr. KOLBE. Mr. Speaker, I yield the balance of my time to the gentleman from Pennsylvania [Mr. GREENWOOD].

Mr. GREENWOOD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, in making a decision today on the proposed constitutional amendment to ban desecration of the flag, I was confronted with the fundamental question of our democracy. That question is: What is it that makes us free?

The flag is a symbol, perhaps the sacred symbol, of our freedom, but the Constitution is the guarantee of our freedom. The flag reminds people throughout the world of everything we stand for, but the Constitution is the bedrock upon which we stand.

The flag touches our mystic chords of memory, but the Constitution is not about the past only, but our future as well.

The founders made it possible for the Congress of the United States to change the flag tomorrow, its color, its shape, its size. But the Constitution can only be changed when the great weight of the Nation comes to believe that human liberty is at stake.

Like each of my neighbors, I pledge allegiance to the flag. Yet each of us who have the honor to serve our Nation has taken a higher oath before God and man to uphold the Constitution. At the heart of that great document is the Bill of Rights, and at the center are 10 words that settle forever the issue of whether the State or the individual is our Nation's sovereign. ''Congress,'' the majestic first amendment begins, ''shall make no law abridging the freedom of speech.'' Speech we admire and speech we despise, protest we support and protest we condemn, beliefs we embrace and beliefs we reject, nonviolent actions we applaud and nonviolent actions we deplore, all are protected here.

I honor the flag. I revere everything it represents. But in the end, I cannot vote for this amendment.

Those who fought for the flag, those of us who defend its honor today do not fight for a piece of cloth, no matter how treasured it is, but for an idea now more than 200 years old that human liberty, even the liberty to disagree, is the greatest treasure of mankind.

Mr. Speaker, we stand in the most sacred shrine of freedom in the history of the Earth, and if we abandon the Bill of Rights here, where will it then find a home?

I urge a ''no'' vote, Mr. Speaker.

Mr. CANADY of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. BAKER].

Mr. BAKER of California. It is very appropriate that I am allowed to speak right after that previous speech, because I take a different point of view.

The burning of the flag is a behavior. it is not free speech.

When you find a book you do not like, you do not burn down the library. When you argue against a government policy, which you have the right to do under the first amendment, you do not blow up a Federal building, and the sooner that person get the death penalty, the sooner we can reaffirm our constitutional liberties.

But this flag is more than just a colored piece of rag. It is a symbol of liberty and justice. It is beyond free speech. It is a foundation of liberty, and you do not tear down the foundations because you do not like an action of government or the people in government.

We would not amend the Constitution if it were not for the Supreme Court ruling, unless we do make it clear in the Constitution the States and the people therein cannot protect their own flag.

We find this 5 to 4 decision disheartening. We decry this 5 to 4 ruling, and we are now allowing the States and the people therein to have their voices be heard.

So this debate is not about free speech. It is about the preservation of a great experiment in liberty.

Can we continue to speak about our elected officials and the government without tearing down our foundations and falling, like most democracies have done over the 2,000-year history that we are so familiar with? And the answer is ''yes.''

Give liberty a chance. Vote ''yes'' on this amendment.

Mr. CONYERS. Mr. Speaker, I yield the remainder of my time to the gentleman from Utah [Mr. ORTON].

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

Mr. ORTON. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I also love the United States of America and the principles of liberty and justice guaranteed in the Constitution which established our Nation. I would lay down my life to protect those rights and our Nation.

I also love and respect our flag, which is the symbol that represents all that our Nation stands for. But we err if, in our attempts to protect the symbol, we damage the rights which the symbol represents.

Thomas Jefferson, in his first inaugural address in 1801, said, ''If there be any among us who would wish to dissolve this Union or change its republican form, let them stand as monuments of the safety with which error of opinion may be tolerated where reason is left to combat it.''

My fellow Americans, if there be any among us who wish to desecrate this flag, let them stand undisturbed as monuments of the liberties and freedoms which it represents.

I urge you to vote against this amendment.

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

I want to thank the gentleman from Michigan for giving me the opportunity to have this time. I thought that was very, very fair, and I appreciate it, along with the gentleman from Florida.

Mr. Speaker, I hope this amendment is adopted. This is not the last vote. This amendment will go to the Senate. Then, if it is adopted, it will go to the different States, and it will take three-fourths of the States to ratify this amendment.

So I would certainly hope that today will give the first step forward in a constitutional amendment to protect the flag.

Mr. Speaker, I yield the balance of my time to the gentleman from Missouri [Mr. VOLKMER].

Mr. CANADY of Florida. Mr. Speaker, I yield 30 seconds to the gentleman from Missouri [Mr. VOLKMER].

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

Mr. VOLKMER. Mr. Speaker, I rise in strong support of the proposed constitutional amendment, and it does not do what many of the people in opposition to it have said.

I have no problems with defining a flag. We can do that through implementing legislation. Once it has gone through the process, as the gentleman from Mississippi has talked about, and three-fourths of the States have ratified this proposed constitutional amendment, it will come back to here, and the Congress at that time will have to pass implementing legislation. I have no difficulty with that.

One of the things that I disagreed strongly with the Supreme Court, and many Supreme Court decisions I have disagreed with, and that was the one on flag burning. In my opinion, that Supreme Court, in its decision, amended the Constitution of the United States because it said for the first time that I know of, that actions, not words, were protected by freedom of speech. The act or the conduct of burning a flag was protected by the speech provisions of the first amendment. I strongly disagree with that.

I find no problem with proposing an amendment to the Constitution that would say that that action, not the words, the action, is not protected by the Constitution.

So I just remind everybody here that, in my opinion, the Supreme Court has already amended our Constitution, and it was a 5-to-4 decision. It could very easily have been the other way, and we would not be here today.

So I have no difficulty at all in proposing and supporting this constitutional amendment so that flag desecration will no longer be possible, hopefully, in the United States after we go through the process. Surely it will take several years, but that, to me, is worthwhile, and there is nothing wrong with this Congress, because it has done it in the past, in the past years has said the Supreme Court was wrong, and we have had constitutional amendments to change what the Supreme Court has done.

Mr. CANADY of Florida. Mr. Speaker, I yield the remainder of my time to the gentleman from Georgia [Mr. DEAL], who will close the debate.

Mr. DEAL of Georgia. I thank the gentleman for yielding me this time.

Mr. Speaker, this topic is a great one for patriotic speeches, and we have certainly heard some sincere ones on both sides of this issue today, that in itself perhaps the best illustration of what the first amendment, freedom of speech, is all about.

But this debate symbolizes more than just a venting of patriotism. It highlights the perversions which the Supreme Court has allowed in the name of free speech, and the very Constitution that both sides to this argument have revered in their comments allows us, through the process we are engaged in at this very minute, to correct those perversions of that Supreme Court.

For those who would suggest that this proposed constitutional amendment would in any way detract from the original first amendment, I would suggest quite the opposite is true. Freedom of speech is elevated in importance as much by what it excludes as by what it includes.

For those who would suggest that someone would intentionally violate this law by wearing clothing that has a flag on it, I suggest, is a hollow argument, indeed.

As Chief Justice Oliver Wendell Holmes once observed, ''Even a dog can tell the difference between a man who unintentionally stumbles over him and the one who intentionally kicks him.'' Certainly, we can do the same with regard to desecration of the flag.

A nation that tolerates every form of behavior, no matter how demeaning, under the passport of free speech will eventually find that it has very little power to govern, indeed.

I support this constitutional amendment to protect our flag. You do not have to love it. You do not have to leave it. But you should not be allowed to burn it.

If it is, indeed, the symbol of liberty and that symbol can be destroyed, can the freedom that it symbolizes it be far behind?

I suggest not. I urge you to support this amendment to protect the freedom that all of us hold so dear.

Mr. MINGE. Mr. Speaker, I have a deep and abiding respect for our flag and what it symbolizes. Freedom is our greatest commodity. The flag is our greatest representation of that freedom. We should never take lightly the supreme sacrifice our fallen soldiers have made in defense of freedom. Likewise, I do not believe we can take lightly the freedoms their sacrifice entrusted to us.

One of the most important liberties our Founding Fathers gave us, and one of the most important liberties our soldiers died for, is the freedom of expression. If everyone in America is truly free to express opinions, each of us will undoubtedly be disgusted by someone's views or actions at one time or another. Nothing enrages me more than when someone burns our flag. Nonetheless, I do not believe that the people who are disrespectful of the flag should move us to limit personal freedom and amend the Bill of Rights, something that has never been done. If any limits, no matter how reasonable they appear to us, are placed on the freedom of expression, we will open the possibility that other limits can be placed on our freedoms in the future.

Each of us must decide how we will be patriots to our hallowed past. I believe defending the freedom of expression is patriotic. I also believe doing what I can to serve the people of the Second District, including our veterans, is patriotic. Others, such as veterans organizations, have shown their continued patriotism in part by educating young people about what this great symbol represents. Educating young people about its significance, rather than mandating respect, is the only way to build the true and enduring reverence our flag deserves.

It is ironic that many of the congressional champions of the amendment to prohibit flag burning are advocating harsh reductions in veterans programs to finance substantial tax cuts for higher income Americans. Secretary of Veterans Affairs Jesse Brown has indicated that 35 to 40 veterans medical centers will close and the jobs of more than 50,000 professionals providing care to veterans will be eliminated as a part of the congressional Republican budget plan that includes tax cuts. Sadly, passing a flag burning amendment when no pressing problem exists appears to be, not a display of patriotism, but a gesture to provide political cover for my colleagues who are financing tax cuts on the backs of veterans.

Mr. VENTO. Mr. Speaker, I rise today in support of the motion to recommit House Joint Resolution 79 with instructions offered by my colleague from Texas.

House Joint Resolution 79 would amend the Constitution of the United States prohibiting the desecration of the American flag. I too am concerned about the treatment of our flag; in 1989 I supported the Flag Protection Act. However, the language of this proposed amendment, as it stands, raises serious questions as to its exact extent and intent.

Mr. BRYANT's motion to recommit with instructions, in my opinion, clarifies this amendment by establishing guidelines for Federal and State courts and legislatures to follow when interpreting and developing future laws. The motion calls for a definition of what constitutes a flag, as well as the proper procedure for the disposal of a flag. Together with its decided definition of ''physical desecration'', this motion ensure the amendment will lead to clear and specific laws.

For over 200 years our Constitution and the Bill of Rights has stood strongly protecting the freedom of the citizens of this Nation without ever being amended. Today, Congress is attempting to amend arguably the most precious doctrine within the Constitution's Bill of Rights, the first amendment guarantee of free speech. We must not, and can not enter into this process without proper consideration and understanding endangering the strength and integrity of our most valuable liberty and freedoms protected by the first amendment. The flag is a symbol of our freedom, but the Bill of Rights is the substance of our freedoms and rights.

I urge my colleagues to join me in support of the Bryant motion to recommit with instructions and provide at the very least some specifics to this proposed constitutional action.

Mr. FRELINGHUYSEN. Mr. Speaker, on June 14, America celebrated flag day. Millions of American men and women all across the country retrieved their Star Spangled Banner from the basement or attic and proudly displayed it to honor the day. For many families, the flag itself is a tradition. Perhaps it was a grandfather's flag, or a gift from a son or daughter serving in the military. Perhaps it even draped the coffin of a sister or brother who made the ultimate sacrifice for the United States.

Whatever the case—the American flag means something special and personal to each and every one of us. It represents our

freedom, our liberty, and our common bond. It is the emblem of a unity to which every fourth-grader has pledged their allegiance in homeroom. In the House of Representatives, we begin every day with that same pledge. We pledge allegiance to the flag because of ''the Republic for which it stands.'' As a veteran, I believe that our flag is our Nation's most enduring symbol.

It is unfortunate and saddening that some disagree. They use the flag to express an opinion or make a statement. I think that this is wrong. Burning our flag is simply wrong, and should be outlawed. As an original cosponsor of a constitutional amendment to ban flag desecration, and with nearly 280 of my colleagues in the House of Representatives, I am working to protect the flag and what it stands for.

I plan to vote today for this constitutional amendment. Our goal is to pass the amendment this year and to present it to the States for ratification. Forty-nine States have already passed resolutions requesting that Congress pass this amendment banning the desecration of our American flag.

We hold high respect for the flag not because of what it is but because of what it stands for. We have rules which define the proper way to display, store, and maintain our flag. These rules were established for a reason. They were established so that we would not grow complacent about our flag, and hence our unity and our freedom. They protect our flag so that we remember the high price we paid for our freedom and personal liberties. Our flag reminds us that we are one nation, one People—regardless of our diverse backgrounds, religions, or heritage.

Our flag reminds us of who we are as Americans, and deserves the utmost honor, esteem, and protection.

Mr. SMITH of New Jersey. Mr. Speaker, in the wake of all the rhetoric, the question boils down to whether or not the flag and the American ideals it symbolizes should be protected by our constitution.

To me the flag is about freedom; about liberty and equality in a nation made up of various cultures; about the American veterans who braved the foreign warlords to preserve our freedoms and to ensure that future generations of Americans can live in the security of life, liberty and pursuit of happiness.

Mr. Speaker, here in Washington we are constantly reminded of the dedicated men and women who died in battle, in lands far away, for the preservation of our country and the ideas for which it stands. The flag, now as then, serves as remembrance for the gift of freedom given to us by those fallen heroes. Should they have died knowing that future generations would permit the desecration of the very symbol for which they lay buried in foreign cemeteries?

Thanks to those veterans who fought and died for our freedom, and promulgated on the idea of the ''melting pot'', the United States represents a community where heterogeneity is championed and individualism, regardless of race, creed, sex or color, is revered. Hence, we, as Americans, have a unique opportunity available to us. Where Alexander the Great failed to keep his holdings together, and diversity crippled the Roman Empire, our unity under one flag affords us the unique opportunity to maintain a harmonious multicultural superpower. Being the first successful community of its kind in history, maintenance does not come easily.

Mr. Speaker, what bonds our seemingly different people into one nation, one soul? Values, ideas, hopes, dreams, all symbolized in our common denominator, the flag. The unity inherent in the flag is beyond measure. What does a person from New Jersey have in common with person living in Wyoming but born in Nepal? They are both Americans, and they both possess an allegiance to our country and the recognition that such allegiance manifests itself in an allegiance to the flag. Without a doubt, the flag remains the best symbol of solidarity for our country.

Furthermore, Mr. Speaker, the flag embodies all that Americans treasure. The vast imagery the flag evokes points to that very fact. Who hasn't seen paintings of Betsy Ross sewing a garment that would consolidate a collection of English colonists in defiance of a King who refused to give them representation. A new and improved system of government is why Betsy Ross created the flag; democracy is what we got.

Who can say they haven't seen the statue of the Marines storming the island of Iwo Jima to raise Old Glory high above the fray. Freedom is why those soldiers raised the flag; liberty is what we—what the world—got.

Who hasn't heard the story of Francis Scott Key as he sat aboard a British frigate and watched our flag continue to flutter above the devastation in Fort McHenry. Sheer amazement is why Mr. Key wrote down what he saw; an understanding of the transcendently unifying nature of our flag is what we got.

Burning or desecrating the flag is a destructive act, Mr. Speaker. It is not free speech. And it is only a small fringe group who even care to mutilate, desecrate or burn the flag. In fact, the vast majority of Americans support a constitutional amendment to protect this symbol of freedom. Indeed, it is time the Congress of the United States act to protect our flag.

Mr. UNDERWOOD. I would like to call attention to an oversight in the text of House Joint Resolution 79, the constitutional amendment to prohibit the physical desecration of the flag of the United States. While it may seek improbable that an amendment of only 20 words can contain an important oversight, the amendment would grant Congress and the States the power to pass laws to prohibit the physical desecration of the flag.

So, it is conceivable that some States will pass restrictive laws, some States will pass more lenient laws, and some States will not do anything. And it is conceivable that flag desecration would have various State definitions, unless Congress chooses to make a standard of desecration and Federal penalties for such actions. Of course, if such congressional action were taken, or such standardized definitions were adopted by Congress, then all the arguments we hear today that it is up to the States to determine what is desecration, and all the arguments we hear today that this is a transferring of Federal power to the States, fly out the window.

If Congress instead defers to the States, and chooses to let the States make their own determinations, then it is possible that flag burning and other acts of desecration would be made illegal in the several States, but there would be no similar Federal law for the territories and the District of Columbia. We could then have the incredibly ironic situation where flag burning would be illegal everywhere but here, and those who would burn flags as an expression of their free speech or in protest of some cause would be able to do so legally in the Nation's capital.

In the case of Guam, and the other far flung American territories of American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and Puerto Rico, the territorial governments would have no power under this amendment to act one way or the other to prohibit flag desecration. As you know, Mr. Speaker, but as many of our colleagues tend to forget, the flag also flies over there.

Should this constitutional amendment be adopted by the States, then I intend to introduce legislation to give the territories and the District of Columbia the same authority as the States to prohibit flag desecration. My concern is that as the new federalism emerges to transfer powers to the States, as this amendment represents, let's not forget to transfer powers to the territories, too. If it does not make sense for Congress to act for the States, it makes even less sense for Congress to act for Guam, 10,000 miles away.

Or, conversely, if Congress were to legislate a restriction on free speech only for the territories and the District, places where American citizens have no voting representation, what is that saying about the value of our constitutional rights? What is the Congress saying when it legislates restrictions on the basic freedoms in the Bill of Rights for the territories that do not even vote in this body? Would it not seem more logical for Congress to allow such decisions to be made by the territories in recognition of their lack of representation? If Congress tries to dictate to the disenfranchised Americans in the territories what it would not dictate to the States, maybe then flag burning would become the protest of choice for those Americans in the territories who value their freedoms as much as any other American.

Mr. STOKES. Mr. Speaker, I rise in strong opposition to House Joint Resolution 79, the constitutional amendment to prohibit flag desecration. While I am aware of the deep and sincere feelings of many Americans concerning this emotional issue, I am also mindful of my duty as a Member of Congress to act in the best interest of the people I represent and in the best interest of the U.S. Constitution I have sworn to uphold.

We cannot and should not, in an attempt to protect the flag, trample on the freedoms so many of our bravest citizens have fought and died to protect. As Members of the U.S. Congress, we must not shirk our responsibility to act in the best interest of the American people by disregarding the dangers to all of our civil liberties this resolution symbolizes.

The bill before us today, House Joint Resolution 79, seeks by constitutional amendment, to prohibit the physical desecration of the American flag. The objective of this amendment is to overturn the U.S. Supreme Court's decisions in *Texas* v. *Johnson,* 491 U.S. 397 (1989).

In Texas versus Johnson, a majority of the Supreme Court considered for the first time whether the first amendment protects desecration of the U.S. flag as a form of symbolic speech. Like the State argued in Texas versus Johnson, proponents of this resolution argue that flag desecration results in breaches of the

peace and attacks the integrity of the our national symbol of unity. The majority opinion of the Court correctly responded that the desecration was ''expressive conduct'' because it was an attempt to convey a particular message.

The Supreme Court also correctly held that the State may not use incidental regulations as a pretext for restricting speech because of its controversial content or because it simply causes offense. Justice Brennan concluded that ''If there is a bedrock principle underlying the first amendment, it is that Government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.''

Mr. Chairman, I find the desecration of the American flag abhorrent, but I find the compromise of the principles the flag represents absolutely unacceptable. This attempt to infringe upon the proud American tradition of dissent is the hallmark of authoritarian States, not democracies. Voting against this resolution is a vote for the Constitution and for the Bill of Rights, but most importantly it is a vote for the freedom and democracy the flag symbolizes.

In addition to compromising our first amendment rights this resolution is defective on its face because it fails to define what constitutes a flag, or constitutes desecration. The resolution simply gives Congress and the States sweeping powers to criminalize a broad range of acts falling far short of flag burning or mutilation. This kind of broad amendment to the Constitution will certainly lead to State and Federal flag protection legislation that violates the rights the flag represents.

Mr. Chairman, amending the U.S. Constitution is a serious business. This is one of the most important and sacred acts that can be taken by a Member of Congress. With very little opportunity for open hearing, and with limited debate, this resolution has been placed before us. A measure of this kind required detailed analysis of the impact it may have on the American people, and the greatest pillar of the American Republic: The first amendment to the U.S. Constitution—but no such review has, or will, take place.

During a period when the House of Representatives is slashing public assistance and medical benefits to the poor, our children, the elderly and veterans across this Nation we are faced with this cynical attempt to protect the flag. Individuals who wish to protect the flag should first protect the citizens who hold the flag so dear.

In the current rush to force this bill through the House, the liberty of the American people and the Constitution I have sworn to uphold will certainly be compromised. I urge my colleagues to join with me and vote against this resolution.

Mr. BORSKI. Mr. Speaker, I rise today in opposition to the amendment and in support of the Constitution of the United States.

For over 200 years, the Constitution of the United States and the Bill of Rights have endured as real, physical symbols of the values of this country. Never in our Nation's history has Congress passed a constitutional amendment to curtail the freedoms guaranteed by these documents. After careful thought, I have come to the conclusion that we must not do so now.

The issue of free-speech inherent in the flag-burning argument is far too important to be politicized or trivialized through name-calling and scare tactics. The values and freedoms embraced by the Constitution are so fundamental to this Nation, that we should defend against any attempts to relinquish these rights.

Let me clearly state that I do not condone flag burning. I strongly oppose it. Flag burning—for whatever reason—is offensive to me and to all patriotic citizens. It is repulsive to see people burning our flag. I stand alongside patriotic citizens and veterans, nationwide, in condemning flag burners everywhere. Yet, even these unpatriotic acts of protest must remain protected if the essential freedoms our Founding Fathers and veterans have fought for are to mean anything. We cannot protect freedom by taking away freedom.

The Stars and Stripes has always had a special meaning for my family and me. My father, a World War II Marine veteran, was born on Flag Day, June 14. In proudly serving his country during the war, my father successfully fought against the tyrannical and strong-handed suppression of freedom of Nazi Germany. The flag under which he fought symbolizes the constitutional freedoms for which he risked his life. Let us not chip away at these real fundamental beliefs and freedoms for protection of the symbol.

For over 200 years, the Bill of Rights has never once been amended. Historically, lawmakers have been unwilling to tamper with these liberties, reflecting an appropriate reverence for the Constitution and a hesitance for turning this document into a political platform. Yet amending the Constitution in order to prevent a few disgruntled citizens from expressing their views creates a special exception in the definition of free speech, opening up the door for further clarifying of our God-given freedoms.

By overwhelming numbers, Americans have chosen to display the flag proudly. And what gives this deed its patriotic and unique symbolism is that the choice was freely made, coerced by no man, out of respect for the symbol of freedom. Were it otherwise—should respectful treatment of the flag be the only choice for Americans—this gesture would mean something different, possibly something less.

In addition, Mr. Speaker, I find it ironic that at the same time we stand here pledging our respect for the flag and to the veterans who fought under it, the majority will soon pass a package of cuts to the hard-fought and long-earned benefits to our Nation's veterans and senior citizens. The Republican budget agreement, which I strongly oppose, calls for $32 billion in cuts to veterans programs over the next 7 years as well as a $270 billion cut in Medicare spending over 7 years. At the same time, the majority's budget calls for a $245 billion tax break for our Nation's wealthiest citizens. It is unfortunate that the same veterans who so proudly fought under this flag will soon be denied the benefits for which they fought and worked all their lives.

Finally, Mr. Speaker, I stand here today to proudly express my respect for the flag and for the constitutional freedom it symbolizes and for the men and women who fought for these freedoms. Yet, I must remain faithful to my sworn duty to protect the Constitution from attacks on its integrity, and oppose this amendment.

Mr. DINGELL. Mr. Speaker, my colleagues, behind the Speaker's rostrum stands the glorious symbol of the United States—our flag—the most beautiful of all the flags, resplendent with colors of red, white, and blue, carrying on its face the great heraldic story that of 50 States descended from the original 13 colonies. I love it and I revere it. I have served it with pride, in the Army of the United States, actively in one war and in reserve status in another. Like millions of young Americans in all the wars of this country, I have served under this great flag, symbol of our Nation, our unity, our freedom, tradition, and the glory of our country.

This small book, my dear colleagues, which I now hold up in my hand, is the Constitution of the United States. It is not so visible as is our wonderful flag, and regrettably oftentimes we forget the glory, the majesty of this magnificent document—our most fundamental law and rule of order, the document which defines our rights, liberties, and the structure of our Government. Written in a few short weeks and months in 1787, it created a more perfect framework for government and unity and defined the rights of the people of this great republic. As Chief Justice Burger, Chairman of the Commission on the Bicentennial of the U.S. Constitution observed in his remarks on the Constitution.

> The work of 55 men at Philadelphia in 1787 was another step toward ending the concept of the divine right of kings. In place of the absolutism of monarchy the freedoms flowing from this document created a land of opportunities. Ever since then discouraged and oppressed people from every part of the world have made their way to our shores; there were others too—educated, affluent, seeking a new life and new freedoms in a new land.
>
> This is the meaning of our Constitution.

Justice Burger observed the Declaration of Independence was the promise, the Constitution was the fulfillment.

This is the most successful and magnificent document ever to create a government. The Government which is the product of the agreement of the people on this Constitution is the most successful government that has ever served free men, now over 200 years old, and still a wonder of the world.

The Constitution was designed to assure that it could be amended, but only with difficulty. High hurdles were imposed on successive generations, lest it be too easy to amend, and lest it be too easy to impair the greatness of this wonderous document by unwise actions taken in the haste of a moment of passion or folly.

We are today compelled to debate in a process constrained by inadequate time. We are told we must choose between the glorious symbol of our Nation and the great, majestic fundamental document which is the soul and the guardian of principles which not only define the structure of our Government, but the rights of every American.

This is not a choice that I like to make, and it is not a choice that other Members of this body like. There is regrettably enormous political pressure for us to constrain rights set forth in the Constitution to protect the symbol of this Nation. And yet when we make the decision today, we must keep in mind that we are choosing between the symbol of our country and the soul, and the guardian principles of our democracy.

I call upon this body and all Americans to understand the issue before us. I believe that if Americans understand this issue, they will come to the same wise conclusion. Like other Americans, I say the Pledge of Allegiance to our flag with reverence and pride. I join my colleagues here in reciting this great pledge to our Nation's flag as I do in joining my constituents at home in frequent public ceremonies in saying this important Pledge of Allegiance to the dear flag of this country.

I again hold up before you the Constitution of the United States, a small document, successfully amended only a few times, and wisely subject to strong constraints on attempted amendments. On many occasions, because of the difficulty in amending this wonderful document, unwise attempts to amend it have thankfully not come to fruition.

The Constitution says ''the Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press * * *''

That right of freedom of speech is absolute, not in any way constrained. And there is no power in the Congress to abridge the freedom of speech.

That is the question before us here. Only here, we are called on to not simply pass a law, but rather, to amend the Constitution itself, or to permit the States to do so.

The Constitution is the soul of our Nation, the guiding principles of both government and protection of our liberties. It is the Constitution which makes being an American so unique and which gives us such precious quality and character to our lives as citizens of this great Nation.

The Supreme Court is hardly a group of left-wing antigovernment protestors, but rather a group of conservative men and women, given lifetime tenure, to carry out one of the most singularly important responsibilities in our Government—the interpretation of our Constitution and laws. That court has said plainly and clearly that freedom of speech guaranteed by the first amendment is a right so precious that it may not be interfered with by a statute which criminalizes the conduct of anyone who ''knowingly mutilates, defaces, physically defiles, burns, or maintains on the floor or ground or tramples upon'' a United States flag, *United States, appellant* v. *Eichman, et al.* 496 U.S. 310. In this case and in the case of *Texas* v. *Johnson,* 491 U.S. 397, a similar conversion was reached.

My colleagues, we are compelled to choose—a great symbol of the Nation, our beloved flag, or the majestic Constitution of the United States and the great 10 amendments to that Constitution, the first amendment guaranteeing freedom of speech and freedom of expression.

In this there is only one choice, defend the majesty and glory of the Constitution. Protect, support, and defend the Constitution and the rights guaranteed thereunder.

Like the rest of my colleagues, I pledge allegiance to the flag, regularly in this body. But, I remind all here and elsewhere, that every 2 years each Member of Congress takes a great and solemn oath, to support and defend the Constitution of the United States against all enemies, foreign and domestic. This oath is a far higher and greater responsibility than that which we take in any of our other activities as citizens. It is a precious commitment to the people of the United States, to those who have served here before us, to those who will serve here after us, and to all Americans throughout history.

In this oath we honor all those who have loved and served this country. And, we commit solemnly to all Americans from the first days of its founding until the end of time, that the principles of our Government will be protected and defended by us against all, regardless of how powerful politically they might be or how wonderful a cause that they may assert. When I vote today, I will vote to support and defend the Constitution in all its majesty and glory, recognizing that to defile or dishonor the flag is a great wrong, but recognizing that the defense of the Constitution and the rights that are guaranteed under it is the ultimate responsibility of every American.

Whether we hold elective office, or whether we are simply citizens living our day-to-day lives under the protection of the Constitution, this commitment is to defend our greatest Government treasure. When I cast my vote today, it will be for the Constitution, it will be for the rights enunciated in the Constitution, it will be against wiping away or eroding the constitutional rights of Americans in even the slightest way. I remind my colleagues of their oath and I call on them for keen awareness of that oath to defend and support the Constitution. The great and awesome oath binds me to a duty of the greatest importance to all Americans past, present, or future.

We do not defend our beloved flag by passing the first amendment to our Constitution to reduce the rights of Americans. Honor our flag. Honor a greater treasure to Americans, our Constitution. Vote down this bill.

Mr. LEACH. Mr. Speaker, I rise in reluctant opposition to the amendment.

It is interesting to note that this debate is taking place almost 5 years to the day since the last time the House considered amending the Constitution to protect the flag. The intervening years have been ones of momentous change.

As we approach the conclusion of the bloodiest century in human history, the United States has emerged as undisputed leader of the world community. The individualistic, democratic values that are the hallmark of our society are in ascendancy everywhere and America has never been more secure from foreign threat.

Yet all is not well here at home. The heinous crime perpetrated in Oklahoma City this spring raises anew questions about America's social fabric, of whether, in William Butler Yeats' terms, the center—that is, civilization—can hold.

In what may be the most disturbingly prophetic poem in Western civilization, ''The Second Coming,'' Yeats wrote:

> Turning and turning in the widening gyre
> The falcon cannot hear the falconer;
> Things fall apart; the center cannot hold;
> Mere anarchy is loosed upon the world
> The blood-dimmed tide is loosed, and everywhere
> The ceremony of innocence is drowned;
> The best lack all conviction while the worst are full of passionate intensity.

''Surely,'' Yeats continues, ''some revelation is at hand.''

The question is of what that revelation might be.

In America today hate is one the rise; prejudice is bubbling. There is growing doubt, if not fear, of the very values—such as free competition within the rule of law—that have impelled America to the position of unprecedented preeminence on the world stage it now occupies.

It is in this context that the amendment before us has been brought forward. It is an attempt to affirm all that is good about our great country. It is, in the words of our distinguished colleague from Illinois and chairman of the Judiciary Committee, HENRY HYDE, ''an effort by mainstream Americans to reassert community standards. It is a popular protest against the vulgarization of our society.''

This is an honorable motive, and I am reluctant to oppose it.

Moreover, this amendment is championed by organizations—particularly the American Legion, VFW, and DAV—which represent those without whose sacrifices this country and its values would not exist. Had it no been for our Nation's veterans, the only competition in the world today would be between totalitarianism of he left and totalitarianism of the right.

These are honorable men and women, and I am reluctant to oppose them.

Yet, Mr. Speaker, I cannot support this amendment because I am convinced that to do so is to undercut the very essence of the system of governance for which the flag itself stands.

At the heart of our democracy is a struggle, an ongoing conflict of ideas for which the Constitution provides the rules. It is in this conflict that the e pluribus unum—the ''one out of many,'' as the motto borne on the ribbon held in the mouth of the American bald eagle on the Great Seal of the United States puts it—arises. And it is precisely this unity in multiplicity for which our flag with its 50 stars and 13 stripes stands.

The genius of our Constitution lies in the ways in which it structures and ensures the continuity of this conflict of ideas which is our democracy. It does so through the system of checks and balances and separation of powers with which it structures our Government on the one hand, and the protection of freedom of expression it provides in the first amendment on the other. The former ensures that the fight is always a fair one and that no momentary majority uses its temporary advantage to destroy its opponents; the latter ensures that no idea, however obnoxious, is excluded from the consideration in the debate.

It should be stressed that the protection provided by the first amendment is a two-edged sword. In fact, the Bill of Rights does not exempt ideas and the actions that embody them from criticism, but ensures they are exposed to it. As Jefferson put it in his ''Act for Establishing Religious Freedom'' in Virginia:

> Truth is great and will prevail if left to herself . . . she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict unless by human interposition disarmed of her natural weapon, free argument and debate; errors ceasing to be dangerous when it is permitted freely to contradict them.

Thus any abridgment of the protections provided by the first amendment, no matter how nobly motivated, would diminish freedom and in all likelihood precipitate, in this instance, more symbolic incidents tarnishing the flag than would otherwise be the case. Accordingly, great care must be taken not to take actions in the name of protecting the flag that

have the effect of misinterpreting the meaning of the flag.

In this assessment, the distinction between liberties to protect and symbols to rally behind must be made. Freedom of speech and freedom of religion require constitutional protection. The flag, on the other hand, demands respect for what it is—the greatest symbol of the greatest country on the face of the Earth. It is appropriate to pass laws expressing reverance for the flag and applying penalties, wherever possible, to those who would trash it, but I have grave doubts the Constitution is the right place to address these issues.

Mr. SHAYS. Mr. Speaker, I find it abhorrent that someone would desecrate the flag of the United States of America. But I will not support an amendment to the Constitution to prevent it.

When I think of the flag, I think about the men and women who died defending it. What they really were defending was the Constitution of the United States and the rights it guarantees.

My colleagues in Congress, and I, sought to address this problem when we overwhelmingly passed the Flag Protection Act of 1989. I don't feel anyone should be allowed to desecrate the flag. I wish the Supreme Court had decided in favor of the law, but regretfully, by a vote of 5 to 4, it declared the act unconstitutional.

Congress anger and frustration with the decision led us to consider an amendment to the Constitution. Keep in mind the Constitution has been amended only 17 times since the Bill of Rights was passed in 1791. This is the same Constitution that eventually outlawed slavery, gave blacks and women the right to vote, and guarantees freedom of speech and freedom of religion.

Republicans have proposed amendments to the Constitution to balance the budget, mandate school prayer, impose term limits on Members of Congress, institute a line-item veto, change U.S. citizenship requirements, and many other issues.

Amending the Constitution is an extraordinarily serious matter. I don't think we should allow a few obnoxious attention-seekers to push us into a corner, especially since no one is burning the flag, and there is no constitutional amendment.

I love the flag for all that it represents—the values of freedom, democracy, and tolerance for others—but I love the Constitution even more. The Constitution is not just a symbol. It defines the very principles on which our Nation is founded.

Mrs. ROUKEMA. Mr. Speaker, I strongly support House Joint Resolution 79, the resolution proposing a constitutional amendment to prohibit desecration of the American flag.

The last time that the House considered a constitutional amendment allowing the States or Congress to prohibit the desecration of the American flag was June 1990. This vote followed an earlier decision by the Supreme Court which struck down the Flag Protection Act of 1989 that had passed the House overwhelmingly the year before. And, although the constitutional amendment failed, I strongly supported both the amendment and the Flag Protection Act

Although the Supreme Court agrees that desecrating our flag is deeply offensive to many, it has twice overturned laws that bar flag burning. In both cases, the decision has been handed down by the narrowest of margins, 5 to 4. Such distinguished constitutionalists as Justices Stevens and White hold that burning of the U.S. flag is not an expression protected by the first amendment. Instead, they believe that flag burning is an action, a repugnant action. And, therein lies the distinction. Burning a flag is conduct, not speech.

I believe strongly in this amendment, although I believe it to an issue on which patriotic Americans of good faith can, and do, have legitimate differences. Many assert that burning a flag endangers no one. Using that standard, one would then assume that we would not see the inherent violation of decency of throwing blood on the U.S. Capitol, painting a swastika on a synagogue, or defacing a national monument. These actions also endanger no one. And, yet, laws have been wisely enacted to prohibit these actions.

I feel very strongly that we must do all we can to protect our flag. This constitutional amendment is a necessary good-faith measure that defends our most treasured national symbol.

Mr. CLINGER. Mr. Speaker, 5 years ago, I was one of only 17 Republicans in the House of Representatives and the only Republican from the Pennsylvania delegation who did not support the constitutional amendment prohibiting flag desecration.

I did not arrive at this decision easily. Polls showed an overwhelming majority of Americans supporting the amendment, and my Republican colleagues and President Bush were lobbying hard for its passage.

Only after painful reflection did I come to the conclusion that the amendment would diminish the first amendment and make martyrs of the twisted lowlifes who defile the flag for public attention. Although I deplore flag burners and despise their cheap theatrics, I have greater reverence for the Constitution and the Bill of Rights and refuse to give these pathetic individuals and their sorry causes the stature that a constitutional amendment provides.

When I learned that the flag burning amendment would be coming to the House floor again for a vote, I dug out my old files on the flag burning amendment to review the constituent letters I received after the 1990 vote.

Many constituents were irate with me, and they didn't sugarcoat their feelings or pull any punches. I was invited to ''stick it where the sun don't shine.'' I was told that I was ''as guilty as the flag burners'' and ''should hang my head in shame.'' I convinced several lifelong Republicans to join the Democratic Party. And I was instructed by several of my strongest supporters and closest friends to remove their names from my mailing list.

But not all of the mail was as negative as one might imagine. In fact, a majority of the letters were supportive of my vote.

As I read these letters from former servicemen, widows, and disabled veterans who explained what patriotism meant to them and why they opposed the flag burning amendment, I realized that many were far more eloquent than any statement or speech I could compose. So rather than read a prepared statement that merely outlines my views, I would like to read passages from several of the letters I received and let some of my constituents speak for me.

One reads:

DEAR CONGRESSMAN: I had four and one half years in the United States Army. Three of those years were overseas helping to fight a war to keep fascism and Nazism away from our shores. I was not drafted. I volunteered to serve my country. I love and respect the flag as much as anyone, but I love the freedom for which it stands more so.

Another reads:

DEAR CONGRESSMAN CLINGER: My father tried to raise his sons as patriots. Only time will tell if he succeeded. I enlisted on my 17th birthday and served in the submarine force. This was my way of trying to preserve our land as a nation of free people. It would have been tragic to risk my life for freedom, only to have it voted away.

A third one reads:

DEAR CONGRESSMAN CLINGER: I am a 100% service-connected, double amputee veteran of the Korean War. I agree with you on your vote on the flag burning amendment. Please feel free to use my name or letter to support your position as stated.

A fourth letter reads:

DEAR MR. CLINGER: I am not a resident of your voting district. I am a disabled Vietnam era veteran. I could easily have avoided service, however, I chose to serve my country when it was not a popular thing to do. It was a difficult choice. I see that you recently made a difficult and unpopular choice; the choice to vote against the Constitutional amendment prohibiting burning of the U.S. flag. I am glad that you had the courage to vote against this amendment and I thank you for standing up for the ''Bill of Rights.''

Finally, the shortest, but probably the most poignant, struck a chord with me:

DEAR CONGRESSMAN CLINGER, I support your vote on the flag amendment.

If the day ever comes when we must ensure patriotism by statute, it will already be too late for our country.

The point is it isn't too late; we don't need to ensure patriotism by statute. The vast majority of Americans have a deep-seated respect for the flag and fly the flag proudly. We shouldn't let an ignorant few force us to compromise the integrity of the Constitution and the Bill of Rights—the true source of our Nation's greatness.

If we really want to stop the burning, we should not adopt this measure. A constitutional amendment will turn a fool's act of cowardice into a martyr's civil disobedience, and encourage more dimwits to burn the flag.

Preserving and exercising the first amendment's guarantee of freedom of expression, not suppressing it, is the best way to combat this disgraceful behavior. We must ridicule those fringe elements and expose them for what they are: despicable, grandstanding losers who are beneath contempt and unworthy of any attention whatsoever.

Mr. JONES. Mr. Speaker, I have the privilege of representing three military bases, many active and retired military personnel, and a large group of patriotic civilians who all have strong feelings of respect for the American flag. As a proud cosponsor of the flag desecration constitutional amendment, I strongly believe in protecting the American flag and everything that it symbolizes. Old Glory, the most respected and recognized symbol in our country, represents the continued struggle for freedom and democracy. Far too often people disregard and betray all that the flag has stood for throughout our history and continues to. The flag is the physical embodiment of that for which many men and women have sacrificed their lives. To desecrate the flag is to desecrate them. We owe it

to these unsung heroes to continue the job they started by ensuring passage of this constitutional amendment. Our flag is a unique symbol of our country's heritage that deserves the highest degree of respect and dignity.

Mr. MINETA. Mr. Speaker, as a former Army intelligence officer, as a former major in the U.S. Army Reserve, and as a Member of Congress who is sworn to uphold the Constitution, I cannot support this proposed amendment.

More than a half century ago, President Franklin Roosevelt spoke to this country and told us we had nothing to fear but fear itself. Truer words were never spoken.

Time and again throughout our history, the greatest tragedies have occurred when we have allowed our fear or anger to lead us into drastic overreaction.

The redbaiting of the 1950's with its blacklists and purges, arose in response to the fear of the Soviet Union. Even at the time, many Americans realized that Senator McCarthy's crusade was not the way to respond to the threat of communism. With 20–20 hindsight today, virtually all Americans regret the national hysteria that caused so many lives to be ruined.

In the 1940's it was our justified anger over the Empire of Japan's attack on our naval installation at Pearl Habor, HI, that led this Nation to ignore the civil liberties guaranteed by our Constitution and force 120,000 Americans from this homes and into internment camps simply on the basis of their Japanese ancestry.

It is unfortunate that President Roosevelt, in authorizing that action, failed to appreciate the wisdom of his own warning on the dangers of fear.

Today, we are faced with a situation in which a few individuals have on occasion set fire to the American flag. That is an action which, as a former Army officer, as a Member of Congress, and as an American, I find repugnant.

Our response to these incidents will say a lot about this country. Will we once again allow our anger to overrule our reason? If this resolution were to pass, the answer would unfortunately be ''Yes.''

Our response to flag burning should be to denounce it.

However, this resolution goes so far as to narrow the provision of the Constitution which guarantees to all Americans the freedom of speech and the freedom of political debate.

That is unnecessary, it is an over-reaction, and it represents an action which is far more dangerous to the future of this Nation than a few misguided flag burners.

This resolution will do nothing but cut off the Constitution's nose to spite its face. In an effort to deny the right of a few people to express an idea we despise, it would place at risk the right of all Americans to freedom of speech.

I would have hoped that this Congress would have learned more from the mistakes of history than to take this road. The vote today in the House will tell us whether that is true.

I urge my colleagues to join me in opposing this misguided resolution, and vote ''no'' on House Joint Resolution 79.

Mr. MARTIN. Mr. Speaker, I rise today in strong support of House Joint Resolution 79, an amendment to the Constitution to allow the banning of the desecration of the American flag.

It is a crucial amendment, one aimed at restoring a civility and patriotism that our Nation seems to have been lacking in recent years.

For the better part of two centuries, democracy in America has been characterized by vibrant and rich debate. Disagreement has been a hallmark of our system of government; the competition of ideas has helped make us the greatest nation on Earth. Unanimity on political matters has never been achieved, and it has never been pursued. It has been the freedom to disagree, to criticize, and to dissent that has made the United States so worthy of our loyalties.

Indeed, the freedom of expression is something so precious as to be worth fighting and dying for. This freedom of expression has enabled individuals to engage in the great American discourse, a legacy which will go down in history as perhaps our Nation's finest accomplishment.

Yet in recent years, it seems as if a once eloquent discourse has become something of a rough, almost violent argument. As individuals in the public arena raise their voices, it appears that nothing is sacred.

Almost every constituent with which I speak, no matter what political stripe he or she is, agrees on at least one point: They demand that a degree of civility be returned to the public debate. And this amendment is one of the first and one of the few legislative steps we can take to answer these demands.

The flag is a symbol of our heritage; it represents our common institutions and traditions. It has stood for peace and democracy abroad, and justice and progress at home.

For two centuries, millions of our finest men and women have sacrificed to defend the flag and all that it stands for. They have risked their lives in every corner of the world so that we may enjoy the liberties guaranteed us by the Constitution.

Yet there are some in our society who would abuse the freedoms and privileges our land provides. They do such offensive and outrageous things to the symbol of our Nation that they cause us to propose amendments to the Constitution.

House Joint Resolution 79 will help remind the American people of the debt we all owe to those who have fought and died for the freedoms we enjoy.

This would be an altogether healthy development for the United States and one which a great majority of the people would applaud.

But the need for this amendment runs even deeper than these positive effects.

If a society that holds the freedom of expression as a right of all citizens wishes to remain free, then that society needs to state some kind of baseline to that expression. Without that baseline, such a society would soon devolve to anarchy. And out of anarchy, there will come no freedom of speech.

To the contrary, if we want to continue the excellent American tradition of freedom of speech, then at the very least we must all agree on one thing: It is the U.S. Government and its institutions that allow us to exercise that speech. And as the symbol of those institutions, the flag ought to be protected from heinous and debasing acts.

You see, those that speak out against this amendment in defense of the freedom of speech are threatening their own freedom.

By leaving nothing sacred, not even the symbol of hope and liberty for billions around the world, we are doing a great disservice to all those who have come before us, and all those who will come after. In fact, we threaten the freedom of speech itself.

House Joint Resolution 79 represents the opportunity to do just what Americans across the country are pleading for: namely, returning civility to the public arena.

It would allow States and Congress to prohibit the gross mistreatment of our national symbol, and help restore a faith in our institutions that has been sorely missed by the public at large. Protect Old Glory and the freedom of speech, support House Joint Resolution 79.

Mr. COYNE. Mr. Speaker, I rise today to express my opposition to the proposed amendment to the U.S. Constitution that would seek to amend our Nation's Bill of Rights for the first time in American history. This is the wrong way to honor the American flag which is intended to symbolize the freedoms first set forth by our Nation's Founders in the Constitution and the Bill of Rights.

There is a very real question about why this amendment is before the House today. It seems that there have been very few, if any, reports of flag desecration since the late 1980's when the flag became embroiled in a Presidential political campaign. I will venture to predict, however, that efforts to pass this amendment will prompt some malcontent in our society to engage in the very act some would prohibit. There will always be a few who will do anything to claim their 15 minutes of fame, or infamy in this case.

Still, simply stated, the most important question before us today is whether we should carve out a constitutional exception to first amendment protections under the pretext of saving the flag. The issues before us involve legal matters but, more importantly, they also involve fundamental questions about the nature of our democracy and the freedoms we will celebrate in less than a week on July 4.

The United States has always been a beacon of freedom to the world because of the principles of liberty set forth by our Nation's Founders. This was true over 200 years ago and it is true today. Our freedoms have endured and prevailed over monarchists, Fascists, and Communists. This is due in large part to the fact that our Nation's Founders enshrined in our Constitution and the Bill of Rights an unyielding commitment to liberty. This commitment finds its most noble expression in the first amendment to the U.S. Constitution. And one of the most fundamental elements of this amendment is the idea that each person should be free to express his or her views, no matter how repugnant they may be.

The freedom of speech embodied in America's first amendment is celebrated here in the United States and around the world. It has provided inspiration to prisoners of conscience who have struggled in foreign lands against dictatorship. It has been repeatedly upheld by the U.S. Supreme Court as one of our Nation's most important constitutional principles. Our right to free speech is something that makes us uniquely American.

No one has ever attempted an outright repeal of our first amendment right of free speech. Instead, there have been efforts over the course of our history to nibble away at these rights. This periodic pressure to erode the full expression of free speech in our Nation has always been dangerous. Such efforts

have always raised basic questions of where do we stop if we start down the slippery road of curbing speech or expressions that some may find offensive. Such a selective defense of liberty has always threatened to eat away at the very foundations of our democratic values. These are the true threats to our Nation's most sacred principles.

We see an example of this danger today in the proposed amendment to prohibit the desecration of the flag. It is an important step in the wrong direction.

I would stress at this point that I share the belief of many Americans that desecration of the U.S. flag is an offensive act. Burning the American flag is an extremely despicable way for any individual to express their views on the U.S. Government, its laws, or the flag itself. I also understand that American veterans feel especially offended to see the flag that they have served under desecrated. As someone who is proud to have worn the uniform of the U.S. Army, I am also disgusted to see our flag desecrated at any time by malcontents who seek to draw attention to an issue by burning the American flag.

Yet, the real issue before us is how committed we are to the Bill of Rights and the guarantee of free speech set forth in the first amendment. The question is whether we are willing to defend the right of free speech even while we condemn the acts of those who would express their views by burning the American flag.

I have every right to join the vast majority of Americans in condemning those who would burn our Nation's flag. Yet, I have taken a solemn oath to defend the Constitution and that also requires a defense of the first amendment. I refuse to let the actions of a few despicable malcontents who would burn the flag lead me to take an action that would erode the freedoms guaranteed by our Constitution and the Bill of Rights. I cannot permit myself to join with those who would honor the flag by weakening the first amendment.

Supreme Court Justice William Brennen said it well, ''we do not consecrate the flag by punishing its desecration, for in doing so we dilute the freedom that this cherished emblem represents.''

Mr. Speaker, I believe that the U.S. flag is best honored by upholding all of the traditions of freedom outlined in the U.S. Constitution and the Bill of Rights. I urge my colleagues to vote against this amendment.

Mr. HEINEMAN. Mr. Speaker, for more than 200 years, the American flag has been a symbol of all that was good, honorable and just in our great Nation. Unfortunately, on June 21, 1989, the Supreme Court ruled that the American flag could be burned just like any other piece of cloth. This amendment will remedy this gross error.

I am proud to say that I am an original cosponsor of this amendment and strongly support the flag desecration constitutional amendment. Throughout the U.S. history, during wars abroad and at home, the one symbol that unites this great Nation is the flag. Since Congress last voted on the flag desecration issue, 49 States, including my home State of North Carolina, have passed resolutions requesting Congress give them the opportunity to protect the American flag by ratifying such an amendment.

We should have the deepest gratitude for those wartime heroes who fought and died for our freedom. We should be humbled by those who gave their lives in defense of those things we treasure as Americans. We should be in awe of the ultimate symbol of these acts of patriotism and heroism. With every act of flag desecration, we are allowing patriotism and heroism to be mocked.

Opponents of the flag desecration amendment argue that this is an infringement on free speech and the first amendment. This amendment will simply restore what was the law of the land for more than two centuries. The flag is a unique symbol in our society. No other act arouses the amount of outrage as flag desecration. This amendment will simply give the States the power to decide on what is and what is not flag desecration. I urge my colleagues to vote yes on this bi-partisan amendment. Our greatest national treasure deserves no less.

Mr. FOGLIETTA. Mr. Speaker, here we go again.

Here we go again spending time on a sound-bite solution to an issue.

The symbol of our flag is very important to me. It was in my hometown of Philadelphia where Betsy Ross sewed the first flag. But that's not all that happened in Philadelphia. The Constitution and its first amendment were also written there.

Our goal here is to honor America. And it is an admirable goal to pay homage to this, the greatest Nation on Earth.

But the flag—no matter how beautiful and special—is a symbol. Justice Jackson said this more than 50 years ago in a landmark decision about pledging allegiance to our flag: ''The use of an emblem or flag * * * is a short cut from mind to mind.''

We can honor America and pass on to our children reverence for our country in much more genuine ways. First, as Members of Congress we should spend every day in this institution living up to the highest ideals of democracy and constitutional Government.

Second, we should do our best to preserve and expand debate and free speech. Free speech is the essence of democracy and the energy that drives our Nation.

Burning the flag is speech; it is hideous speech but it is speech. Oliver Wendell Holmes said this about offensive speech: we need to protect the ''freedom for the thought we hate.''

It is unfortunate that we are spending our time passing this amendment. There's a better way. The next time someone desecrates our flag—I would rather spend my energy defending our Nation by challenging this ugly form of speech, through speech. That's the way to pledge allegiance to America.

Mr. BILIRAKIS. Mr. Speaker, I rise today, as an original cosponsor of House Joint Resolution 79, in strong support of this legislation to protect our flag from desecration. I congratulate my colleague and friend from New York for introducing this measure and for his persistence in bringing it to the floor today.

Because of what America is, our flag should always be one of our most cherished and revered symbols. Therefore, I was astounded and gravely disappointed by the 1989 Supreme Court decision legitimizing desecration of our flag as protected conduct. I was one of those in Congress at the time who immediately afterward introduced legislation to reverse it.

However, I must tell you that I took this step not at all lightly. I believed that to reverse this decision of the Supreme Court, one course and one course only was open to us: Amending the U.S. Constitution. Today we seek to do just that with this legislation authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States.

My friends, I have to tell you that I never believed that the issue involved is one of free speech—that burning the flag is a form of protest against government policies. The American flag does not stand for any particular government policy or decision or official. It stands for the United States of America, and to desecrate it means that America should not exist—that freedom and democracy should not exist—that, in fact, right to peaceful protest should not exist. I cannot and will not support this idea.

It has been said that allowing the desecration of the flag is the best way to prove we believe in equal freedom for those with whom we disagree. The late Senator from Illinois, Everett M. Dirksen, once answered this argument. He called it false and sour.

''A person can revile the flag to his evil heart's content,'' he said, but it is only if his contempt takes physical form—such as trampling, tearing, spitting on and burning the flag—that he can be punished. Only his violence is punished. I could not agree more.

Let me repeat, I say that by protecting our flag we deny no one the right of free speech or of peaceful political protest. I will defend the right of anyone to get up and say whatever is on his mind. That is, in fact, the entire point: By defending the flag we ensure that this right never will be denied.

All we ask is that the flag be accorded the same respect we offer to those who protest under its freedoms.

If livings symbols of freedom and liberty mean nothing, if the ideals and not the evidence are all that matter, why don't we just open up the National Archives and tear up the Constitution and Declaration of Independence? They're just fading, old pieces of paper, aren't they?

The fact of the matter is that they are much more than that. They have told generations and generations of immigrants seeking a better life—immigrants like my parents and some of yours—that here in America we believe it is an individual's right to choose, to control his own destiny.

Senator Dirksen had it right—he said that:

> Reverence for our stars and stripes is but our simple tribute to the republic and to all of its hopes and dreams.

In this country, we do not pledge allegiance to a king or a President or even a piece of old parchment.

We pledge allegiance to a flag because its bright stars and bold stripes mean something that no other flag on Earth today means: Here in America, the people are the Government, and for that reason we will always be free.

No, it is not lack of commitment to the flag and the great freedoms and ideals it symbolizes that make me uneasy.

What disturbs me is that we as a Nation must go to these lengths—to the extreme of amending the document upon which all of our national history and heritage rests—to reconfirm these very national beliefs.

We cannot hold ourselves apart, we cannot claim that we are Americans, and at the same time believe that this flag should be burned or otherwise desecrated.

This flag means America, it means that we should be able to disagree. How can anyone believe otherwise? How could anyone not choose freedom over tyranny, justice over injustice, liberty over servitude? This flag—our flag—stands for these great ideals. It is hope, dreams, the very best man can offer the world and the future.

Our cemeteries are filled with the bodies of those who had great dreams of productive lives with loving families—dreams that were forfeited in order that you and I and our children would be able to lead better lives.

Our freedoms have been bought and paid for by their sacrifice, and we own it to them to ensure that this country can be all that it was meant to be.

That does not include contempt and desecration—it requires determined, constructive effort every day. All of this and more is woven into those few yards of cloth. We need to remember that.

Mr. Speaker, I urge all of my colleagues to support this valuable and needed legislation today. Protect our flag and ensure that it's protections will never be compromised.

Mr. EWING. Mr. Speaker, I rise today in strong support of House Joint Resolution 79. I take great pride in supporting this resolution which will protect Old Glory, from being desecrated. Contrary to what this resolution's opponents say, we are not trampling on the Bill of Rights. Indeed, we are ensuring the rights of millions of Americans who find burning the American flag to be offensive to their beliefs.

It does not make sense to argue that burning the American flag is a protected form of expression. It is a felony to burn U.S. currency, even if a political statement is being made, and it is illegal to damage a Postal Service mailbox. But you can burn the American flag. This makes no sense.

Until 1989 the Supreme Court upheld State laws that prohibited the desecration of the flag. In 1989, the Supreme Court overturned a Texas statute that prohibited the desecration of the flag. Consequently, Congress passed a Federal law that prohibited the desecration of the flag. Once again, the Supreme Court overturned a statute that barred flag-burning. Faced with these two decisions, A constitutional amendment is the only way to give the American flag the protection it so dearly needs. This amendment will provide Congress and the States with the constitutional authority to protect the flag, authority that they had prior to the Supreme Court's intervention in 1989. This amendment itself will not prohibit desecration of the flag, it will simply return this authority to the States.

Public opinion polls show that more than 80 percent of the American people support this amendment. Forty-nine State legislatures have passed resolutions calling on Congress to pass this amendment and send it to the States. One needs only to look at the Iwo Jima Memorial to witness the powerful nature of the American flag. The American flag is a symbol throughout the world for liberty and justice and we should treat it with the utmost respect and admiration, not just for what it symbolizes but also for countless numbers of soldiers and others who fought, served and died protecting it. In a country as wonderfully diverse as ours, the American flag serves as a national symbol of unity. No matter who you are, whether you are rich or poor, African-American or Irish-American, male or female it is our flag that reminds us of our common history and our heritage.

The American people want us to pass this amendment, and I urge my colleagues to vote for it.

Mr. KLECZKA. Mr. Speaker, I rise in opposition to this unnecessary constitutional amendment.

All of us here today respect and honor our flag. We all feel so proud when we see the Stars and Stripes on a front porch.

We all agree that the flag is a treasured symbol of our democratic ideals and the values we hold most dear to our hearts. And, we all agree that damaging that symbol is disgraceful and should never be condoned.

The key question is, are we truly prepared to amend the Bill of Rights for the first time ever, to begin eroding the freedom of speech and expression? Our Founding Fathers drafted the Bill of Rights as a guarantee against the abuses and tyranny they had fled. These inalienable rights have stood the test of time and survived for 204 years. Are we prepared to begin placing qualifications on the first amendment? What provision of the Bill of Rights will be next?

If we start down the slippery slope of eroding fundamental rights like free speech, where will the assault on individual freedom we all take for granted end? What is the logical extension?

I am disturbed by the remarks of American Legion National Commander William Detweiler, who stated, ''Burning the flag * * * is a problem even if no one ever burns another American flag.'' These comments show an alarming lack of perspective. Is Congress going to begin amending the Constitution to prohibit actions which do not even occur? There is no rampant abuse of the flag occurring in this country. There has not been a major incident in 5 years. But know full well, as soon as we pass this amendment, someone will burn a flag just to get in the news.

Old Glory has a special place in our Nation's history and damaging it is disgraceful. But we should not let a few isolated hooligans and malcontents blackmail us into whittling away at the Bill of Rights.

Moreover, our flag, while revered and held in honor, is a secular symbol and thus should not be worshiped. It should not be elevated to the exalted status this amendment would confer.

That is why I am perplexed by the use of the word desecration in connection with the flag. The word actually means ''to violate the sanctity of,'' a definition with obvious religious undertones.

William Safire, one of the most conservative commentators in America today, addressed the question of the flag's true secular symbolism eloquently. In 1990 he wrote,

> * * * in this democracy, nothing political can be consecrated, ''made sacred.'' * * * Any attempt to make the nation's flag sacred—to endow this secular symbol with the holiness required for ''desecration''—not only undermines our political freedom but belittles our worship of the Creator.

He continued,

> Should we respect the flag? Always. Should we worship the flag? Never. We salute the flag but we reserve worship for God.

Mr. Speaker, in spite of my deep respect and affection for our flag, I will vote against this constitutional amendment. This amendment would alter our Bill of Rights for the first time in more than 200 years to prohibit an act which almost never occurs. It is ironic that this amendment's sponsors are using our Nation's symbol of freedom to begin eroding that freedom.

I urge my colleagues to vote no on this unnecessary constitutional tampering.

Mr. YOUNG of Florida. Mr. Speaker, I rise in strong support of House Joint Resolution 79, legislation I have cosponsored to allow Congress and the States to prohibit the physical desecration of the American flag.

As we debate this long overdue legislation to correct a 1989 Supreme Court ruling that allowed for the desecration of the American flag, I cannot help but recall my good friend and constituent Charles Allen, a veteran who served in the Navy during World War I. He is a legend at the Department of Veterans Affairs Hospital at Bay Pines which he helped build. Later he served on the hospital's maintenance team and upon his retirement devoted thousands of hours as a hospital volunteer and donated thousands of dollars to the volunteer services program. Although Charlie died 4 years ago, he is buried at the National Cemetery at Bay Pines and is with us in spirit during every memorial day and Veterans Day program.

Perhaps the greatest gift left to us by Charlie Allen was a special tribute to the American flag he wrote and recited at Memorial Day and Veterans Day services for more than 25 years. It is a stirring tribute to Old Glory which I would like to share with my colleagues.

> It is my privilege and high honor to direct your attention to this beautiful flag of our beloved country. It is, and should always be displayed in the proper place and conditions where it is accorded the position of highest honor and is a constant inspiration to every loyal citizen. It demands unswerving loyalty and wholehearted devotion of the principals of which it is the glorious representative. It is the majestic emblem of freedom under constitutional government.
>
> Beneath its protective folds, liberty, equality, and fraternity have become the heritage of every citizen—while the opposed of many nations have found peace and happiness in the land over which it floats.
>
> Each time I see Old Glory wave against a clear blue sky.
>
> I know that deepest reason that our flag will always fly.
>
> And so I set about to write just how it made me feel.
>
> To see the banner fluttering, our guardian so real.
>
> I will not say, as others did, for which each color stands.
>
> I'll only state this grand old flag a Nation great commands.
>
> And that each mother's sons of us would more than gladly give.
>
> Our blood, and yes, our very life so it can wave and live.
>
> The flags of many empires have come and gone, but the Stars and Stripes remain.
>
> Alone of all flags, it has the sanctity of revelation. He who lives under it, is loyal to it, is loyal to truth and justice everywhere. For as long as it flies on land, sea, or air, Government of the people, by the people, for the people, shall not perish from this earth.
>
> (Charles Allen, WW I veteran)

Before his death, Charlie willed his tribute to the flag to another legend of Bay Pines and our local veterans community, Mr. W.B. Mackall. He is a leader of Florida's Citizen

Flag Alliance who now carries on the tradition of reciting this tribute at the appropriate events.

Mr. Speaker, as a veteran and as one who dedicated his life to other veterans and to our Nation, it is most appropriate that Charlie Allen's word from the heart about the American flag be a part of this historic debate. In just a few sentences, he captures its essence and the urgent need to protect the Stars and Stripes from those who would desecrate it. Those who would trample on our flag also trample upon our Nation, the honor of Charlie Allen, all those who went before him into battle, and all those who will go into battle in the future in defense of our Nation and our way of life.

Mr. GUNDERSON. Mr. Speaker, the flag of the United States is very dear to almost every American. To see it desecrated evokes anger among most of us because it is such a powerful and important symbol. The flag makes us proud and reminds us of what we, our friends and relatives and our forefathers have sacrificed to ensure it will continue to symbolize peace, strength and above all, freedom.

The Supreme Court has ruled that statutes which prohibit flag desecration violate the first amendment protection of freedom of speech and are unconstitutional. Therefore, it has become necessary to amend the Constitution so that Congress and the states may enact legislation protecting the flag. The constitutional amendment before us today provides such power; no more, no less. It states: ''The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States.'' I support this narrowly drawn amendment to allow us to protect the flag, our symbol of all that we are as a people.

The most important part of this debate, and one we won't decide today, is how a future Congress will define two important terms in this amendment. Those terms are ''physical desecration'' and ''flag.'' This will require careful and thoughtful consideration to make sure we protect both our flag and our right to free speech.

Some would argue that we cannot protect the flag through a constitutional amendment, because to do so would restrict the right to free speech. The first amendment protects a wide variety of expression of ideas and the means by which these ideas are conveyed. For example, the spoken word, a gesture, and picket signs are largely protected by the first amendment. However, the Supreme Court has ruled that first amendment does have reasonable limits. The Supreme Court has ruled that the first amendment does not protect one from yelling ''fire'' in a crowded movie theater or from provoking a riot. It has also allowed restrictions on when, where and how speech is conveyed in public.

Let me illustrate with a hypothetical situation. Assume that I am the owner of a business on Main Street in town and the mayor decides to close Main Street. I can express my dislike for the mayor's decision by giving a speech against the idea in a public square or by holding a picket sign. However, the town can legally regulate when, where and how I can do these things. In my example above, the town could prevent me from screaming my speech through a megaphone at 2 o'clock in the morning. It could also prevent me from throwing a paint bomb at city hall. But it cannot prevent me from expressing my dislike of the mayor's decision to close Main Street.

It will be necessary for a future Congress to be thoughtful in defining the term ''physical desecration.'' Obviously, the definition cannot be so narrow that it prevents burning of a soiled or tattered flag. That is considered a respectful means of disposal. However, it should not be so broad as to prevent a flag being present at a protest against a certain government action. Such a prohibition would not involve physical contact with the flag and would not, therefore, involve any changes to the flag.

The definition of ''physical desecration'' will depend upon how a future Congress defines ''flag,'' which will be just as difficult. What exactly is a flag? I have no problem with the traditional ''flag'' that is flown on a flag pole in front of a house or city hall or above the Capitol. Similarly, a flag on a stick distributed at a Fourth of July parade seems clearly to be a flag which deserves protection. But what about a flag emblem on a sweater or on a shoe? What about a flag cake or a flag tie on the Fourth of July? Or a video picture of a flag that is transformed into the face of a politician? Is this video emblem a flag capable of desecration?

These are the very detailed and difficult questions which a future Congress must resolve if the amendment is adopted and ratified by the States. I support this amendment because I believe in protecting the flag. However, I also support the amendment because in the process of defining ''flag'' and ''physical desecration,'' the American public will see just how challenging it is to define what is and what is not protected by the first amendment. This civics lesson will increase our understanding of the freedoms which our flag symbolizes.

The SPEAKER pro tempore (Mr. OXLEY). All time has expired.

Pursuant to House Resolution 173, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BRYANT OF TEXAS

Mr. BRYANT of Texas. Mr. Speaker, as the minority leader's designee, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the joint resolution?

Mr. BRYANT of Texas. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit with instructions.

The Clerk read as follows:

Mr. BRYANT of Texas moves to recommit the joint resolution, H.J. Res. 79, to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

''ARTICLE—

''SECTION 1. The Congress and the States shall have power to prohibit the burning, trampling, soiling, or rending of the flag of the United States.

''SECTION 2. For the purpose of this article of amendment, the Congress shall determine by law what constitutes the flag of the United States, and shall prescribe procedures for the proper disposal of a flag.''.

□ 1400

The SPEAKER pro tempore (Mr. OXLEY). Pursuant to House Resolution 173, the gentleman from Texas [Mr. BRYANT] and the gentleman from New York [Mr. SOLOMON] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would dearly love to be freed at this moment from any restraints of conscience so that I could simply content myself with a sincere speech about my love of this country and this flag and then go on my way because life would certainly be more simple for me and for many others who have spoken here today if we did that, but the fact of the matter is, if we love this country, if we truly want to be patriots who bear responsibility for the future of our people, and, after all, they are this country, we have the obligation to legislate for the long run in a way that is workable and in a way that protects them from accidentally getting in trouble and in a way that protects the things that we hold dear insofar as possible.

The fact of the matter is that in haste to bring this bill to the floor in time to precede the July Fourth recess the bill that has been brought to us today is one that I think bore a great deal more study and a great deal more consideration than it received. Why is that? Because either inadvertently or perhaps on purpose the way this current provision is written, Mr. Speaker, it allows 52 different definitions of what the flag is and 52 different definitions of what desecration of the flag is.

Well, I submit to my colleagues that the polls that I have heard the gentleman from New York [Mr. SOLOMON] make reference to during this debate, that the American people are for a prohibition on burning the flag, certainly would not be the same if they knew it was going to be 50 different laws and 50 different definitions of the flag; 52 that is. Surely, if there is anything that is within the province and responsibility of this Congress, it is defining what is an American flag. That should not be subject to 52 different definitions, and surely if we are going to deal with this problem in a way that goes as far as possible to avoid limiting freedom of speech and to avoid accidental prosecutions and accidental crossing of the

legal prohibitions, it is our job to write a single statute, a Federal statute, to govern the question of what is desecration of the flag.

I asked during the course of the debate in the Committee on the Judiciary of the gentleman from Florida [Mr. CANADY], who is the chairman of the subcommittee with jurisdiction, what would happen if a State said that a flag has 49 stars, or 48 stars, or a flag is green, and yellow, and blue instead of red, white, and blue, and the answer that I received was, ''Well, it is up to the States. It depends on what the States do.'' That is not an outcome that befits a Congress that is supposed to be handling with extreme care and reverence the Constitution of the United States and the best interests of the people that sent us here.

The motion to recommit is in effect an amendment to this bill, this resolution. It says quite simply that Congress and the States shall have power to prohibit the burning, trampling, soiling, or rending of the flag of the United States, and for purposes of this article the Congress shall determine by law what constitutes the flag and shall prescribe procedures for the proper disposal of the flag. That, if we are going to pass a constitutional amendment, is what the public would have in mind. That is something that tells people what is the flag, what is the law, and where is the line which one cannot cross.

I simply submit to the many Republicans, as well as Democrats who stood up today and spoke for this, that this is what they had in mind, not the provision that was hastily brought to the floor today in order to get here before the July Fourth recess and perhaps permit the delivery of many inspriational speeches with a slight political overtone over this coming holiday. How are we serving the interests of this country if we handle this in a way that is designed to meet our political needs rather than handling it in a judicious way that is designed to protect the interests of the public?

I submit the motion to recommit is constructive, it deals with the problem that has been articulated by the authors of the amendment in a way and in a way that tells the American people what is permitted and is not permitted.

Finally I would say this: You have made much of how important it is to prohibit anyone from desecrating the flag, but your proposal would allow States to permit the desecration of a flag because all 50 states can do what they want to do in terms of defining desecration and defining the flag. This proposal, this motion to recommit, says that the Congress defines the flag and the Congress defines desecration. If we are to take this monumental move, action, if we're to amend the most sacred civil document of this land, surely we ought to do it in a way that is constructive and it serves the interests of the people.

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

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

Mr. Speaker, first of all let me just say to Members on both sides of the aisle that reasonable men and women can disagree with each other, and certainly there is a reasonable disagreement on this issue. I respect those on both sides of the aisle regardless of what their opinion is, and I am sure that they are sincere, and I do not think that any of us are any more patriotic or any more standing up for the flag than the other. It is a question of a difference of opinion, and, because of that, I rise in opposition to the alternative for two basic reasons.

One, Mr. Speaker, is because it changes the wording of the language recommended by 49 States of the United States of America, and more than three-quarters of these States have memorialized this Congress to pass this exact language.

Now all of the State's attorneys in those States, whether it is Ohio, yours, Mr. Speaker, or Texas, or New York, they have looked at the language in House Joint Resolution 79, as have all of the veterans' organizations, as have many of the constitutional lawyers around this country. They have said that this language is the language we should adopt.

Now, if we change it, then it is going to cause a problem. We know now that these 49 States would almost immediately, within the first year that their legislatures go back into session, we know that they would ratify the language in House Joint Resolution 79. That means within 2 years we are going to settle this issue one way or the other. It would not be like the equal rights amendment that went for 7 years and then failed. If we pass this exact language, then we are assured that we are going to protect that flag and we are going to do it in a very short period of time.

Now, second reason:

It is because I do not believe that the sponsors, not this gentleman here, but those who appeared before my Committee on Rules upstairs yesterday, I do not believe that they are going to vote for this gentleman's substitute. As a matter of fact, those who came to testify, and the gentleman was not one of them, those that came to testify said they would not vote for it even if we made it in order.

Now that brings a problem to us because it again, once again, just clouds the issue. I say to my colleagues, ''If you recall last time, we passed a constitutional—or we tried to pass a constitutional amendment, but we ought to in tandem try to pass a statute, and many Members said, 'no, I'm going to vote against the constitutional amendment because we can vote for the statute, and that will take care of it,' and we failed. We failed by about 34 votes.''

My colleagues, we cannot fail today. We have tried it. The courts have said nothing is going to stand short of a constitutional amendment, and what we are simply doing is putting the constitution back to where it was prior to 1989 and how it stood for 200 years.

My good friend from Texas worries about the possibility that States might permit the desecration of the flag. Now I just have to take exception to that. In 200 years of the history of this country not one State did that. I mean after all, Mr. Speaker, we are people of common sense in this country.

Mr. Speaker, those are the reasons we need to defeat this alternative that is being offered and pass the constitutional amendment overwhelmingly supported by the American people.

Again, Mr. Speaker, I have the highest regard for the gentleman. There is not one Member of this House, whether liberal or conservative, that I dislike, or question, or impugn their integrity. They are all ladies and gentlemen that are highly respected in the eyes of this gentleman anyway.

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

Mr. SOLOMON. I yield to the gentleman from North Carolina.

Mr. HEFNER. I just want to ask a question.

I plan to vote for the amendment, but there is something that has been bothering me. I realize that the States will set whatever the penalty is, but jut say that someone is here on the Capitol Grounds in the District, here on the Capitol Grounds, and they burn a flag. Now what would be the penalty?

Mr. SOLOMON. There would not be any penalty unless this Congress——

Mr. HEFNER. Say it passes, it is ratified. What would be the penalty? What would be the Federal penalty if it happened in front of the Capitol?

Mr. SOLOMON. There would be no penalty unless the Congress takes action. The District of Columbia is not a State. This Congress must pass a statute, which we will do, the gentleman and I will do it together, and we will define the U.S. Flag Code, and what constitutes a flag, and what is a criminal offense; we will do that once this amendment has been ratified.

Mr. HEFNER. If the gentleman would continue to yield, because I read here the Congress and the States shall have the power to prohibit the physical desecration of the flag of the United States, and we cannot very well prohibit it, but what I am trying to get at is are we going to pass a statute here or are we going to have a law that it is a Federal crime, a Federal crime, to desecrate the flag and what penalty would it carry if someone desecrated the flag on the steps of the Capitol? What penalty would he have to pay? We have to have something.

Mr. SOLOMON. That is going to be up for debate on this floor. I hope the gentleman is back here next year if this is ratified as quickly as I think it will be. We ought to take this up on the floor and establish what constitutes an illegal activity as far as the

flag is concerned and what criminal penalty goes with it. That is up for this Congress to do, but do it by statute. All this amendment does is speak to the principle and allow, as the gentleman repeated, the States and/or the Congress to enact a statute which would provide for a legal penalty for physically desecrating the flag.

Mr. HEFNER. Would the gentleman continue to yield?

Mr. SOLOMON. I am running out of my time over here.

Mr. HEFNER. But the gentleman would anticipate that once this is passed by all the States, and I am assuming that it would happen fairly quickly, that they would set their penalties, and we would set one penalty, it would be a Federal offense if it took place here in the front of the Capitol, and there would be some penalty for desecration of the flag. If not, it is pretty meaningless to have it.

Mr. SOLOMON. Well, yes, sir, and I would hope that this Congress would do it before any of the States do it so that we could give them a sample to go back to what we believe it should be. They would not have to follow it because in some States, like in your State of North Carolina, they may want a very, very stiff penalty. In my State of New York, sometimes they are a little questionable with their enforcement of the laws; right, Mr. ACKERMAN? And so it might be a lesser penalty; I don't know. But again that is up to the States.

Mr. HEFNER. I thank the gentleman.

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

Mr. BRYANT of Texas. Mr. Speaker, I yield myself such time as I may consume.

I would like to ask the gentleman from New York [Mr. SOLOMON] if he would respond to me; he was good enough to yield me his time a moment ago. I ask Mr. SOLOMON from New York if I could have his attention for a question.

Mr. SOLOMON. Excuse me. I was distracted over here by one of our Texas colleagues.

Mr. BRYANT of Texas. I understand.

Mr. SOLOMON. They are everywhere you turn.

Mr. BRYANT of Texas. That is as it should be.

Mr. SOLOMON. Almost as bad as Californians.

Mr. BRYANT of Texas. Mr. SOLOMON, I am sure—I appreciate the gentleman's statement of his belief and sincerity of all parties in this debate, and I certainly say to the gentleman that those are my feelings in return. In the substitute which I have offered in the form of a motion to recommit we have provided that the Congress and the States shall have the power to prohibit the burning, trampling, soiling or rending of the flag of the United States. What else do you want to prohibit other than those four things?

Mr. SOLOMON. Mr. BRYANT, I do not know what the interpretation of rending of the flag might be.

Mr. BRYANT of Texas. Tearing.

Mr. SOLOMON. There are a lot of other things. Is punching a hole in the flag? I do not know.

□ 1415

What I am saying is that we want it to be a statement of principle, and then let this Congress make that decision, or let your State of Texas make that decision as to what the physical desecration of that flag would be.

Mr. BRYANT of Texas. Do you think my State should be able, for example, to prohibit someone from wearing the flag on the back of their jacket if they are a Member of an Olympic team? Should the State be allowed to prohibit that?

Mr. SOLOMON. No, and I do not think that they will.

Mr. BRYANT of Texas. Do you think the States should be allowed to prohibit the Olympic team from wearing a flag on the back of their athletic jacket?

Mr. SOLOMON. No, and I do not think they will.

Mr. BRYANT of Texas. Under the terms of your language, that could be defined as physical desecration. That is the whole point of my substitute.

Mr. SOLOMON. Let me tell the gentleman something: I have the greatest respect for your State legislature in Texas.

Mr. BRYANT of Texas. How about the one in New York?

Mr. SOLOMON. They are going to define a flag according to the U.S. flag code. Some articles of clothing are not a flag, and neither is a picture of it on a T-shirt. I have no concerns about that.

Mr. BRYANT of Texas. If I might ask the gentleman another question, do you not think it just logical that the flag of the United States would be defined by the Congress of the United States, not by the New York legislature, or the Texas legislature, or California or Massachusetts? One definition of what the flag is? Doesn't that just stand to reason that would make more sense?

Mr. SOLOMON. Yes, and we have a flag now; I think it needs refining and defining. I intend to work with that gentleman and to try to do that.

Mr. BRYANT of Texas. But your proposal allows 50 States to define the flag any way they want to. You brought it out here so quickly, you overlooked that. That is the point.

Mr. SOLOMON. I would say to the gentleman from Texas [Mr. BRYANT] that I am 64 years old, and I have looked at all of these statutes. I have not found one State that abused it, not one, in 200 years of this country's history.

Mr. BRYANT of Texas. I doubt if you looked at all of them. None of the rest of us have either. But for you to state a State can never abuse it. A State, as I said under your definition, could permit the desecration of the flag, whereas we are saying it is going to be a Federal statute.

Mr. SOLOMON. Does the gentleman think his State of Texas is going to abuse it?

Mr. BRYANT of Texas. No, but I am not so sure about the gentleman's State of New York.

Mr. SOLOMON. I do not think my State of New York would do it.

Mr. BRYANT of Texas. I hope the gentleman is right.

Mr. SOLOMON. I do not think any State would do it, not even Vermont, which happens to be the only State that actually passed a resolution saying they did not want this amendment.

Mr. BRYANT of Texas. I hope the gentleman is right. But the reason we write constitutional amendments is because of the assumption that somewhere down the line, somebody is going to get off tract, and abuse what we put into the Constitution, unless we write it carefully. This proposal to this motion to recommit is a careful writing of something which you all hustled out here in a big hurry, because you wanted to get out of here ahead of the July 4 recess.

Vote for something reasonable. You are going to have what you want. You will be able to prohibit the desecration of the flag. But we are not going to threaten the American people with accidental prosecution.

Mr. Speaker, I yield 9 minutes to the gentleman from New York [Mr. ACKERMAN].

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

Mr. ACKERMAN. Mr. Speaker, I am a bit old-fashioned. I love our country. I love our Constitution. I even love a parade. I love our flag. I am an Eagle Scout who still gets a tingle down my spine when Old Glory goes by. I do not understand and I disapprove of those misguided people who would desecrate that in which we all believe.

The question is, how should we as American patriots respond? Do we, like Voltaire, disagree with what they say, but loving freedom so much defend their right to do so? Or do we do like a despot, who, when offended, seeks to put an end to the activities of those who offend them?

Why should we as Americans act? Is the threat so great? Is our society grinding to a halt? Are our constituents jumping out from behind parked cars, waiving flags, and burning them at us so we cannot get to work? Is there a left-leaning radical court giving solace to our enemies? Or is it a blue, white, and red herring to use our beloved national symbol as a partisan pawn by petty politicians for their personal partisan purposes?

And what is the flag, and why do I love it? The flag is not our way of life. The flag is a symbol. It is a symbol of our country, of our value system, a symbol of the things in which we believe. And high among those beliefs is the right to disagree and the right to protest, the same right currently in each and every one of our 50 States.

Let me correct a misconception. Nobody died for the flag. They died for what it stands for. No American mother gave up her son for a piece of cloth. The sacrifice was made for our way of life. It did not cost us a sea of blood and thousands of lives for a flag that costs each of us $7.97 a copy in the office supply store downstairs. Americans did not sacrifice and bleed and die for a piece of cloth, but rather for what it symbolizes.

And what does it symbolize? It symbolizes the greatest experiment in democracy and individual rights in the history of this planet. It symbolizes a country that is different, because people, indispensable and disagreeable people, have a right to protest, to protest to Congress, to protest against Congress, to protest against you and me, to protest against their Government, their President, their Constitution, and, yes, even against their flag.

This proposed amendment says that 50 States can pass 50 different flag desecration amendments. The motion to recommit corrects that. Imagine 50 different definitions of desecration. Is it a tearing in Montana? It will be. Will it be burning in Mississippi? How about soiling in New Jersey, or cursing at the flag in Utah?

Imagine 50 different State definitions of the flag itself. Is it cloth? How about a paper flag? Could it be unconstitutional to burn a tablecloth that looks like a flag? How about ripping up a photograph of a flag, destroying a symbol of a symbol? Take away that right, and you have diminished us all.

Is a flag anything with stars and stripes? If it has 70 stars and 12 stripes, have you burned a U.S. flag, or can you get off the hook? It will be different in each of 50 States. How about if it is orange, white, and blue? We can have people making them for the purpose of burning. If that is the case, do you beat the rap?

The Constitution is supposed to protect your rights, not your sensitivities. Take away that right, and you are changing what the flag symbolizes, for the first time in American history, reducing constitutional rights. Pass the amendment as it is without the motion to recommit, and what will it mean? The answer will be different in 50 different States. Let us take a look at what it might mean.

America's First Ladies, most of them, all truly patriots, have worn American flag kerchiefs. Are they desecrators? A patriotic gesture, you say? How about an ugly Democrat wearing a flag hat in some State that does not like the idea? Or an uglier flag hat, or an uglier flag hat?

How about a bathing suit made out of the Stars and Stripes, is that desecration? Maybe in one State it is, and another State it will not be.

It goes further. Where does it offend you? How about pantyhose made out of the flag? Stars down one side, stripes down the other leg.

I will spare you the things that personally offend me. How about children who desecrate? Wearing silly flag ears? Or flag pinwheels? Or filling the flag up with hot air? Can you try these children as if they were adult desecrators?

How about American flag napkins? If you blow your nose in one, have you broken the law? Violating the Constitution is nothing to sneeze at. And how about American flag plates? If you put your spaghetti in it, do you go to the can? How about a flag bag? Have you violated the Constitution if you fill it with garbage and then throw it out? Each State could have a different answer.

Do we raid factories that make things such as George and Barbara slippers out of flags? Do we just arrest the people who make them or the people who put their feet in them? Do you throw them all in jail?

How about flag socks? There are ugly ones, and there are cute ones. Do you violate the flag when you make them, when you buy them, when you wear them? Does it matter if your feet are clean or dirty? And what happens if different States make different statutes? Do you have to check your socks at the border? And what happens to you if you burn your socks?

Disposable flashlights. Can you dispose of them or do you have to give them a decent burial when the battery dies? Suspenders. Does that get you a suspended sentence in one State and live sentence in another? And your mother's admonition to wear clean underwear will have new meaning when it comes from your lawyer.

I do not mean to trivialize the flag, Mr. Speaker. Americans love and respect our flag. But we do not want to worship it. It is not a religious relic that once destroyed exists no more. It is not the physical embodiment of our value system that once gone can no longer be. It is only a copy. The fabric of our beliefs are woven into our society and guaranteed by our Constitution, and that which is a symbol of our beliefs is not so fragile as to be endangered by matches or desecrators or even trivializers.

Desecrators cannot destroy the flag, Mr. Speaker. They have tried. They have burnt it, they have soiled it, they have torn it, but they have not destroyed it.

Turn around, Mr. Speaker. There it is, right in back of you. You cannot destroy a symbol, unless you destroy that which it represents. I urge our colleagues, Mr. Speaker, do not destroy what our flag represents. Do not destroy what our flag represents. Please, do not destroy that which our flag represents.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. OXLEY). Visitors in the gallery are admonished not to demonstrate approval or disapproval of the proceedings.

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

Mr. Speaker, I have a little trouble composing myself here, but let me just point out, I did not see an American flag in any of that crap on that desk there. To me that is crap.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary, who is so highly respected in this body. I once recommended him to Ronald Reagan as a U.S. Supreme Court Justice, and would he not have made a great one?

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

Mr. HYDE. Mr. Speaker, my good friend from New York that preceded me was quite amusing, and he reminded me when he said the flag cost $7.59, or whatever, of the old saying about a person. They say he knows the cost of everything and the value of nothing.

What is at work here is something larger than the flag itself; it is a protest against the vulgarization, the trashing of our society. This amendment asserts that our flag is not just a piece of cloth, but, like a family picture on your desk, it represents certain unifying ideals most Americans hold sacred, ideals that are wonderfully expressed in the Declaration of Independence.

It represents the ''unum'' in the ''e pluribus unum'' of our country, and as tombstones are not for toppling, as churches and synagogues and places of worship are not for vandalizing, flags are not for burning.

Some of our critics have accused us of trivializing the Constitution. With great respect, I believe it is they who trivialize democracy itself, by reducing it to a matter of process, a matter of procedure, rather than substance. Their democracy is one-dimensional, consisting only of free speech as they define it. They elevate a method of communication or process over the substance of democracy, equal protection, due process, and the majestic values so timelessly expressed in our Declaration of Independence, our country's birth certificate: Life, liberty, and the pursuit of happiness.

Free speech is protected by this amendment. It is not harmed or diminished. This amendment takes free speech a dimension forward and it validates the duties and the responsibilities that are part and parcel of every right that exists. A right does not exist without a correlative duty.

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We have a duty to respect your rights, and you have a duty to respect our rights. Those responsibilities and duties are the essential underpinnings of the ordered liberty that is the soul of America.

There are well-defined limits to freedom of speech: obscenity laws, perjury, slander, libel, copyright laws, classified information, agreements in restraint of trade and the old yelling fire where there is no fire in a crowded theater.

The question is, is that list commodious enough to include flag desecration? Somebody tell me why it is a Federal crime to burn a $20 bill but it is okay to burn a flag. Walk down Independence Avenue without your clothes on, and you will find very quickly the limits on freedom of expression.

I consider the flagpole that holds that flag high to represent Jefferson's famous tree and liberty which is nourished, as he said, with the blood of martyrs. Think of the words of our national anthem: ''and the rocket's red glare, the bombs bursting in air, gave proof through the night that our flag was still there.'' That expresses something sublime, something profound, something extraordinary in history.

Too many men have marched behind the flag. Too many have returned in a wooden box with the flag as their own blanket. Too many parents and kids and wives have clutched to their grieving bosom a folded triangle of the American flag as the last remembrance of their loved one not to honor and revere that flag.

Stand among the crosses in the cemetery at Arlington or go to Normandy and read the names on the crosses and the Stars of David, and you will come across some that say: Here lies in honored glory a comrade in arms known but to God; and ask yourself, what honored glory? Here is a young man, thousands of miles away from home in the ground who died defending freedom. How do you honor, how do you glorify that?

I will tell you how. You honor Old Glory on behalf of that hero. From Valley Forge to Iwo Jima to Anzio, that flag is symbolized, and we live by symbols. Justice Felix Frankfurter in 1940 said we live by symbols. So honor Old Glory, and that is how you honor that comrade-in-arms known but to God.

The flag is falling. Catch the falling flag and hold it high. There may not be any rocket's red glare, any bombs bursting in air, but anyone with eyes to see will see that our flag is still there.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself such time as I may consume.

I would hope to be able to interpret the comments of the gentleman from Illinois [Mr. HYDE] that we just heard as a ringing endorsement of the motion to recommit, for it is the motion to recommit that will permit this Congress to pass legislation prohibiting the desecration of the flag. And it is the pending proposal brought to the floor by the gentleman from New York [Mr. SOLOMON] and the gentleman from Florida [Mr. CANADY] which would allow a State, if it chose to do so, to permit the desecration of the flag.

It is that same proposal which would allow 50 different States 50 different definitions of the flag. And if the gentleman from New York [Mr. SOLOMON] is so offended by the presentation of the gentleman from New York [Mr. ACKERMAN] pointing out all of the different things that could or could not be defined as a flag by any given State, surely he would be offended by the very idea that 50 different States ought to be able to designate for themselves what is to be the symbol of this country that was the last blanket that draped the coffins of those that went abroad and fought for the freedom of this country.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Houston, TX [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, let me comment to the gentleman that chairs the Committee on Rules and as well the very honorable gentleman that chairs the Committee on the Judiciary. Let me acknowledge that I was not before the Committee on Rules and certainly I am one that plans to vote for the motion to recommit, which states the sentiment of the American people.

I take this discussion extremely seriously. I do so as I hold the Constitution of the United States in my hand that incorporates as well the Declaration of Independence; the Declaration being the promise, the Constitution being the document that implements the promise.

When I hear the comments of those who would honor the flag, let me join in, for I can honestly say that I have never in my life's history desecrated, burned or trampled or done anything to disrespect this flag. However, I have watched those who have felt passionately that they wanted to express their first amendment rights. And yet having relatives who served in World War II and other wars of this Nation for our people, but realizing that those in my family did not come to this Nation free citizens, I still say very proudly the Pledge of Allegiance to the flag of the United States of America. And I do emphasize the word Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all. And I say that proudly every single day.

This is not a war between the States or a war between those who would be in support of our Constitution, the Declaration and, yes, our flag. But it is, if you will, a debate on values and morals and what we truly believe in and what we want our children to believe in.

I want them to know that in their heart they can express dissent, and they can respect the flag. It is not like me to want to, if you will, look to amending the Constitution on a regular basis. But in this instance, I am concerned, and the reason I support the motion to recommit is that we do not have a clear understanding of what we are doing.

We have a particular constitutional amendment now proposed that uses the word desecration, a word that in fact is not clear and, therefore, may do more injury to the honor of this great flag and the understanding of it and the respect for it.

In fact, as we talk about desecrate, it is a word of sacredness. In fact it means consecrate to God or having to do with religion, not destroying a flag. Therefore the amendment is unclear.

This is a time that we should come together as a nation. What I would simply say is that the motion to recommit, the one I will vote for, talks about prohibiting the burning, the trampling, the soiling or rendering of the flag of the United States of America. It is clear.

Amending the Constitution is a very, very serious act. I would simply say to my colleagues, I have been offended and hurt over the years when a cross has been burned. In fact, as recently as this year, unfortunately citizens in Texas saw fit to burn a cross to express opposition against an African-American who was running for mayor of one of our cities in the State. Tears came to my eyes. Should we not amend the Constitution on the burning of a cross, another very honored emblem in this Nation?

If we are to do anything like that, if we are to seriously respect all citizens, then should we not be clear on what we are doing? Should we not have the opportunity to have a full understanding of the impact of what we are doing. What behavior are we preventing—wearing a flag tie? I hope not.

When I talk to those in the American Legion, they are talking about burning and trampling and soiling or rendering of a flag.

The motion to recommit is a fair motion. But more importantly, let me say something directly to those of my good friends who are veterans and those who are also Legionnaires, for whom I have great respect. I say to them that we are in this fight together. If we came together, and this point of view was discussed and we all reaffirmed our pledge to honor the flag. Our Nation would not be divided and I believe there would be broad support for this view point. In fact when we amend the Constitution, it should be joined with the understanding that it is to express freedom, not to deny freedom.

Do you know what? That representative of the American Legion's organization understood that when we spoke. How many of us have taken the time to explain what we truly believe in. There was no castigation and no accusation.

I think we are going the wrong way. I think the motion to recommit is one that brings us all together. For those of us who hold the document of implementation—the Constitution—near and dear like we hold the document of promise, the Declaration of Independence, we do know that this is the way to go, for we are being divisive when we go in the direction of this amendment.

So I support the motion to recommit. I, for one, will be voting for it. Mr. Speaker, let is not divide this body. Let us be supportive and support an amendment that the American people can understand and that gives honor to the American flag.

Mr. SOLOMON. Mr. Speaker, the speech we have just heard is the kind of speech we should always hear on the floor. It came from the gentlewoman's heart. I respect her opinion, even though I respectfully disagree with it. But that is the kind of speech that we need. We need to really debate this issue. I want the gentlewoman to know I have the greatest respect for her because of that.

Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee [Mr. CLEMENT].

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

Mr. CLEMENT. Mr. Speaker, I stand to support the American Flag Protection Act. Let us protect our flag. It means too much to us.

Mr. Speaker, I rise today in strong support of House Joint Resolution 79, the American Flag Protection Act. In less than a week Americans all around this Nation will be celebrating Independence Day, the Fourth of July. There will be countless tributes, fireworks displays, and picnics, all to commemorate our country's Independence. It is also a time to reflect on the great history of the United States of America and many courageous men and women that built this great Nation.

Mr. Speaker, it is only fitting that in this time of patriotic revelry and remembrance, Congress has the opportunity to pay tribute to every man and woman that ever fought for America, and the freedom that she represents. We will not be voting to build a new memorial. We will not be voting to build a new museum. My colleagues, when we vote yes on the American Flag Protection Act, we are giving a simple thank you to every veteran that fought and many times died, in every corner of the globe to defend this flag, and the country it stands for.

As many Americans know, the Supreme Court overturned legislation Congress adopted in 1989 which was designed to protect our flag as our Nation's greatest symbol of freedom, a symbol that thousands of brave Americans gave their lives to defend.

Mr. Speaker, some may argue that desecration of the Stars and Stripes should be allowed as an exercise of free speech. I am not a legal scholar. I simply say, if the Supreme court holds that our Constitution permits flag burning, it is time to change our Constitution. I believe in free speech. But I also believe that the flag embodies ideals that Americans have sacrificed their lives to protect for more than 200 years.

Neither I, nor any of my colleagues in the House of Representatives would want to stifle anyone's right to freely speak their mind. A constitutional amendment would not restrict anyone from saying anything they want about any issue. I just believe that the ideas flag burners want to communicate can be expressed without burning our beautiful flag.

Let me say to my friends, that country music songwriter Lee Greenwood sings, ''I'm proud to be an American, where at least I know I'm free,'' I deeply share his sentiments. As do the many veterans and other patriotic citizens in my district who have sent hundreds of letters of support demanding this small token of gratitude for what they and their forefathers have fought for. Please honor these brave men and women. Vote ''yes'' on House Joint Resolution 79.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Del Mar, CA [Mr. CUNNINGHAM]. He is an outstanding Member of this body. He is a veteran of the Armed Forces of the United States of America. He has risked his life for this country and that flag.

Mr. CUNNINGHAM. Mr. Speaker, not process but substance. Let me put a face on substance.

I have a close friend that was in Vietnam. He was a POW for nearly 6 years. It took him nearly 5 years to gather bits of thread to knit an American flag on the inside of his shirt. When they would have a meeting, he would hang that shirt above his comrades. That was fine until the guards broke in and they ripped the shirt and they dragged the POW out. And they beat him for 6 hours. They brought him back unconscious and broken bodied.

When they tried to comfort him and put him on a bale of straw, they did not think he was going to survive. They heard a stirring and that broken-bodied POW had dragged himself to the center of the floor and started knitting another American flag.

What kind of message do we send to our children when an Olympic athlete carries the American flag or what kind of message do we send to our children when we allow someone to burn it? We talk about value systems in this country and erosion of them. All we are trying to do is protect those value systems.

Some of those said that they support the Declaration of Independence and the Constitution, but I would ask them to look at the same values when it comes to the second amendment rights and under the Constitution on the different things that we spend on. But to us, this amendment is not political. I would say, as Mr. SOLOMON has and the last speaker, that we understand that on both sides. But it is very, very important.

Mr. BRYANT of Texas. Mr. Speaker, how much time remains on both sides?

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] has 15 minutes remaining, and the gentleman from Texas [Mr. BRYANT] has 7½ minutes remaining.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from San Diego, CA [Mr. HUNTER]. As I said before, we are surrounded with Texans and Californians. He is another Californian, also a great American, a veteran of the Armed Forces of this country.

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

Mr. Speaker, let me say to my colleagues on both sides of this debate, we can protect the flag and protect free speech. In fact, for 100 years or so before this case, Texas versus Johnson, in 1989 which struck down flag amendments around the country, I would answer my friend, the gentleman from Texas [Mr. BRYANT] he had a number of State legislatures that in fact passed flag protection amendments. They worked well.

I might add, Mr. Speaker, for those who say this somehow constricts free speech, if we look back at the Vietnam days and the Vietnam war days and all the protests and we ask ourselves the question ''Was there the adequate expression of free speech? I would say yes, in all of the marches and screaming and shouting and the sound boxes and the cursing and all of the things that were done to oppose the war. Those were all done at a time when we had flag protection amendments. Therefore, this does not hurt free speech. In fact, Mr. Speaker, I think Justice Rehnquist was exactly right when he said that ''burning the American flag is not a statement, it is an inarticulate grunt.''

To answer my friends who say this is just a piece of cloth, it is a unique piece of cloth. We have made it so. It is the only symbol that we ask American soldiers and sailors to follow, sometimes to their death. When somebody does die in battle, that folded flag that covered their coffin is given to the widow or to the mother, so we have elevated this flag to a position that is a unique, unifying symbol in this country. It is only appropriate to protect it, and we will only be doing, with this constitutional amendment, what the country has been doing for the last several hundred years, before 1989.

Mr. BRYANT of Texas. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Texas.

Mr. BRYANT of Texas. Mr. Speaker, I would just ask, why in the world the gentleman would want 50 different States to be able to define the flag.

Mr. HUNTER. If the gentleman will let me answer, Mr. Speaker, I think it is absolutely appropriate for the State legislators to participate in protecting the flag.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself such time as I may consume.

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

Mr. BRYANT of Texas. I yield to the gentleman from California.

Mr. HUNTER. My answer to the gentleman, Mr. Speaker, is I think this is an effort, this idea of protecting the flag, and patriotism and desire to protect the flag is not limited to this body. I think it is absolutely appropriate for the State legislature in Texas, for example, to participate in protecting the flag. There is nothing wrong with that.

Mr. BRYANT of Texas. Reclaiming my time, Mr. Speaker, it is important to stay on point. The gentleman has made many good points with regard to patriotism, the sacredness of the flag, and all of which I agree with.

The point I have made bringing this motion to recommit is in the haste to

get this to the floor, they have allowed 50 different States to decide what the flag is and 50 different States to define desecration. That is a dangerous thing to do. We ought to define what the flag is and we ought to define desecration. The motion to recommit would do that.

Mr. HUNTER. If the gentleman will yield to let me answer his question, Mr. Speaker, my answer to the gentleman is I think it is a healthy exercise for the States to participate in protecting the flag. I think they did a great job of it prior to 1989, when Texas versus Johnson struck down a Texas statute. I have a lot of faith in the legislature in Texas. I think they can do the same thing again.

Mr. BRYANT of Texas. If we have ultimate faith in them, then we do not need a Constitution at all. This says, ''The Congress and the States shall have the power to prohibit the burning, trampling, soiling, or rending of the flag of the United States.'' There is nothing else. That is all Members would want to prohibit.

Let us write one that is like the rest of the Constitution. It is clear what it means, it is narrowly defined, and the definition of the flag would be within the province of the Congress.

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

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from New York, Mr. BEN GILMAN, a colleague of mine from the State of New York, chairman of the Committee on International Relations, who does a great job for this Congress.

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

Mr. GILMAN. Mr. Speaker, I am proud to rise in strong support of this resolution prohibiting the physical desecration of the flag of the United States. I commend the gentleman from New York [Mr. SOLOMON], the original sponsor of this legislation, for his dedicated work and determination on this important issue.

As Americans across the country prepare to celebrate our nation's independence, it is befitting that the House of Representatives is considering this important legislation.

For hundreds of years, courageous men and women have fought for the ideals and beliefs that our great Nation represents. To the many dedicated men and women who have sacrificed for our Nation, our flag is not just a piece of cloth, it is not just the symbol of our Nation, it represents our inherent belief in our freedoms and our ideals.

Based upon these strong beliefs of proud Americans across the country, 49 State legislatures have passed resolutions asking Congress to approve an amendment to the Constitution protecting our flag; 48 States have enacted flag-desecration laws. The American people support such an amendment to the Constitution.

This is not any new issue, yet today, it is more important than ever. Accordingly, I urge my colleagues to join in strong support of this legislation.

Let us properly protect our flag and all of the ideals that it represents.

Let us vote against this motion to recommit.

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to the gentleman from Appleton, WI, Mr. TOBY ROTH, a great American who came here with me 17 years ago.

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

Mr. Speaker, every morning before we start business we stand here, one of us stands here in the well of the House, and we put our hands over our hearts and say we pledge allegiance to the flag. Now there are some people who would say let that flag, let it burn, let it be desecrated. Nothing is sacred in America anymore.

There are still some things sacred in America. One is the flag. Today we take sides. Put me down with Barbara Fritchie. When the Confederate Army marched through over here in Maryland, marched up to Antietam for the battle, and this 95-year-old woman went to the top floor of her House, opened the window, put the flag out, and as they were marching by she said, as John Greenleaf Whittier, the poet said, ''Shoot this old gray head, if you must, but spare your country's flag.'' Put me down with her.

Put me down with John Bradley from Appleton WI, who, when they asked for volunteers to put up the flag at Mount Suribachi, he said, ''I will volunteer.'' He was one of five. Put me down with him.

There are still some things sacred in America today, and one is our flag. Members do not have to march into battle, they do not have to put a knapsack and rifle over their shoulders. All they have to have is the courage to vote for our flag today. Barbara Fritchie would have given her life, and John Bradley and others did. Members do not have to give their lives today, they just have to give their vote for the flag.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BARTON], another great American who is noted for a different constitutional amendment called the balanced budget amendment.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, I thank the distinguished chairman of the Committee on Rules for yielding time to me.

Mr. Speaker, the United States of America has many symbols, but the paramount symbol is the flag of the United States. Because of that, it is worthy of special respect; because of that, it is worthy of special protection; that is why we are here today.

Until 1989, there were numerous States that had flag statutes that protected the burning of the flag, the desecration of the flag. As has been pointed out, the statute in my State of Texas was overturned by the Supreme Court. The amendment before us today specifically gives the Congress and the States the right to pass other statutes so they can protect the American flag. It is important that we allow this amendment to be passed.

The distinguished gentleman from New York [Mr. ACKERMAN], who earlier stood on the floor and pulled out of his surface bag of tricks various paraphernalia, said, ''Is this the flag? Is this the flag?'' There were no flags that he pulled out of his bag.

That is the flag of the United States of America. That is the flag of the United States of America. The flag that is flying over our Capitol today at half mast, because of the death of former Chief Justice Warren Burger, that is the flag of the United States of America.

The flag that Patton's divisions took into Europe to liberate the death camps at the end of World War II, that is the flag that we want to protect. The flag that was flying over the air base when then Captain, now Congressman, SAM JOHNSON came back from captivity in the Vietnam war, that is the flag that we want to protect. The flag that General Schwarzkopf sent into Kuwait to liberate Kuwait, that is the flag that we want to protect.

What act is so despicable that the only way we can exercise freedom of speech is this country is by burning the American flag or desecrating it? I can think of no act that is that despicable. That is why we need to pass this amendment, give our States and our Congress the right to protect the paramount symbol of the United States of America, the American flag.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just observe that when my friend, the gentleman from Texas [Mr. BARTON] turned and pointed to the flag, addressed the Speaker and said, ''That is the flag,'' Mr. Speaker, that may be the flag today, but if the gentleman's version of this amendment passes, we could have 50 different versions of the flag. I have repeatedly raised this issue and they have repeatedly failed to answer it, because there is really no answer.

The fact of the matter is that today the definition of the flag in the Federal statutes that exist designates a 48-star flag. The 49th and 50th stars were added by executive order. The gentleman's amendment would allow every State to define a flag as it chose and to define desecration as it chose.

Why not take the motion to recommit, which says that this Congress defines the flag, and this Congress is going to be able to prohibit the burning, the trampling, the soiling, or the rending of the flag of the United States?

Is that not what the gentleman wanted? Did the gentleman want more than that? If he wanted more than that, he

should tell us what more he wanted. There really is not any more than that. Certainly it would be the height of patriotism, and perhaps it would be unpatriotic not to admit that in the rush of getting this bill to the floor before the July 4 recess, some mistakes were made, some things were not thought of, and a proposal was brought out here that is overly broad and unworkable. The motion to recommit is workable, is not overly broad, and does exactly what the gentleman says he wants to do.

For that reason, I urge Members to vote for the motion to recommit.

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

Mr. SOLOMON. Mr. Speaker, I yield 30 seconds to the gentleman from Meridian, MS [Mr. MONTGOMERY], a Democrat, a cosponsor of this constitutional amendment and a great American. He has stood up for this country so many times.

Mr. MONTGOMERY. Mr. Speaker, I was in opposition to the recommital motion, and will sponsor and vote for our flag amendment.

However, I have been here all day, just like the gentleman has, I would say to the chairman, the gentleman from New York [Mr. SOLOMON], when you destroy the flag you are really destroying the symbol of this country. This is a real flag. Our veterans marched off to fight for this flag. This is going too far. It is beyond common sense, when you burn the flag. Therefore, we should support the constitutional amendment.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Ocala, FL [Mr. STEARNS], a very distinguished Member from an all-American city, the one just named.

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

Mr. STEARNS. Mr. Speaker, at 10 o'clock this morning on the floor of this House I had the distinct privilege to lead this body in reciting the pledge of allegiance. If I may, I would like to recite just the opening line again for the benefit of any of my colleagues who weren't here at that time. It states, quite simply: ''I pledge allegiance to the flag of the United States of America.''

Allegiance, my colleagues. Allegiance to the flag. Now, some of my colleagues here today may think you can burn the flag, spit on the flag, or otherwise desecrate the flag all while still professing allegiance to it. I disagree. Desecrating the flag is the antithesis of allegiance. It is instead the height of contempt—contempt not only for our sacred symbol, but contempt for the nation it proudly represents.

Let us be clear on what this debate is about today. This is certainly a debate about the first amendment. For 213 years of our Nation's history, from the founding until just 6 short years ago, the highest court of the land found nothing wrong with laws that protect the flag from desecration. But in 1989 five Supreme Court justices decided to overturn all legal precedent and declare flag-burning a constitutionally protected form of speech. I have no problem standing up here today and saying emphatically that those five justices were wrong. The Texas versus Johnson decision was yet another case of judicial overreaching by activist judges not content to interpret the law, but feeling the need to re-write it as well.

The other thing this debate is about today is the ability of the majority of the American people to determine the laws under which they will live. The fact is, up to 80 percent of Americans are firmly on record supporting a constitutional amendment that protects the American flag from desecration. Who are we, the members of the people's House, to deny the people what they have asked for? How can we have credibility with the American people if we claim to love and honor the flag, as so many of my colleagues have done here today, yet refuse to take the simple step necessary to protect from desecration?

Do my colleagues need more evidence that passing this amendment expresses the will of the American people? Fully 48 States—48 States—already have anti-flag-desecration laws on the books that would be protected by this amendment. My colleagues, if Congress passes this amendment, we will all be amazed at the speed with which virtually every State votes to ratify it.

Why is that we allow a law on the books that makes it a Federal crime to burn a dollar bill, but recoil from a law protecting the flag? Is the dollar bill a greater symbol of freedom than the American flag? Why do we outlaw vandalism against the mailbox sitting out here on the corner, yet permit acts of unspeakable violence against the banner under which so many of our sons have died for freedom?

Mr. Speaker, the flag of the United States is more than the sum of it parts. It is more than a bolt of cloth arranged into a pattern of stripes and stars, it is the very symbol of liberty itself. From Valley Forge to Vietnam, on every battlefield where American values have been attacked and American lives sacrificed, the flag of the United States has been the shining, indomitable, eternal spirit of American liberty. As Justice Felix Frankfurter has said, ''We live by symbols.'' Symbols may be abstract, but for the patriotic men and women across this land they are certainly more real that contorted arguments of those refuse to give the flag the protection it deserves.

Burning the flag offends me, it offends the vast majority of the American people, and it offends the memory of those who gave their lives to uphold the values the flag represents. I urge all my colleagues to lend their strong support to this amendment today.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would simply make an observation that with regard to the reference of the gentleman from Florida [Mr. STEARNS] a moment ago to what the public wants, I think, perhaps he and others should take more care with regard to saying that. I do not believe the public wants 50 different legislatures defining the flag or 50 different legislatures defining desecration. What they want is a definition of the flag and a definition of desecration that is prohibited.

Unfortunately, his side did not get it out here today because they were in such a hurry to get it out here before the July 4 recess. They have one out here that is overly broad and will not work. The motion of recommit will work. Let us go along, and do the right thing today.

□ 1500

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

Mr. BRYANT of Texas. I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Speaker, would the gentleman admit, though, that if we went out to the American public and asked them would they like to protect the flag and would they expect the States to ratify this, the majority of Americans would say yes? In fact, the polls show that 80 percent of the Americans agree.

Mr. BRYANT of Texas. Taking my time back, again you are begging the question. The point is simply this. You say they want to prohibit desecration, sure. They want the Congress to define the flag and the Congress to define desecration and be done with it.

What you have got is a deal where 50 States do it, 50 States define the flag, 50 States define desecration. It is unworkable and unreasonable. It leads to all types of potential problems. Why do it that way? The answer, because you got in a big hurry, you wanted to be able to take this home for the Fourth of July and say you got something out here, but it will not work.

Mr. STEARNS. Will the gentleman allow me one sentence?

Mr. BRYANT of Texas. One sentence.

Mr. STEARNS. Mr. Speaker, we can split hairs and we can talk about this, but we have a unique opportunity to pass this amendment and thereby give the people what they want. Let's see if it will work out.

Mr. BRYANT of Texas. Your sentence is not responsive to my concern. We prohibit here the burning, trampling, soiling and rending of the flag of the United States. That is really all there is. What you have got here will not work, simply put.

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

Mr. SOLOMON. Mr. Speaker, I would like to get into this right now but I will do it when I close.

Mr. Speaker, I yield 1½ minutes to the gentleman from Union City, NJ [Mr. MENENDEZ], another great Member of this body, a Democrat, too, on the other side of the aisle who stood up against Castro and Cuba. I thank the gentleman for his amendment that will be on the floor shortly.

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

Mr. MENENDEZ. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of the proposed constitutional amendment banning the desecration of the flag. The flag of the United States is unique among all the symbols of the unity and freedom of our country, and it is for that reason that I so strongly support its protection.

No other symbol of our Nation is so universally recognized. No other symbol of our Nation is so beloved by its people. No other symbol of our Nation could so thoroughly unite the world's most diverse population.

Our flag's unique status as a symbol of our Nation has long been recognized by the American people, and by this Congress. Many of us have voted in the past to single our flag out for protection because of this uniqueness.

I strongly supported previous efforts to afford such protection by statute precisely because I believed in the flag's uniqueness. The Supreme Court, however, has made it clear that a constitutional amendment, and only a constitutional amendment, can give the flag protection by law. If a constitutional amendment is what it takes, then so be it.

My parents came to this country from Cuba to secure a future of freedom for themselves and for their children. To them, and to me, the flag serves as a tangible reminder of the freedom they lost in their homeland and found in America.

The symbolism goes beyond patriotism—it is a physical symbolism. The American flag, like the country itself, is composed of different colors and material, coming together to make a whole. The colors clash, but are firmly held together. They are held together for a higher purpose. To tear them apart is to reject the sacrifices of millions of Americans who gave their lives to keep the colors together as one.

My commitment to our flag is a reflection of my country's commitment to its people. Those who stand in support of the protection of our flag must stand for the freedom and equality of all, just as surely as our flag stands as a beacon to which all freedom-loving people of the world are drawn. I urge you to join us.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. EMERSON], a very distinguished Member of this body.

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

Mr. EMERSON. Mr. Speaker, I thank the gentleman for yielding me the time.

''Shoot, if you must, this old gray head, but touch not your country's flag,'' she said. That was Barbara Fritchie, as Stonewall Jackson was marching through Frederick on the way to the Battle of Antietam.

What do you think Stonewall Jackson said? He replied, ''He who touches yonder flag dies like a dog,'' he said. And they marched and they marched all day long through Frederick town but no one touched their country's flag.

This resolution enables Congress and the States to enact flag protection without fear of such a law being ruled unconstitutional. It is going to convey the protection that the flag enjoyed for 200 years and which must be restored.

While I believe strongly in the first amendment and its protections, I also believe that there are recognized exceptions to the first amendment. Not every act of expressive conduct is protected. Flagrant and public abuse of the flag should not be considered as symbolic speech under the first amendment, and such abuse should not be tolerated. We will see to it through this amendment that it is not tolerated.

I strongly urge my colleagues to join me in passing this important amendment to our constitution which would give the States and the Federal Government the authority to prohibit desecration of the flag of the United States of America.

Mr. BRYANT of Texas. Mr. Speaker, I reserve the balance of my time for the purpose of closing.

Mr. SOLOMON. Mr. Speaker, a number of years ago we had a Republican who ran against Ronald Reagan for President. He is a great American. I did not support him. I supported my other friend, Ronald Reagan.

Mr. Speaker, I yield 30 seconds to him, the gentleman from Wauconda, IL [Mr. CRANE].

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

Mr. CRANE. Mr. Speaker, I strongly support this amendment. But whether one supports it or does not support it, I think it is important for you to recognize that all this vote is about is giving the people a chance to be heard. A vote against this is a denial to hear the expressed will of the people. Amendments require 75 percent ratification support amongst all the States. Forty-nine of the States endorse the concept.

All you are asked to do on this vote is give the people a chance to be heard. You are not changing the Constitution. You are giving the people a chance to change it if they choose.

Mr. SOLOMON. Mr. Speaker, I intend to close for this side and would ask the gentleman to proceed.

PARLIAMENTARY INQUIRY

Mr. BRYANT of Texas. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. OXLEY). The gentleman will state it.

Mr. BRYANT of Texas. Mr. Speaker, my understanding is that the right to close would be mine, unless the bill is being managed on the other side by a member of the Committee on the Judiciary, which it is not. Inasmuch as it is not, I believe that I would have the right to close. I would appreciate clarification.

The SPEAKER pro tempore. Under the rules, since the gentleman from New York [Mr. SOLOMON] is not a member of the Committee on the Judiciary, the gentleman from Texas does have the right to close.

With that, the Chair recognizes the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thought a member of the Committee on Rules was ex officio on all committees. I will proceed at any rate.

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

Mr. Speaker, this has been a very, very good debate. For the most part we have stuck to the subject and for the most part I think everyone understands what we are doing here.

I am a little concerned with the arguments of my good friend, the gentleman from Texas [Mr. BRYANT], because he goes against the entire federalist system. He worries about what the States will do. I do not. I believe that this Constitution gave certain powers to the Federal Government but it retained most of the powers to the States. That is the way it should be. I have faith in those States, all 50 of those States.

I believe that once we pass this constitutional amendment, we give it to the States, I think they will ratify it within 2 years and it will become a part of our Constitution. When that happens, I would ask the gentleman to join me and the gentleman from Mississippi [Mr. MONTGOMERY]. We have already agreed to work with the Committee on the Judiciary, with the gentleman from Illinois [Mr. HYDE], with the gentleman from Florida [Mr. CANADY], both of whom have done outstanding work here, in developing and redefining the U.S. flag code, and passing a statute on a Federal level that will serve as the example for the other 50 States. We have to have confidence in our States. That is what built this country.

Having said that, Mr. Speaker, I would hope that we would defeat this motion to recommit. If we do that, we will simply leave the amendment as it is, which says the Congress and the States shall have power to prohibit the physical desecration of the flag of the United States of America. That is what the people here today want. That is what 80 percent of the American people want. Let's let them decide. If we vote ''no'' on the motion to recommit and ''yes'' on the amendment, that is what will happen.

The SPEAKER pro tempore. For the purpose of closing debate, the gentleman from Texas [Mr. BRYANT] is recognized for whatever time he has remaining.

(Mr. BRYANT of Texas asked and was given permission to revise and extend his remarks.)

Mr. BRYANT of Texas. Mr. Speaker, I have said already that I dearly wish that I could be free from the restraints of conscience today so that I might come up here and give a great patriotic speech, which I am able to give, I

think, just as enthusiastically and as sincerely as anyone else has. Everyone who has given one believes what they have said. I have no doubt about that whatsoever.

But I have the duty, and so do you, to write law for this country that is going to last and stand the test of time, and is not going to get people in trouble accidentally. For better or for worse, in what I assume you hoped would be a fine hour for you, you have brought a proposal to the floor that portends serious problems for us, when you could have easily taken a little more time to write one that is simple and works.

We have done one in this motion to recommit, which says you can't burn the flag, trample it, rend it or soil it, and Congress decides what the flag is. What more could you possibly want than that?

You express great confidence in the States. I did not hear that confidence expressed when we were talking about product liability here just 6 or 8 weeks ago. In fact, your confidence in the States is based upon the fact that every State has its own culture and its own ideas. That is right. What if all 50 States write a different law with regard to desecration and all 50 States write a different law with regard to what the flag is?

Are you serving the people that watch this debate or the people back home that do not know about it or the people that have answered these polls saying they want to protect the flag, when you do that? Of course you have not. If you are going to wrap yourself in the flag, then, by golly, take the responsibility that goes along with wrapping yourself in the flag. Pass a provision that works.

This Congress ought to decide what the flag is, not every State legislature. Desecration ought to be burning, soiling, rending, or trampling. What else could it be?

Instead, you have come out here with one that does not work because you were in such a hurry to get it out here before the Fourth of July recess so you could all go home and say, ''Look what I did, and look what those other bad guys wouldn't go along with and do also.'' That is what is at stake here.

This motion to recommit is the right thing to do if you believe in a constitutional amendment. For goodness sakes, do not soil this day in which you have come forward to try to do something very patriotic, by doing something that is going to lead to problems, hurt people and get people in trouble accidentally, and in effect is in my view a dereliction of our duty in this House to legislate for the ages. Vote for the motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

Mr. BRYANT of Texas. 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.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the joint resolution.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 63, nays 369, not voting 2, as follows:

[Roll No. 430]

YEAS—63

Abercrombie	Hastings (FL)	Nadler
Ackerman	Jackson-Lee	Neal
Bentsen	Johnson, E. B.	Oberstar
Bonior	Kennedy (MA)	Obey
Borski	Kennedy (RI)	Olver
Brown (CA)	Kildee	Owens
Bryant (TX)	LaFalce	Peterson (FL)
Clay	Leach	Reed
Coleman	Levin	Richardson
Collins (MI)	Lowey	Rush
Coyne	Luther	Schroeder
Doggett	Maloney	Schumer
Edwards	Markey	Scott
Engel	Martinez	Skaggs
Fields (LA)	McCarthy	Thornton
Frank (MA)	McKinney	Torricelli
Frost	Meehan	Tucker
Gephardt	Meek	Vento
Gutierrez	Minge	Visclosky
Hall (OH)	Mink	Waters
Harman	Moran	Williams

NAYS—369

Allard	Cardin	Dunn
Andrews	Castle	Durbin
Archer	Chabot	Ehlers
Armey	Chambliss	Ehrlich
Bachus	Chapman	Emerson
Baesler	Chenoweth	English
Baker (CA)	Christensen	Ensign
Baker (LA)	Chrysler	Eshoo
Baldacci	Clayton	Evans
Ballenger	Clement	Everett
Barcia	Clinger	Ewing
Barr	Clyburn	Farr
Barrett (NE)	Coble	Fattah
Barrett (WI)	Coburn	Fawell
Bartlett	Collins (GA)	Fazio
Barton	Collins (IL)	Fields (TX)
Bass	Combest	Filner
Bateman	Condit	Flake
Becerra	Conyers	Flanagan
Beilenson	Cooley	Foglietta
Bereuter	Costello	Foley
Berman	Cox	Forbes
Bevill	Cramer	Ford
Bilbray	Crane	Fowler
Bilirakis	Crapo	Fox
Bishop	Cremeans	Franks (CT)
Bliley	Cubin	Franks (NJ)
Blute	Cunningham	Frelinghuysen
Boehlert	Danner	Frisa
Boehner	Davis	Funderburk
Bonilla	de la Garza	Furse
Bono	Deal	Gallegly
Boucher	DeFazio	Ganske
Brewster	DeLauro	Gejdenson
Browder	DeLay	Gekas
Brown (FL)	Dellums	Geren
Brown (OH)	Deutsch	Gibbons
Brownback	Diaz-Balart	Gilchrest
Bryant (TN)	Dickey	Gillmor
Bunn	Dicks	Gilman
Bunning	Dingell	Gonzalez
Burr	Dixon	Goodlatte
Burton	Dooley	Goodling
Buyer	Doolittle	Gordon
Callahan	Dornan	Goss
Calvert	Doyle	Graham
Camp	Dreier	Green
Canady	Duncan	Greenwood
Gunderson	McCrery	Scarborough
Gutknecht	McDade	Schaefer
Hall (TX)	McDermott	Schiff
Hamilton	McHale	Seastrand
Hancock	McHugh	Sensenbrenner
Hansen	McInnis	Serrano
Hastert	McIntosh	Shadegg
Hastings (WA)	McKeon	Shaw
Hayes	McNulty	Shays
Hayworth	Menendez	Shuster
Hefley	Metcalf	Sisisky
Hefner	Meyers	Skeen
Heineman	Mfume	Skelton
Herger	Mica	Slaughter
Hilleary	Miller (CA)	Smith (MI)
Hilliard	Miller (FL)	Smith (NJ)
Hinchey	Mineta	Smith (TX)
Hobson	Molinari	Smith (WA)
Hoekstra	Mollohan	Solomon
Hoke	Montgomery	Souder
Holden	Moorhead	Spence
Horn	Morella	Spratt
Hostettler	Murtha	Stark
Houghton	Myers	Stearns
Hoyer	Myrick	Stenholm
Hunter	Nethercutt	Stockman
Hutchinson	Neumann	Stokes
Hyde	Ney	Studds
Inglis	Norwood	Stump
Istook	Nussle	Stupak
Jacobs	Ortiz	Talent
Jefferson	Orton	Tanner
Johnson (CT)	Oxley	Tate
Johnson (SD)	Packard	Tauzin
Johnson, Sam	Pallone	Taylor (MS)
Johnston	Parker	Taylor (NC)
Jones	Pastor	Tejeda
Kanjorski	Paxon	Thomas
Kaptur	Payne (NJ)	Thompson
Kasich	Payne (VA)	Thornberry
Kelly	Pelosi	Thurman
Kennelly	Peterson (MN)	Tiahrt
Kim	Petri	Torkildsen
King	Pickett	Torres
Kingston	Pombo	Towns
Kleczka	Pomeroy	Traficant
Klink	Porter	Upton
Klug	Portman	Velazquez
Knollenberg	Poshard	Volkmer
Kolbe	Pryce	Vucanovich
LaHood	Quillen	Waldholtz
Lantos	Quinn	Walker
Largent	Radanovich	Walsh
Latham	Rahall	Wamp
LaTourette	Ramstad	Ward
Laughlin	Rangel	Watt (NC)
Lazio	Regula	Watts (OK)
Lewis (CA)	Riggs	Waxman
Lewis (GA)	Rivers	Weldon (FL)
Lewis (KY)	Roberts	Weldon (PA)
Lightfoot	Roemer	Weller
Lincoln	Rogers	White
Linder	Rohrabacher	Whitfield
Lipinski	Ros-Lehtinen	Wicker
Livingston	Rose	Wilson
LoBiondo	Roth	Wise
Lofgren	Roukema	Wolf
Longley	Roybal-Allard	Woolsey
Lucas	Royce	Wyden
Manton	Sabo	Wynn
Manzullo	Salmon	Yates
Martini	Sanders	Young (AK)
Mascara	Sanford	Young (FL)
Matsui	Sawyer	Zeliff
McCollum	Saxton	Zimmer

NOT VOTING—2

Moakley	Reynolds

☐ 1532

Messrs. MCDERMOTT, FLAKE, ROSE, HOYER, and DELLUMS, Mrs. COLLINS of Illinois, and Messrs. MFUME, FOGLIETTA, and FAZIO of California changed their vote ''yea'' to ''nay.''

Messrs. SKAGGS, THORNTON, RICHARDSON, and NEAL of Massachusetts changed their vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. OXLEY). The question is on the passage of the joint resolution.

The question was taken.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 312, noes 120, not voting 3, as follows:

[Roll No. 431]

AYES—312

Allard	Doyle	Kennelly
Andrews	Dreier	Kildee
Archer	Duncan	Kim
Armey	Dunn	King
Bachus	Edwards	Kingston
Baesler	Ehrlich	Klug
Baker (CA)	Emerson	Knollenberg
Baker (LA)	English	LaHood
Baldacci	Ensign	Lantos
Ballenger	Everett	Largent
Barcia	Ewing	Latham
Barr	Fawell	LaTourette
Barrett (NE)	Fields (LA)	Laughlin
Bartlett	Fields (TX)	Lazio
Barton	Flanagan	Lewis (CA)
Bass	Foley	Lewis (KY)
Bateman	Forbes	Lightfoot
Bentsen	Ford	Lincoln
Bereuter	Fowler	Linder
Bevill	Fox	Lipinski
Bilbray	Franks (CT)	Livingston
Bilirakis	Franks (NJ)	LoBiondo
Bishop	Frelinghuysen	Longley
Bliley	Frisa	Lucas
Blute	Frost	Luther
Boehlert	Funderburk	Manton
Boehner	Gallegly	Manzullo
Bonilla	Ganske	Martinez
Bono	Gekas	Martini
Brewster	Gephardt	Mascara
Browder	Geren	McCarthy
Brown (FL)	Gillmor	McCollum
Brown (OH)	Gilman	McCrery
Brownback	Gingrich	McDade
Bryant (TN)	Goodlatte	McHugh
Bunn	Goodling	McInnis
Bunning	Gordon	McIntosh
Burr	Goss	McKeon
Burton	Graham	McKinney
Buyer	Green	McNulty
Callahan	Gunderson	Menendez
Calvert	Gutierrez	Metcalf
Camp	Gutknecht	Meyers
Canady	Hall (TX)	Mica
Castle	Hamilton	Miller (FL)
Chabot	Hancock	Molinari
Chambliss	Hansen	Mollohan
Chapman	Harman	Montgomery
Chenoweth	Hastert	Moorhead
Christensen	Hastings (WA)	Moran
Chrysler	Hayes	Morella
Clayton	Hayworth	Murtha
Clement	Hefley	Myers
Clyburn	Hefner	Myrick
Coble	Heineman	Neal
Coburn	Herger	Nethercutt
Collins (GA)	Hilleary	Neumann
Combest	Hilliard	Ney
Condit	Hobson	Norwood
Cooley	Hoke	Nussle
Costello	Holden	Ortiz
Cox	Hostettler	Oxley
Cramer	Houghton	Packard
Crane	Hunter	Pallone
Crapo	Hutchinson	Parker
Cremeans	Hyde	Paxon
Cubin	Inglis	Payne (VA)
Cunningham	Istook	Peterson (FL)
Danner	Jacobs	Peterson (MN)
Davis	Jefferson	Pickett
de la Garza	Johnson (CT)	Pombo
Deal	Johnson (SD)	Pomeroy
DeLay	Johnson, E.B.	Portman
Deutsch	Johnson, Sam	Pryce
Diaz-Balart	Jones	Quillen
Dickey	Kanjorski	Quinn
Dooley	Kasich	Radanovich
Doolittle	Kelly	Rahall
Dornan	Kennedy (MA)	Ramstad
Regula	Smith (MI)	Torkildsen
Richardson	Smith (NJ)	Towns
Riggs	Smith (TX)	Traficant
Roberts	Smith (WA)	Tucker
Roemer	Solomon	Upton
Rogers	Souder	Volkmer
Rohrabacher	Spence	Vucanovich
Ros-Lehtinen	Spratt	Waldholtz
Rose	Stearns	Walker
Roth	Stenholm	Walsh
Roukema	Stockman	Wamp
Royce	Stump	Watts (OK)
Salmon	Stupak	Weldon (FL)
Sanford	Talent	Weldon (PA)
Saxton	Tate	Weller
Scarborough	Tauzin	Whitfield
Schaefer	Taylor (MS)	Wicker
Schiff	Taylor (NC)	Wilson
Seastrand	Tejeda	Wise
Sensenbrenner	Thomas	Wolf
Shaw	Thompson	Wynn
Shuster	Thornberry	Young (AK)
Sisisky	Thornton	Young (FL)
Skeen	Thurman	Zeliff
Skelton	Tiahrt	Zimmer

NOES—120

Abercrombie	Gibbons	Pastor
Ackerman	Gilchrest	Payne (NJ)
Barrett (WI)	Gonzalez	Pelosi
Becerra	Greenwood	Petri
Beilenson	Hall (OH)	Porter
Berman	Hastings (FL)	Poshard
Bonior	Hinchey	Rangel
Borski	Hoekstra	Reed
Boucher	Hoyer	Rivers
Brown (CA)	Jackson-Lee	Roybal-Allard
Bryant (TX)	Johnston	Rush
Cardin	Kaptur	Sabo
Clay	Kennedy (RI)	Sanders
Clinger	Kleczka	Sawyer
Coleman	Klink	Schroeder
Collins (IL)	Kolbe	Schumer
Collins (MI)	LaFalce	Scott
Conyers	Leach	Serrano
Coyne	Levin	Shadegg
DeFazio	Lewis (GA)	Shays
DeLauro	Lofgren	Skaggs
Dellums	Lowey	Slaughter
Dicks	Maloney	Stark
Dingell	Markey	Stokes
Dixon	Matsui	Studds
Doggett	McDermott	Tanner
Durbin	McHale	Torres
Ehlers	Meehan	Torricelli
Engel	Meek	Velázquez
Eshoo	Mfume	Vento
Evans	Miller (CA)	Visclosky
Farr	Mineta	Ward
Fattah	Minge	Waters
Fazio	Mink	Watt (NC)
Filner	Nadler	Waxman
Flake	Oberstar	White
Foglietta	Obey	Williams
Frank (MA)	Olver	Woolsey
Furse	Orton	Wyden
Gejdenson	Owens	Yates

NOT VOTING—3

Horn	Moakley	Reynolds

□ 1540

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Before announcing the vote, the Chair will remind all persons in the gallery that they are here as guests of the House, and that any manifestation of approval or disapproval of proceedings is in violation of the rules of the House.

So (two-thirds having voted in favor thereof) the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HORN. Mr. Speaker, unfortunately I missed the last rollcall on the constitutional amendment since I was circulating a letter to the President on behalf of the base closure situation in California.

If present, Mr. Speaker, I would have voted for the Solomon resolution concerning the authority given to pass legislation to deal with the flag and desecration.

GENERAL LEAVE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 79, the constitutional amendment that just passed the House.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 896

Mr. YATES. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 896.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1289

Mr. CLAY. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1289.

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

There was no objection.

PERSONAL EXPLANATION

Ms. DUNN of Washington. Mr. Speaker, yesterday during the House's consideration of H.R. 1868, I inadvertently voted ''no'' on rollcall vote No. 420. I rise to ask that the RECORD reflect I intended to vote ''yes'' on that vote.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore. Pursuant to House Resolution 170 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. 1868.

□ 1543

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. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, with Mr. HANSEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, June 27, 1995, amendment No. 17, offered by the gentleman from Texas [Mr. DELAY] had been disposed of, and title V was open for amendment at any point.

Are there amendments to title V?

AMENDMENT OFFERED BY MR. PORTER

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PORTER: Page 78, after line 6, insert the following new section:

LIMITATION ON ASSISTANCE TO TURKEY

SEC. 564. Not more than $21,000,000 of the funds appropriated in this Act under the heading ''ECONOMIC SUPPORT FUND'' may be made available to the Government of Turkey.

□ 1545

PARLIAMENTARY INQUIRIES

Mr. CALLAHAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. CALLAHAN. Has the bill been called up, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. CALLAHAN. The amendment of the gentleman from Illinois [Mr. PORTER] has been read?

The CHAIRMAN. The gentleman's amendment has been designated.

Mr. CALLAHAN. Then, Mr. Chairman, I reserve a point of order at this point.

The CHAIRMAN. Does the gentleman want to proceed with his point of order at this point?

Mr. CALLAHAN. I will just reserve the point of order, Mr. Chairman.

The CHAIRMAN. The gentleman from Alabama [Mr. CALLAHAN] reserves his point of order, and the gentleman from Illinois [Mr. PORTER] is recognized for 5 minutes.

Mr. PORTER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. PORTER. Mr. Chairman, I would like to know the gentleman's point of order. If he has one, what point of order is he making?

POINT OF ORDER

Mr. CALLAHAN. Mr. Chairman, the amendment adds a limitation to a general appropriation bill. Under the revised clause 2, rule XXI, such amendments are not in order during the reading of a general appropriation bill.

Mr. Chairman, the revised rule states in part:

Except as provided in paragraph (D), no amendment shall be in order during consideration of a general appropriation bill proposing a limitation not specifically contained or authorized in existing law for the period of the limitation.

The gentleman's amendment adds limitation and is not specifically contained or authorized in existing law, and, therefore, is in violation of clause 2(c) of rule XXI, and I will ask for a ruling of the Chair.

The CHAIRMAN (Mr. HANSEN). The Chair rules that the amendment does contain a limitation and, therefore, would have to wait until the end of the bill to be offered.

PARLIAMENTARY INQUIRIES

Mr. VOLKMER. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. VOLKMER. I ask, Would the amendment not be in order if the motion to rise at the end of the bill after all amendments are completed is defeated?

The CHAIRMAN. The Chair is not making that ruling at this particular time.

Mr. VOLKMER. Well, I mean at that time an amendment with a limitation is in order only after the motion to rise is defeated; is that correct?

The CHAIRMAN. That would be correct, except if the motion to rise and report is not offered.

Mr. PORTER. Mr. Chairman, the amendment merely changes the level of funding in the bill by making a cut of $25 million. It has no limitation that I am aware of if we are talking about amendment No. 34.

The CHAIRMAN. The Chair will tell the gentleman from Illinois that it does limit funds in the bill, and the Chair has ruled on the form of the amendment. It would have to wait until the end of the bill.

Mr. CALLAHAN. Mr. Chairman, I might inform the gentleman that it is certainly not our intention to deny him the ability to introduce his amendment or the opportunity to debate it to its fullest extent. It is just being introduced at the wrong time because the rule puts in point of order three amendments prior to his, so we do intend to afford the gentleman from Illinois [Mr. PORTER] every opportunity that he needs to present his amendment, and there will be no indication, coming from me at least, there is no indication that I will deny him the——

Mr. PORTER. If the gentleman would yield, then why not take it up right now?

Mr. CALLAHAN. Because the rule says we are going to take up the three bills that the Committee on Rules approved——

The CHAIRMAN. Are there further amendments to title 5?

Mr. DEUTSCH. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. DEUTSCH. Would it be our understanding that this amendment coming into order, that we would have to defeat the motion to rise?

The CHAIRMAN. Unless the motion to rise and report is not made, the gentleman is correct.

Mr. DEUTSCH. So the fact is the Porter amendment would not automatically be made in order at the end of this bill.

The CHAIRMAN. The gentleman is correct.

Mr. CALLAHAN. Except, Mr. Chairman, if I might be recognized, I would just like to inform the gentleman from Illinois [Mr. PORTER] that under no circumstances is this committee going to rise and vote on final passage of this bill until such time as he has had the opportunity to fully debate his amendment regarding Turkey, so it is not our intention to——

Mr. DEUTSCH. Mr. Chairman, if the gentleman would yield, could we make a unanimous-consent request that that would be done at this time? As I understand, the gentleman from Alabama [Mr. CALLAHAN] would be willing to do that, but it would not prevent any other Member to make that motion.

The CHAIRMAN. Has the gentleman made a unanimous-consent request?

Mr. DEUTSCH. Well, I would not if the gentleman would just make clear that we would have the opportunity to debate the amendment.

The CHAIRMAN. The gentleman has the opportunity to make his unanimous-consent request.

Mr. PORTER. Mr. Chairman, I ask unanimous consent that we take up the Porter-Wolf-Smith amendment immediately following the three amendments that the rule makes in order.

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

Mr. CALLAHAN. Mr. Chairman, I reluctantly object. I have given the gentleman my word. I have told him we are going to give him full opportunity for as much time as he likes to debate his amendment. We are not going to do anything to preclude him this opportunity. We are going to do it as the rule permits, and that is the three amendments that were allowed under the rule, we are going to debate them this afternoon, and then immediately following the gentleman from Illinois [Mr. PORTER] can offer his amendment.

The CHAIRMAN. Objection is heard from the gentleman from Alabama [Mr. CALLAHAN].

AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment.,

The Clerk read as follows:

Amendment offered by Mr. SMITH of New Jersey: Page 78, after line 6, insert the following new section:

PROHIBITION OF FUNDING FOR ABORTION

SEC. 564. (a) IN GENERAL.—

(1) Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act for population assistance activities may be made available for any private, nongovernmental, or multilateral organization until the organization certifies that it does not and will not during the period for which the funds are made available, directly or through a subcontractor or sub-grantee, perform abortions in any foreign country, except where the life or the mother would be endangered if the fetus were carried to term or in cases of forcible rape or incest.

(2) Paragraph (1) may not be construed to apply to the treatment of injuries or illnesses caused by legal or illegal abortions or

to assistance provided directly to the government of a country.

(b) LOBBYING ACTIVITIES.—

(1) Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act for population assistance activities may be made available for any private, nongovernmental, or multilateral organization until the organization certifies that it does not and will not during the period for which the funds are made available, violate the laws of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited, or engage in any activity or effort to alter the laws or governmental policies of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited.

(2) Paragraph (1) shall not apply to activities in opposition to coercive abortion or involuntary sterilization.

(c) COERCIVE POPULATION CONTROL METHODS.—Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act may be made available for the United Nations Population Fund (UNFPA), unless the President certifies to the appropriate congressional committees that (1) the United Nations Population Fund has terminated all activities in the People's Republic of China; or (2) during the 12 months preceding such certification there have been no abortions as the result of coercion associated with the family planning policies of the national government or other governmental entities within the People's Republic of China. As used in this section the term ''coercion'' includes physician duress or abuse, destruction or confiscation of property, loss of means of livelihood, or severe psychological pressure.

Mr. SMITH of New Jersey (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. SMITH of New Jersey. Mr. Chairman, the amendment I am offering today is both pro-life and anticoercion. It is essentially identical to the one that the House adopted to the American Overseas Interests Act, H.R. 1561, last month. The amendment would do nothing more and nothing less than reinstate the ''wall of separation'' between family planning and abortion, and particularly coercive abortion, which was torn down 2 years ago by the Clinton administration.

The prochild, provoluntarism policy that my amendment would reinstate was the law of the land for a decade. It was repeatedly upheld by the Federal courts against a wide range of both statutory and constitutional challenges brought by the abortion industry. Recent experience suggests that this policy is needed now, more than ever before.

Mr. Chairman, the government of the People's Republic of China, as I think more and more Members are realizing, routinely compels women to abort their, quote, unauthorized children. The usual method is intense persuasion, using all of the economic, social, and psychological tools a totalitarian state has at its disposal. When these methods fail, the women are taken physically to abortion mills, often in handcuffs, and coerced to have abortions. Sometimes this happens very late in the pregnancy: the baby's skull is crushed with forceps, or lethal chemical shots are administered into the soft part of the skull.

Mr. Chairman, forced abortion was properly construed to be a crime against humanity at the Nuremberg war crime tribunals, and again it is being used pervasively throughout the People's Republic of China. Population control organizations, with the United Nations Population Fund at the helm, are promoting population control in China and have had a hand-in-glove relationship with the hardliners in the PRC.

As a matter of fact, I would remind Members that during the Reagan and Bush years we did not provide funding to those organizations because of that kind of complicity in these heinous crimes against women. It is not just that the child is being killed. It is also that the woman is being exploited in this very cruel manner.

I would ask all of my colleagues to take a look at the report by Amnesty International, released just yesterday. It is under the heading ''Human Rights Violations Resulting from Enforced Birth Control.'' They point out that birth control has been compulsory in China since 1979. Women must have official permission to bear children.

Mr. Chairman, the report in its entirety is as follows:

WOMEN IN CHINA—A PRELIMINARY REPORT FROM AMNESTY INTERNATIONAL, JUNE 1995

HUMAN RIGHTS VIOLATIONS RESULTING FROM ENFORCED BIRTH CONTROL

Birth control has been compulsory in China since 1979. . . . Government demographers set a target for the stabilization of the population by the year 2000. The target currently stands at 1.3 billion, which they claim can only be achieved through ''strict measures''.

The policy involves the strict control of the age of marriage and the timing and number of children for each couple. Women must have official permission to bear children. Birth control is enforced through quotas allocated to each work or social unit (such as school, factory or village). The quotas fix the number of children that may be born annually in each unit. Local party officials (cadres) have always monitored the system, but since 1991 they have been held directly responsible for its implementation through ''target management responsibility contracts''. A cadre's performance is now evaluated not just on the region's economic performance but also on its implementation of the birth control policy. Cadres may lose bonuses or face penalties if they fail to keep within quotas.

The policy has become known as the ''one-child'' policy. In fact, it is more complex than that and is applied differently in various areas. While the authorities issue ideological directives, targets and guidelines, at present the detailed regulations, sanctions and incentives are left almost entirely to the county level administration, who determine them ''according to the local situation''. In most regions, urban couples may have only one child unless their child is disabled, while rural couples may have a second if the first is a girl. A third child is ''prohibited'' in most available regulations. Regulations covering migrant women indicate that abortion is mandatory if the woman does not return to her home region. Abortion is also mandated for unmarried women.

The authorities in Beijing initially insisted that ethnic groups with populations of less than 10 million were exempt from the one child policy or even from family planning entirely. It is clear, however, that controls have been applied to these groups for many years, including more stringent sanctions for urban residents and ''prohibitions'' on a third child. There have also been reports since 1988 of controls extending to enforcement of one-child families, in particular for state employees. Currently, as with the rest of the population, specific regulations and their implementation are decided by ''Autonomous Regions and Provinces where the minorities reside''.

Couples who have a child ''above the quota'' are subject to sanctions, including heavy fines. In rural areas, there have been reports of the demolition of the houses of people who failed to pay fines. Peer pressure is also used as work units may be denied bonuses if the child quota is exceeded. State employees may be dismissed or demoted. Psychological intimidation and harassment is also commonly used to ''persuade'' pregnant woman to have an abortion. Groups of family planning officials may visit them in the middle of the night to this end. In the face of such pressure, women facing unwanted abortions or sterilization are likely to feel they have no option but to comply.

AMNESTY INTERNATIONAL'S CONCERNS

Amnesty International takes no position on the official birth control policy in China, but it is concerned about the human rights violations which result from it, many of which affect women in particular. It is concerned at reports that forced abortion and sterilization have been carried out by or at the instigation of people acting in an official capacity, such as family planning officials, against women who are detained, restricted or forcibly taken from their homes to have the operation. Amnesty International considers that in these circumstances such actions amount to cruel, inhuman and degrading treatment of detainees or restricted persons by government officials.

The use of forcible measures is indicated in official family planning reports and regulations, and in Chinese press coverage. Amnesty International also has testimony from former family planning officials as well as individuals who were themselves subjected to such cruel, inhuman and degrading treatment.

Details of county level regulations are difficult to obtain. Most available documents are ambiguous and full of euphemisms such as the ''combined method'' (abortion and sterilization) or ''remedial measures'' (abortion). Despite this, some insight can be gained into the use of coercion from provincial, as well as county reports. For example, in 1993 family planning officials in Jiangxi Province stated: ''Women who should be subjected to contraception and sterilization measures will have to comply''. Regulations published in January 1991 for Gonghe county in Qinghai (which has a substantial Tibetan population) state ''the birth prevention operation will be carried out before the end of 1991 or in any case within the year 1992 and no excuses or pretexts will be entertained''.

In a 1993 interview with Amnesty International, a former family planning official described the threat of violence used to implement the policy:

''Several times I have witnessed how women who were five to seven months pregnant were protected by their neighbors and relatives, some of whom used tools against us. Mostly the police only had to show their weapons to scare them off. Sometimes they had to shoot in the air. In only one case did I see them shoot at hands and feet. Sometimes we had to use handcuffs.''

Several family planning officials who worked in Liaoning and Fujian Provinces from the mid-1980's to the mid-1990's are now in exile and have given testimony. They say they detained women who were pregnant with ''out of plan children'' in storerooms or offices for as long as they resisted being ''persuaded'' to have an abortion. This could last several days. One official reported being able to transfer such women to the local detention centre for up to two months if they remained intransigent. Once a woman relented, the official would escort her to the local hospital and wait until the doctor performing the abortion had signed a statement that the abortion had been carried out. Unless the woman was considered too weak, it was normal for her to be sterilized straight after the abortion.

A refugee from Guangdong Province described how he and his wife had suffered under the birth-control policy. The couple had their first child in 1982 and were subsequently denied permission to have another. In 1987 the authorities discovered that his wife was pregnant and forced her to have an abortion. In 1991 she became pregnant again and to conceal it, the couple moved to live with relatives in another village. In September that year local militia and family planning officials from the city of Foshan surrounded the village in the middle of the night and searched all the Houses. They forced all the pregnant women into trucks and drove them to hospital. The refugee's wife gave birth on the journey and a doctor at the hospital reportedly killed the baby with an injection. The other women had forced abortions.

The implementation of the birth-control policy has also resulted in the detention and ill-treatment of relatives of those attempting to avoid abortion or sterilization. Significantly, the Supreme People's Court felt the need to specifically outlaw the taking of hostages by government officials in a directive in 1990. However, the practice continues, as shown by a series of reports since late 1992 from Hebei Province.

Journalists from Hong Kong visited Zhao county, Hebei province, in November 1992 while a birth-control campaign was in progress. They saw villagers detained outside the county government offices in freezing temperatures who were under arrest for nonpayment of fines for illegal birth. Villagers reported that those who could not pay the heavy annual fine had their property confiscated or that their relatives were held hostage until the money was paid.

In January 1994 an official Chinese newspaper published a letter from Xiping county, Hebei Province, complaining that the reputation of the People's Emergency Militia (minbing ying ji fendui) was being ruined because cadres were misusing them to enforce unpopular family planning policies.

In April 1994 the annual review of family planning work in Hebei Province mentioned the use of ''law enforcement contingents'' and admitted that some cadres believed that any method was acceptable in pursuit of the family planning policy. Such cadres had ''resorted to oversimplified and rigid measures and even violated laws . . . thus affecting the party-populace and cadre-populace relations''. It is not clear what, if any, action was taken against these abuses, and violations have persisted in the province since then.

For example, villagers in Fengjiazhuang and Longtiangou in Lingzhou country, Hebei Province, alleged they were targeted in a birth-control campaign initiated in early 1994 under the slogan ''better to have more graves than more than one child''. Ninety per cent of resident in the villages are Catholic and many have been fined in the past for having more children than permitted because they reject on religious grounds abortion and sterilization.

An unmarried woman was one of those targeted. One of her brothers had fled the village with his wife fearing sterilization as they had four children. The sister had adopted one of their children and was detained several times, including once in early November 1994 when she was held for seven days in an attempt to force her brother and his wife to return and pay more fines. She was taken to the county government office and locked in a basement room with 12 to 13 other women and men. She was blindfolded, stripped naked, with her hands tied behind her back, and beaten with an electric baton. Several of those detained with her were suspended and beaten, and some were detained for several weeks.

A report by the Union of Catholic Asian News stated that other villages had been targeted in a similar way. Despite complaints to the county and provincial government and to the people's procurator, the family planning teams ignored the procurator's order to stop their actions, blaming the Catholics for ''causing problems''.

The taking and ill-treating of hostages by family planning officials was also reported in Fujian Province, in 1994. An elderly woman who lived near Quanzhou city was detained for three months when her daughter-in-law fled from family planning officials; they had found out she was pregnant with her second child one year earlier than local regulations on both spacing allowed. The elderly woman was reportedly kept in a cell with little ventilation or light, with 70 other people, and was only released when she became ill.

Despite assurances from the State Family Planning Commission that ''coercion is not permitted'', Amnesty International has been unable to find any instance of sanctions taken against officials who perpetrated such violations. This is in stark contrast to the treatment of those who assist women to circumvent the policies, or who shelter women from the threat of forced abortion and sterilization.

In December 1993 a district court in Guangzhou reportedly sentenced a man to 10 years' imprisonment and three years' deprivation of political rights for his part in a ''save the babies and save the women group'', which had assisted 20 women to give birth in excess of the plan. The court reportedly claimed that by his actions he had entered into rivalry with the party and state, and had therefore committed counter-revolutionary crimes as well as jeopardizing social order.

The same month Yu Jian'an, the deputy director of the No. 2 People's Hospital in Anyanbg, Henan Province, was sentenced to death for collecting bribes of 190,000 yuan for issuing bogus sterilization papers. The hospital affairs director, Sun Chansheng, was sentenced to death with a two-year reprieve, and four others were given sentences of five years' to life imprisonment in connection with the offense.

In the light of the information available about serious human rights violations resulting from the enforcement of the birth control policy and the lack of explicit and unequivocal prohibition in published regulations of coercive methods which result in such violations, Amnesty International calls on the Chinese Government to include such provisions in relevant regulations. It also calls on the authorities to take effective measures to ensure that officials who perpetrate, encourage or condone such human rights violations during birth control enforcement are brought to justice.

Let me just remind Members we are talking about a country where children are declared illegal simply because they do not fit into a certain quota that has been articulated and promulgated by the government. Couples who have a child above the quota are subject to sanctions, Amnesty International writes, including heavy fines. They talk about psychological and physical pressure. They talk about degrading treatment, the use of handcuffs, detentions. They also get into the fact that not only are they just focusing on the women and their husbands, they also go after other relatives who try to shield and protect some kind of safe haven for their sisters or daughters who are the object of a forced abortion, and throw them into jail as well.

This report from Amnesty International, which takes no position on the right-to-life issue, the defense of the unborn, is another nail in the coffin of the PRC's heinous practice of forced abortion and forced sterilization.

As my colleagues know, they also point out there is a movement under way in some of the provinces where they say—and this is a slogan used by the government—''Better to have more graves than one more child.'' Children are treated very cruelly in China, not by their parents, but by the government, and they are the subject of forced abortion.

Let me also remind Members, too, there is a growing disproportionate number of baby boys vis-a-vis baby girls and young people because of this. When you've only allowed one child, what happens is that many of the families, when they are told that they can only have one, have a sonogram. If a baby girl is detected, that baby girl is killed, and now there are tens of millions of missing girls in the People's Republic of China.

Where are the feminists on this? Why are they not speaking out against this cruel practice of targeting baby girls for extinction in the People's Republic of China? They have been abysmally silent in this regard.

Let me also point out, there were some people that were recently, as the Amnesty report points out, thrown into prison for, quote, initiating a save-the-babies and save-the-women's group. The man got 10 years in prison because he tried to defend some of the women in China against this terrible practice. Please read this.

The United Nations Population Fund meanwhile applauds the Chinese programs against all of this evidence, and let me remind Members that it is indeed overwhelming evidence.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. SMITH] has expired.

(By unanimous consent, Mr. SMITH of New Jersey was allowed to proceed for 3 additional minutes.)

Mr. SMITH of New Jersey. Mr. Chairman, just let me remind Members that Dr. Sadik and UNFPA has spent over $150 million. They have people and personnel on the ground. As part of this terrible program they have said, and I quote, ''China has every reason to feel proud of and pleased with its remarkable achievements made in its family planning policy and control of its population growth over the past 10 years. Now the country could offer its experiences and special experts to help other countries.''

Just what we need, a world of one child per couple where forced abortion and forced sterilization is the rule rather than the exception.

Mr. Chairman, let me also point out that the amendment contains a provision that would essentially reinstate what was known as the Mexico City policy, and that, too, was rescinded by President Clinton in 1993. This policy, and the amendment, would prevent foreign aid from going to nongovernmental organizations unless the organizations certify that it does not and will not during the term for which funds are made available perform abortions as a method of family planning or undermine the laws of other countries with respect to abortion. It clarifies that this does not apply to the treatment of injuries or illnesses caused by legal or illegal abortions or to assistance provided directly to governments. Moreover, the amendment contains a limited exception for attempting to establish universally recognized standards such as opposing forced abortion.

Mr. Chairman, this policy worked for almost a decade, it worked well for the American taxpayer, for unborn children, and for responsible family planning organizations. Most recipients of U.S. aid during the two previous administrations accepted the policy and said, ''We will, indeed drive that wall between abortion and family planning and just do family planning and not take the lives of innocent, unborn children by way of abortion.''

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Mr. Chairman, I hope Members will accept this amendment. They did so just about a month ago. I hope when Mrs. MEYERS offers the amendment on behalf of the abortion rights people, that that will be defeated by this body. I suspect we will get to that momentarily.

Mrs. VUCANOVICH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Smith amendment. Recently, a woman in my district called my office to let me know that her 12-year-old daughter was in her room crying. My young constituent was upset because she had recently learned about 13 Chinese women being held in Bakersfield, CA, who had fled the brutal birth quota system imposed by the totalitarian government in the People's Republic of China. My young constituent was shocked to learn that these women were in danger of being sent back to China by the Clinton administration where they would face possible arrest and forced sterilization.

This is a very distressing situation and it is even more distressing when we take into account that our tax dollars are being used by the United Nations Population Fund for so-called family planning activities in China.

The Smith amendment will ensure that none of the moneys will be available to the United Nations Population Fund unless the President certifies that the UNPF has terminated all activities in China or, during the 12 months preceding, there have been no abortions as the result of coercion by government agencies.

The Smith amendment would also ensure that none of the moneys sent to the UNPF may be used to fund any private, nongovernmental, or multilateral organization that directly or through a subcontractor performs abortions in any foreign country, except to save the life of the mother or in cases of rape and incest.

Now some may claim that this is a gag rule on family planning assistance. However, this is not the case, abortion is not considered a family planning method and should not be promoted as one, especially by the United States. Recently, the State Department decided that the promotion of abortion should be a priority in advancing U.S. population-control efforts. This is unacceptable to the millions of Americans who do not view abortion as a legitimate method of family planning and do not support Federal funding of abortion except to save the life of the mother or in cases of rape and incest.

We also need to reinstate what was known as the Mexico City policy which prohibits funds to organizations unless they certify that they do not perform abortions in any foreign country except in the cases cited above. Most recipients of U.S. population assistance readily agreed to these terms from 1984 to 1993 and we are not reducing the funding level for real international population assistance.

In a time when 69 percent of the American public opposes Federal funding for abortion we desperately need to clarify congressional intent so that it cannot be disregarded by those who seek to fund abortion on demand throughout the world. I urge my colleagues to support the Smith amendment as written. Vote ''no'' on the Meyers amendment, which will strike two of the three subsections of the Smith amendment.

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

Mr. Chairman, I rise in strong opposition to the Smith amendment and in support of the Meyers amendment. Mr. SMITH's amendment is an extreme piece of legislation that aims to end family planning aid overseas.

Mr. SMITH claims that his amendment simply cuts abortion funding. What Mr. SMITH has not told you is that abortion funding overseas has been prohibited since 1973. His amendment would cut abortion funding from its current level of zero to zero.

Therefore, Mr. SMITH's amendment must be after something more. That something is family planning.

One of the most important forms of aid that we provide to other countries is family planning assistance. No one can deny that the needs for family planning services in developing countries is urgent and the aid we provide is both valuable and worthwhile.

The world's population is growing at an unprecedented rate. In 40 years our planet's population will more than double. As a responsible world leader, the United States must do more to deter the environmental, political, and health consequences of this explosive growth.

And let us not forget what family planning assistance means to women around the world. Complications of pregnancy, childbirth, and unsafe abortion are the leading killers of women of reproductive age throughout the Third World. One million women die each year as a result of reproductive health problems.

Each year, 250,000 women die from unsafe abortions.

Only 20 to 35 percent of women in Africa and Asia receive prenatal care.

Five hundred million married women want contraceptives but cannot obtain them.

Most of these disabilities and deaths could be prevented.

The Smith amendment is extreme in that it would defund family planning organizations that perform legal abortions—even if the abortion services are funded with non-U.S. money.

It would also impose a gag rule on U.S. based organizations and indigenous nongovernmental organizations that provide U.S. family planning aid overseas. The gag rule is written so broadly that it would prohibit the publishing even of factual information about maternal morbidity and mortality related to unsafe abortion.

Finally, the Smith amendment cuts funds to the UNFPA, an organization that provides family planning and population assistance in over 140 countries. The pretext for the Smith amendment is that the UNFPA operates in China, and therefore the funding must be cut. However, the law currently states that no United States funds can be used in UNFPA's China program. Mr. SMITH is clearly using the deplorable situation in China as an excuse to eliminate funding for this highly successful and important family planning organization. The UNFPA is in no way linked to reported family planning abuses in China, and should

not be held hostage to Mr. SMITH's anti-abortion rhetoric.

I urge my colleagues to oppose the Smith amendment. It is an extreme piece of legislation that, no matter how Mr. SMITH tries to disguise it, is ultimately intended to end U.S. family planning assistance overseas. A vote for the Smith amendment is a vote against sensible, cost-effective family planning programs.

AMENDMENT OFFERED BY MRS. MEYERS OF KANSAS TO THE AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

The Clerk read as follows:

Amendment offered by Mrs. MEYERS of Kansas to the amendment offered by Mr. SMITH of New Jersey: In the new section proposed to be inserted in the bill by the amendment—

(1) strike subsection (a) and (b); and

(2) in subsection (c), strike the subsection designation and caption.

Mrs. MEYERS of Kansas. Mr. Chairman, there are three parts to the amendment of the gentleman from New Jersey [Mr. SMITH]. My amendment would not change the gentleman's provision about UNFPA in China. So if you do not want to give family planning money to China, you can safely vote for my amendment. Neither Mr. SMITH nor I would give money to UNFPA unless they totally cease activities in China.

However, the remaining two parts to Mr. SMITH's amendment are terrible in their impact on the poorest of the poor women of the world. The Smith amendment says that no matter how sick or malnourished these women are, no matter that they are carrying a seriously malformed fetus, they cannot have a health service in their poor women's clinic that others could have if they could afford to pay their doctor.

It is not as if these women have any place else to go. In many cases, they could not afford to go to a hospital or another doctor, and in many cases, there is no hospital and there is no other doctor. The door the gentleman from New Jersey [Mr. SMITH] would slam shut in the face of poor, sick women is the only door there is.

There are NGO's and there are health care professionals that will work under these circumstances. But think how hard it is for these health care professionals when they must sentence a woman to life-long health problems, or force a woman to carry a child for months that they know would probably live only a few hours. And they have to do this in order to receive American support.

But those NGO's that are most efficient and that are located in most countries simply cannot and do not operate this way. And that is why the Smith amendment is not an anti-abortion amendment, but an anti-family planning amendment.

I would ask my colleagues to focus on the fact that not one cent of American foreign aid money has been used to pay for an abortion since 1973. Not one cent of foreign aid money has been used to pay for an abortion. But the Smith amendment is not satisfied with that, and the gentleman's amendment says you cannot provide an abortion for the sickest woman, even if it is paid for with private money.

It is a harsh amendment, denying health services and limiting family planning services to those who need our help the most, those in Bangladesh and Cameroon, where the average number of children for a woman of child bearing age is five, five children; in Malawi, where the average number of children for a woman of child bearing age is seven; in Rwanda, where the average number of children is eight. This is a cruel and a harsh amendment.

The other portion of the Smith amendment is a gag rule, and it would go far beyond what any supporter of free speech and the Democratic process could support. It would prohibit a group of Filipino women in the Philippines who suggest to their senator that abortion should be allowed in cases of rape or incest from helping us provide family planning. We could not give them money.

It could prohibit a group of Indian women who urge the Indian Health Ministry to make legal abortions safer by requiring that they be done in licensed clinics or hospitals. They could not receive American family planning assistance. It could prohibit a Kenyan organization that tries to promote family planning by pointing out the risk of unsafe abortions from getting any family planning assistance from America on the grounds that opposing unsafe abortion could be construed as advocating change in Government policies.

Mr. Chairman, I am leaving out the portion regarding China, because I know many Members feel divided on this issue. But the other two portions of this amendment are so onerous that I beg my colleagues to support my amendment to change the Smith amendment.

I also must comment, Mr. Chairman, that if my amendment does not pass, I am going to be forced to oppose this bill. I do not want to. I have supported foreign aid every single time since I have been here, but I cannot do it in the face of these two terrible affronts to the women of the world.

Mr. VOLKMER. Mr. Chairman, I move to strike the requisite number or words.

Mr. Chairman, before I do so and speak as to the amendments, this is an issue that we have just previously discussed when we had the authorization bill. We have discussed it in this Congress many times. I do not believe that it would be fair to the House if we took an elongated time to rehash what has already been said many times.

Therefore, I am going to ask unanimous consent that all debate on this amendment, the Smith amendment and the Meyers amendment to the Smith amendment, end in 1 hour.

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

Mr. WILSON. Mr. Chairman, I reluctantly object.

The CHAIRMAN. Objection is heard.

Mr. VOLKMER. Mr. Chairman, I would like to inquire of the gentleman from Texas [Mr. WILSON], is there a reason why he wants to prolong the debate?

Mr. WILSON. Mr. Chairman, there are many Members on our side that want to speak. I would advise the gentleman also that the ranking member of the full committee is at the White House at a meeting, and he has specifically requested that we provide time for him to speak.

☐ 1615

Mr. VOLKMER. Mr. Chairman, I will just briefly say that if you are in favor of supporting abortions in foreign lands, basically with taxpayer money, then you should vote for the Meyers amendment. I am not. I am going to vote against the Meyers amendment.

If you are not in favor of using taxpayers' money in foreign lands for abortions, then support the Smith amendment, which I plan to do. I am not going to take a lot of time of the House. I think I have previously done that as to my position and why. But I would say that I feel very strongly on the issue. I do believe that the House, I hope, will vote in favor of life and not abortion.

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

Mr. Chairman, I rise in strong support of the Smith amendment. My friend from New Jersey is offering essentially the same amendment which was adopted in this House on May 24, during consideration of the American Overseas Interests Act. It is a much-needed amendment. I hope this House will continue to support it.

As my colleagues know, the music had barely stopped playing at the inaugural ball when President Clinton kicked off his international abortion campaign. Literally hours after assuming office, the new President sought to overturn long-standing pro-life policies espoused by both the Reagan and the Bush administrations. The Smith amendment seeks to bring that 2½-year campaign to a halt.

It makes it less likely that United States tax dollars will pay for coerced abortions in China and in other countries. Voluntary abortion is bad enough, but forcing a woman to have an abortion is an absolute crime against humanity. It is an abomination.

Mr. Chairman, the Smith amendment will restore some of the well-reasoned pro-life policies that the U.S. Government insisted on before President Clinton was sworn into office. I urge my colleagues to resoundingly support the Smith amendment.

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. CHABOT. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Chairman, I would just like to bring to the attention of the Members that one of the provisions that my good friend from Kansas strikes reads as follows: Funds would not be provided to any private, nongovernmental, multilateral organization until that organization certifies that it does not and will not, during the period for which the funds are made available, violate the laws of any foreign country concerning the circumstances under which abortion is permitted, regulated or prohibited.

I am astounded that my good friend would offer an amendment that tries to protect U.S. taxpayers from providing funds to an organization that would willfully and knowingly violate laws in a sovereign nation vis-a-vis its abortion policy.

There was a working group, a report on the working group that was put out by the IPPF federation, based in London, that had language that went like this in one of their recommendations: Family planning associations and other nongovernmental organizations should not use the absence of law or the existence of an unfavorable law as an excuse for inaction. Action outside of the law, and even in violation of the law, is part of that, is the process for stimulating change.

In other words, IPPF has admonished its affiliates to break the law. The Smith language that would be gutted by the gentlewoman from Kansas [Mrs. MEYERS] said that if we give money to those organizations that violate the sovereign laws of nations, let me also remind Members, 95 to 100 countries around the world, including the overwhelming majority in our hemisphere, protect the lives of their unborn children from the violence of abortion. All of Central America, virtually, South America have laws or constitutional amendments on the books that protect their unborn children.

IPPF says violate those laws. It is right here in black and white as a recommendation from the IPPF based out of London. Mrs. MEYERS would cut that.

I would like to ask the distinguished gentlewoman, why does she want to cut language that says, let us not violate the law of other nations?

Mrs. MEYERS of Kansas. Mr. Chairman, will the gentleman yield?

Mr. CHABOT. I yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. Mr. Chairman, as I said, no abortions have been performed with American money since 1973, and NGO's follow the laws of the country that they are in. We have not had problems with people breaking laws of the country that they are in. If the country allows abortions, NGO's, some of them will, in order to get American money, will not provide abortions. Some simply cannot operate that way. So they cannot receive our money so they cannot do as effective a job with family planning, which certainly leads to more abortions.

Mr. CHABOT. Mr. Chairman, reclaiming my time, I yield to the gentleman from New Jersey, [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, that was not an answer. IPPF has said to its own affiliates, action outside of the law and even in violation is part of the process of stimulating change. They are telling their people to violate the law. Again, my amendment simply says, we do not want to contribute to an organization that gets involved in that kind of law breaking.

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

Mr. Chairman, I rise in opposition to the Smith amendment and in support of the Meyers amendment. I think that it is very important on all issues that we debate in this House that we have some truth in advertising. This issue that the gentleman from New Jersey [Mr. SMITH] has raised zeros and zero. Since 1973, the taxpayers of this Nation have not funded abortions overseas. Let me repeat that. Since 1973, the U.S. taxpayer has not funded abortions overseas. We are not going to start doing that now.

What Mr. SMITH is proposing is to go after family planning. Any thinking person in this country and around the world recognizes that one of the great environmental issues that faces not only this Nation but around the globe is the issue of overpopulation. If, in fact, if, in fact, we want abortions reduced, then we should recognize that around the world, especially the greatest and the most powerful nation on the face of this earth should give leadership on the issue of family planning.

When family planning takes place, then that begins to resolve so many of the problems that we extend our hand in aid for.

So every Member of this House, regardless of where they are on the issue of abortion or choice, should understand that it is not a debate about public dollars going to fund abortions overseas. That is not what this issue is about.

Mr. SMITH seeks to knock out family planning. And people in this country overwhelmingly understand and appreciate what the issue of family planning can bring about.

So I rise in support of the Meyers amendment. I think it is important. I think that it is straightforward. I think it speaks to the direction that we need to move. I applaud the leadership that she had given on it. I think that every Member of the House should again understand that Mr. SMITH is not going after stopping any U.S. tax dollar for abortions. For my entire 5 minutes I should have repeated one sentence and one sentence only. He is going after family planning. No tax dollar was used since 1973 for abortions overseas.

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

Mr. Chairman, I yield to the gentleman from Illinois [Mr. HYDE].

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

Mr. HYDE. Mr. Chairman, I do not know how the gentleman from New Jersey [Mr. SMITH] can make it any clearer. These are not difficult ideas. Abortion is not a proper part of family planning. Family planning has to do with getting pregnant or not getting pregnant. But once you are pregnant, it is a different situation. Then if you want to move into abortion, you are killing a life once it has begun.

Now, the gentleman from New Jersey [Mr. SMITH], nor myself, nor Members speaking on this side of the issue, are not against family planning. We are against dollars going to organizations that promote abortion, that counsel abortion, but we are the biggest supplier of family planning around the globe. We have been, and we still will be. But we want to help organizations that do not counsel nor perform abortions, whether it is with the money we give directly or whether it is with fungible funds.

We are for family planning, properly understood, which does not include killing an unborn child once it has begun. That ought not to be too complicated. I congratulate the gentleman from New Jersey [Mr. SMITH]. I hope his amendment prevails, and I thank the gentleman for yielding to me.

Mr. MANZULLO. Mr. Chairman, the bill provides $25 million to the UNFPA, but we should not send one penny to an organization that not only condones, but praises China's brutal family planning program. In 1991, the executive director of the UNFPA, Dr. Nafis Sadik, referring to China's population control policies, said that she ''was deeply impressed by (China's) efficiency.'' She wanted to, and I quote, ''employ some of these (Chinese) experts to work in other countries and popularize China's experiences in population growth control and family planning.''

With that attitude, I do not think the United States should provide any aid to the UNFPA until it quits China policy. The American people do not want to subsidize an organization which not only collaborates with forced abortions and sterilizations, but heartily condones such policies.

Nor do the American people want their tax dollars spent in support of organizations that perform abortions in other countries or engage in activities to alter existing laws on abortion in these countries.

I commend the language adopted in the recently passed authorization bill that restores the restrictions on abortion funding. Now, I urge the support of my colleagues for the Smith amendment to restore consistency between what we say and what we do. The Smith amendment will send a clear message to the UNFPA and other organizations: The United States will not condone coercive family planning policies. This is not an issue of pro-life or

pro-choice—it's an issue of whether American taxpayer dollars should be used for forced abortions. I urge my colleagues to vote for the Smith amendment and against the Myers amendment.

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

Mr. MANZULLO. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, it is my understanding, and I would like to ask the gentleman if it is his understanding, and also the gentleman might want to ask the gentlewoman from Kansas [Mrs. MEYERS]. It is my understanding that the Meyers amendment to the Smith amendment is identical in its language as far as China is concerned, that in regard to China there is no issue. The gentleman addressed the China issue, but we are talking about the Meyers amendment, which, as I understand it, is identical to the Smith amendment as far as China is concerned.

Mr. MANZULLO. Mr. Chairman, it goes to the overall funding of the UNFPA.

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Chairman, we are actually debating the underlying amendment and the Meyers amendment. The gentlewoman from Kansas [Mrs. MEYERS] would cut two-thirds of the amendment out of the underlying amendment.

Mr. WILSON. Mr. Chairman, if the gentleman will continue to yield, as far as China is concerned, it is the same.

Mr. SMITH of New Jersey. It leaves that alone, but it goes after the Mexico City policy and the lobbying policy.

Mr. WILSON. But China is not an issue.

Mr. SMITH of New Jersey. For some Members there will be no time after the vote on the Meyers amendment where my underlying amendment will be debated. So all the debate has to be now, while both amendments are pending.

Mrs. MEYERS of Kansas. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. The reason that I did not address UNFPA and China is because I recognized that a number of Members are truly divided on that issue and so I left the Smith provision just as it is. If they vote for my amendment, the Smith provision will remain.

□ 1630

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

Mr. Chairman, I rise in strong opposition to the Smith amendment to H.R. 1868 and to support the amendment offered by the gentlewoman from Kansas [Mrs. MEYERS] to the amendment offered by the gentleman from New Jersey.

Mr. Chairman, I believe it is important that my colleagues truly understand that the goal of the Smith amendment is not to prohibit U.S. funds from being spent on abortion activities. Current law already prohibits U.S. funds from being spent on abortion activities, and this has been the case for over 20 years. The true aim, Mr. Chairman, of the Smith amendment is to totally eliminate family planning aid overseas.

Mr. Chairman, this is an extreme amendment. It is extreme because it would take U.S. funds away from organizations that perform legal abortions or participate in any other abortion-related activities, using their own funds, not using Federal funds, using their own funds.

The implication of this staggering U.S. aid amendments, Mr. Chairman, would be doing away with U.S. aid to organizations for pre- and postnatal care, as well as for programs to reduce unwanted pregnancy, combat childhood diseases, prevent the spread of HIV and AIDS. All of this would be cut off completely if the organizations provide legal abortion-related services, paid for with their own funds, not paid for with Federal funds.

How can proponents of this amendment claim that they are interested in the welfare of children and women when this amendment will harm critical programs that prevent unwanted pregnancy and improve the health of needy children around the world? If anything, this amendment will result in more unwanted pregnancies and sick children, not less.

Mr. Chairman, the American people do not want the U.S. Congress to support extreme amendments which endanger the health of the world's children increase unwanted pregnancies, and force women to resort to unsafe abortions. Therefore, Mr. Chairman, I urge my colleagues to vote against this extreme and dangerous amendment, an amendment that would eliminate family planning aid overseas, and vote in support of the amendment offered by the gentlewoman from Kansas [Mrs. MEYERS].

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

Mr. Chairman, I rise in strong support of the Meyers amendment and against the Smith amendment. Discussion has occurred a little earlier about the fact that this bill would not ban the UNFPA money, and as has been explained and I will reiterate, it does retain the ban on the UNFPA, so it is unlike the defense authorization that has been stated earlier.

The amendment that is offered by the gentlewoman from Kansas [Mrs. MEYERS] does not affect the restrictions the gentlewoman from New Jersey has proposed for the U.N. population fund. I also want my colleagues to be aware that these amendments have nothing to do with abortion funding.

Under the Helms amendment, U.S. law already forbids the use of U.S. funds to perform abortions or to lobby on abortion policy. This has been mentioned earlier. It does need to be reiterated, so we understand what we are discussing and voting on today. The effect of the amendment is to gut U.S. family planning programs. The result will be more abortions, not fewer.

The Smith amendment would deny funds to women's health groups which use their own funds to perform abortions or lobby their governments on abortion policy, but the effect would be to kill family planning programs. As a matter of fact, none of those groups violate the laws of the foreign countries. That has been authenticated. For example, in terms of the effect of killing family planning programs, a university providing contraceptive training to hospitals in the former Soviet Union to counter the high rate of abortion would be ineligible for funding because the hospital provides legal abortions funded from other sources. An Indian women's health clinic lobbying that nation's health ministry with its own funds to provide safer conditions for legal abortion would be funded.

A recent Los Angeles Times article demonstrated how family planning clinics in the Ukraine reduced the number of abortions, reduced the number of abortions. Ukrainian women average two abortions for every live birth. The average woman will have four of five abortions during her lifetime. Some will have as many as 10 or more. By making available safe and reliable family planning information and contraceptives, a Kiev clinic reports that only 25 of pregnant women coming to the clinic had abortions, a high number, of course, but the average for the rest of the country was 60 percent. Sixty percent. This is but one example.

However, there are a number of similar clinics around the world which we are helping to fund, and by giving women the opportunity to regulate their own fertility, we have reduced the number of abortions, while empowering women to manage and space their pregnancies as best suits their needs and the needs of their families. It helps them also to educate their family.

The gentleman from New Jersey [Mr. SMITH] will say that family planning money will still be available, and that is true, but the effect of his amendment will be that the money will be channeled through foreign government health ministries, with all of the problems of corruption, mismanagement, and bureaucracy which they entail. This approach would also run counter to the philosophy of this Congress, which has been seeking to reduce the intrusion of government into people's lives and families' lives.

The Smith amendment, an international gag rule indeed, endangers women's health and will deny women and couples access to family planning information, and will increase, not decrease, abortions. Mr. Chairman, I urge

Members to join me in support of the Meyers amendment and against the Smith amendment.

Mrs. MEEK of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this entire discussion of the Meyers amendment is a good one in that it explains to the Congress what family planning is all about. The Meyers amendment I strongly support. I strongly oppose the Smith amendment. Let me tell the Members why, Mr. Chairman.

The Meyers amendment ends U.S. funding for the U.N. Family Planning Agency unless it ends its activities in China or the President certifies there have been no coerced abortions in China in the preceding 12 months. The amendment language on the UNFPA in China is identical to the language in the Smith amendment.

The Congress should be aware of the fact that U.S. law for over 20 years has prohibited U.S. funding for abortions overseas. The Meyers amendment would in no way affect this ironclad policy.

The Smith amendment goes beyond current law and imposes restrictions on this kind of organization, on the kind of organization that can receive U.S. funds for family planning. What that essentially says, Mr. Chairman, is that the gentleman from New Jersey [Mr. SMITH] my dear colleague, he went to Washington and now he wants to go out of the country with the imposition of this rule.

It says that the United States cannot provide any money to any organization that performs legal abortions, even if the organization does not use U.S. funds. The Meyers amendment strikes these restrictions, which go beyond current law.

Let us look at the practical effect of the Smith amendment. The reality is that a lack of adequate access to family planning tragically often leads to abortion. I came up through a day where women went into back rooms and into corners and into alleys and performed illegal abortions. It was a travesty on the health of these women. The Smith amendment would cut off some of the most effective family planning organizations, because they provide legal abortions with their own funds. It would cut off clinics and hospitals that provide family planning if they also provide safe and legal abortions.

Mr. Chairman, this whole approach is shortsighted and counterproductive, particularly in Third World countries and in the poor areas of the world, with only limited medical services of any kind. The law of unintended consequences is alive and well in the Smith amendment. It is unintended, Mr. Chairman, but yet it is there. Therefore, I strongly support the Meyers amendment, and I strongly oppose the Smith amendment, and I am asking of the Congress to please vote against the Smith amendment and for the Meyers amendment.

Mrs. SMITH of Washington. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I stand in strong support of the Smith amendment and against the Meyers amendment. I think that one important thing to look at is that this bill does not cut international family planning, this amendment, by one red cent. I merely goes back to the 1980's, when we had the Mexico City policy. Under that policy, and I want to take a look, because we hear all family planning is going to go away, and I am a strong advocate for family planning. We hear it will all go away.

However, during the 1980's, every budget cycle under the Mexico City plan, every year family planning went up, every year under the Mexico City plan. That did not gut it, and all the gentleman from New Jersey [Mr. SMITH] is saying is let us go back to the Mexico City plan.

I listened, and Members would think that both sides of the aisle, all the people speaking, agree that abortion should not be performed with Federal American folks' money in other countries. however, we support family planning. The Mexico City policy, for Members that maybe do not remember, went into effect in 1984 under a plan of action which was adopted by the International Conference on Population that was held in Mexico City. They basically said that in no case should abortion be promoted as a method of family planning. All this does is say that again.

President Clinton took those words out, and made our dollars available for abortion funding. We hear about radical discussions and things being radical and gutting. Let us come back to what is really happening. The American people, and I will tell the Members, in the early 1970's, I supported abortion. I supported Roe versus Wade, because I believed abortion should be rare, and in the case of the mother's life, should be allowed. I was promised it would never be, never be for family planning, never be for convenience, and never replace personal responsibility.

Today, Mr. Chairman, it is now family planning. If Members agree with me that it should not be, no matter where Members are on abortion, should not be family planning, then vote for the amendment offered by the gentleman from New Jersey [Mr. SMITH]. The amendment just says we all agree in different places on the abortion issue and disagree in other places, but we do not want our money especially sent to foreign countries to pay for abortion.

Let us return to the Mexico City policy, reject, reject the Meyers amendment from a very nice lady who I just do not agree with, and support the final amendment, the amendment offered by the gentleman from New Jersey [Mr. SMITH].

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

Mr. Chairman, let me begin by saying how much I admire the integrity and advocacy that the gentleman from New Jersey [Mr. SMITH] brings to all issues, and particularly to matters of human rights. My disagreement with him on his amendment in this case is simply as a matter of policy. I admire him greatly for his strength of character and conviction in matters that he feels very deeply about.

However, Mr. Chairman, this is an appropriations bill. It is designed to determine funding levels for the upcoming fiscal year for various programs authorized elsewhere by the Committee on International Relations, the Committee on Banking and Financial Services, and others. It is not an authorizing bill, and authorizing language should not be part of it.

Mr. Chairman, unfortunately while the Committee on Rules produced an open rule for this bill, it also specifically carved out protection for this amendment, which is clearly out of order without this extraordinary protection. Everyone in this Chamber has an interest in preserving the integrity of the system, and for procedural reasons, we should oppose the Smith amendment.

Moreover, I oppose the Smith amendment on policy grounds. The United States is presently the largest international family planning donor, providing more than $600 million last year alone. U.S. voluntary family planning funds are being used to provide millions of couples access to safe, effective contraceptive services worldwide.

The U.S. programs have worked. In Kenya, where the United States has had a very large program, there was a 20-percent reduction in family size in just 4 years. In Bangladesh, the contraceptive prevalence rate went from 5 percent in 1975 to 40 percent in 1993, and there was a decline in fertility from 6.7 births per woman to 4.9 during that time. In Egypt, the average number of children per family has declined from 5.8 to 3.9 between 1960 and 1994.

These family planning services also help decrease the demand for abortion all across the globe and help couples time and space pregnancies to enhance the chance of their baby's survival. And in allowing women to control their bodies, these programs save the lives of many women. Approximately 200,000 women die each year from unsafe abortions. Increased access to information and contraception is the only proven way to decrease unwanted pregnancies and give women control over their own lives and destinies.

For example, in Ukraine, where a small Planned Parenthood clinic is providing scarce contraceptive education and services, there is evidence that the incidence of abortion is decreasing.

The Smith amendment does nothing to help prevent abortion. When the same Mexico City policy was in effect between 1985 and 1993, there was no decrease in the number of abortions

worldwide. Instead, more women resorted to unsafe abortions and hundreds of thousands a year died. The Smith amendment simply interferes with the delivery of effective family planning programs whose purpose is to reduce the incidence of unwanted pregnancy and the need for abortion.

The fact is that none of the funds in this bill may be used for abortion now. With the Smith amendment, none of these funds may be used for abortion, but the Smith amendment goes further. It aims to kill family planning overseas by gutting U.S. participation in multilateral and bilateral population programs.

I urge Members to support the second degree amendment offered by Representative MEYERS. The Meyers amendment strikes the section of the Smith amendment that prohibits NGO's from using their own funds to attempt to influence official policies in other countries or to provide legal, safe abortions in countries where they are legal. It is the equivalent of telling U.S. defense contractors that they may not use their own funds to lobby Congress if they receive any Federal defense contracts.

I oppose the use of U.S. funds to perform abortions and I am a strong and consistent supporter of the Hyde amendment. I would not vote for a bill that allowed the use of any U.S. funding for selective abortions. I support the Meyers amendment because it retains tough safeguards but ensures that essential family planning programs are funded.

I also oppose the Smith amendment whether the Meyers amendment prevails or not. The Smith amendment places restrictions so tough on the UNFPA that U.S. funds will almost certainly not go to it. UNFPA fills in the holes where AID does not work and even in nations like China, plays a constructive role. UNFPA is a multilateral organization. It does not have the discretion to simply pull out of China at will.

The Smith amendment, I believe, is a thinly veiled attempt to stop the United States from working with other developed nations to provide voluntary family services to couples in developing nations because if we do not fund UNFPA, our funds do not go to 140 other nations beyond China that do not have forced abortions.

Mr. Chairman, I would urge the Members to support the Meyers amendment and oppose the Smith amendment.

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

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

Mr. BEILENSON. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from New Jersey [Mr. SMITH] and in support of the amendment of the gentlewoman from Kansas [Mrs. MEYERS].

Mr. Chairman, contrary to what proponents of this amendment argue, this is not about curbing abortion. It is about denying millions of women access to family planning services, the very services that help avert abortion. It is about cutting population funding in real terms to its lowest level in 25 years. It is about reinstating a policy that has proven to increase the incidence of abortion.

The fact remains that without this amendment, U.S. funds do not pay for abortions. That has been said a number of times today, but it bears repetition. For over 20 years, Federal law has prohibited any U.S. funds from being used for abortions, or to promote abortion. H.R. 1868 retains that prohibition.

The only real impact of the Smith amendment would be the disruption of the delivery of effective family planning programs that prevent unwanted pregnancies. These are programs which help reduce the incidence of abortion.

The effect of the amendment will be to deny millions of women access to family planning and along with that access to prenatal care, safe delivery services, maternal and infant health programs, treatments for infertility, and STD prevention services.

And it will result in hundreds of thousand of abortions that would have been averted if these women had had access to the basic health services the Smith amendment would deny them.

According to USAID, the funding reductions for population programs in this bill, together with this amendment, will likely result in an estimated 1.6 million unwanted pregnancies per year, resulting in 1.2 million unwanted births, 8,000 maternal deaths, and more than 350,000 abortion per year.

All of us would like to reduce the incidence of abortion as well as the staggering number of maternal deaths due to unsafe abortions. The Smith amendment would do the opposite. During the years the so-called Mexico City policy was in effect, which from 1985 to 1993 prohibited funding to organizations that perform abortions with private funds, there was an increase in the number of abortions worldwide because in the absence of access to family planning services, more women resorted to abortion and in the absence of information about safe abortion, more women resorted to unsafe abortions which cause more maternal deaths.

Proponents of this amendment assert that the only organizations that will be affected by this policy will be the International Planned Parenthood Federation [IPPF] and the Planned Parenthood Federation of America [PPF], two of the most effective and well-respected worldwide providers of family planning and reproductive health services. While both will survive the loss of U.S. funds, the real impact of this amendment will be felt by small local organizations in developing countries that rely on U.S. funds or on private funds from U.S. contributors who are forced to abide by this policy.

When the Mexico City policy was in effect, over 50 grant-receiving affiliates of International Planned Parenthood Federation lost their USAID funding. In many cases, these family planning associations were the most uniquely important sources of services and information for their countries. For example, in India, which will soon be the most populous country in the world, family planning assistance was significantly curtailed because the most respected and effective Indian family planning organization was unable to comply with that policy.

The Smith amendment would have the same disastrous effect. USAID would be unable to fund the best providers of services in many countries. Under the amendment, any hospital or clinic in the developing world that provides abortions, if they are legal in that country, such as Kenyatta National Hospital in Nairobi, Kenya would be prohibited from receiving United States assistance.

United States assistance would also be denied to organizations that are involved in providing much needed contraceptive training to hospitals in the former Soviet Union in order to decrease the high abortion rate, because these hospitals also provide abortions with non-United States funds.

And local health care providers who urge their governments to assure safer conditions for legal abortions would be denied funds under this amendment.

Finally, the gentleman from New Jersey [Mr. SMITH] misstates the role in the involvement of the UNFPA in China. Nobody disagrees that the coercive Chinese population program is abhorrent, and that UNFPA categorically condemns the use of coercion in any form or manner in any population program, including China.

Mr. SMITH has said the UNFPA cannot say enough good things about the Chinese program, and that China could not ask for a better front than the UNFPA. But Mr. SMITH relies on a 1989 quote from UNFPA executive director, Dr. Nafis Sadik, that was taken out of context, at a time when the Chinese seemed to be making progress toward improving the program. No evidence has ever been presented of complicity by international agencies, including the UNFPA, in Chinese human rights abuses and, as confirmed by USAID during the Reagan administration, UNFPA does not fund abortions or support coercive practices in any country, including China.

Mr. SMITH's amendment ignores the benefits of the UNFPA's presence in China and over 140 other countries. One of the reasons the international community knows about the horrors of the Chinese program is because of the presence in China of international organizations such as the UNFPA. Moreover, many countries believe that by providing assistance to China, UNFPA is in a unique position to influence positively China's population policies and to promote human rights. UNFPA is in constant dialog with Chinese officials at every level on matters pertaining to human rights, and exposes Chinese officials to international standards through international training in foreign institutions.

Most importantly, denying funds to the UNFPA would have a drastic effect on the UNFPA's programs in the rest of the world. Out of its annual budget

of $275 million, only $4 to $5 million goes to China. Why deny United States funding to UNFPA to be used in 100 other countries around the world where hundreds of millions of couples want to limit the number of children they have just because we abhor Chinese coercive practices?

Mr. Chairman, family planning prevents abortions. As I stated earlier, the effect of the drastic funding reductions for family planning programs in this bill, together with the Smith amendment, will be an estimated 1.6 million unwanted pregnancies per year, resulting in 1.2 million unwanted births, more than 350,000 abortions, and 8,000 maternal deaths.

Mr. Chairman, this is no time to cripple the ability of the United States to provide help to family planning services around the world. Global population is now nearly 5.7 billion people. It is growing by 100 million a year, by 260,000 every 24 hours. Future prospects are even more staggering. If effective action is not taken in the next few years, the earth's population will double by the year 2040 and could quadruple to 20 billion people by the end of the next century.

In much of the developing world, high birth rates, caused largely by the lack of access of women to basic reproductive health services and information, are contributing to intractable poverty, malnutrition, widespread unemployment, urban overcrowding, and the rapid spread of disease. Population growth is outstripping the capacity of many nations to make even modest gains in economic development, leading to political instability and negating other U.S. development efforts.

For almost 30 years, population assistance has been a central component of U.S. development assistance.

While much more remains to be done, population assistance has had a significant positive impact on the health of women and their children and on society as a whole in most countries. In many parts of Asia, Latin America, and Africa, fertility rates have decreased, often dramatically. Couples are succeeding in having the smaller families they want because of the greater availability of contraceptives that our assistance has made possible.

Today, approximately 55 percent of couples worldwide use modern methods of contraception, compared with 10 percent in the 1960's. Despite this impressive increase in contraceptive use, the demand for family planning services is growing, in large measure because populations are growing. Indeed, over the next 20 years, the number of women and men who wish to use contraception will almost double.

Similarly, population assistance has contributed to the significant progress that has been made in reducing infant- and child-mortality rates. Child survival is integrity linked to women's reproductive health, and specifically to a mother's timing, spacing, and number of births. Despite substantial progress, a large proportion of children in the developing world—particularly in sub-Saharan Africa and some Asian countries—still die in infancy.

And, while many countries in the developing world have succeeded in reducing maternal mortality rates, the incidence of maternal death and disability remains unacceptably high, constituting a serious public health problem facing most developing countries. According to the World Health Organization, an estimated 500,000 women die every year as a result of pregnancy and childbirth.

U.S. population assistance is preventive medicine on an international scale. Congress has long recognized this to be the case and over the years has reaffirmed the importance of population assistance in securing U.S. interests abroad. By addressing the basic health and educational needs of women and their families, population assistance provides building blocks for strong democratic government and sets the stage for economic growth. Furthermore, it helps prevent social and political crises, thereby averting the need for costly relief efforts.

At the International Conference on Population and Development [ICPD], held in Cairo last year, the United States was instrumental in building a broad consensus behind a comprehensive program of action, which was signed by almost all of the 180 countries that participated in the conference, and which will help guide the population and development programs of the United Nations and national governments into the next century. Central to this plan is the recognition that with adequate funding this decade for family planning and reproductive health services, as well as educational, economic, and social opportunities necessary to enhance the status of women, we can stabilize world population in the first half of the next century.

Mr. Chairman, under this bill, H.R. 1868, unfortunately funding for our efforts to stabilize global population growth is cut by almost 50 percent.

This amendment would be additionally destructive of our national interest in continuing to play a central and leading role in addressing the most fundamental challenge facing this and future generations, the soaring rate of human population growth which underlies virtually every environmental, developmental, and national security problem facing the world today.

I urge Members to vote against the Smith amendment and for the Meyers amendment.

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

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

Mr. EMERSON. Mr. Chairman, I rise today to give my strong support to the Smith amendment to the bill which prohibits funding Mexico City policy and prohibits funding to the U.N. fund for population activities unless that organization discontinues all activities in China.

During the 1970's and early 1980's, foreign nongovernment organizations were the major source of funding for a number of groups which promoted abortion and the legalization of abortion in developing countries. Adopted in 1984, the Mexico City policy substantially changed the United States' position on funding such organizations by stipulating that the Agency for International Development will not fund any private organization which participates in performing or promoting abortion as a method of family planning.

A year later, in 1985, the House approved the Kemp-Kasten amendment which denies funds to organizations that support coercive population programs. Funding is denied the UNFPA due to its active participation in China's population control program—its one-child-per-family program.

Today, the Clinton administration is conducting an ideological crusade to expand access to abortion throughout the developing world. The Clinton administration's policy was announced by Under Secretary Tim Wirth in a speech to a U.N. population meeting in 1993. Mr. Wirth stated that the Clinton administration's position was to, ''support reproductive choice,'' including abortion access and to make such ''reproductive choice'' available to every woman by the year 2000.

During House consideration of the American Overseas Interest Act—a bill which attempts to support basic human rights across the globe—the House adopted the Smith amendment which reaffirmed the most basic human right, Life.

Mr. SMITH's amendment today will prohibit funding for the Mexico City policy and ensure that United States tax dollars do not support China's coercive population control policies. The Smith amendment will simply ensure that the United States will not pay for abortions or impose a pro-abortion doctrine in foreign countries.

I urge my colleagues to support the Smith amendment. The right to life is the most fundamental human right—both here and abroad.

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

Mr. Chairman, it is with the highest regard for the maker of this amendment, the gentleman from New Jersey [Mr. SMITH] and with the greatest respect for the role that he plays in this Congress and in this country for promoting human rights throughout the world that I reluctantly rise in opposition to his amendment and in support of the Meyers amendment. We all certainly share the goal of the gentleman from New Jersey [Mr. SMITH] of decreasing the number of abortions performed in this country and throughout the world. The fact is that the Meyers amendment would keep the current prohibition on U.S. funding for abortions. It would allow the United States to continue to fund organizations that effectively reduce the number of abortions by providing access for family planning. It would cut off U.S. funding for the UNFPA unless they pull out of China or China stops coercive abortions.

I think that the gentlewoman from Kansas [Mrs. MEYERS] has captured some of the concerns of this body and indeed of the gentleman from New Jersey [Mr. SMITH] in her amendment.

I would like to say, though, Mr. Chairman, that existing law already

prevents the use of U.S. funds for abortion activities abroad and has done so under the Foreign Assistance Act since 1973. This amendment, the Smith amendment, would restrict effective women's health and family planning organizations and interfere with efforts to provide safe and legal reproductive health care for women in developing countries. That is why I do not support the Smith amendment and prefer the Meyers amendment.

I understand that a great deal of concern in this debate has centered on China's coercive policies and that that is a reason why many people would support the Smith amendment. Let me say that all that I have heard the gentleman from New Jersey [Mr. SMITH] say about coercive abortions and coercive family planning procedures in China is absolutely well-documented. We stipulate to that, that the family planning practices there are repulsive to us and we do not want to be a partner to them, and indeed we are not and will not under the Meyers amendment.

Mr. Chairman, the amendment is unnecessary in that respect, because no United States funds can be used in the U.N. population fund's China program. Current appropriation law already denies foreign aid funding to any organization or program that supports or participates in the management of a program of coerced abortion or involuntary sterilization in any country under the so-called Kemp-Kasten amendment.

Further, current appropriation law also ensures that none of the United States contribution to UNFPA may be used in its China program. No U.S. funds may be commingled with any other UNFPA funds and numerous penalties exist in law for any violation of this requirement.

UNFPA is in no way linked to reported family planning abuses in China. Anyway, I have not seen any evidence presented of complicity by international agencies, including UNFPA, in China's human rights abuses, and I do follow that issue quite closely.

□ 1700

UNFPA does not condone or cover up coercion in China. At the International Conference on Population and Development last year, the world community strongly condemned the use of coercion in national population programs. UNFPA's current 5-year program in China is ending this year.

In light of the solid, international consensus that has developed in opposition to the use of any form of coercion, the governing council will review any future country program proposed for UNFPA assistance, including any involvement in China, for compliance with the principles adopted at the ICPD.

I think, Mr. Chairman, it would be the cruelest act of all of the Chinese Government, in addition to depriving their own people of access to appropriate family planning information, if they were able by their coercive practices to influence decisions that we make here about family planning support throughout the developing world.

According to the World Health Organization, 500,000 women die each year of pregnancy-related causes; 99 percent of them in the developing world. Up to one-third of these deaths can be attributed to septic or incomplete abortion.

Restrictions on family planning organizations proposed in this amendment represent a threat to the health and safety of the women's world. I would think if my colleagues hate and abhor abortion, as I do, they would love family planning. And that is what the Meyers amendment presents.

I would like to also add that Mr. SMITH, the maker of this amendment, is not only a champion for human rights, not only an important and internationally recognized advocate to stop the coercive kinds of programs that exist in China. The gentleman is a man who follows up on his commitment.

He is also a champion for child survival funding and programs throughout the world. I want to make that point of my regard for the gentleman in opposing his amendment and urging my colleagues to support the Meyers amendment.

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

Mr. Chairman, this debate is about more than just family planning in China or other countries. This debate is about the United States of America and a consistent policy that has been established from the beginning of this country and has been held forth until now.

But through a weakening of the commitment and the resolve to never, never allow for public funding for abortions, especially overseas, just through the rhetoric, and through a potential treaty, that consistent policy could be seriously, seriously diminished.

Even as late as 1994, the General Conference on Population and Development held in Cairo reiterated that in no case should abortion be promoted as a method of family planning.

Mr. Chairman, we take great pride in the fact we have established a new vision for America and we have begun to establish a new trust for this Congress by laying out promises that were made; promises that were kept. And I think in all cases we ought to be able to say to the American people, ''This is a promise that we have made and we will make it into the future; that there shall not be this kind of foreign policy that shall be initiated.''

Mr. Chairman, all kinds of fears are being raised in the debate. For instance, the gag rule has been brought up. Well, the prohibition on lobbying activities contained in the Smith amendment, like the virtually identical provision the House passed as an amendment to the authorization bill, is another application of the wall of separation principle between abortion and the U.S. tax dollars.

Specifically, it makes clear that U.S. funds should not subsidize nongovernmental organizations which violate other country's laws on abortion or which actively work to undermine the laws of a foreign country with respect to abortion.

Mr. Chairman, the pro-abortion forces have once again carted out the tired old slogan that any restriction on U.S. tax dollars for lobbyists is a gag rule. But there is no gag rule. This amendment does not affect counseling. It does not affect medical advice. It merely applies the wall of separation principle to abortion lobbyists.

It says to organizations on both sides of the abortion question that they have choices to make about what businesses they are going to be in, but if they want to provide family planning services, they can receive family planning money, and that happens to the tune of about $585 million last year.

But if they want to be a foreign lobbyist, they must get funding from somebody other than the U.S. taxpayers. The Smith amendment, which I strongly support, recognizes that money is fungible and that U.S. taxpayers do not want their money going to organizations actively engaged in nothing less than cultural imperialism for their own profit.

Mr. Chairman, I hope that my colleagues will agree with me that subverting the laws of another country concerning the legality or illegality of abortion is not one of the United States' foreign policy objectives.

Mr. WOLF. Mr. Chairman, I move to strike the requisite number of words. I will not take the whole 5 minutes. It is getting late and I know the hour has gone on.

Mr. Chairman, I rise in very strong support of the Smith amendment. The gentleman from New Jersey [Mr. SMITH] and I had the opportunity to visit China together and the stories that we were told with regard to coercive abortion were unbelievable.

I would also urge Members, I have a film that I watched in my office yesterday. I have a copy in my office whereby in China they are getting young girl babies and putting them in what they call the dying rooms. They put them in these rooms and they just allow them to stay there for days, upon days, upon days.

The film ends with a young child called Mei Ming, which means ''No Name,'' and she is left in the room for about 10 days and they go in and they open up the blanket and she dies.

Mr. Chairman, we know what they are doing. We have had women tell us of tracking down to require abortions. UNFPA money does go to China. For that one purpose alone the Smith amendment is the right thing to do.

So, I strongly urge the defeat of the Meyers amendment and strong support of the Smith amendment.

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

Mr. WOLF. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, as a matter of principle, when I disagree with a colleague I make it a point not to always talk about what great affection I have for them and all of that. In this case I do want to make an exception to my rule and say that I respect the gentleman from Virginia [Mr. WOLF] very much. The gentleman has never, ever, in the times we have served together, ever misled me in any way.

But this is an important point. The gentleman is talking about China. Is the gentleman opposing the Meyers amendment?

Mr. WOLF. Yes, I am opposing the Meyers amendment.

Mr. WILSON. Does the gentleman understand that the Meyers amendment is not any different than the Smith amendment on China?

Mr. WOLF. I do. I am very, very strong pro-life. And also let me say that I strongly support family planning. I strongly support birth control. But I supported the Mexico policy and I think with regard to China it would be absolutely wrong, any time we would have an opportunity to shut down giving any aid to them in any way, it would be the appropriate thing.

Mr. WILSON. But the gentleman would agree that China is not an issue here?

Mr. WOLF. China is an issue. It is a major issue. They are tried together. There will be the vote on the Meyers amendment and then the vote on the Smith amendment.

Mr. WILSON. Either way, China is not in the picture.

Mr. WOLF. But Mexico City policy is. And I will bring the film around to the gentleman's office today

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Chairman, the Meyers amendment is about promoting abortion. It is not about family planning. Members have said over and over again on the other side, and I do not know how they can say this with a straight face, that we want to kill family planning with this amendment.

That same argument was made in the mid-1980's, and during the 1980's and into the 1990's population control funding doubled. Just look at the numbers that are provided by AID. I will make them a part of the record. It doubled under the Mexico City policy.

As a matter of fact, in 1980, for example, over 350 family planning organizations signed the Mexico City clauses, including 57 international Planned Parenthood Federation affiliates.

The problem that this gentleman has, and that I think the American people have, is that groups like IPPF based in London have in their vision statements—even though most of the countries in the world protect their unborn children—they have as their objectives 1, 2, and 4, to increase the right of access to abortion, and to remove barriers, political, legal, and administrative.

So, Mr. Chairman, the point is by providing money to these organizations, we are effectively empowering this lobby organization with U.S. funds to go out there and bring down these very important protective statutes that provide basic protections for unborn children.

Mr. Chairman, let me also ask the gentlewoman from Kansas [Mrs. MEYERS], my good friend, if she might respond to this. That working paper that I talked about earlier by IPPF has this point: The right of everyone to have full access to fertility regulation services applies equally to young people, including those in the adolescent group, age 10 to 19.

As we all know, the World Health Organization defines fertility regulation in four ways, one of which includes abortion. This was a big issue in Cairo. When people realized that is what it meant, they wanted that word taken out. But here we have, under the rubric of the rights of young people, IPPF promoting abortion on demand as a matter of birth control for 10-year-olds. How would the gentlewoman from Kansas [Mrs. MEYERS] respond to that in terms of IPPF?

Mrs. MEYERS of Kansas. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. Mr. Chairman, I have no idea what the gentleman from New Jersey [Mr. SMITH] is reading from.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. WOLF] has expired.

(On request of Mr. SMITH of New Jersey, and by unanimous consent, Mr. WOLF was allowed to proceed for 1 additional minute.)

Mr. WOLF. I yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. Mr. Chairman, I do know that the other working paper that the gentleman from New Jersey [Mr. SMITH] was reading from was something that was drafted 15 years ago, was considered and specifically rejected by the Planned Parenthood board. I don't know what the gentleman is reading from now; if it is the same kind of thing.

Mr. Chairman, I must mention also that money for family planning decreased during the Mexico City policy; reference 1986 through 1992, and I would just mention several people have said that it doubled and it went up. It went down.

Mr. SMITH of New Jersey. These are AID's own figures. In 1984, $264 million; in 1986, it was $295 million; by 1992, it had jumped to $325; by 1993, it was up to $447 million. On a graph this would show a steady growth. And, again, this was under the Mexico City policy.

So again it is a red herring that my good friends are floating here today that we want to kill family planning. We want to separate abortion from family planning.

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

Mr. Chairman, I rise in strong support of the Meyers amendment. With all this gray hair, I am probably one of the few people who attended the Mexico City conference in this body. I was there when the Mexico City policy was adopted and I am listening to this debate wondering what in the world is going on.

It is a little ironic. Let me just remind people of what really happened. First of all, one of the strongest international supporters of family planning was Richard Nixon. You know, if Richard Nixon could come back here today, he would be considered, I guess, way to the left on that side of the aisle. It is positively amazing.

Richard Nixon understood how critical family planning was internationally, because no one can be an environmentalist if we are going to keep doubling the world population every 20 years. At some point the world collapses.

So having international family planning was very critical. Therefore, it was indeed a great shock to many of us when the Reagan administration, at the U.N. family planning meeting in Mexico City, rolled back the Nixon doctrine and put in the Mexico City doctrine.

Mr. Chairman, here we are going to say to the most vulnerable women in the world, the women in Bangladesh and other such places, we are shutting off access to real family planning. When we listen to all these words, there are a lot of words flying around here. But what I consider family planning and what most reasonably prudent people consider family planning, some people call abortifacient.

I consider the pill family planning. I consider IUD's family planning. I consider all sorts of other such things that are out there in the mainstream and the mainstream considers family planning.''

But what really happened is in Mexico City, people said we will just do natural family planning, which is really the rhythm system. And in my State in Colorado, we call people who use that ''parents.''

□ 1715

And that is not really family planning, and what we had was a period of time when we were spending taxpayer money on something that was called family planning, but when you go around and find out what it really was, taxpayers got really mad, and they just said, ''Don't spend money on that stuff, or spend it on the real stuff. If you are going to do family planning, do real family planning.''

Because we had an awful lot of people around the world very angry that they

could not get access to the real information, and as one of the senior women on this floor, I must tell you that I meet all sorts of visiting delegations from parliamentarians from Third World countries, and woman after woman in those things would come to me and say, ''American women have let us down by not standing firmly for our right to the same kind of family information, family planning information you get.''

So the gentlewoman from Kansas is trying very hard to basically reinstate the Nixon doctrine. That is really all this is about.

The gentlewoman from Kansas is trying to go back to what the Nixon doctrine was. I never thought I would be standing on the floor and saying let us go back to the Nixon doctrine; that would be a breath of fresh air. That is basically what I am saying. We ought to support her amendment because it is a sane amendment, an amendment that all of us sharing this globe together realize how important it is and let us be very clear about the words being thrown around here.

If you go to a family planning clinic funded with U.S. dollars or funded by international agency dollars, you assume you are going to get real information, the same information people get at those clinics in western developed countries, and to remove that and to go back to where we were after Mexico City would be a great embarrassment.

I must tell you, even when I was in Mexico City, the Ambassador who was there at the time was so embarrassed by what our country did, as were many other people, so I think it is time we closed that chapter and that we stay with the Nixon policy and that we realize that all the dreams we have for this next century are not going to work, and that we allow women internationally, and we will be doing this if we pass the gentlewoman's amendment, to choose. They get to choose between whether they get to be productive and reproductive rather than have it be mandated that they only get to be reproductive over and over and over and over again, that that is our real only other role for them, and that is where it goes.

But we phony it up under the name of family planning. Natural family planning and the rhythm system is not family planning.

Vote for the gentlewoman from Kansas. She is telling it like it is.

Mr. SOUDER. Mr. Chairman, I move to strike the last word.

As one of the junior fathers on the floor of the House right now, I am still trying to recover from the gentlewoman from Colorado wrapping herself with Richard Nixon. I was not quite prepared for that in the debate here.

We cannot lose track that the fact is that this is an amendment by the gentleman from New Jersey [Mr. SMITH] and an amendment to modify his amendment that really relates to the abortion issue. It has been confused as we have gone through this. The principle is the same.

Very few people, whether pro-life or pro-choice, want their tax dollars to be used to fund a procedure that is so objectionable and controversial.

If anything, the American public has even less tolerance for U.S. taxpayer-funded abortions carried out in other countries. After all, Americans, particularly those in Indiana, do not care much for foreign aid spending, to begin with. When this foreign aid is used to pay for abortion, support falls through the floor.

A commonsense position of not paying for abortions overseas was official U.S. policy throughout most of the last decade and a half, but it came to a screeching halt the third day of the Clinton presidency when he nullified the Mexico City policy with a stroke of pen.

There has been debate on the floor whether or not, in fact, we do abortions. Listen to some folks we heard earlier, Tim Wirth, Undersecretary for Global Affairs, May 11, 1993, said, ''Our position is to support reproductive choice, including access to safe abortion.'' On March 16, 1994, the State Department action cable was sent to overseas diplomatic and consular posts. It called for ''senior-level diplomatic interventions,'' in support of U.S. population control priorities. ''The priority issues for the U.S. include assuring access to safe abortions. The United States believes access to safe, legal and voluntary abortion is a fundamental right of all women.''

Since rescinding the Mexico City policy, the Clinton administration has committed $75 million to International Planned Parenthood Federation [IPPF], which performs and actively promotes abortion as a method of family planning around the world.

During the time the Mexico City policy was in effect, International Planned Parenthood Federation was one of only two organizations that refused to sign an agreement stating they would not perform or actively support abortion as a method of family planning. The other organization was Planned Parenthood Federation of America, by far the largest abortion provider in the United States. Of course, there is the U.N. Population Fund, which, as a matter of course, supports and collaborates with countries that use abortions as birth control.

Opponents of the Smith amendment would have you think the Mexico City policy hurts family planning efforts worldwide. This is not true. In 1990, over 350 foreign family planning organizations signed the agreement, unlike Planned Parenthood. So what we are talking about here is whether or not to fund three organizations that countenance abortions, out of the hundreds of others that carry out successful planning, family planning, without supporting abortion.

Now, there is a question whether Planned Parenthood directly uses their funds for abortion. For those of you who do not understand basic accounting and the ability to move money around, all you need to do is look at the U.S. Government. For those who think one division of Planned Parenthood cannot fund abortion and another division can fund abortion, I want to show you the Social Security trust fund. We do that all the time here in Congress where we claim it is set aside and is not. Money that goes to a company merely can be shifted between divisions. It is a cost accounting question.

I believe it is somewhat a little bit of a sleight of hand to claim Planned Parenthood does not fund abortions in those countries, because they are merely playing games with their funds.

Now, as to the China question, I want to point out that the amendment offered by my friend from Kansas only addresses UNFPA funds, not the International Planned Parenthood funds which are addressed in the first and third clauses. While the first and third clauses alone in the Smith amendment would not solely address the China policy, for example, it would require ceasing abortion funding in all countries, not just China, it nevertheless guarantees that the money will not go to China, whereas the International Planned Parenthood funding for China is not affected by the Meyers amendment.

At best, the Meyers amendment, substitute, assumes a very rosy scenario. International Planned Parenthood would not fund the reprehensible policies in China or China will change their policies. In other words, it is not inappropriate for us to raise the China policy, because it does matter, because the Meyers amendment, while it takes clause 2 from the Smith amendment, it does not cover International Planned Parenthood in clauses 1 and 3.

I would like to make a point or two on China even though that is not the primary reason I oppose the Meyers amendment and support the Smith amendment, and what I would like to make sure gets in the record is not only have we heard about the forced abortions and a lot of what traditionally we conservatives have criticized about China, but the new development of what has concerned us, the unborn babies that are being sold for human consumption. According to United Press International, a Hong Kong magazine, and this is quoting UPI, recently revealed the latest health fad in the southern boom town of Shenzhen to be the consumption of human fetuses, which are believed to improve complexions and general health. Unlike the serving of endangered reptiles, a human embryo as food trade is not illegal or underground in China.

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

Mr. Chairman, I do not think there is anything that can be said that has not already been said, but I will say one more time that we are not talking about China.

I rise in support of the Meyers amendment. We are not talking about China. It is simply not an issue.

The Smith amendment, without the Meyers amendment, would freeze in place a situation in developing countries where somewhere in the range of 100,000 to 200,000 women die due to abortions performed under unsafe conditions. We all know, the Smith amendment strikes at the very heart of international family planning programs.

It is far worse than previous or existing policies. It is an intrusion on the free speech and legal action of organizations, both those in the United States and those operating within the laws and policies of their own countries.

Implementation of the amendment would actually, in many cases, be an impediment to the prevention of abortion. Apart from its efforts to preclude funding for a number of affected providers of family planning services, the amendment would make it impossible to assist or work with organizations providing or improving contraceptive service for women who have had abortions in order to prevent future or repeat abortions.

I would voice strong support for the Meyers amendment and opposition to the Smith amendment.

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

Mr. Chairman, I will not take my whole 5 minutes. I just want to come down to the well to support the Smith amendment and oppose the Meyers amendment.

As I watched this debate, I saw that there is a lot of misinformation about this amendment. Let us not be deceived.

The Smith language does nothing to reduce U.S. funding of international family planning programs. It merely prevents taxpayer money from going to fund promotion or funding of abortion, a principle that the majority of the American people support. The American people have risen time and time again against Federal funding for abortion.

Let us not be deceived about what this amendment does.

Now, I heard earlier said on this floor that we have too many people in this world. How elitist can you be to make a statement like that?

We have too many people in this world? Ladies and gentlemen of the House, if you took every person in the world, you could put them in the State of Connecticut, and they would still have 5 square feet to stand on. It is not that we have too many people in this world. It is that we have governments that oppress people and destroy the free market system, that does not allow the system to feed the people. That is what is the problem in the world, not that we have too many people.

If you all remember the book ''The Population Bomb,'' by Paul Erlich, that has been disputed, ridiculed and thrown out years ago. Yet some people, as I saw today, still quote from that ridiculous book. ''the Population Bomb.'' This is not the problem.

As the gentleman from Indiana has said, what the fight is here is to allow Planned Parenthood to use these funds to perform abortions, whether they are through fungible funds or not. We know what the Planned Parenthood is and what it is all about. They do it here in the United States as well as overseas. That is what this is all about.

I just ask that you vote ''no'' on the Meyers amendment and keep the Government and the American taxpayer out of the business of abortion and restore the Reagan-Bush policy.

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Chairman, I just want to remind Members, too, the International Planned Parenthood Federation out of London, not only supports abortion globally, but considers it their goal to lobby to bring down pro-life statutes throughout the world.

But this is from the Chinese news agency:

> Dr. Halfdan Mahler, a top official of the International Planned Parenthood Federation, today praised China as a model for all countries, particularly developing countries in family planning. ''China has set a good example for developing countries to follow in controlling the population growth,'' he said.

The date of that quote is August 27, 1994.

These are the kind of organizations that, if they decide to put up that wall of separation, yes, we will provide money to them, as we have in the past. Again, that money has gone up during the Reagan-Bush years under the Mexico City policy.

But that kind of statement about the Chinese policy is contemptible, where women are being exploited, where forced abortion is the rule, not the exception, and where now we see such egregious practices as infanticide, where children are killed right at birth, primarily because they are girls, and where just recently, as Members know, a nationwide policy went into effect that is absolutely reminiscent of the Nazis: a eugenics policy where if even the one child is found to be defective in some way, that woman is forcibly aborted because they want to have a master race. That is absolutely sick.

I ask for a ''no'' vote on the Meyers amendment and a ''yes'' vote on the underlying Smith amendment.

Mrs. MEYERS of Kansas. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. I would just like to make it clear that no American funds are provided for abortion. What my amendment says is that NGOs who see very sick women or women who have serious problems of some sort with the fetus would be able to provide abortions with private money; no American money is provided for abortions.

Mr. DELAY. Reclaiming my time, I understand the distinguished chairman of the Committee on Small Business and her approach, and I am sure she is sincere in it. We all know how these organizations shift funds around.

We feel very strongly that they are taking our taxpayers' money, or they are either taking it or they could very well take taxpayers' money, and put it in one account while they are using their private funds to perform abortions.

I do not want my taxpayer money, and most Americans understand, to be used in any way.

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

Mr. Chairman, I rise in strong support of the Meyers amendment and in strong support of our country's commitment to give men and women the option of family planning as well as the right to free speech.

☐ 1730

I think this issue clearly has no place in this debate. Right now the law of the land is that Federal taxpayer dollars cannot be used for abortion. I support that. I voted for the Hyde amendment in the last Congress. But this issue goes far beyond this. This would tell organizations around the world that, if a woman comes to them seeking an abortion, and if that woman seeks to pay for it with her own money, or if a private entity seeks to pay for it, the United States will not allow any funding of that organization to go on.

Mr. Chairman, for me this is a very cynical and mean-spirited attempt to undermine family planning around the world. Without the United States' assistance——

Mr. SMITH of New Jersey. Will the gentleman yield?

Mr. TORKILDSEN. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. It is absolutely not mean-spirited in its attempt. This is to build that wall between abortion and family planning because I happen to believe, and I believe the majority of Americans believe, that the killing of an unborn child is a very, very serious act. We do not want to provide money to those groups that do it.

Mr. TORKILDSEN. Reclaiming my time, there is a separation now for U.S. funds which cannot be used for abortion either here at home or abroad. I think everyone has to agree to that.

Now some people may say organizations will use money for family planning and for educational purposes. That is the way the law is now. I think

that is the way the law should be in the future. Without the United States assistance, many of these facilities could not exist, and I think that underscores perhaps what is an unspoken attempt by some supporters of this amendment.

I think women deserve the right to make the choice about their own personal bodies. It should not be left up to the taxpayers. I would hope the U.S. Government could get out of this very personal decision. I would hope that all Members would vote for the Meyers amendment.

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

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from New Jersey [Mr. SMITH] and in opposition to the amendment offered by the gentlewoman from Kansas [Mrs. MEYERS]. I will not take my full 5 minutes, but I simply want to state three reasons why I am supporting the Smith amendment and why I am opposing the amendment.

I think what the gentleman from New Jersey [Mr. SMITH] has done makes eminent sense. It restores a policy that worked, the Mexico City policy. That is all it is doing. It is going back to a policy from 1984 to 1993 that worked. We saw family planning funds increase during that time. It was a policy that was very much mainstream. Hundreds of organizations signed onto that. The 150 family planning organizations signed the Mexico City clauses, and so it is quite mainstream, it is quite common sense, to return to that policy.

It was on June 22 in 1993 that President Clinton gave the green light to renewed funding for international organizations that perform and promote abortions. It is time that we return to that policy in the 1980's/early 1990's that was so successful.

The second reason I am supporting the Smith amendment and opposing the Meyers amendment is that I believe what the gentleman from New Jersey [Mr. SMITH] is attempting to do in this legislation, and this attempt is supported by the American people. While the American people are strongly, and very forcefully and emotionally divided on the abortion issue, they are overwhelmingly opposed to public financing, and what we have, and we have tried to kind of smoke the issue, cloud the issue; it is simply a matter of shifting funding, and so to talk about private funds being used and no taxpayers dollars being used is really quite disingenuous, I think. If I take taxpayer dollars with my left hand, and I perform abortions with my right hand, it does not really fool anybody. It is a shell game being played by these organizations, and the American people do not want their taxpayer dollars being used to promote, and to perform and to support abortion policies around the world.

I think finally I would just say that it defends, it defunds, only the most radical pro-abortion organizations. Under the Mexico City policy, 350 family planning organizations signed it while only the most radical, pro-abortion organizations refused to sign that policy.

It makes eminent good sense for us to return to a policy that worked. Therefore, I urge my colleagues to support the Smith amendment and oppose the Meyers amendment.

Mrs. MEYERS of Kansas. Mr. Chairman, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. Just in the interest of accuracy, Mr. Chairman, I would like to say that the Mexico City policy was in 1984 and in 1985, the amount of money was $290 million. It dropped immediately to $239, to $234, to $197, to $197, and then went back up to $216, but still not up to——

Mr. HUTCHINSON. Reclaiming my time, I do not know where the gentlewoman is getting these figures. I heard the gentleman from New Jersey [Mr. SMITH] just a moment ago cite very exact figures on where that funding has increased during those years in which the Mexico City policy——

Mrs. MEYERS of Kansas. These are the population line items from our appropriations bills.

Mr. HUTCHINSON. Once again I would say that the gentleman from New Jersey [Mr. SMITH] just a few moments ago cited specific funds on how those funds increased under the Mexico City policy and that in fact there was not any decrease in family planning programs.

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. To get an accurate picture of how population funds are used one has to know they come from a variety of spigots, including the African fund, including some ESF funds, including the actual population account, and only a reading which says, ''You're looking at all these accounts, what is the aggregate'' can tell you whether or not that funding is going up or down. Since 1984 that figure has gone up dramatically, and I cite those figures for the record. They were produced by the Agency for International Development.

Mr. HUTCHINSON. So, in the interests, Mr. SMITH, of accuracy, funding for family planning actually increased during the——

Mr. SMITH of New Jersey. The United States remained. like it or not, during the 1980's and into the 1990's, the No. 1 provider internationally for population assistance, and I remember so well in 1984, if the gentleman would continue yielding, when Members stood up on the floor and said that there is no way that any family planning organization would accept the Mexico City clauses. How wrong they were. One after another said they wanted to do family planning, and they got out of the abortion business, and that wall of separation was intact. That is what this is all about.

Mr. HUTCHINSON. Reclaiming my time, I think everybody is ready to vote, and I just wanted to thank the gentleman from New Jersey [Mr. SMITH] as many on both sides have expressed their admiration for him. I want to express my appreciation for his leadership on this issue, and I think we are going to take a very good step in the passage of the Smith amendment today in defunding these organizations that are doing so much wrong in the promotion of abortion policies around the world.

I urge support for the Smith amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Kansas [Mrs. MEYERS] to the amendment offered by the gentleman from New Jersey [Mr. SMITH].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WILSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2, rule XXIII, the Chair may reduce to 5 minutes the minimum time for electronic voting, if ordered, on the underlying Smith amendment. This is a 17-minute vote.

The vote was taken by electronic device, and there were—ayes 201, noes 229, not voting 4, as follows:

[Roll No 432]

AYES—201

Abercrombie	Dooley	Hoyer
Ackerman	Dunn	Jackson-Lee
Andrews	Durbin	Jacobs
Baesler	Edwards	Jefferson
Baldacci	Ehrlich	Johnson (CT)
Barrett (WI)	Engel	Johnson (SD)
Bass	Eshoo	Johnson, E. B.
Becerra	Evans	Johnston
Beilenson	Farr	Kaptur
Bentsen	Fattah	Kelly
Berman	Fawell	Kennedy (MA)
Bilbray	Fazio	Kennedy (RI)
Bishop	Fields (LA)	Kennelly
Boehlert	Filner	Kleczka
Bono	Flake	Klug
Boucher	Foglietta	Kolbe
Brown (CA)	Foley	Lantos
Brown (FL)	Ford	Lazio
Brown (OH)	Fowler	Leach
Bryant (TX)	Frank (MA)	Levin
Cardin	Franks (CT)	Lewis (GA)
Castle	Franks (NJ)	Lincoln
Chapman	Frelinghuysen	Lofgren
Clay	Frost	Longley
Clayton	Furse	Lowey
Clement	Gejdenson	Luther
Clyburn	Gephardt	Maloney
Coleman	Gibbons	Markey
Collins (IL)	Gilchrest	Martinez
Collins (MI)	Gilman	Martini
Condit	Gonzalez	Matsui
Conyers	Gordon	McCarthy
Coyne	Green	McDermott
Cramer	Greenwood	McHale
Danner	Gutierrez	McKinney
Davis	Hamilton	Meehan
DeFazio	Harman	Meek
DeLauro	Hastings (FL)	Menendez
Dellums	Hefner	Meyers
Deutsch	Hilliard	Mfume
Dicks	Hinchey	Miller (CA)
Dingell	Hobson	Mineta
Dixon	Horn	Minge
Doggett	Houghton	Mink

Molinari
Moran
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Porter
Pryce
Ramstad
Rangel
Reed
Richardson
Rivers
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Shays
Sisisky
Skaggs
Slaughter
Spratt
Stark
Studds
Tanner
Thomas
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
White
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—229

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bonior
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Ehlers
Emerson
English
Ensign
Everett
Ewing
Fields (TX)
Flanagan
Forbes
Fox
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Goodlatte
Goodling
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kanjorski
Kasich
Kildee
Kim
King
Kingston
Klink
Knollenberg
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manton
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Portman
Poshard
Quillen
Quinn
Radanovich
Rahall
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tate
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Tiahrt
Tucker
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—4

Moakley
Reynolds
Stokes
Tauzin

□ 1800

Mr. ZELIFF changed his vote for ''aye'' to ''no.''

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. SMITH].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SMITH of New Jersey. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 243, noes 187, not voting 4, as follows:

[Roll No. 433]

AYES—243

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Ehlers
Emerson
English
Everett
Ewing
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Goodlatte
Goodling
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson, Sam
Jones
Kanjorski
Kasich
Kildee
Kim
King
Kingston
Kleczka
Klink
Knollenberg
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Markey
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Portman
Poshard
Quillen
Quinn
Radanovich
Rahall
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tate
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Tiahrt
Tucker
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—4

Moakley
Reynolds
Stokes
Tauzin

□ 1800

Mr. ZELIFF changed his vote for ''aye'' to ''no.''

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. SMITH].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SMITH of New Jersey. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 243, noes 187, not voting 4, as follows:

[Roll No. 433]

AYES—243

Allard
Archer
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Baker (LA)
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Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Ehlers
Emerson
English
Everett
Ewing
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Goodlatte
Goodling
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson, Sam
Jones
Kanjorski
Kasich
Kildee
Kim
King
Kingston
Kleczka
Klink
Knollenberg
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Markey
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Portman
Poshard
Quillen
Quinn
Radanovich
Rahall
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tate
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Tiahrt
Tucker
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOES—187

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Bass
Becerra
Beilenson
Bentsen
Berman
Bilbray
Bishop
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coyne
Davis
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Edwards
Ehrlich
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hobson
Horn
Houghton
Hoyer
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Klug
Kolbe
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Martinez
Martini
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moran
Morella
Nadler
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Porter
Pryce
Ramstad
Rangel
Reed
Richardson
Rivers
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Shays
Sisisky
Skaggs
Slaughter
Spratt
Stark
Studds
Thomas
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
White
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—4

Moakley
Reynolds
Stokes
Tauzin

□ 1808

The Clerk announced the following pair:

On this vote:

Mr. Moakley for, with Mr. Stokes against.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MENENDEZ

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

The Clerk read as follows:

Amendment offered by Mr. MENENDEZ: Page 78, after line 6, add the following:

WITHHOLDING OF ASSISTANCE TO COUNTRIES SUPPORTING NUCLEAR PLANT IN CUBA

SEC. 564. The President shall withhold from assistance made available with funds appropriated or made available pursuant to this Act an amount equal to the sum of assistance and credits, if any, provided on or after the date of the enactment of this Act by that country, or any entity in that country, in support of the completion of the Cuban nuclear facility at Juragua, near Cienfuegos, Cuba.

Mr. CALLAHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have another 50 pending amendments. At the rate we are going, we will finish this bill about August 25, unless we do something about curtailing the debate. We do not want to deny anybody the opportunity to speak on any of the issues that are so important to them, but we are going to have to start putting some time limit on some of these amendments or else we will never get through with this bill.

I would like to know if the gentleman would agree to a time limitation, a reasonable time limitation on this amendment with the gentleman controlling his side of the argument.

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

Mr. CALLAHAN. I yield to the gentleman from New Jersey.

Mr. MENENDEZ. Mr. Chairman, I appreciate the gentleman's predicament. However, this is an issue that I and others have been working on for 2½ years. To be very honest with you, I do not want to curtail anybody's ability to speak. I cannot gauge that. I do not anticipate that it will be as long as some of the other debates that we have had, but I do believe that it will take a decent hour or so. But I do not want to limit it to that.

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

Mr. MENENDEZ. Mr. Chairman, there is a certain urgency to this amendment. Russia and Cuba have announced a joint stock company to finish construction of a dangerous nuclear plant located in the southern coast of Cuba. I am offering this amendment with several of my colleagues, the gentlewoman from Florida [Mr. ROS-LEHTINEN], the gentleman from Florida [Mr. DIAZ-BALART], the gentleman from Florida [Mr. DEUTSCH], and others, to reduce dollar for dollar U.S. aid to any country which financially helps the Castro dictatorship prospectively build a nuclear plant.

The Castro dictatorship has decided that a dangerous and mothballed Soviet-era nuclear plant in Juragua near Cienfuegos, Cuba should be completed and operated. We believe that it should not. Let me explain why not in some detail.

In a letter to me, dated April 12, 1993, President Clinton stated:

The United States opposes the construction of the Juragua nuclear power plant because of our concerns about Cuba's ability to ensure the safe operation of the facility and because of Cuba's refusal to sign the nuclear nonproliferation treaty or ratify the treaty of Guadalupe.

In fact, Cuba has yet to ratify either treaty, the letter of which establishes Latin America and the Caribbean as a nuclear weapons free zone. The State Department, the Nuclear Regulatory Commission, the Department of Energy have also expressed concerns about the construction and operation of Cuba's proposed nuclear reactors.

Recently, Dr. Edward Purvis, who headed the Department of Energy's investigation about Cuba's reactor stated, ''an accident in this reactor is probable. It is just a question of when. I do not know if they are the most dangerous reactors in the world, but they are the most dangerous reactors anywhere close to the United States.''

In a September 1992 report to Congress, the General Accounting Office outlined concerns among nuclear energy experts about deficiencies in the Cienfuegos nuclear plant. They included lack in Cuba both of a nuclear regulatory scheme and inadequate infrastructure to ensure the plant's safe operation and maintenance.

□ 1815

Reports by a former technician from Cuba, who by examining with X-rays weld sites believed to be part of the auxiliary plumbing system for the plant, which is what would have operated to stop Chernobyl from where it was going, found that 10 to 15 percent of those were defective, and this technician was quoted as saying ''The operation of this reactor will be criminal.'' The construction was being performed in a completely negligent manner.

Since September 5 of 1992 the construction was halted. There has been prolonged exposure to the elements of the primary reactor components, including corrosive salt water vapor. The possible inadequacy of the upper portion of the reactor's dome retention capability, the one that is supposed to withstand, in case of a nuclear accident, to withstand only 7 pounds of pressure per square inch, given that normal atmospheric pressure is 32 pounds per square inch, and that the United States reactors that we are designing accommodate 50 pounds per square inch, 50 pounds versus 7 pounds per square inch, and according to the U.S. Geological Survey, the Caribbean plate, a geological formation near the south coast of Cuba, poses seismic risks to Cuba and the reactor site, and may produce large to moderate earthquakes. In fact, on May 25 of 1992 the Caribbean plate produced an earthquake measuring 7 on the Richter scale.

Mr. Chairman, I want Members who may be listening in their offices to listen carefully. It is a result of this map by the National Oceanic and Atmospheric Administration, and if Members are from Texas, Louisiana, Arkansas, Mississippi, Alabama, Florida, Georgia, Tennessee, South Carolina, North Carolina, Maryland, Virginia, and the Nation's capital, please be warned, we are talking about 80 million Americans here, Mr. Chairman, almost 1 in 3 Americans who, according to a study by the National Oceanic and Atmospheric Administration, said that summer winds could carry radioactive pollutants from a nuclear accident at the power plant throughout all of Florida and parts of the States on the gulf coast as far as Texas, and northern winds could carry the pollutants as far northeast as Virginia and Washington, DC, and more States would be affected in time.

Mr. Chairman, finally, Fidel Castro has over the years issued threats against the United States government. In 1962 he advocated the Soviets' launching of nuclear missiles to the United States, and brought the world to the brink of a nuclear conflict. We are talking about perhaps the most anti-American dictator in the world. Can we trust him with nuclear power? Can we trust him with an unsafe nuclear plant? Do we need another Chernobyl type incident 90 miles away from the United States?

I strongly suggest that we do not, as do 130 of our colleagues on both sides of the aisle, who signed the letter to the President saying ''Do everything possible to stop the nuclear plant that is being proposed in Cuba.'' We should not permit any dollars to be used directly or indirectly to help those who would put our country at risk and our fellow citizens at risk at the same time.

Mr. Chairman, I urge the Members, in the interests of the national security of the United States, and on behalf of those 80 million people in those States that I have suggested, that this amendment needs to be passed and it needs to be passed now.

Mr. CALLAHAN. Mr. Chairman, I rise reluctantly to oppose the gentleman's amendment, but certainly not his intent. I our conference on our side of the aisle this morning, and on this floor this entire week, all we have been hearing is that the Committee on Appropriations is violating the House procedures because we are authorizing in an appropriation bill. We have strived long and hard not to violate that rule.

Now the gentleman from New Jersey [Mr. MENENDEZ] has an amendment that is an authorization within an appropriation bill. All these people that have been coming to the floor, like the two gentlemen from Indiana, who have raised so much ruckus over the fact that we are violating some of the procedures, will come here and recognize that what we are doing in opposition to this bill is in no way against the mission that the gentleman from New Jersey wants to carry out.

Mr. Chairman, I live in one of those States, in the beautiful and great State of Alabama, on the beautiful Gulf of Mexico, as a matter of fact, so I am pretty close to Cuba. I am not going to do anything or permit anything that would injure our environment or the environment of Florida or any other place in the world.

I am just saying that the gentleman's message is good, his intent is good. I think he ought to rush over to the Senate, where the authorization bill is, he ought to tell the Members of the Senate how crucial this is, he ought to insist that the Members of the Senate put this in the authorization bill. It does not belong in this bill.

Mr. Chairman, I would hope the gentleman would accept a perfecting amendment, which I understand is going to be offered by the gentleman from Texas [Mr. WILSON]. If indeed the gentleman does, then we can support it. Mr. Chairman, we should send the message we want to send.

I am not one for giving Russia money anyway, much less giving them money that might ultimately be channeled to Cuba, or even if they are not channeling that money, if they are going to help Cuba, we ought to cut off all aid to Russia, the gentleman is absolutely right. He is just on the wrong bus. He ought to get on the bus that is going down that road to stop Russia from doing this, and to deny the administration the authority to permit Russia to do that. I would support that with the gentleman 100 percent.

However, I cannot support it and go back tomorrow and listen to all of these people on the authorizing committee saying ''You violated the committee once again. You violated the rules of the House. You are having authorizing language in an appropriation bill.'' So we support what the gentleman is trying to do. I commend the gentleman. I share his concerns. However, he is in the wrong bill at the wrong time.

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

Mr. CALLAHAN. I yield to the gentleman from New Jersey.

Mr. MENENDEZ. Mr. Chairman, I thank the gentleman for yielding to me.

In anticipation of this, having heard these objections made during the rules debate, I asked the IRS to look at the whole question of what the gentleman suggests is happening in this bill. In fact, they have shown me that for over a long period of time, and I have a whole host of citations, including changes in the application of existing law in this bill that we are considering right now, where there are approximately between 30 and 70 different changes in existing law that would be considered the same exact effect as what I am proposing.

Therefore, that is why I think the Committee on Rules, seeing that in fact there are so many changes in the application of existing law that would be considered legislating in an appropriation bill instead of in an authorizing bill, that in fact they saw it in their wisdom to permit the amendment to go forth, to make it in order, to waive points of order against it, as well as understanding the urgency of the timing.

Mr. Chairman, I think that when we see so many other things being considered in the bill, and the other amendments for which we just voted on that equally have the same impact, I would hope that the application would be made across the board. I do not believe necessarily that it is being made across the board.

Mr. CALLAHAN. Mr. Chairman, I would say that I support 100 percent the gentleman's mission; we just feel this is not quite the right vehicle in which to carry forth the gentleman's mission.

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

Mr. CALLAHAN. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I want to say how, as a member of the committee, I appreciate the gentleman's concern with the process of legislating in an appropriation bill. It is indeed a long-standing problem and a regular complaint of those of us on the committee. It is, of course, the world's most violated rule. Nevertheless, Mr. Chairman, it does not mean it should always happen.

Mr. Chairman, I want to assure the chairman that both the gentleman from New Jersey [Mr. MENENDEZ] and the gentlewoman from Florida [Ms. ROS-LEHTINEN], as members of the committee, are for this amendment, in spite of that fact, and our appreciation for your concern about jurisdiction.

We do so in part, as the gentleman from New Jersey suggested, because there is a problem of timing. The Cuban and Russian Governments have announced this construction only 2 weeks ago. We would like the administration to act before construction actually begins and the Russians become committed.

Mr. Chairman, it is our feeling that this vote on this day can send that message. Therefore, I think it may be a worthwhile exception to what is a good rule and the gentleman's own commitment to uphold it.

AMENDMENT OFFERED BY MR. WILSON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. MENENDEZ

Mr. WILSON. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. WILSON as a substitute for the amendment offered by Mr. MENENDEZ: In lieu of the matter proposed to be inserted, insert:

SEC. 564. The President shall withhold from assistance made available with funds appropriated or made available pursuant to this Act an amount equal to the sum of assistance and credits, if any, provided to the government of a country under this Act that, on or after the date of enactment of this Act, is used by that country, or any entity in that country, in support of the completion of the Cuban nuclear facility at Juragua, near Cienfuegos, Cuba.

POINT OF ORDER

Mr. MENENDEZ. I reserve the right of a point of order, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Chairman, reserving the right of a point of order, I would ask the parliamentarian if the substitute as proposed is within the purview permissible to be applied within the purview of the rules by the Committee on Rules.

The CHAIRMAN. Is the gentleman making the point of order?

Mr. MENENDEZ. That is the point of order that I am making, Mr. Chairman.

The CHAIRMAN. Does the gentleman from Texas, Mr. WILSON, wish to be heard on the point of order?

Mr. WILSON. Yes, I do, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. WILSON].

Mr. WILSON. Mr. Chairman, the amendment narrows, it does not expand, the pending amendment. It requires the funds withheld relate only to U.S. assistance. The amendment, therefore, is within the House rules.

Mr. MENENDEZ. Continuing on my point of order, Mr. Chairman, my point of order to the parliamentarian is that the amendment as is proposed and promulgated by the Committee on Rules, Mr. Chairman, is to say that any monies used by a country in investing in the nuclear power plan in Cuba would trigger a reaction of a reduction dollar for dollar of U.S. funds to that country.

My point of order is, is this within the ambit of the rule. Is it permissible under the rule?

Mr. DIAZ-BALART. Mr. Chairman, I would like to be heard on the point of order, if I may.

The CHAIRMAN. The Chair recognizes the gentleman from Florida [Mr. DIAZ-BALART].

Mr. DIAZ-BALART. Mr. Chairman, the substitute amendment varies substantially and significantly the amendment that was ruled in order by the Committee on Rules.

The Committee on Rules made in order the amendment offered by the gentleman from New Jersey, Mr. MENDENDEZ, which, as he has stated, calls for a dollar for dollar reduction in aid if Russia gives credits or assistance for the completion of a power plant.

What the substitute says is totally different. It says that the actual dollar, the actual dollar that we give to Russia, this dollar, if we give it to Russia, Mr. Chairman, we have to trace it and find that it goes to Cuba in order for us to ask for it to bet back to us. That is a totally different amendment, Mr. Chairman. This is not the amendment

that was made in order by the Committee on Rules, and I would submit to the Chair that it would violate the rules.

They did not go to the Committee on Rules with this amendment. It is a totally different amendment. The one we made in order in the Committee on Rules is the Menendez amendment, which is totally different. This one is out of order, therefore.

The CHAIRMAN (Mr. HANSEN). The Chair is prepared to rule.

Under the precedents, legislation permitted to remain by a waiver of points of order may be perfected by an amendment which does not add further legislation. This amendment is a narrowing of the amendment offered by the gentleman from New Jersey [Mr. MENENDEZ], to restructure the prohibition of funding only to assistance provided to the government of a country which uses that assistance to support the Cuban facility, rather than use any sum to assist Cuba, and is merely perfecting the Menendez amendment, and it does not add additional legislation to that permitted to remain. The Chair overrules the point of order.

The gentleman from Texas [Mr. WILSON] still has time remaining.

Mr. WILSON. Mr. Chairman, it is very difficult for me to be in opposition to the four most active proponents of this amendment, because I have been on their side in these matters ever since all of them got here. I take a back seat to nobody in my opposition to Castro, in my opposition to everything that he has done since he has been in power.

However, Mr. Chairman, if we do not adopt the substitute, and the amendment passes as presented, and it becomes part of the final bill. Members have to think these things through a little bit. What we are really doing if we tell Russia that we are going to withhold our foreign assistance to them, which we grant to them because we think it is in our own interest, we are forcing them to go forward with this reactor. It is just forcing them to do it. It is forcing them to do it, because of their dignity and their self-respect.

Nobody in this Chamber, nobody that I know of in the United States, wants a nuclear reactor built in Cuba. We have to think about the best way we can stop it. And we certainly have to consider that we do not want to do anything that will cause it to go forward.

□ 1830

The action that we can take that would be most likely to cause this to go forward is the passage of this amendment, that my good friend from New Jersey has introduced.

The political situation in Russia is very fragile. It is very difficult. The Democrats are not in an extremely strong position. For the United States to try to dictate to Russia this sort of policy is not the way to accomplish the policy. The way to accomplish the policy is through diplomacy and through persuasion.

I submit to the House that my substitute should be adopted. I submit that it is the most likely way to stop the construction of a nuclear reactor that nobody wants to see built. I do not want to push the Government of Russia against the wall, or take away their dignity and make them think they have to do this. This amendment would only encourage the nationalistic trends in Russia and would not add to East-West stability.

Ms. ROS-LEHTINEN. Mr. Chairman, I rise in opposition to the Wilson amendment and in strong support of the Menendez amendment.

The Menendez amendment would cut aid to Russia by the same amount of money that it provides to the Castro regime for the construction and operation of the unsafe and dangerous Juragua nuclear plant in Cienfuegos, Cuba. This amendment is an important step to serve notice to Russia that the United States Congress will not tolerate its helping the tyrannical Castro regime introduce a national security threat of this magnitude just a few hundred miles from our shores.

Mr. Chairman, on May 4 of this year, Russia and the tyrannical Castro regime announced that they were in the process of forming a multinational consortium that would finance the estimated $800 million needed to complete the Juragua plant. The completion of this plant would constitute the introduction of a grave threat to the national security of our United States.

A 1992 GAO report detailed the numerous faults in the infrastructure and the serious equipment problems which former plant technicians and experts state that the plant suffers from. Among the most glaring deficiencies are the statements by former technician Vladimir Cervera, who states that up to 15 percent of the pipe welding in the Juragua plant's cooling system is deficient. Furthermore, the small resistance capability of the nuclear plant's containment dome can only resist pressure of up to 7 pounds per square inch, while U.S. reactors must sustain pressure of up to 50 pounds per square inch.

These and other technicians as well as experts have denounced the lack of appropriate training of those Cubans who will monitor the plant, and the serious lack of infrastructure inside the island to operate the Juragua plant.

Mr. Chairman, this type of VVER plant has already been banned in countries like Germany, where four similar plants were shut down after reunification and which environmental groups have called to be closed. When asked about the plant, Dr. Edward Purvis of the Department of Energy states,

> An accident in the reactor is probable. it's just a question of when . . . I don't know if they are the most dangerous reactors in the world, but they are the most dangerous reactors anywhere close to the United States.

Although the technology is different from the infamous Chernobyl plant, the Cuban nuclear plant poses similar dangerous and indeed horrific risks and grave consequences. Do we want a Chernobyl in our backyard, subsidized with U.S. taxpayer dollars? I think not.

Mr. Chairman, the Clinton administration has remained quiet and indeed deadly silent about the Juragua nuclear plant because it presents a roadblock on their path of normalization of relations with Castro. It is inconceivable that the administration has remained dangerously silent while this national security threat is constructed just 180 miles from our shores, a threat that would affect a large part of the United States with radiation if an accident or a provoked accident would take place.

Indeed, studies by NOAA concluded that depending on the direction of the wind, radiation from the plant could affect Central America, the Caribbean, the United States, as far as Washington, DC, and Virginia, and, of course, Cuba itself.

The threat of the Juragua plant is indeed further increased when we consider that it would be at the hands of a tyrant who has no respect for human life and who has not hesitated in the past to destroy human life to achieve his evil purposes. Already Castro has entered into an agreement with another pariah and terrorist state, Iran, to exchange information about these reactors.

Yet, while the Clinton administration denounces Russia for transferring nuclear technology to that Middle Eastern country, it has not raised a finger to help stop construction of Juragua. The inaction of the administration raises the ante on us in Congress to take action and warn Russia that we will not stand idly by while Moscow helps Castro and his Communist thugs introduce a new threat to our hemisphere.

Passage of this Menendez amendment will signal Moscow that American taxpayers will not be suckered into having their hard-earned money help in the completion of this national security threat.

Castro once called the Juragua project Cuba's greatest accomplishment of this century. However, this plant could also become Castro's greatest security threat to our hemisphere unless we in the Congress take action to stop Russia from aiding and abetting the Cuban tyrant. I urge my colleagues to defeat the Wilson substitute and adopt the Menendez amendment.

Mr. ENGEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the Menendez amendment and rise in opposition to the Wilson substitute.

Mr. Chairman, I support foreign aid to Russia. I think foreign aid to Russia is very important. I think that the relationship between the United States and Russia is a very, very important relationship.

But, Mr. Chairman, one cannot turn a blind eye to the conduct of Russia.

One cannot turn a blind eye to what we have seen come out of Russia during the past several months. One cannot turn a blind eye to Chechnya, one cannot turn a blind eye to the selling of nuclear reactors or nuclear technology to Iran, and one cannot turn a blind eye to Russian help in terms of Cuba completing this nuclear powerplant.

Mr. Chairman, the issue here is not merely the Cuban dictatorship, although it has been a brutal dictatorship and has been a dictatorship that I have never supported, and certainly I think that the Cuban people would be much better off with democracy and political pluralism and look forward to the day when Cuba does have democracy. The issue here is also about the safety of American citizens.

I have in front of me the GAO report, the U.S. General Accounting Office report to the chairman, Subcommittee on Nuclear Regulation, Committee on Environmental and Public Works of the U.S. Senate. They express tremendous reservations about this nuclear powerplant. There are subdivisions, I would like to read some of them:

Safety concerns raised by former Cuban nuclear power officials; allegations of problems and defects in construction; allegations of inadequate simulator training; assertions of adherence to safety rules; United States prefers that reactors not be completed; United States policy and concerns of United States officials about the safe construction and operation of Cuba's nuclear reactors; NRC officials concerned about allegations of safety deficiencies; Department of Energy official concern about quality of reactor's construction and components; assessment of risks from earthquakes and radioactive pollutants.

It goes on and on and on. The gentleman from New Jersey [Mr. MENENDEZ] mentioned all the States, one-third of the American population, that could be put in jeopardy for this.

I think it is very, very important that we support the gentleman from New Jersey [Mr. MENENDEZ]. My worry about my good friend from Texas, his substitute, is what this would simply allow is, it would allow Russia to take our money, manipulate the funds through the back door, continue to build the powerplant and continue to have our money. I do not think that is what we want.

We talk about the dignity and self-respect of Russia, and I am sensitive to that. What about our own dignity and self-respect, that we could have a calamity 90 miles from our shore and it could be built with the help of American money? That is adding insult to injury.

I support the gentleman from New Jersey [Mr. MENENDEZ]. I think this is something we ought to put into this bill. We ought to stand up and take notice.

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

Mr. ENGEL. I yield to the gentleman from Texas.

Mr. WILSON. I appreciate the gentleman yielding. Everything the gentleman says about the undesirability of the Cuban nuclear powerplant is true, but I believe that the gentleman mentioned the two nuclear powerplants that Russia has contracted to build for Iran. Is that right? Did you mention that?

Mr. ENGEL. I mentioned Russia helping Iran in building nuclear technology and I know that our administration, our Government has made a plea with them not to continue. I know that they have said that they would look at it again, but they have not unequivocally stated that they will not help Iran in attaining nuclear power.

Mr. WILSON. Assuming that an announcement was made that Russian was going to assist Iran in building two powerplants, would the gentleman then want to cut off funds as a result of that?

Mr. ENGEL. Well, I think that would be a step in the right direction, but I would like them to couple that with an announcement that they will not help Cuba build this nuclear powerplant. If they did that, then I would certainly be opposed to cutting off funds.

Mr. WILSON. Is the gentleman basically saying that if Russia builds a nuclear powerplant for anybody, then we ought to reduce the amount of aid to them?

Mr. ENGEL. No, I think that when Russia is active in helping countries that are our adversaries, like Iran and like Cuba, increase their nuclear technology, I think it is very appropriate that we in turn pull out dollar-for-dollar that they are putting into building those powerplants.

Mr. WILSON. So the gentleman would favor reducing assistance to Russia by the amount of funding they spend on the Iranian plants?

Mr. ENGEL. That is not the amendment that is being done here. If I could just say, I pointed out Iran as showing that this is a behavioral pattern on the part of Russia with Iran and with Cuba.

Mr. DIAZ-BALART. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the substitute amendment offered by the gentleman from Wisconsin [Mr. OBEY] and the gentleman from Texas [Mr. WILSON].

Mr. Chairman, I want to preface my remarks by saying that I respect extraordinarily the patriotism of the gentleman from Texas [Mr. WILSON] and the gentleman from Alabama [Mr. CALLAHAN], who has also expressed here his support of this substitute, but I think that they are extremely incorrect by supporting this substitute.

Let's be clear with regard to what we are talking about. The Menendez amendment, Mr. Chairman, simply states that there will be a deduction, a dollar-for-dollar deduction of our aid to Russia if Russia—if and when, if and when, it conditions that—if and when Russia gives aid for the completion of this powerplant that, as the gentleman from New Jersey [Mr. MENENDEZ] has pointed out, is extraordinarily dangerous; as the gentlewoman from Florida [Ms. ROS-LEHTINEN] pointed out, the same kind of powerplant, that same model, it was called VVER, they were the export powerplants that the Soviets used to build throughout Eastern Europe, those same model power plants were closed in Germany immediately after reunification because of their inherent danger.

Now, last month Castro and the Russians announced that they have come up with a formula to get the money to complete the first of those two plants, that same model that was closed down in Germany because there was an explosion of protest by the environmental movement in Europe and they closed down those plants. By the way, the remaining plants in Eastern Europe, the environmental movement in Europe has mobilized to close them down because they are ticking time bombs for explosions, for accidents, those plants. Castro announces, as I say, Mr. Chairman, that he has found the formula with the Russians to complete the first of these plants.

The Menendez amendment says if they do that, if they provide assistance, we will then deduct dollar-for-dollar our assistance, our taxpayer money, for the completion of that powerplant which is a risk, as the gentleman from New Jersey [Mr. MENENDEZ] pointed out, to half of the United States, just about. If you look at the map, you see that just about all the southern States, all the way, and especially up the eastern coast, all the way to the Nation's capital are directly threatened if there is an accident or an incident at the nuclear powerplant.

Then my dear friend, the gentleman from Texas [Mr. WILSON], gets up and he says his amendment is so as to not insult the dignity of the Russian democrats. Wait a minute. How do we get the message across to the Russians? Do we vote for the amendment that says we do not want the plant built with our money? Or do we vote for the amendment that says we do not want to insult the sensitivities of the Russian democrats?

The gentleman from Texas [Mr. WILSON], my good friend, great American patriot, I know he is a ranking member. The gentleman from Alabama [Mr. CALLAHAN] is the chairman of the subcommittee, and they have to fulfill a roll. I understand that. I respect that.

But their amendment, the Russian democrats' sensitivity amendment, is not the way to convey the message that we cannot be more concerned about the completion of this power plant than we are. The Menendez amendment, the reason we have to defeat the substitute and vote for the Menendez amendment is because this is not an issue of Russian sensitivity.

This is an issue, the Clinton administration has got to understand, it has got to be at the top of our agenda in

our dealings with Russia and we have got to tell them they cannot build the plants that were closed down in Germany, that we are closing down, that are being closed throughout eastern Europe and yet Castro wants to complete them in Cuba.

□ 1845

That is not acceptable to the national security of the United States of America.

So, let us keep in mind what the Wilson-Obey substitute is, the Russian sensitivity amendment. That is what it is, the Russian sensitivity amendment. That we do not want to disturb their sensitivity on balance the Democrats versus the whatever.

Mr. Chairman, the bottom line is if we vote in favor of the sensitivity amendment, what we are saying is that we are not concerned about that powerplant; that we will deal with it, like the gentleman from Texas [Mr. WILSON] said, diplomatically.

Mr. Chairman, we have heard enough of diplomatically. Let Warren Christopher convince, with sensitivity, the Russians that we are concerned about this plant, even if we vote against the Menendez amendment. Let us see if that makes sense. If we vote for the substitute, the sensitivity substitute, then we are putting our faith in Mr. Warren Christoper that he will say: The Congress did not support the amendment to cut, dollar for dollar, Russian aid if you go ahead and build. They were more concerned about sensitivity. That is why they sent me here, to sensitively tell you Russians that even though the Congress did not support the Menendez amendment, we are, I think, concerned about the plant. I guess that is what the sensitivity amendment means.

What the Menendez amendment is, and we have to vote down the Wilson-Obey sensitivity amendment, is very clear. It is on the highest priority for our national security. That plant cannot threaten the people of the United States, Mr. Chairman.

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

Mr. Chairman, I do not think I have heard any more demagoguery on this floor today than I have in most days, but let me try to set the facts straight. I think the worst thing that a politician can do in public life is to try to mislead the voting public about serious issues. And so what I would like to try to do is to separate fact from fiction. Russian aid for this plant began in 1983 when Russia was still a communist country. It stopped in 1992, when the Russians demanded hard currency payment from Cuba. The only subsidy from Russia since that time was a $30 million credit to mothball the plant that so many Members suggest that they want to see mothballed and stopped.

The only thing the Russians have done recently is to spend their own money to put this plant in mothballs, not to run it. Now, the Cuban Government says they want to conduct a feasibility study. Nothing is feasible under Castro. Nothing rational will happen under Castro. So I think we have had a lot of rhetoric about a plant that nobody wants to see built.

What Mr. WILSON was trying to say is that the best way to see to it that Russia does not reverse its position and to begin funding this plant once again is to see to it that we do not damage reformers in the Soviet Union who are trying to keep the old horses at bay. What Mr. WILSON is trying to say is that Russian society is rampant with paranoia; not the only place I have seen paranoia recently, I would say. But they are certainly rampant with paranoia. That has been the history of Russia.

And rejectionist and reactionary forces routinely in that country use innocent actions of the West in order to feed the paranoia in that society in order to do in Russia what Hitler did when he came to power in Germany, which is to feed on fears and feed on resentment against outsiders, against being dictated from the outside in order to build your own political power. Again, not the only politicians have I seen do that recently, but they do it very well.

And so what the gentleman from Texas [Mr. WILSON] is trying to say is that if you want to be most effective in preventing Russia from taking a course that we do not want them to take, then do not take an action which through inadvertence would weaken the hand of the reformers in Russia.

That is what the gentleman from Texas [Mr. WILSON] is trying to say. Mr. Chairman, I am going to suggest something to my colleague, Mr. WILSON. I am going to suggest that because this amendment is chasing a ghost, I would suggest that the gentleman withdraw his amendment and that the committee accept the amendment being offered by the gentleman from New Jersey [Mr. MENENDEZ] because it is stopping something that is not happening.

Mr. Chairman, if we make more of it than it is, what will happen today is we will feed that very paranoia in Russia which we do not want to feed. So what I would suggest is that the gentleman from Texas [Mr. WILSON] withdraw his amendment to the amendment, and we accept this amendment, which is justifiably aimed at something that we do not want to occur, but which I think has generated a debate which will leave the American people thinking that black is white and vice versa.

The facts remain that the only thing that has been happening so far is that the Cubans want to do a feasibility study. No money has been provided. The Russians have indicated no intention of providing any. And I want to make quite clear that if the day ever come when the Russians would provide it, I would be the first one in this well offering an amendment to eliminate the same amount of funds.

However, Mr. Chairman, I do not think that this debate has really added an awful lot to the public's understanding of this issue. It has, in fact, wound up condemning Russia because they provided $30 million to mothball a plant we want mothballed. But I know how politics works and how often issues get misconstrued. And, so, I think to do the least damage possible, that what we ought to do is to withdraw the Wilson amendment.

Mrs. FOWLER. Mr. Chairman, I rise in opposition to the Wilson substitute and in support of the Menendez amendment. My aim is to send a strong signal that completion of the nuclear reactor in Cuba, just 180 miles from Key West, is not acceptable to the American people.

There is no doubt that the United States has a strong interest in promoting positive relations with Russia. We should continue to support that forward momentum.

However, as a Representative from Florida I am particularly concerned about plans to proceed with the Cienfuegos plant. Aside from my objections to providing support to the repressive Castro regime, I am deeply worried about safety issues that could impact the people of Florida, as well as the citizens of Cuba and the rest of the Caribbean. The safety standards established for the plant are simply insufficient. According to one Cuban engineer who worked on the plant, fully 15 percent of the pipes he inspected were flawed.

This project could not proceed without Russian technical assistance, training, and capital. Accordingly, we must send the strongest possible message. I urge my colleagues to support the Menendez amendment.

Mr. STEARNS. Mr. Chairman, I rise in strong support of the Menendez amendment. The President has not acted and time is short.

Let me be brief: The last thing we need is a Chernobyl in the Caribbean. Cuba is a mere stone's throw from the shores of my home State of Florida. If, God forbid, the inconceivable happens, it is certain Americans would suffer the devastating effects of nuclear exposure. We do not want this on our conscience.

It is amazing that even as the news reports show that Russia's Chernobyl plant is now leaking deadly radiation, that same substandard Russian technology is being used to build a nuclear plant in our backyard.

Completion of this plant would constitute a real and permanent threat to the health and safety of our country. The Menendez amendment needs to be passed. It is imperative that we take the proper steps to ensure that this type of security and safety threat is not brought to fruition.

Mr. Chairman, it is wrong that we give any money to Russia. It is horrendous that we should even consider giving money to Russia for the purpose of building of a nuclear power plant in Cuba. Simply put, Mr. Chairman, we cannot let this happen.

We cannot let this happen. I urge my colleagues to vote for the Menendez amendment and to oppose any weakening amendments.

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

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

Mr. CALLAHAN. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, I ask unanimous consent to withdraw my amendment offered as a substitute for the amendment.

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

There was no objection.

Mr. CALLAHAN. Mr. Chairman, with the withdrawal of the substitute, and with the importance that we know the Florida delegation and others sense with respect to this, we will accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. MENENDEZ].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOSS

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

The Clerk read as follows:

Amendment offered by Mr. GOSS: Page 78, after line 6, insert the following new section:

LIMITATION ON FUNDS FOR HAITI

SEC. 564. None of the funds appropriated in this Act may be made available to the Government of Haiti when it is made known to the President that such Government is controlled by a regime holding power through means other than the democratic elections scheduled for calendar year 1995 and held pursuant to the requirements of the 1987 Constitution of Haiti.

MODIFICATION TO AMENDMENT OFFERED BY MR. GOSS

Mr. GOSS. Mr. Chairman, I ask unanimous consent that the amendment be modified in the new form at the desk.

The CHAIRMAN. The Clerk will report the modification to the amendment offered by the gentleman from Florida [Mr. GOSS].

The Clerk read as follows:

amendment, as modified, offered by Mr. GOSS: Page 78, after line 6, insert the following new section:

LIMITATION ON FUNDS FOR HAITI

SEC. 564. Effective March 1, 1996, none of the funds appropriated in this Act may be made available to the Government of Haiti when it is made known to the President that such Government is controlled by a regime holding power through means other than the democratic elections scheduled for calendar year 1995 and held in substantial compliance with the requirements of the 1987 Constitution of Haiti.

The CHAIRMAN. Is there objection to the modification to the amendment offered by the gentleman from Florida [Mr. GOSS]?

There was no objection.

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

Mr. GOSS. Mr. Chairman, this is a very simple amendment. It is about Haiti and it says, ''No democracy, no taxpayer money.''

The intent is to encourage both the Clinton administration and the Haitians in Haiti to ensure that this year's parliamentary and Presidential elections are as free, open, and democratic as possible.

Simply put, the Goss amendment says that in the event of a new regime assuming power in this fiscal year in Haiti through means other than an election in substantial compliance with the Haitian Constitution of 1987, the United States would halt aid to Haiti.

I believe this amendment is of significant value, if not necessary, because I believe the American people would draw the line at funding a regime in Haiti that gained power through a nondemocratic or an antidemocratic process.

We saw some serious problems with the electoral process in this past weekend's parliamentary elections. Today, we have new reports of trouble, including the assassination of a mayoral candidate in the coastal town of Anse d'Hainault.

Others have noted that the electoral council we have there is provisional, not permanent as required by the Constitution. The international community has looked at that and the international community and Haiti have accepted that a necessary compromise for this past weekend's election. It was necessary to do it that way because we had to have the elections and I think that makes sense.

The natural follow-on question is whether or not building a more permanent electoral administrative mechanism will be a priority once the new parliament is in place. There are, arguably, more important Haitian issues than the electoral council.

The Haitian Constitution also prohibits President Aristide from running again and prohibits the new parliament from changing the laws to allow him to do so. Whether or not that standards holds should be of particular interest to this House, to the Clinton administration, and to the Haitian people themselves.

Ultimately, this amendment is, in part, about adding incentives to keep the evolution of democracy in Haiti on track by holding elections in a manner as consistent with the Haitian Constitution as possible, despite the realities of holding elections from scratch in what is a poverty-stricken, infrastructure-challenged Third World country.

The larger issue for us is deciding what our job as Members of Congress is all about. Members of Congress are the keepers of a trust for the American taxpayers. We are responsible for knowing whether our tax dollars are used for priority spending and whether there is value in return.

Let us be clear about this. No one knows exactly how much the Clinton administration has spent on operations in Haiti. What we do know is that before American soldiers leave, the cost of this effort is projected to be well over the $2 billion mark. That is a tremendous amount of money.

Why have we committed this level of resource of Haiti? Because the White House has placed a priority of building democracy there. And this is an admirable goal I think all of us support in principle.

But if at end of the election cycle this year we find that the process has drifted or been jolted far from democratic standards, then we should stop pouring money into that small Caribbean nation. When I say pouring money, it is about $300 per capita, which is about $50 per capita per year more than the average income.

This amendment says ''No'' to United States assistance for any new regime in Haiti that comes to power via an antidemocratic process. If building democracy is not about that kind of commitment, then what is it about? This amendment is good for a democratic Haiti; it is good for the American taxpayers.

Also I would like to point out that we have checked it out with the Committee on International Relations and we have made it in modified form today, after checking with the Department of State, to try and relieve some problems they were concerned about.

I have added the words ''substantial compliance'' with regard to observing the Haitian Constitution, because obviously they are not going to be able to cross every T or dot every I.

We have also tried to make this effective as of March 1996, well into the fiscal year, to allow plenty of opportunity for adjustment in case there are technical glitches with the election process.

We have tried to accommodate in every way possible the concerns of the administration. I think we have done that. I think we have a very clear, simple amendment that says as long as Haiti stays on the track, they are eligible for foreign assistance. If they get off that track, then we better take another look.

AMENDMENT OFFERED BY MRS. MEEK OF FLORIDA TO THE AMENDMENT, AS MODIFIED, OFFERED BY MR. GOSS

Mrs. MEEK of Florida. Mr. Chairman, I offer an amendment to the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mrs. MEEK of Florida to the amendment offered by Mr. GOSS, as modified: In the matter proposed to be inserted by the amendment, strike ''when it is made known'' and all that follows and insert the following: ''except when it is made known to the President that such government is making continued progress in implementing democratic elections.''

Mrs. MEEK of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

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(Mrs. MEEK of Florida asked and was given permission to revise and extend her remarks.)

Mrs. MEEK of Florida. Mr. Chairman, I join with my colleagues Mr.

OWENS, Mr. RANGEL, Ms. CORRINE BROWN of Florida, and Mr. ALCEE HASTINGS of Florida in offering this amendment to the amendment offered by my friend, Mr. GOSS.

Our amendment is simple and concise. For Haiti to continue to get U.S. aid, the President has to be sure that Haiti is making progress in implementing democratic elections.

The United States has fostered and nurtured democracy in Russia and in Central America and in Eastern Europe. We should do no less for Haiti.

Our amendment provides a strong, clear incentive to the leaders of Haiti to continue on the path to democracy.

Mr. GOSS says that he wants to hold Haitians to the standards they set for themselves in the 1987 Constitution. So do we.

But we must also recognize that Haiti has had very little experience in governing itself. Let us move them in the right direction. Let us encourage them in the right direction, but let us not threaten them with disaster if they cannot immediately meet the lofty standards they have set for themselves. Mr. Chairman, in the world of international diplomacy, words are extremely important. Our amendment encourages democracy in Haiti without presupposing its failure.

Every person in this body today has a strong—and, I hope, unshakable—commitment to democracy as a form of government. Democracy is a truly great form of government, but it is also one of the most, if not the most, difficult forms of government on the face of the earth.

There is a line in the new movie, ''Apollo 13,'' when Tom Hanks says, ''There's nothing routine about going to the moon.'' Well, there's nothing routine about making democracy work, either.

Here in the United States, we have had over 200 years of experience with it. We have well-established democratic traditions. We probably make democracy work as well as anybody in the world.

And yet democracy works imperfectly in our own country. If you want proof, just look at the contested Maryland governor's election. Or the contested California Senatorial election. Just look at how many elections have been challenged right here in our own House of Representatives.

This should be a vote to insure that our tax dollars help support democracy, and that is why I ask for your support for our amendment.

Our amendment makes further funding for Haiti contingent on the progress of Democracy in Haiti.

Mr. Chairman, this is not a vote on whether or not last weekend's election in Haiti was without problems.

The fact is that the vote on Sunday in Haiti was far from perfect. There were organizational problems and confusion. Polls opened late, or not at all. There were untrained poll workers, and lapses in voter secrecy.

Was the baby's first step shaky? Absolutely.

But as yesterday's Miami Herald reports, quote:

> Although the election was organizationally flawed, there was little indication of an effort to tilt the vote. And it was certainly the most peaceful of any since the Feb. 7, 1986, fall of the Duvalier family dictatorship.

The Canadian election specialist in charge of the 300 observers from the Organization of American States said, quote: ''The overall picture was much more positive than reflected by some.'' He also noted that, as the day wore on, ''the conduct of the voting process significantly improved.''

Keep in mind that this election was in Haiti, the very poorest nation in the entire Western Hemisphere, a nation that until last fall was under the control of a military dictator. In fact, for most of its existence, Haiti has struggled under the rule of dictators.

The CHAIRMAN. The time of the gentlewoman from Florida [Mrs. MEEK] has expired.

(By unanimous consent, Mrs. MEEK of Florida was allowed to proceed for 1 additional minute.)

Mrs. MEEK of Florida. Mr. Chairman, democracy, like everything else in life, takes practice. And this election in Haiti was a very clear and positive step in the right direction—toward democracy.

Would America's allies in the Revolutionary War have forced the Goss amendment upon the struggling little United States? Did our allies, in the difficult days after our liberation from our own colonial masters, make their assistance contingent on our implementing the Articles of Confederation? Of course not.

Why, then, should we so burden Haiti, which is struggling mightily to meet the high standards of self government that we have set for the world?

Mr. Chairman, I urge the adoption of our amendment to the Goss Amendment.

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

Mr. Chairman, let me just say that we do have occasionally here in the United States voting irregularities, but they are not really widespread.

I was one of the monitors sent by President Bush to monitor the elections in Namibia, and that was a very, very big election on independence and freedom and democracy over there, and there was a lot of opportunity for vote fraud, but very, very little of it occurred in Nambia.

In South Africa, likewise, there were some irregularities, but it was very minimal. I think in many, many of the developing countries, there have been some minor voting irregularities.

But the problem we saw in Haiti last week was there were widespread voter irregularities. Ballots were lost. People could not vote. Polls were closed. And as a result, the entire election was tainted.

For that reason, I rise in support of the Goss amendment and in opposition to the gentlewoman's substitute.

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

Mr. BURTON of Indiana. Mr. Chairman, I yield to the gentleman from Florida.

Mr. GOSS. Mr. Chairman, I thank the distinguished gentleman from Indiana for yielding to me.

The problem with the amendment offered by my colleague from Florida is that it simply bases the question of how we judge democracy on some unknown. There is no particular standard for it. It is sort of in the eye of the beholder.

We are very particular about how we do that in our amendment, by design. We measure democracy by the Haitian Constitution. That is the way we measure democracy in this country, and we believe specific reference to the Haitian Constitution is also extremely critical because that is the path they have announced they are taking and that is the path that the dollars of our tax support are committed to pursuing, in helping them pursue.

If we get that off that path and create some new direction, we open the door for a lot of mischief, and I am sad to say that there was some mischief in Haiti this past weekend, and I am sorry that my colleague from Florida has felt it necessary to shoot the messenger for reporting that.

But in the words of the mayor of Port-au-Prince, who called the election, and incidentally the mayor of Port-au-Prince is a member of the former coalition of elected President Aristide, called the election a massive fraud. The minister of culture said he was ashamed. Quoting from the New York Times on this, he said, ''As a member of the Government, I am not proud of this at all.'' These are serious challenges.

The political parties are calling for a re-vote. They are calling for re-elections.

This is not PORTER GOSS saying this, this is PORTER GOSS bringing the message. I am sorry, it is the Haitians who have said this, who participated in this. It is not PORTER GOSS who has created this.

The fact that we have brought it to your attention may be distressing, but it is important that when we represent first and foremost the United States taxpayers, we have a higher obligation to make sure their money is properly and wisely spent than any other obligation in a foreign country. I think that is an extremely important point.

I would say that one of the problems I have with the Meek amendment is that it clearly weakens accountability to the American taxpayers.

I think that not specifying that we stick to the Constitution in Haiti is a serious flaw in the Meek amendment, and I am afraid that leaving it up to somebody, presumably the spokespersons for the liberal left, as who have

been speaking widely on this, to define what democracy is and how well it is doing in Haiti is a dangerous mistake and would not pass muster with the United States taxpayers.

Having said all of this, I urge definitely a ''no'' vote on the Meek amendment, and I urge support for the Goss amendment.

Mr. BURTON of Indiana. I say to the gentleman from Florida, to restate what he said, his amendment is consistent with the Constitution of Haiti and leaves no room for doubt, and for that reason I think we should support his amendment and vote down the substitute.

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

I have read the amendment offered by the gentleman from Florida, and I really do not understand what his objective is here except to try to embarrass President Aristide and especially the people of Haiti.

I rise in strong opposition to this amendment. I do so because it represents a slap in the face to the millions of people who voted in Haiti on Sunday.

I have investigated; I have gotten reports from people who were there. The reports that I have received were that there was practically no violence; there was practically no intimidation, no fraud. These things were practically nonexistent.

Yes, there were lost ballots. It was the first election allowed in that country in many, many years. There were some irregularities, but there are irregularities in almost every free election.

What really we should have to look to find out is what was really Haiti's government before our forces returned democracy to Haiti? It was a gang of military thugs and criminals who controlled that nation. They took control, and President Aristide, who was elected by almost 70 percent of the people of that nation, was forced to leave his office and his country under threat of death.

Politically motivated violence and murder reigned. Two elections were rigged by the gang in power, Cedras, Biambe, Francois. Do you want them back in power? Terror was the form of government in Haiti.

But that changed when President Aristide returned last October. Democracy has replaced terror. Democracy has replaced terror in Haiti, and that was demonstrated on Sunday.

My colleagues on the other side of the aisle have harped on the logistical difficulties surrounding Sunday's election in Haiti. There was not an extraordinary multitude of problems or widespread disturbances. There were problems, admittedly. President Aristide has publicly acknowledged that there were problems.

In the United States elections, which is the bedrock of a 200-year-old system, there are problems. Coming from the city of Philadelphia, I can assure you that we still have elections in this Nation tainted with controversy, irregularities, and problems. But this was only Haiti's second free election ever.

Furthermore, most of the 3.5 million Haitians who were registered to vote in Sunday's election are illiterate and require special attention.

Despite these difficulties, people were able to participate in a free and fair election. According to the report issued by the election observers with the Organization of American States, problems related to the election were attributed to Haitian inexperience, not widespread fraud, not abuse or not violence.

The seed of democracy has been planted in Haiti. While it will take time and hard work for democracy to establish firm roots, we witnessed positive, tangible progress toward this goal on Sunday.

Can the people on the other side not accept success? We have created a democracy in Haiti. Now is not the time to send this negative message. Now is not the time to hold critical development funds which could further guarantee the success of Haitian democracy.

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

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

Mr. CONYERS. I would want to comment particularly with the gentleman's reference to Philadelphia elections because in Detroit we lost a city clerk as a result of problems, and we have been holding pretty good elections the whole time.

May I just say that I agree with you. The Meek amendment to Goss is absolutely essential, and I am hoping that our Republican friends will understand what we are trying to do is give Haiti a chance. Let us not put them under an increasing burden. Their difficulties are much, much graver than some people think, and I want to give them a chance.

Mr. Chairman, I rise in enthusiastic support of the amendment by the gentlelady from Florida. It is a much needed modification to the amendment by the gentleman from Florida. That amendment is deeply flawed in content and intent. Despite its seemingly harmless wording, it will curtail democracy in Haiti, where peaceful governance can ill afford such a setback.

The gentlelady's amendment offers some simple but critical changes. Her amendment in its entirety reads:

None of the funds appropriated in this Act may be made available to the Government of Haiti except when it is made known to the President that such Government is making continued progress in implementing democratic elections.

Rather than tearing the carpet out from under Haiti's painful steps toward democracy, this amendment allows aid to that country as long as it is continuing those steps toward democracy. I have traveled to Haiti several times, and have witnessed myself the pain that this country had to bear in anticipation of peaceful enfranchisement and they are closer now than ever before.

The absence of systemic fraud and organized violence in Haiti's elections this week showed that this nation is working diligently for democracy, even without an adequate transportation network to get people to the polls and extremely limited resources. Nevertheless, those who disagree with the results in favor of the ruling party such as the International Republican Institute have sought to impose the same standards on this infant democracy as they would in the United States.

The truth of the matter about IRI is that it received nearly half a million United States taxpayer dollars to observe the elections in Haiti this spring. Have no illusions about IRI so-called non-partisanship. One IRI document for the electoral study states: ''IRI will conduct local leadership training exclusively for non-Lavalas centrist political party representatives from all 83 electoral districts.'' Lavalas is the opposition party. That's not observing democracy that's interfering with it. IRI is supporting political parties they happen to agree with. This organization also apparently has a crystal ball that allowed them to state in a fancy report the day before the elections that the elections were unfair. We should give democracy in Haiti a chance and not be in such a hurry to pass judgment, but instead continue to encourage this young democracy's growth.

For the first time this week, voters could let their political voice be heard out of freedom and not out of fear. Democracy is a process and not a standing status. We have to maintain our commitment to Haiti at the early stages of its process now that it is on course.

America's commitment to Haiti is an integral part of America's pledge to democracy and peace worldwide. Other nations of the world, who are still struggling under the bloody boot of oppression, have to see that peace and freedom can and must coexist. Without the gentlelady's modifications, the amendment is a vote of no confidence to this blossoming democracy and an endorsement of the IRI's delusions.

I urge my colleagues on both sides of the aisle to vote for the amendment by the gentlelady from Florida in the name of a stable democracy and a real democracy.

Mr. FOGLIETTA. I thank the gentleman.

I just want to say there are 6 million people in Haiti. They have suffered tremendously over the years by dictatorial government. They have suffered from people who have indiscriminately killed, maimed and injured people to keep control of that nation.

They are finally achieving democracy. They are finally achieving freedom. Give them a chance. Do not hamstring them. Do not threaten to take the funds back.

I urge my colleagues to understand the problems of the people of Haiti. They want democracy. Let us help them achieve that goal.

I urge my colleagues to vote for the Meek amendment and against the Goss amendment.

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

Mr. Chairman, I rise in support of the Meek amendment. I think the amendment that Meek seeks to amend, Mr.

GOSS, places the process of Haitian democratization under a vague and mischievous standard. The question is how do we define a democratically constituted government, how do we define a democratic election process? The Meek amendment makes it pretty clear that the responsibility would be fixed upon the President. It must be made known to the President. Otherwise the President will certify whether the democratic process took place and whether the regime in power is a result of a democratic process.

Yes, I agree with the gentleman from Florida [Mr. GOSS]. We should say no. We should not support any regime that is in power as a result of a process that is not democratic. But what is the definition of the process, what is the definition of staying on track? As the gentleman from Florida [Mr. GOSS] said, they must stay on track. I agree they must stay on track toward democracy and maintain the democracy. Let the President determine what staying on track means. The President, the executive branch, is in charge of foreign policy. Let us make it clear the Meek amendment makes it clear that they will determine that. Instead we have in the Goss amendment a rather vague situation where it is not clear who will determine whether or not they are on course.

We should bear in mind that the liberation of Haiti marks a high point in United States foreign policy. The liberation of Haiti sends a message to all of the nations in the Caribbean area and this hemisphere, all throughout the world, that we stand well on the side of democracy, and when it is clear that a democratic government has been deposed, we will have the strength and the resources of the American Government on the side of the democratic government. We have, step by step, supported a process which the Haitian people themselves began in 1987.

Let us understand the context in which the presidential election has just taken place. First of all, the election was an election which involved 11,000 candidates running for everything from village council up to the national legislature. That is very difficult for anybody to run. They have no machines, no election machines. They do not have boards of elections that have existed for decades. Their constitution only came into existence less than 10 years ago. So they are carrying out a process under the worst of circumstances in an economy that does not even have the infrastructure to support electricity on a 24-hour basis. All of this is taking place within less than 10 years in the Haitian society.

They said they can never write a constitution, but they wrote a constitution. They went out and voted for that constitution. They said they can never have free elections, and it looked for a while as if they can never have free elections because people were gunned down at the polls in the first two elections.

Finally, Mr. Chairman, they had an election where they elected Jean-Bertrand Aristide as President. After the election was certified as being a fair and free election, he was deposed by the army, and that situation lasted for over 3 years. Now some of the people who supported the criminals who deposed the democratically-elected President are trying to set a very high standard that they were never concerned about while Haiti was under the domination of criminal dictators.

We have broken through; we have liberated Haiti. The process is moving in a very swift way.

Mr. Chairman, they have had an election less than a year after the president was returned. The president who is there now has agreed to step down. He has made no claim to the fact that he was out of office for 3 years and, therefore, he ought to be continued. Some other people are making that claim, but Jean-Bertrand Aristide will step down. Jean-Bertrand Aristide will play the role of George Washington and see to it that there is an orderly, peaceful transition of government.

All of these things are moving on track, and they are moving in ways that most cynics said they can never move. Why do we want to introduce a vague standard here? Why do we want to place Haiti under scrutiny, which will not help the situation at all? Why not let the process go forward and let the State Department and the President, the executive branch of government, determine whether or not they are meeting the requirements of a movement toward democratization that is acceptable for the United States to continue to support?

I hope that the gentleman will accept the amendment to his amendment because the difference is not so great. We only clarify and pinpoint the responsibility for defining what democratization is in Haiti.

I urge that we support, all people to support, the Meek amendment.

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

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

Mr. GILMAN. Mr. Chairman, I rise in support of the amendment offered by our colleague, the gentleman from Florida [Mr. GOSS], and in opposition to the amendment offered by the gentlewoman from Florida [Mrs. MEEK].

Mr. Chairman, the gentleman's first-hand account of what transpired in the Haitian elections on Sunday offers compelling evidence that, despite our extraordinary investment and best intentions, much remains to be done to strengthen the democratic institutions there.

Laboring in extreme heat, without food, water, or pay, Haitians made their best effort to cast and count ballots—in some cases by candlelight into the next day. However, Haiti's Provisional Electoral Council fell down on the job, failing to provide logistical support, training, and funds.

Frankly, there is much ground to be covered if the Presidential elections in December are to be judged as free and fair. Also, the statement yesterday by a key Haitian politician that President Aristide should stay in power after his constitutional term expires on February 7, 1996, casts further doubt on the democratic transition.

President Clinton defended his extraordinary investment in Haiti as a move to restore constitutional order. It would be profoundly difficult to make the case to the American people and Congress that our assistance should continue to flow to an unconstitutional government in Haiti. That is the basis of the Goss amendment, which I hope my colleagues will support.

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

Mr. Chairman, the gentleman from Florida [Mr. GOSS] who authored this original amendment had indicated that support for the Government of Haiti seemed to be coming from liberals or something that would denote that there was a different type of thinking with liberals, and conservatives, and people of different backgrounds, as related to a poor country that has really suffered tremendously over the last decades.

It seems to me that the amendment is a political statement:

I did not like Aristide when he first was elected. I did not like Aristide when he came to the United States. I did not like Aristide when we went in to restore the government, and, notwithstanding the fact that he has done each and every thing that everyone expected him to do, they could not find one thing to say except, ''Something must be wrong. I don't know what it is, but, if anyone finds out what it is, then we cut off aid.''

As my colleagues know, I am more concerned about the politics of when it is made known to the President of the United States than anything in this statement because, as the gentleman from Florida [Mr. GOSS] knows better than most Members of this body, everything that was made known to the Presidents of the United States was made known by the Central Intelligence Agency, and it really surprises me, with the type of information that was gathered out of the sewers of the intelligence community, that was made and proven to be false to misguide the President of the United States, that we would have this vague type of language as to the President would cut off any assistance to the Government of Haiti when it is made known to the President.

I really would not want to start laughing here by asking the distinguished gentleman from Florida just who would he think, or what agency would it be, that would be mandated to make information known to the President of the United States as would be

in Haiti sometime. If we take a look at the history of the CIA in condemning our country, in condemning a man, and continuously condemning someone that has been elected by the people, we will run down the line and say the man was psychotic based on what? Information collected. The man was addicted to drugs. The man was responsible for murder. There is no support for the man on the island of Haiti. It is the army, it is institutions, it is the people that were paid, the people that were on the payroll. Everyone that opposed the man when he was in this country was paid for by the CIA and other people that just could not tolerate the idea that they did not have a puppet controlled by the United States of America.

And so I know, I know, that certain people are just born in this world that is going to have to carry a heavy burden, and I do not mind carrying it at all. I think it was our distinguished Speaker who said, ''You just got to worker harder.'' So that goes for the gentleman that comes to become president of Haiti. But the question has to remain how much does a country have to suffer, how much does a man have to do, in order to get certain people off of his back?

Now, until there is reason to believe that something was wrong, that the election was fraudulent, do my colleagues not think this body and the President has the power to move forward? The reason I support the Meek amendment is because it is done the way the United States of America should do business, and that is we are going to assume that things are done legally, we are going to assume that the Congress and the people have good intent, and if anyone, anyone, misuses that, then this Congress would respond.

Well, what the gentleman is saying and what the gentlewoman from Florida [Mrs. MEEK] is not saying is that we make it a negative thinking that it is going to happen, and she is the American that has hope that, when our troops went over there, got rid of the tyrants, got rid of the CIA people that were on the payroll, that was actually stopping the United States ship from coming into it when they were chased out of the country because of the spirit of fine young American boys, we are going to send a message to them, ''Yes, you did a good job, but wait until you see what happens because we got an amendment that will take it all back.''

This is not the U.S. Congress that I am proud to be a Member of. This is not the United States of America. We should laud our esteem for doing what the international community asked him to do, and I, for one, was proud that I supported him before, and I do now.

Mr. GOSS. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from Florida [Mrs. MEEK].

Mr. Chairman, I was prepared to let this go unanswered, but it has gotten a little out of control here in the rhetoric. The gentleman from New York [Mr. RANGEL] has just said when it is made known. He objects to that language, and that is the language in Mrs. MEEK's amendment as well, so I guess he is opposed to Mrs. MEEK's amendment as well.

The question was raised by the gentleman: Who will make it known? Any number of people will make it known to the President. As I recall, the last person who made it known to the President that there was a problem in Haiti was the gentleman named Randall Robinson. Randall Robinson actually made it known by a protest in front of the White House, a starvation diet type of thing, a publicity stunt as it were. Well, I would suggest a very great way the president will know.

Mrs. Robinson now works for the government of Haiti, as I understand is on the payroll of the Government of Haiti. Presumably she will tell Randall Robinson and Randall Robinson will tell the president again. So I am not concerned that we are not going to get the word to the President that the folks who are taking the Rangel position want to know. It is going to happen; there is no question there.

I am a little bit offended by the statement that I did not support President Aristide. I was in Haiti for the election in 1990; I was in Haiti for the election in 1995, as an observer. As an observer in 1990 I came back and signed on and said President Aristide is a duly popular, enthusiastically elected President of the country of Haiti, and I have stuck to that position the whole way through. When former President Carter, and General Powell and Senator NUNN negotiated the settlement that avoided the armed hostile conflict of war between the U.S. Armed Forces, and the Haitian army, and people, and the innocent bystanders that would have been hurt, I was the first Member in the well the next day to congratulate President Clinton for a negotiated settlement.

□ 1930

I think he was fortunate to get it at the last minute. He had good people working for him and made that come out. I met with President Aristide this Monday. We had a very nice discussion after this election. We agreed there are some very hopeful signs that we need to focus on. It was a courteous call, a pleasant call, there was no disagreement.

There is no question that we have a challenge ahead. President Aristide said so and has been saying so publicly, frankly, in the past 2 days. I do not think we have any disagreement about that. This is not about the election last weekend. Sure, there were tremendous logistical difficulties. Everybody knows that. Sure, there were some disturbances. Some were severe, some were not. In some areas there were no disturbances at all. I think everybody who was there understands that. Nobody would mischaracterize that.

My problem is, what is going to be the standard? The gentleman from New York [Mr. OWENS] said what is the standard. He said a vague and mischievous standard was my game. It is not. I am saying the standard of measuring democracy in Haiti is the Haitian Constitution. Is there anybody who would deny that that is about a bad idea? That is what we are measuring democracy by in Haiti, is their democratic Constitution. Can we get real here? What is wrong with that?

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

Mr. GOSS. I yield to the gentleman from New York.

Mr. RANGEL. I would like to withdraw some harsh statements I made about the gentleman, because I am reminded by your statement that unlike so many others that are positioned in that side of the aisle, that you constantly have talked about the restoration of democracy in Haiti, even to the point that you had a place where you thought the new government should be.

But I guess my point to you, sir, is that why would this little island government need your direction with its constitution as to when our great Nation cuts assistance?

Mr. GOSS. Reclaiming my time, the answer is very simple: Because I am first and foremost accountable to the American taxpayers for the wise use of their tax dollars, and I do not stand still for the proposition that we are going to put any money in any country, no matter what, unless they are proceeding in a properly democratic way.

Mr. RANGEL. Is the gentleman saying he would hope that his amendment would apply to any country that is not abiding by the constitutional principles that is in their Constitution, and that this little island country was not singled out for this kind of treatment?

Mr. GOSS. I have picked Haiti for two reasons: The substantial compliance question I think accommodates most of your concern. But the other reason is because we have $2 billion, B, billion, invested in Haiti in this 2-year frame, probably going to be more before we are through, and that is my foremost responsibility to the United States of America as a Representative here, is to make sure in the House of revenue, the people's House, we use dollars wisely.

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

Mr. Chairman, let me address my colleague most immediately with reference to the fact that we have $2 billion invested in Haiti, and put the question rhetorically: How much of that was used in the structuring of an election that would satisfy the so-called requirements of the Haitian Constitution?

Mr. GOSS. Mr. Chairman, if the gentleman will yield, I do not know. I certainly hope we are all going to have that answer.

Mr. HASTINGS of Florida. Let me suggest it was minuscule by comparison. I am fond of quoting my mother, and I choose at this time to do so. My mom says ''Give the prize to the one who tries,'' and she says that often. Haiti has tried over and over again to satisfy every single requirement that our government has put forward to require them to go forward in a meaningful manner. There has been but a year in the process of restoration of democracy, and I am fascinated by the little amount of resources that were devoted toward trying to help an 80 percent illiterate country to understand the basic dynamics of voting. The 1,000-plus candidates that were on the ballot alone required an immense amount of resources in order for the various persons to be widely known. We spend in some of our districts $1 million, and that is about how much money we spent during that period of time in trying to assist in the election.

Do you know what I am going to ask the gentleman from Florida [Mr. GOSS] is what is the real agenda here? I mean, the election was just held Sunday and Monday, and I hear my chairman of the Committee on International Relations saying that some of the votes were counted by candlelight. Absolutely, Mr. GILMAN, they were counted by candlelight, for the reason that the people do not have electricity.

Give me a break. They do not have computers. They do not have the knowledge that we have with reference to how to conduct an election. And many of us sat on the sidelines and waited until Sunday to go down there and find out precisely what was going on before we would say anything.

What has the international community done with reference to the donors that said they were going to come forward and help this country? The money has been slow in coming. There is no infrastructure. People stood in long lines waiting to have an opportunity to vote. They voted probably as good as we do in this country, in many of our areas, rich and poor. Therefore, it is unwise of us to thrust on them at this time such a nebulous, vague, and uncertain mandate from this country as to how it is to conduct itself as a national government.

Let me make it very clear: You do not have any more concern than anybody else. The so-called liberal left you said, PORTER. That is the language he used, CHARLIE, liberal left. Then I am a proud member of that liberal left, and I gather then that you must be something other than liberal left.

You do not have any more reason to support the taxpayers of this country than do I. You cannot wrap yourself around a flag or hide under the rug of the CIA and expect that from somewhere on earth is going to come this rumination that is going to give you greater say about something that every Member of the liberal left struggled for these people to have, the opportunity to have a democratic election.

Every Member of the liberal left stood by them and said, ''We do not want you dying out in the ocean.'' Every Member of the liberal left said that it was wrong to hold them in Guantanamo. Every Member of the liberal left said that we had dual America standards, and everybody on earth knows that we had dual standards.

Who, other than a handful of you, have complained about this election? Were there problems? Yes. And there were problems in Fort Lauderdale, and there were problems in Immokalee in your district. So do not commence to tell me that problems now are going to be reported arbitrarily by somebody unknown to the President of the United States, and that is going to be pursuant to the Constitution of 1987.

Who, other than you, have complained? Did Brian Atwood complain? I did not hear him say that the election was a fraud, and it is his agency that was involved. Did the military complain? Six thousand of our troops are still there, and they shepherded as best they could an election of a fledgling country.

I am tired of standing in this well and in this body and hearing people refer to the people of the liberal left. One day I will come forward and tell you all the things that the liberal left has done. My concern is what the conservative right has done to us all.

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

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

Mr. HOKE. Mr. Chairman, I would like to yield to the distinguished gentleman from Immokalee, the distinguished gentleman from Sanibel [Mr. GOSS].

Mr. GOSS. Mr. Chairman, I thank my colleague from Ohio for yielding.

Mr. Chairman, I would say to my colleague and friend from Florida, who has spoken with great passion and articulation on an issue that we all care very much about, I have been involved with Haitian affairs for 30 years now, from many perspectives, all aimed toward building democracy and a better quality of life for Haiti, which is demonstrably the poorest, most impoverished, most backward part of the western hemisphere, a tragedy in history of many ways, of 200 years as the second oldest sovereign republic, free sovereign republic, in this hemisphere. They just have not been able to get it together down there. I think we all as good neighbors in this hemisphere want to do our best for them.

I suspect that my colleague from Florida's impassioned speech was in part from the sense of frustration and disappointment that he feels and that I feel, that we all feel, that things are not going better more quickly. I suspect a little bit perhaps of his feeling comes from the same feeling that I have as an American, a little bit of the shame I feel that some of the poverty in Haiti today is a direct result of the embargo that we have advocated against, this economic embargo that has simply made Haiti, I hate to say this, but it is close, a place where there is too much garbage with too many pigs in the city streets going around. It is very hard to think that this is a civilized capital city of a great sovereign nation. Things have gotten so bad economically down there for anybody to come in and see. It is pathetic, and I feel badly about it.

But that was our embargo, and as an American I feel very badly. That was unwise policy by President Clinton and his advisers, and I stood on this floor and many times said that. So that does not mean I am not sympathetic to Haiti. It means I am very sympathetic to the people of Haiti and to the country of Haiti. I do not think starving Haitians into democracy is a very smart way to go, and I have said so repeatedly.

Now, apparently my colleague from Florida has some type of obsession with the CIA. I do not know what it is about, but, just to make the record clear, I will say I would presume that all of the President's horses and all of the President's men are the people and ways that he is going to get the message about what is going on in Haiti. That is how our government works, and how it should be.

The final point I would like to make is that the question of constitutionality that I have raised, using the Haitian Constitution as the measure by which we judge, is not a new subject. It is, in fact, the way the OAS judges its own member states, and has been since June of 1991 per resolution 1080 of Santiago. The test is a sudden or irregular interruption of democracy creates a abrogation. And where was that ever tested? The first place, Haiti. It served Haiti already, and it can serve Haiti again. That is the standard I am asking us to adopt.

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

Mr. Chairman, last week when I heard about the Goss amendment I went to him to discuss with him that amendment and to try and determine what he was trying to do. I am surprised today when I hear the gentleman, because my discussion with him last week, well, he sounded a lot different.

The gentleman said to me, ''Let me assure you, I do not want to do anything to harm Haiti. I would like to encourage them. I am with you all the way.'' He said, ''I was there, and I think they did a pretty good job.'' He said, ''I think there were a few problems.''

So, having had that conversation with him one-on-one, I am surprised when I hear him on the floor today, because he sounds like a different person.

He even said to me, ''I want to amend my amendment to put in substantial compliance, because I in no way believe that we should hold them to the strict standard of the 1987 Constitution.'' Because, he implied, ''I know what had to be done for the election. With Aristide only returning in October, to say that they had to put everything in place to comply with the Constitution was literally impossible, and we wanted these elections to be held. And yes, Ms. WATERS, I agree, that ever since everybody, but everybody, signed off on the way that they should proceed. And recognizing that everything demanded by the Constitution could not be put in place, I think it has worked out well.''

Well, you know, maybe I need to ask the gentleman from Florida [Mr. GOSS] to revisit this conversation, because when he gets on the floor today, then he starts to go back and say some things that really do surprise me.

Let me just say, this amendment should not be about refighting and getting involved in a struggle where there were some who did not believe we had any place in Haiti, that did not want us to assist Haiti, who made statements that pained us all, ''We are not going to and we do not wish to lose one good American soldier on their soil.'' We do not want to go back to talk about that.

□ 1945

Let us put that behind us. Let us at least conclude, as reasonable people can do, that we have helped Haiti, and they are grateful. Do they say to us over and over again how grateful they are? We must have had 200 CODELs to Haiti. Everybody has been to Haiti. Everybody from both sides of the aisle that has wanted to go. Those who did not want to go have been to Haiti. They have been received with warmth. They have been embraced. The president has thanked us profusely, and we know that they are grateful for what we have done.

Having done all of that, the President has said over and over again, What else do you want me to do? How else can I make you believe that all that I want for my beloved country is freedom and democracy for its people? Everything that we have asked him to do he has done.

I am pleased and proud, as I look at what took place with these elections. Now, if you recall what happened in South Africa, people stood in lines for hours. If you will recall, it took them a long time to count the ballots. If you will recall, there were some skirmishes. It will happen.

Let us not talk about what happens in America but certainly in a third world country, where they do not have the computerization, they do not have the electricity and other things, certainly you expect there are going to be some problems. But why are you putting on them the kind of restrictions to box them in to say that if you do not comply with the 1987 Constitution for the 1995 elections coming up and somebody, God knows who, tells the president that they have not done it, then we are to withhold money. I do not think you mean that.

Mr. GOSS, I say to you now, I think that you are the man that I talked to last Thursday. I really do not think whatever has influenced you today is the real you. I want you to do what you told me you wanted to do. I want you to join with me in helping Haiti.

Let me tell you how you can do it. We do not mind working with you to structure something that would encourage them, but, Mr. GOSS, you need to pull this amendment back from the floor. You should not disrespect your colleagues from Florida. You work pretty well with them from time to time. CARRIE MEEK is here. She is pained by what you are doing. Mr. HASTINGS is also.

The CHAIRMAN. The time of the gentlewoman from California [Ms. WATERS] has expired.

(On request of Mr. GOSS, and by unanimous consent, Ms. WATERS was allowed to proceed for 1 additional minute.)

Ms. WATERS. I would like to ask the gentleman from Florida [Mr. GOSS] to pull this back from the floor. Walk over here with your colleagues and friends from Florida, get together an amendment that will encourage Haiti that we can agree on and let us move forward as friends on this one because we are winning all the way.

Would you please do that, Mr. GOSS?

Mr. GOSS. Mr. Chairman, will the gentlewoman yield?

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

Mr. GOSS. Mr. Chairman, I first of all want to say that I filed this amendment way at the beginning of last week, way before the elections. It actually had very little to do with the elections. Second thing, I did confer with you, as you point out. Third, I want to assure you, it is the real me. I am definitely here. I am standing here and it is me.

The third thing I want to say is this is not about the elections. The fourth thing I want to say is I have not made any allegations or charges that we should stop aid because it was not a democratic election. That would be a very foolish thing to do, I do not think you or anybody else over there would say right now that we have supported a nondemocratic election because they did not have their electoral council in place. I, at your request and others' requests, put in the words ''substantial compliance'' so we would know we are not talking about trickery or anything like that. I do not expect all the T's to be crossed or the I's to be dotted. I expect substantial compliance. I have said publicly, these elections are OK, on to the next ones.

Mr. PAYNE of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I thank you for this opportunity to say a few words. Let me say that I stand in strong support of the Meek amendment. I had the opportunity to travel to Haiti this time, about the seventh time in the last few years, to be a member of the interorganizational observer mission. We went there to try to get an opportunity to see what was going on.

The first thing that was very surprising to me though was the day before we arrived on Saturday that a report had been concluded already by the IRI, the International Republican Institute, very colorfully done, very well done, very thorough. And a press conference was held the day before we got there, two days before the election, which already said, for all intents and purposes, that this is flawed, that this was going to be an election that did not work, that this is something—this was a press conference given two days before the election was even held.

So, therefore, people going into the election were suspect because of an American organization. And it is the first time I have ever seen an American organization in a foreign country give a press conference of something that is not very easily made. This is a pretty fancy-looking agenda item here, to say for all intents and purposes it is a failure. To me, it makes me suspicious.

Let us talk about the election very briefly. They said there was confusion. Let me tell you something. I would be the first to admit that there was some confusion. But let us take a look at the ballot.

There were eight months since President Aristide had been back. What was on the ballot? You had their Senators, 177 running on a ballot with pictures, with symbols, with names. There were deputies, 859 Senate Congress types running on another ballot. You had 855 mayors running; not only themselves but on each mayor's slate there is a deputy mayor and a third assistance mayor on the same ballot.

What else did you have? You had 2,688 council people who had three people on the site. There were close to 5,000 candidates. There were over 25 political parties. There were over 10,000 polling places. There were people who had to walk from 3 in the morning to 6 in the morning when the polls opened to get to the polling place.

Ninety-two percent of the people were registered. And guess what? The representative giving the report for the International Republican Institute said that 92 percent registration was a step in the right direction; 92 percent of the people in this country registered. Sure there were flaws. There were flaws because when I went back with President Aristide on October 30, 1994, when we went to the presidential palace, the water was not running, the electricity was not running. They did paint the house the day before so it could look presentable.

When I went down to Haiti on my other trips and met with those murderous General Cedras and Biamby and

Francois Michel, you saw people running and hiding. People were hiding in the bush. I went there six different times.

When I went there this time, I could walk the streets. There was no—I went to Cap Haitien, supposed to be the area that flew a one-engine plane all the way over the mountains to see what was happening over there. People were in line. They were waiting patiently. People were discussing the elections.

This was one of the greatest democratic exercises that I have ever seen. I cannot believe that people of good will could go down, and we would look at the same thing and that these people would come back with a report saying that a polling place or so opened late.

There were some people who seemed to be confused because of the fact that on every ballot you had about 30 or 40 or 50 different candidates. They looked at a glass being half empty. That glass was not only half full, it was bubbling over, because people were peaceful.

The new police were up there in Cap Haitien, not the Army that used to control that country with 7,000 men with a gun, pointing the barrel down at people. These were policemen who were applauded by the people in Haiti. When they dispersed, the police group in Cap Haitien, they had a party. There was a celebration. People brought flowers and plants to the police.

This is something that is unbelievable. I urge the support of the Meek amendment.

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

The gentleman from New Jersey, I want to ask the gentleman a question. I want to ask a question about the group that was down there, because I received today a call from Bishop Cousin who is the presiding bishop of the African Methodist Church in the State of Florida and the Bahamas. He indicated that he was intimidated by some group, the International Republican Institute. In fact, he indicated to them that he did not work for the Government and he would not be intimidated.

Mr. PAYNE of New Jersey. Mr. Chairman, will the gentlewoman yield?

Ms. BROWN of Florida. I yield to the gentleman from New Jersey.

Mr. PAYNE of New Jersey. I did meet the bishop and did have an opportunity to see him before I went up to Cap Haitien but did not see him after my return.

Mr. GOSS. Mr. Chairman, will the gentlewoman yield?

Ms. BROWN of Florida. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Chairman, I had the good fortune and pleasure of meeting the bishop while we were there. We had a very pleasant conversation. If somebody who was one of my observers on the IRI team intimidated him, I would certainly like to know that person's name and know the circumstances. I have had no such report.

Ms. BROWN of Florida. I will provide that for the gentleman.

I am looking at the Washington Post story, and they indicated that this particular group was a very partisan group.

I just want to close by saying this: I support my colleagues from Florida and other Members today that have spoken for the Haitian people. I, from Florida, have lived through what has gone on in Haiti for a number of years, the double standards. I support what President Clinton has done, what President Aristide has done, working with the Haitian people.

Yes, Haiti is not what we want. I have been over there several times. But I am a part of what we can do to make that country work and work for the people. They are very grateful for everything that we have done; but they, as I told you earlier, are not a colony of the United States of America. They appreciate everything that we have done for them, but they need to govern themselves.

Mr. GOSS. Mr Chairman, if the gentlewoman will continue to yield, that in fact was what I said in my remarks to the press on Monday morning.

What paper said this was a partisan group?

Ms. BROWN of Florida. The Washington Post.

Mr. GOSS. The Washington Post reported that the IRI was partisan?

Ms. WATERS. Mr. Chairman, will the gentlewoman yield?

Ms. BROWN of Florida. I yield to the gentlewoman from California.

Ms. WATERS. Mr. GOSS, you have specifically identified in your amendment that there would be substantial compliance with the 1987 Constitution for the 1995 elections. What does that mean? As you know, there was an agreement for this election, to oversee and operate this election. Everything was not in place. So they had to put the electoral council in place, not as the Constitution identified.

Would you agree that that agreement is sufficient?

Mr. GOSS. Mr. Chairman, will the gentlewoman yield?

Ms. BROWN of Florida. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Chairman, the answer to the question is, by substantial compliance, I certainly think that if we have said that this election this weekend involves substantial compliance, that that gives us a pretty good idea of how far away we can get from the specific words and technical requirements because we were quite far away from them. And I do not believe anybody is—certainly I am not—saying that this last election was not in substantial compliance.

Ms. WATERS. Mr. Chairman, if the gentlewoman will continue to yield, so you believe that this election was in substantial compliance?

Mr. GOSS. Mr. Chairman, yes.

Ms. WATERS. That the agreement that operated and oversaw this election was fine?

Mr. GOSS. Mr. Chairman, I will not say it was fine. I will say it was substantial compliance for the purposes of this amendment.

Ms. WATERS. And you are not asking for a higher standard than that?

Mr. GOSS. I am not asking for a higher standard.

Ms. WATERS. If they reach it, that is fine?

Mr. GOSS. I am not asking for a higher standard than substantial compliance.

Ms. WATERS. Let the record reflect, if I may, that this amendment is not asking for a higher standard than that standard which oversaw this election in Haiti, that the gentleman is not asking that they are in some absolute or letter perfect compliance with the 1987 Constitution, but, rather, what just took place is all right. That is what the gentleman just said.

☐ 2000

Mr. GOSS. Mr. Chairman, I hope we are going to do better.

Ms. BROWN of Florida. Reclaiming my time, Mr. Chairman, I rise today in support of the Meek amendment. The Meek language is a tremendous improvement over the badly crafted Goss language. The parliamentary elections that just took place in Haiti are a real accomplishment for the people of Haiti as they build a stable democracy. The Washington Post said that Haiti's elections, ''by any reasonable standard, were a success.'' The Washington Post acknowledges that Representative GOSS observed the elections not as an impartial observer, but as a partisan participant of the Republican Party's International Republican Institute. This group's criticism of the elections, according to the Washington Post, was not constructive and was misinformed. I, personally, was informed by Bishop Cummings who is bishop for Florida and the Bahamas for the African-Methodist Episcopal Church, that the Republican Party's International Republican Institute participants were rude and threatening to him as he tried to explain that he was an impartial observer and not from the Federal Government. Bishop Cummings was outraged by the comments made about him, but refused to be intimidated.

This should be one of America's proudest moments—our country did the right thing, we did not shirk our responsibilities to strengthen democracy as some would have had us do. We should be proud that we reached out to our close neighbor in their time of need to help them fulfill the promise of democracy and hope.

I congratulate President Clinton and the brave young men and women of our armed services who have worked hard to create the safe and secure environment necessary for real democracy to take root in Haiti so that these elections could take place.

I congratulate President Aristide for having the wisdom to lead his people into this era of healing, hope and redevelopment. He put together a government of inclusion and continues to reach out to other groups including the business sector and the political opposition—including giving air time to opposition candidates.

These elections faced challenges, especially many logistical challenges, but they occurred without bloodshed. Improvements will be made, especially in the area of civil justice and

stronger democratic institutions. The international community must honor its commitments and ensure that donor nations' assistance reinforces Haitian electoral institutions in a nonpartisan manner. The elections this past weekend were a testament to the Haitian people's strong desire for a new beginning in Haiti. They were a testament of the international community's commitment, and Americans, especially those of us in Florida who are so close to Haiti, to support democracy for our neighbors.

Mrs. MEEK of Florida. Mr. Chairman, will the gentlewoman yield?

Ms. BROWN of Florida. I yield to the gentlewoman from Florida.

Mrs. MEEK of Florida. Mr. Chairman, I thank the gentlewoman for yielding to me.

Mr. Chairman, there are a lot of things that have been said today, but there are still a lot of questions existing. No. 1, there is no one in this Congress, all 435 of them, that know doodley-squat about the Haitian Constitution. They know absolutely nothing about it.

The CHAIRMAN. The time of the gentlewoman from Florida [Ms. BROWN] has expired.

(On request of Mr. BONIOR and by unanimous consent, Ms. BROWN of Florida was allowed to proceed for 2 additional minutes.)

Mrs. MEEK of Florida. Mr. Chairman, will the gentlewoman yield?

Ms. BROWN of Florida. I yield to the gentlewoman from Florida.

PARLIAMENTARY INQUIRY

Mrs. MEEK of Florida. Mr. Chairman I would like to ask a parliamentary inquiry.

The CHAIRMAN. The gentlewoman will state her parliamentary inquiry.

Mrs. MEEK of Florida. I have a Parliamentary inquiry, Mr. Chairman, Mr. Chairman, I am trying to get recognized so I can move to strike the last work on the underlying amendment.

The CHAIRMAN. The gentlewoman from Florida [Ms. BROWN] requested 2 additional minutes. The time is hers now. That was granted without objection. She has now yielded to the gentlewoman from Florida [Mrs. MEEK] in the well, so the chair would say to the gentlewoman from Florida [Mrs. MEEK] the time is hers as long as the gentlewoman yields to her.

Mrs. MEEK of Florida. I have a further parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentlewoman will state her inquiry.

Mrs. MEEK of Florida. Mr. Chairman, after I have expended the 2 minutes that she gives me, may I request 5 minutes.

The CHAIRMAN. The gentlewoman may, under that circumstance.

Mrs. MEEK of Florida. With unanimous consent, I can?

The CHAIRMAN. The Chair will tell the gentlewoman, after the 2 minutes, yes.

Mrs. MEEK of Florida. Mr. Chairman, first of all, no one here knows doodley-squat about the Haitian Constitution. I have it in my hand. None of the Members know what it says. However, Members are in here doing a lot of rhetorical meandering around, saying that they know this and they know the other. My good friend, the gentleman from Florida [Mr. GOSS] if he has his way. Aristide would be on some far distant island from where he is now, trying to govern Haiti.

Mr. Chairman, I want to know, what does substantial compliance mean? If there is a hurricane on election day in Haiti, what do you do? Does that fit the standard of substantial compliance?

Who decides what it means? It is my brother, the gentleman from Florida [Mr. GOSS] who decides what it means?

These are rhetorical questions.

Mr. GOSS. Mr. Chairman, will the gentlewoman yield?

Mrs. MEEK of Florida. I will not yield Mr. Chairman, because I am asking the gentleman rhetorical questions. I do not expect an answer.

All of this is a disincentive for a democracy, a budding democracy. All day long all of you have been wrapping yourselves in the flag, and I am beginning to think you do not know doodley-squat about democracy. Democracy means that you want to see other countries see the American dream and realize what it means to have fair and free elections. I want to appeal, like my sister MAXINE did, to the gentleman.

The CHAIRMAN. The time of the gentlewoman from Florida [Ms. BROWN] has again expired.

PARLIAMENTARY INQUIRY

Mr. FOGLIETTA. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman from Pennsylvania will state the parliamentary inquiry.

Mr. FOGLIETTA. I believe I heard the gentlewoman from Florida [Mrs. MEEK] say that she moved to strike the requisite number of words on the underlying amendment. She has spoken on her own amendment. Now she has asked for 5 minutes on the underlying amendment. I think she is entitled to that 5 minutes.

The CHAIRMAN. That is correct, and the chair would recognize the gentlewoman for 5 minutes to strike the last word on the Goss amendment.

Mrs. MEEK of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want my colleague, the gentleman from Florida [Mr. GOSS], to realize that we all live on a peninsula called Florida. We are all being impacted by all the things the gentleman has said. I take umbrage to the fact that the gentleman has singled out Haiti and used a standard just for Haiti.

I have never heard on the floor that any funds were limited because of an election in any country since I have been here. I want to hear more of that from those of the Members who are not flaming liberals. I want to hear them speak out for democracy. I want to hear them say that a small country like Haiti, regardless of what happens during the election, as long as it is free, and as long as it is fair, and that they do not have people poking guns in their ribs, that that is the time for a free election.

When the Goss amendment says ''None of the funds appropriated in this act may be made available to the Government of Haiti when it is made known to the President that such Government is controlled by a regime holding power through means other than the democratic elections scheduled for calendar year 1995 and held in substantial compliance with requirements of the Constitution,'' I repeat again to the gentleman, what does the gentleman mean by ''substantial,'' rhetorical statement, ''compliance?'' What does the gentleman mean by saying that the people in Haiti are not ready? That is the inference the gentleman is making, that they are not ready for a free election.

I say to the gentleman that they are. They fought for their freedom years ago, before any of us got free, before any of us came over here on the slave ships, they fought for freedom. What the gentleman is saying about Haiti upsets me. The gentleman is wrong.

Mr. GOSS. Mr. Chairman, I would ask the gentlewoman, is that a rhetorical question?

Mrs. MEEK of Florida. Mr. Chairman, I am asking the gentleman only rhetorical questions, and I am trying to keep my intellectual composure as I speak to the gentleman. It is very difficult, because I have seen the gentleman go on a path since we got here of intimidation of this small republic. I have seen it.

I ask the gentleman, forget about any kind of predisposing conditions he may have that causes him to want to attack this small nation. I speak to the Congress, not to the gentleman, but to the entire Congress. I do not believe you have one, you do not have one majority in this Congress who would want any small nation to have democracy threatened by saying to them we are going to hold back your funds if you do not do this election the way we want you to do it. You cannot do it.

Mr. VOLKMER. Mr. Chairman, will the gentlewoman yield?

Mrs. MEEK of Florida. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I think the gentlewoman may be alluding to some things. As I reminisce over the last year or so, when we have had legislation pertaining to Haiti, I remember other amendments that the gentleman from Florida [Mr. GOSS] had offered at previous times that appeared to me that he did not want democracy in Haiti; that when the junta was in control in Haiti, that there was language introduced by the gentleman from Florida that would have required that no U.S. troops ever go to Haiti, and we would still have the junta in

Haiti, and there would be no democracy in Haiti; that the one amendment even said that the people who were fleeing Haiti to get away from the killers, the murderers that were there, that they should not come to the United States, they should not go to Guantanamo, they should not go on board ships, they should go to a little island off in the Caribbean, away from Haiti. That is where we should take them.

These are amendments that the gentleman from Florida [Mr. GOSS] has introduced previously. I also understand from the gentleman's own statements during this debate, Mr. Chairman, that the gentleman has been active to some extent in Haiti endeavors for the last 20, 30 years. That means that the gentleman was present and knew something about Haiti back when we had the juntas, back when we had the killers, so, Mr. Chairman, that makes me suspicious of what is being offered here today, because we do have a fledgling democracy.

Mr. Chairman, I would like to close by saying one thing. I was one of those who did say, and many of us did, and I think a majority of this House did, before the troops, before the agreement was reached with President Carter, before the troops went to Haiti, we all said no, we should do something.

Mrs. MEEK of Florida. Reclaiming my time, Mr. Chairman, before it expires, I would like to ask this House to vote for democracy, vote for justice. Do not worry about what party the gentleman from Florida, PORTER GOSS, is in, vote for democracy and vote for freedom.

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

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

Mr. MILLER of Florida. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Chairman, I thank the distinguished gentleman for yielding to me.

It seems a lot of folks from Florida are interested in this, Mr. Chairman, and indeed, we are. We represent Haitians who are Haitian Americans. We represent Americans who are not Haitian Americans.

I thank the gentleman for yielding, because there are a couple of points I feel I have to add to here, some things made that are getting a little bit on the edge of being ad hominem attacks.

I am truly sorry for the distress of my colleague and friend, the gentlewoman from south Florida. We share the same goals. It is just a question that we are not sure we do. We do share the same goals. Mr. Chairman, in previous resolutions and pieces of business before this floor, I have taken a very, very strong position about not wanting to send our armed troops to make war on Haiti. I consider it a friendly neighboring country, and have said that almost every time I have referred to it. I do not believe in making war on friendly neighbors.

As I have said before, I applauded very loudly, I applauded President Clinton for the negotiated settlement after President Carter, former President Carter, General Powell, went down there.

Mr. Chairman, with regard to the embargo, I opposed the embargo because I felt it would bring suffering to the people of Haiti, innocent victims. It did. It did. There is no question about it. This tiny island in some far remote part of the Caribbean that the distinguished gentleman referred to, I do not remember who made the statement, apparently has not got much of an understanding of where Haiti is or what it looks like.

This tiny island is a rather large island. It is in the central mass of sovereign Haiti, it is Haitian soil, it is bigger, bigger than Manhattan, and it has thousands of Haitian citizens living on it, and they voted on Sunday.

To say that we were trying to create a problem in some tiny remote non-Haitian territory, I have only said the way to solve the problem in Haiti is by Haitians on Haitian soil with U.S. aid, appropriately expended and properly justified. That is what this is about.

Mr. Chairman, this is the foreign appropriations bill we are talking about. We are talking about are we using American taxpayers dollars wisely. I think we are. We are trying to do the right thing. I am asking that we always keep asking ourselves that question, because Haiti has had a difficult history, as we all know.

It is not more than that. It is not complicated. There is nothing sinister, there is nothing Machiavellian, there are no tricks. We have had this out in the open in this wonderful democracy. I do not know what more I could say.

I think perhaps more is being read into this amendment than is there.

Ms. BROWN of Florida. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Florida. I yield to the gentlewoman from Florida.

Ms. BROWN of Florida. Mr. Chairman, the gentleman said two or three times that America did not want to make war on Haiti. I want him to know that the American people did a rescue. They saved the Haitian people. We are very grateful, the people in Florida.

Mrs. MEEK of Florida. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Florida. I yield to the gentlewoman from Florida.

Mrs. MEEK of Florida. Mr. Chairman, I do not think the Goss amendment is needed. I do not think the Meek amendment to the amendment is needed. I spoke to my colleague, and I asked him, I said to him, we do not need either one of these amendments. I do not need to tell the Members what his answer was to me, because it is not relevant to what we are talking about here.

However, I am willing, given the permission of the gentleman from Florida [Mr. GOSS], if he withdraws his amendment, I will be more than happy to withdraw my objection to his amendment, my amendment to the amendment, because neither one of them does anything.

Mr. GOSS. Mr. Chairman, if the gentleman will continue to yield, I will answer that very briefly. As I said before, the reason to this amendment is on my responsibility, our first responsibility on the foreign aid bill to provide proper oversight that the funds are spent in the proper priority areas with the proper governance and oversight and accountability back to the American taxpayers.

Haiti we have put an awful lot of money in, pretty near $2 billion. It has come in different places and forms. That is a ton of money. I think we owe an accountability to the American people, and a statement to them that we are checking. I will not withdraw my amendment, but there is nothing more sinister to my amendment than what I have said.

PREFERENTIAL MOTION OFFERED BY MR. BONIOR

Mr. BONIOR. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN. The gentleman will state his motion.

Mr. BONIOR. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The Clerk will report the preferential motion.

The Clerk read as follows:

Mr. BONIOR moves that the Committee do now rise.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Michigan [Mr. BONIOR].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BONIOR. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum. Does the gentleman from Michigan withdraw his point of order?

Mr. BONIOR. No, Mr. Chairman.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following members responded to their names:

[Roll No. 434]

Abercrombie	Ballenger	Beilenson
Ackerman	Barcia	Bentsen
Allard	Barr	Bereuter
Andrews	Barrett (NE)	Berman
Armey	Barrett (WI)	Bevill
Bachus	Bartlett	Bilbray
Baesler	Barton	Bilirakis
Baker (CA)	Bass	Bishop
Baker (LA)	Bateman	Bliley
Baldacci	Becerra	Blute

Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spratt
Stearns
Stenholm
Stockman
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zeliff
Zimmer

□ 2032

The CHAIRMAN. Four hundred thirteen Members have answered to their names, a quorum is present and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Michigan [Mr. BONIOR] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 188, noes 231, not voting 15, as follows:

[Roll No. 435]

AYES—188

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn

NOES—231

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—15

Clyburn	Harman	Salmon
Cremeans	Largent	Stark
Durbin	McNulty	Stokes
Goodling	Moakley	Yates
Gunderson	Reynolds	Young (AK)

□ 2041

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

Mr. CALLAHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to my colleague, the distinguished majority leader, Mr. ARMEY.

Mr. ARMEY. Mr. Chairman, we have very carefully worked out a work schedule for this week; work that we believe is important to the people of this country.

We knew when we planned the week that we had ample opportunity to complete that work, including finishing this bill between 10 o'clock and 11 o'clock this evening, assuming everything would go within the context of normal legislative process.

Mr. Chairman, let me begin by making the point, in order to maintain the work schedule we have for this week, we will not adjourn this evening until we complete this bill.

□ 2045

Mr. Chairman, I will encourage the floor managers of this bill to use whatever options are available to them within the context of a unanimous-consent request in conjunction with that cooperative effort between themselves and those offering amendments to expedite every amendment under consideration during the remainder of this time under consideration.

Following the completion of this bill, Mr. Chairman, we will complete a budget conference report, a rescission and supplemental assistance report, a Medicare select conference report, and an additional appropriations bill, the energy and water appropriations bill.

It is my intention, Mr. Chairman, for us to complete this work, and it is perfectly within the realm of reasonable work hours for us to complete this work, and to be out of here and on our planes home by 3 o'clock on Friday.

I am so committed to our making our 3 o'clock departure on Friday that I am prepared to remain here all through tonight, all through tomorrow, all through tomorrow night, until 3 o'clock on Friday, and should we not have completed the work that I have enumerated at 3 o'clock on Friday, I am prepared for us to remain in session until that is done.

Mr. Chairman, in the interests of moving this along, I yield back the balance of my time.

Mr. CALLAHAN. Reclaiming the balance of my time, Mr. Chairman, I just want to address the House seriously just for 1 minute.

As my colleagues know, I think that this foreign operations bill is something that we in a bipartisan manner are working toward in conjunction with and in cooperation with the administration. I think that President Clinton and Secretary Christopher are going to need some foreign operation moneys next year, and I recognize that the leaderships may have some differences of opinion about some other activities that do not relate to this bill in any way. But I would like very much for the leadership on this side to continue to dispute some things with the leadership on our side, but to let us continue to address this bill in a respectable manner tonight. Let us receive, in an open rule, which all of my colleagues wanted, let us receive these amendments, debate them tonight in a responsible, limited time, and get on with this bill tonight. Tomorrow we can go back to all the shenanigans. We can have all of the motions to rise, we can have all of the motions to adjourn, but let us get this out of the way for the sake of the leadership of this administration so they can have a foreign operations bill next year.

Mr. BONIOR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would say to my distinguished friend from Texas, the majority leader, that we are prepared to make the coffee and provide the No-Doz tablets for him this evening, and tomorrow evening, and the evening after that, and let us be clear that it is not this side of the aisle that is delaying the proceedings with respect to this bill.

I say to my colleagues, If you would have done your bill correctly in committee, we wouldn't have 90 percent of the amendments being offered on the floor to this bill being Republican amendments.

But let me further clarify for my friends on the other side of the aisle what the issue is here. The issue is that we want, will demand, our fair representations on the committees that govern this institution.

Now, if the majority thinks that they are going to get away with putting an extra member on the Committee on Ways and Means, and skewing the ratios even further, and denying us our ability to fight for senior citizens against these Medicare cuts, they are wrong.

This issue is about our ability to speak on that committee, defend seniors, and fight these egregious tax cuts for the wealthiest people in our society, make no mistake about it, and we will stay here until we get justice, and fair representations and ratios in that committee.

Mr. VOLKMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, members of the committee, we have before us a substitute amendment offered by the gentlewoman from Florida [Mrs. MEEK] that will not harm the democracy movement in Haiti. We also have the underlying amendment of the gentleman from Florida [Mr. GOSS] that would probably undermine that movement of democracy in Haiti.

Now I was one of those like the majority that was here back a year ago when we said, no, we should not send troops into Haiti.

We should not be doing that. But the American public did not support it, and our President went ahead and did it anyway, and guess what, my colleague? HAROLD VOLKMER, the gentleman from Florida, and others who were in opposition to that, we are wrong. The President so far has been right, and I say, ''so far.''

And what I see happening in this small area in the Caribbean is a movement of democracy that is taking place. I am willing to admit I was wrong. I am willing to say, ''Let's help it now that it is ongoing,'' but I am afraid that the amendment of the gentleman from Florida [Mr. GOSS] could possibly put a stranglehold on that democracy movement in that small Caribbean nation, that very poor Caribbean nation.

Mrs. MEEK of Florida. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentlewoman from Florida.

Mrs. MEEK of Florida. Mr. Chairman, it appears to me when there is a certain interim here some of my colleagues go out and get a little drink of water, and they do not make any sense when they come back. I say to my colleagues, Now you're back in this House now. You have got to recognize that this is a syndrome that goes on in some of these bodies. You go out and get a little drink of water, and then you come back in here and—and all of that. Well, there is no time for that.

Mr. Chairman, this is a very serious matter. I am asking my colleagues to please vote for the Meek amendment.

Mr. Chairman, all I ask this House to do is forget about party, forget about any affiliation, but think about the fact that the Meek amendment softens a Goss amendment, what the Goss amendment did. It had an inference in it that the elections in Haiti were not fairly conducted, so he put an amendment together which said that there will be a limitation on the funds if the elections were not held and were not in substantial compliance, whatever that means.

Now I have had some, some experience, with the nomenclature, but that is a part of the nomenclature no one understands. I do not know whether the Member understands it himself, substantial compliance with the Haiti constitution.

I am asking my colleagues, When you vote tonight, vote for the Meek amendment because the Goss amendment isn't needed. Neither is the Meek amendment. The reason why I have to amend his, it was so wrong morally that I had to do something to soften it because the Goss amendment inferred that because the elections were a little bit—has a few problems, we should put some limitations.

Mr. Chairman, we should not put limitations on any other country. We have

not put any limitations on funds of any other country because of the elections.

Mr. Chairman, will the gentleman from Missouri [Mr. VOLKMER] yield to the gentleman from Florida [Mr. HASTINGS]?

Mr. VOLKMER. If I have any time remaining.

Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Missouri has 1 minute remaining.

Mr. VOLKMER. Mr. Chairman, I yield the 1 minute to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Chairman, I thank the gentleman from Missouri for yielding this time to me.

We have a notorious tendency of not wanting to listen to certain people. I demand that the House be made in order, Mr. Chairman.

Mr. Chairman, 9 years ago outside Lake Worth, FL, I walked over the bodies of Haitians who had washed up on the shore. One of them was a pregnant, nude woman, and that has stayed with me all of my life.

All this little nation is asking of us is a little opportunity to restore democracy. That is all they are asking, and here we come with a superimposed notion, dictating our form of democracy within the framework of a year. It is absurd that we find ourselves in this position where democracy has to be according to our dictates in order for us to do business with even the most feeble of us.

Mr. Chairman, we have had a habit in this body of addressing on the domestic front the most vulnerable among us, and now we move to the international front and continue that pattern. I say to my colleagues, ''Shame on you.''

Mr. GEJDENSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as my colleagues know, it is astounding to watch us trying to micromanage, a word I heard from my Republican colleagues for years, a policy that has been successful beyond anybody's imagination. When the President of the United States singlehandedly decided to bring down the generals because there was not a lot of support on our side of the aisle or the Republican side of the aisle, Democrats and Republicans were fearful of American casualties, as rightly we were.

I think the President understood with his national responsibility that both for the United States, and particularly the State of Florida—that was dealing with refugees and crises on a regular basis on their social service network, the kind of scenes that my colleague from Florida just referenced in watching what had happened on that small island time and time again where the hope of the people of Haiti was dashed—that he understood how important it was for our hemisphere, for the United States, and for Haiti.

The President's policy not only succeeded; it succeeded more than any of us dared dream. As that policy succeeded to remove the generals, to restore the rightfully elected president, the naysayers immediately began that there would be no election in Haiti. The president, freely elected, did not believe in democratic institutions.

N O T I C E

Incomplete record of House proceedings. Except for concluding business which follows, today's House proceedings will be continued in the next issue of the Record.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1112. A letter from the Director, Standards of Conduct Office, Department of Defense, transmitting a report of individuals who filed DD Form 1787, Report of DOD and Defense Related Employment for fiscal year 1994, pursuant to 10 U.S.C. 2397(e); to the Committee on National Security.

1113. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation, to provide for alternative means of acquiring and improving housing and supporting facilities for unaccompanied members of the Armed Forces; to the Committee on National Security.

1114. A letter from the Vice-Chair, Coordinating Council on Juvenile Justice and Delinquency Prevention, transmitting a request to the U.S. House of Representatives to appoint an individual to the Coordinating Council on Juvenile Justice and Delinquency Prevention; to the Committee on Economic and Educational Opportunities.

1115. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting the Administration's report entitled, ''Profiles of Foreign Direct Investment in U.S. Energy 1993,'' pursuant to section 657(8) of the Department of Energy Organization Act; to the Committee on Commerce.

1116. A letter from the Secretary of Health and Human Services, transmitting the Department's report entitled, ''Double Jeopardy: Persons with Mental Illnesses in the Criminal Justice System,'' pursuant to 42 U.S.C. 290bb–31; to the Committee on Commerce.

1117. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a Memorandum of Justification for Presidential Determination regarding the drawdown of defense articles and services for the Rapid Reaction Force [RRF], pursuant to 22 U.S.C. 2348a; to the Committee on International Relations.

1118. A letter from the Chief of Staff, International Affairs, Federal Election Institute, transmitting a communication regarding the Second Trilateral Conference on Electoral Systems (volume I, II, including the executive report, index and program) by the Canadian, American, and Mexican delegations held May 10 through May 12, 1995, in Ottawa, Canada; to the Committee on International Relations.

1119. A letter from the Secretary of Transportation, transmitting the semiannual report of the inspector general for the period October 1, 1994, through March 31, 1995, and management report, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1120. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1994, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1121. A letter from the President, Federal Financing Bank, transmitting the management report of the Federal Financing Bank for fiscal year 1994, including audited financial statements and the independent auditor's report on the statements, pursuant to Public Law 101–576, section 306(a) (104 Stat. 2854); to the Committee on Government Reform and Oversight.

1122. A letter from the Administrator, General Services Administration, transmitting the semiannual report on the activities of the Department's inspector general for the period October 1, 1994, through March 31, 1995, and the management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1123. A letter from the Counsel, National Council on Radiation Protection and Measurements, transmitting the 1994 annual report of independent auditors who have audited the records of the National Council on Radiation Protection and Measurements, pursuant to Public Law 88–376, section 14(b) (78 Stat. 323); to the Committee on the Judiciary.

1124. A letter from the Director, National Science Foundation, transmitting a draft of proposed legislation to amend the Program Fraud Civil Remedies Act; to the Committee on the Judiciary.

1125. A letter from the General Counsel, National Tropical Botanical Garden, transmitting the annual audit report of the National Tropical Botanical Garden, calendar year 1994, pursuant to Public Law 88–449, section 10(b) (78 Stat. 498); to the Committee on the Judiciary.

1126. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to amend provisions of the Bankruptcy Code governing the powers of a bankruptcy court and the effect of automatic stays as they relate to certain multifamily liens insured or held by the Secretary of Housing and Urban Development or the Secretary of Agriculture; to the Committee on the Judiciary.

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. MONTGOMERY (for himself, Ms. WATERS, Mr. CLYBURN, Mr. MASCARA, and Mr. EVANS):

H.R. 1941. A bill to amend title 38, United States Code, to make clarifying and technical amendments to further clarify the employment and reemployment rights and responsibilities of members of the uniformed services, as well as those of the employer community, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LONGLEY:

H.R. 1942. A bill to give authority to the State of Maine over marine fisheries in the waters within 12 miles of the coast of the State; to the Committee on Resources.

By Mr. BILBRAY (for himself, Mr. PACKARD, Mr. CUNNINGHAM, Mr. HUNTER, and Mr. FILNER):

H.R. 1943. A bill to amend the Federal Water Pollution Control Act to deem certain municipal wastewater treatment facilities discharging into ocean waters as the equivalent of secondary treatment facilities; to the Committee on Transportation and Infrastructure.

By Mr. LIVINGSTON:

H.R. 1944. A bill making emergency supplemental appropriations for additional disaster assistance, for antiterrorism initiatives, for assistance in the recovery from the tragedy that occurred at Oklahoma City, and making recissions for the fiscal year ending September 30, 1995, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on 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. BATEMAN (for himself, Mr. SHAW, Mr. HOUGHTON, Mr. MCCRERY, Mr. COLLINS of Georgia, Mr. PAYNE of Virginia, Mr. TAYLOR of North Carolina, Mr. BLILEY, Mr. SISISKY, Mr. BOUCHER, and Mr. PICKETT):

H.R. 1945. A bill to amend the Internal Revenue Code of 1986 to provide that the value of qualified historic property shall not be included in determining the taxable estate of a decedent; to the Committee on Ways and Means.

By Mr. LARGENT (for himself, Mr. PARKER, Mr. ALLARD, Mr. BAKER of Louisiana, Mr. BARTLETT of Maryland, Mr. BARR, Mr. BARTON of Texas, Mr. BRYANT of Tennessee, Mr. CALVERT, Mr. CHAMBLISS, Mrs. CHENOWETH, Mr. CHRISTENSEN, Mr. CHRYSLER, Mr. CLEMENT, Mr. COBURN, Mr. COMBEST, Mr. COOLEY, Mr. CRANE, Mr. CRAPO, Mr. DELAY, Mr. DICKEY, Mr. DOOLITTLE, Mr. DORNAN, Mr. DUNCAN, Mr. EMERSON, Mr. FORBES, Mr. FOX, Mr. GOODLATTE, Mr. GRAHAM, Mr. HASTERT, Mr. HASTINGS of Washington, Mr. HAYWORTH, Mr. HEFLEY, Mr. HILLEARY, Mr. HOSTETTLER, Mr. HUTCHINSON, Mr. INGLIS of South Carolina, Mr. KNOLLENBERG, Mr. LEWIS of Kentucky, Mr. METCALF, Mr. MONTGOMERY, Mrs. MYRICK, Mr. NEUMANN, Mr. PETRI, Mr. PORTER, Mr. QUILLEN, Mr. RAHALL, Mr. ROBERTS, Mr. SALMON, Mrs. SEASTRAND, Mr. SENSENBRENNER, Mr. SHADEGG, Mrs. SMITH of Washington, Mr. SOLOMON, Mr. STEARNS, Mr. STOCKMAN, Mr. STUMP, Mr. TATE, Mr. TAUZIN, Mr. TAYLOR of North Carolina, Mr. TIAHRT, Mr. THORNBERRY, Mrs. VUCANOVICH, Mr. WAMP, Mr. WATTS of Oklahoma, Mr. WELLER, Mr. WICKER, and Mr. YOUNG of Alaska):

H.R. 1946. A bill to protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes; to the Committee on the Judiciary.

By Mr. MCCRERY (for himself, Mr. HERGER, and Mr. JACOBS):

H.R. 1947. A bill to amend the Internal Revenue Code of 1986 to revise certain rules relating to fuel excise tax refunds, and for other purposes; to the Committee on Ways and Means.

By Mr. MILLER of California:

H.R. 1948. A bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes; to the Committee on Commerce.

By Mr. MINGE:

H.R. 1949. A bill to amend the conservation title of the Food Security Act of 1985 to give the Secretary of Agriculture jurisdiction over all wetland determinations involving agricultural lands, to provide for consultation between the Secretary of Agriculture and other Federal agencies involved in wetland conservation, and to improve the operation of the wetland conservation program of the Department of Agriculture; to the Committee on Agriculture, and in addition to the Committees on Transportation and Infrastructure, and Resources, 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. PALLONE (for himself and Mr. TORRICELLI):

H.R. 1950. A bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes; to the Committee on Commerce.

By Mr. PALLONE (for himself, Mr. HASTERT, Mr. RICHARDSON, Mr. FRISA, and Mr. DEFAZIO):

H.R. 1951. A bill to amend the Federal Food, Drug, and Cosmetic Act to allow food and dietary supplement manufacturers to communicate truthful, nonmisleading information to consumers concerning the nutritional content and disease prevention benefits of their products, to repeal or clarify rules enacted by the Dietary Supplement Health and Education Act of 1994, and for other purposes; to the Committee on Commerce.

By Mrs. SCHROEDER (for herself, Mrs. LOWEY, Ms. JACKSON-LEE, Ms. RIVERS, Mrs. KENNELLY, Ms. DELAURO, Miss COLLINS of Michigan, Mrs. COLLINS of Illinois, Ms. FURSE, Ms. HARMAN, Ms. NORTON, Mrs. MALONEY, Ms. SLAUGHTER, Ms. MCKINNEY, Mrs. MINK of Hawaii, Ms. PELOSI, Ms. VELAZQUEZ, Ms. WOOLSEY, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BALDACCI, Mr. BEILENSON, Mr. BENTSEN, Mr. BERMAN, Mr. CARDIN, Mr. COLEMAN, Mr. CONYERS, Mr. DEFAZIO, Mr. DELLUMS, Mr. DEUTSCH, Mr. EVANS, Mr. FILNER, Mr. FARR, Mr. FRANK of Massachusetts, Mr. GEJDENSON, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HORN, Mr. JOHNSTON of Florida, Mr. MATSUI, Mr. MEEHAN, Mr. MILLER of California, Mr. MINETA, Mr. NADLER, Mr. OLVER, Mr. REED, Mr. RUSH, Mr. SABO, Mr. SANDERS, Mr. SERRANO, Mr. SCHUMER, Mr. SHAYS, Mr. STARK, Mr. WAXMAN, Mr. WARD, Mr. YATES, and Ms. LOFGREN):

H.R. 1952. A bill to protect women's reproductive health and constitutional right to choice; to the Committee on the Judiciary, and in addition to the Committee on Commerce, 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. WALKER (for himself, Mr. ZIMMER, Mr. ENGLISH of Pennsylvania, Mr. ROHRABACHER, Mrs. SEASTRAND, Mr. WELDON of Florida, and Mr. SENSENBRENNER):

H.R. 1953. A bill to amend the Internal Revenue Code of 1986 to encourage the development of a commercial space industry in the United States; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. ROEMER, Mr. LANTOS, Mr. FRANK of Massachusetts, Mr. MATSUI, and Mr. PORTER.

H.R. 60: Mr. SKEEN, Mr. GALLEGLY, Mr. SMITH of Texas, and Mr. METCALF.

H.R. 72: Mr. MILLER of Florida, Mrs. MEEK of Florida, and Mr. BILIRAKIS.

H.R. 73: Mr. BILIRAKIS.

H.R. 94: Mr. SISISKY, Mr. JACOBS, Mr. MCHALE, and Mr. CHRYSLER.

H.R. 104: Mr. GALLEGLY.

H.R. 117: Mr. FLANAGAN.

H.R. 127: Ms. RIVERS, Mr. BLILEY, and Mr. LATOURETTE.

H.R. 218: Mr. UPTON.

H.R. 222: Mr. THORNBERRY, Mr. BEREUTER, Mr. INGLIS of South Carolina, Mr. BRYANT of Tennessee, Mr. BARRETT of Nebraska, Mr. SOLOMON, Mrs. VUCANOVICH, Mr. LIVINGSTON, Mr. BARCIA, Mr. DOOLITTLE, Mr. DELAY, Mr. DORNAN, Mr. EMERSON, Mr. HEFLEY, and Mr. BURTON of Indiana.

H.R. 263: Mr. JOHNSTON of Florida, Mr. MCDERMOTT, Mr. MATSUI, Mr. BEILENSON, Mr. BROWN of California, Mr. WAXMAN, Mr. ACKERMAN, and Mrs. MALONEY.

H.R. 359: Mr. CHAPMAN.

H.R. 373: Mr. METCALF.

H.R. 394: Mr. BURR.

H.R. 530: Mr. KIM and Mr. HOBSON.

H.R. 573: Mrs. LOWEY, Mr. STUPAK, Mr. POSHARD, and Mr. GORDON.

H.R. 733: Mr. CRANE, Ms. SLAUGHTER, and Mr. MINETA.

H.R. 734: Mr. CRANE, Ms. SLAUGHTER, and Mr. WARD.

H.R. 784: Mr. BLILEY, Mr. WELDON of Florida, Mr. HALL of Texas, Mr. BARTLETT of Maryland, and Mr. KOLBE.

H.R. 789: Mr. CLINGER.

H.R. 863: Mr. CLEMENT, Mr. ROEMER, and Ms. PRYCE.

H.R. 873: Mr. LIGHTFOOT, Mr. REYNOLDS, and Mr. MICA.

H.R. 892: Mr. HANCOCK.

H.R. 893: Mr. BLILEY, Ms. RIVERS, and Mr. RANGEL.

H.R. 995: Mr. FLANAGAN.

H.R. 1023: Mr. WAXMAN.

H.R. 1067: Mr. SMITH of New Jersey.

H.R. 1068: Mr. SMITH of New Jersey.

H.R. 1114: Mr. RAMSTAD, Mr. DOOLITTLE, Mr. TIAHRT, and Mr. DORNAN.

H.R. 1119: Mr. KLECZKA.

H.R. 1171: Mr. LEWIS of Georgia.

H.R. 1459: Mr. BONIOR, Mr. FAZIO of California, Ms. MCKINNEY, Mr. TOWNS, Mr. HASTINGS of Florida, Mr. CLYBURN, Mr. DELLUMS, and Mr. OWENS.

H.R. 1484: Mr. STUPAK, Mr. BONIOR, and Mr. CLEMENT.

H.R. 1488: Mr. BARCIA of Michigan, Mr. CHAPMAN, Mr. HOLDEN, Mr. ISTOOK, Mr. BALLENGER, Mr. COBLE, Mr. SENSENBRENNER, Mr. SHADEGG, Mr. NEY, Mr. PETE GEREN of Texas, Mr. DICKEY, Mr. TAYLOR of North Carolina, Mr. CRANE, Mr. SOUDER, Mr. QUILLEN, Mr. HOSTETTLER, Mr. YOUNG of Alaska, Mr. SOLOMON, Mr. BARTON of Texas, Mr. JONES, Mr. HILLEARY, Mr. WAMP, Mr. THORNBERRY, Mr. SKEEN, Mr. POSHARD, Mr. BASS, Mr. EMERSON, and Mr. WICKER.

H.R. 1527: Mr. METCALF and Ms. DUNN of Washington.

H.R. 1592: Mr. DIXON.

H.R. 1610: Mrs. WALDHOLTZ, Mr. BARRETT of Nebraska, and Mr. GALLEGLY.

H.R. 1661: Mrs. JOHNSON of Connecticut, Mr. WARD, Mr. CRAMER, and Mr. COBLE.

H.R. 1662: Mr. DIAZ-BALART, Mr. WOLF, Mr. BILBRAY, Mr. LIVINGSTON, Mr. MFUME, and Mr. ENGLISH of Pennsylvania.

H.R. 1713: Mr. GALLEGLY.

H.R. 1736: Mr. WYDEN, Mr. MCDERMOTT, Mr. MILLER of California, Mr. WAXMAN, Mr. SERRANO, Mr. ACKERMAN, Mr. DAVIS, Mr. FROST, Mr. FLAKE, Mr. HILLIARD, Mr. FATTAH, Mr. BAKER of Louisiana, and Mr. GUTIERREZ.

H.R. 1787: Mr. ROHRABACHER, Mr. DORNAN, Mr. WATTS of Oklahoma, Mr. MOORHEAD, and Mr. EWING.

H.R. 1791: Mr. KOLBE and Mr. HOEKSTRA.

H.R. 1884: Mr. MOAKLEY and Mr. JACOBS.

H.R. 1897: Mr. ROMERO-BARCELO and Mr. FRANK of Massachusetts.

H.R. 1930: Mr. ANDREWS and Mr. PAXON.

H.R. 1936: Mr. OBERSTAR, Mr. RANGEL, and Mrs. ROUKEMA.

H.J. Res. 89: Mr. BROWN of Ohio, Mr. HOLDEN, and Mr. TALENT.

H.J. Res. 97: Mr. STARK and Mr. FROST.

H. Con. Res. 42: Ms. RIVERS.

H. Con. Res. 63: Mr. SAM JOHNSON.

H. Res. 59: Mr. BROWN of California and Mr. MARTINI.

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. 1289: Mr. CLAY.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1868

OFFERED BY: MS. JACKSON-LEE

AMENDMENT NO. 83: Page 78, after line 6, insert the following new section:

LIMITATION ON FUNDS FOR ETHIOPIA

SEC. 564. None of the funds appropriated in this Act may be made available to the government of Ethiopia unless the State Department monitors, during fiscal year 1996, the Ethiopian government's human rights progress.

H.R. 1868

OFFERED BY: MS. KAPTUR

AMENDMENT NO. 84: Page 78, after line 6, insert the following new section:

LIMITATION OF FUNDS FOR NORTH AMERICAN DEVELOPMENT BANK

SEC. 564. No funds appropriated in this Act under the heading ''North American Development Bank'' may be obligated or expended unless it is made known to the Federal entity or official to which funds are appropriated under this Act that the Government of Mexico has contributed a share of the paid-in portion of the capital stock for fiscal year 1996 equivalent to that appropriated by the U.S.

H.R. 1905

OFFERED BY: MR. ANDREWS

AMENDMENT NO. 16: Page 16, line 1, after the dollar amount, insert the following: ''(less $810,000,000)''.

Page 17, line 23, after the dollar amount, insert the following: ''(less $490,750,000)''.

H.R. 1905

OFFERED BY: MR. DOGGETT

AMENDMENT NO. 17: On Page 16, line 1, strike ''$2,596,700,000'', and insert ''$2,556,700,000''.

H.R. 1905

OFFERED BY: MR. MARKEY

AMENDMENT NO. 18: Page 18, line 5, strike ''$226,600,000'' and insert ''$426,600,000''.

H.R. 1905

OFFERED BY: MR. MARKEY

AMENDMENT NO. 19: Page 26, line 3, strike ''$468,300,000'' and insert ''$479,300,000''.

Page 27, line 9, strike ''$11,000,000'' and insert ''$22,000,000''.

H.R. 1905

OFFERED BY: MR. OBEY

AMENDMENT NO. 20: On page 16, line 1, delete ''$2,596,700,000'' and insert ''$2,556,700,000''.

H.R. 1905

OFFERED BY: MR. OBEY

AMENDMENT NO. 21: On page 16, line 1, delete ''$2,596,700,000'' and insert ''$2,576,700,000''.

H.R. 1905

OFFERED BY: MR. OBEY

AMENDMENT NO. 22: On page 16, line 1, delete ''$2,596,700,000'' and insert ''$2,578,700,000''.

H.R. 1905

OFFERED BY: MR. OBEY

AMENDMENT NO. 23: On page 16, line 1, insert ''(less $18,000,000)'', before ''to remain''.

H.R. 1905

OFFERED BY: MR. OBEY

AMENDMENT NO. 24: On page 16, line 1, insert ''(less $20,000,000)'', before ''to remain''

H.R. 1905

OFFERED BY: MR. OBEY

AMENDMENT NO. 25: On page 16, on line 1, insert ''(less $40,000,000)'', before ''to remain''

H.R. 1905

OFFERED BY: MR. OBEY

AMENDMENT NO. 26: Page 29, after line 25, insert the following new section:

SEC. 505. The amount otherwise provided in this Act for the following account is hereby reduced by the following amount:

(1) ''Energy Supply, Research and Development Activities'', aggregate amount, $18,000,000.

H.R. 1905

OFFERED BY: MR. OBEY

AMENDMENT NO. 27: Page 29, after line 25, insert the following new section:

SEC. 505. The amount otherwise provided in this Act for the following account is hereby reduced by the following amount:

(1) ''Energy Supply, Research and Development Activities'', aggregate amount, $20,000,000.

H.R. 1905

OFFERED BY: MR. OBEY

AMENDMENT NO. 28: Page 29, after line 25, insert the following new section:

SEC. 505. The amount otherwise provided in this Act for the following account is hereby reduced by the following amount:

(1) ''Energy Supply, Research and Development Activities'', aggregate amount, $40,000,000.

H.R. 1905

OFFERED BY: MR. SKAGGS

AMENDMENT NO. 29: On page 19, line 7, strike ''$5,265,478,000'' and in lieu thereof insert ''$5,411,478,000''.

H.R. 1905

OFFERED BY: MR. TIAHRT

AMENDMENT NO. 30: Page 20, line 8, strike ''$362,250,000'' and insert ''$326,025,000''.

Page 20, line 25, strike ''$239,944,000'' and insert ''$203,719,000''.

H.R. 1905

OFFERED BY: MR. VOLKMER

AMENDMENT NO. 31: On Page 16, Line 1 strike ''$2,596,700,000'' and insert ''$2,588,700,000''.

H.R. 1905

OFFERED BY: MR. VOLKMER

AMENDMENT NO. 32: Page 16, Line 1 insert ''(less $8,000,000)'' before ''to remain''.

H.R. 1905

OFFERED BY: MR. VOLKMER

AMENDMENT NO. 33: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 505. (a) LIMITATION ON USE OF FUNDS.—None of the funds made available in this Act may be used for a spallation neutron source.

(b) CORRESPONDING REDUCTION IN FUNDS.—The amount otherwise provided in this Act for ''Energy Supply, Research and Development Activities'' is hereby reduced by $8,000,000.

H.R. 1868

OFFERED BY: MS. JACKSON-LEE

AMENDMENT NO. 85: Page 78, after line 6, insert the following new section:

LIMITATION OF FUNDS FOR ETHIOPIA

SEC. 564. None of the funds appropriated in this Act may be made available to the Government of Ethiopia if it is made known to the State Department that during fiscal year 1996 the Ethiopian government has not made progress on human rights.

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of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *104th* CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, WEDNESDAY, JUNE 28, 1995 *No. 107*

Senate

(Legislative day of Monday, June 19, 1995)

The Senate met at 8:40 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

Gracious Lord, we begin the work of this day with awe and wonder. You have chosen and called us to know, love, and serve You. Through the years You have honed the intellect, talent, and ability You have entrusted to each of us. With providential care You have opened doors of opportunity, education, culture, and experience. Most important of all, You have shown us that daily You are ready and willing to equip us with supernatural power through the anointing of our minds with the gifts of Your Spirit: wisdom, knowledge, discernment, and vision of Your priorities.

When we ask You, You reveal Your truth and give us insight on how to apply it to specific decisions before us. We say with the Psalmist, ''In the day when I cried out, You answered me, and made me bold with strength in my soul.''—Psalm 138:3.

We thank You that in a time of restless relativism and easy equivocation, You make us leaders who are intrepidly bold in the fecklessness of our time. Now, as the Senators press on to the votes and responsibilities of this day continue to give them the boldness of Your strength in their souls, manifested in conviction and courage. In Your holy name. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

PRIVATE SECURITIES LITIGATION REFORM ACT

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 240, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 240) to amend the Securities and Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act.

The Senate resumed consideration of the bill.

Pending:

Boxer amendment No. 1480, to exclude insider traders who benefit from false or misleading forward looking statements from safe harbor protection.

Specter amendment No. 1483, to provide for sanctions for abuse litigation.

Specter amendment No. 1484, to provide for a stay of discovery in certain circumstances.

Specter amendment No. 1485, to clarify the standard plaintiffs must meet in specifying the defendant's state of mind in private securities litigation.

Mr. D'AMATO. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

VOTE ON AMENDMENT NO. 1483

Mr. D'AMATO. Mr. President, I move to table the Specter amendment, numbered 1483, and I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The question is on agreeing to the motion to table the amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. BOND (when his name was called). Present.

Mr. LOTT. I announce that the Senator from Mississippi [Mr. COCHRAN] and the Senator from Kansas [Mrs. KASSEBAUM] are necessarily absent.

Mr. FORD. I announce that the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

The result was announced—yeas 57, nays 38, as follows:

[Rollcall Vote No. 291 Leg.]

YEAS—57

Abraham	Feinstein	McCain
Ashcroft	Ford	McConnell
Bennett	Frist	Mikulski
Breaux	Gorton	Murkowski
Brown	Gramm	Murray
Burns	Grams	Nickles
Campbell	Grassley	Nunn
Chafee	Gregg	Pressler
Coats	Hatfield	Reid
Cohen	Helms	Robb
Conrad	Hollings	Rockefeller
Coverdell	Hutchison	Santorum
Craig	Inhofe	Shelby
D'Amato	Kempthorne	Simpson
Daschle	Kyl	Smith
Dodd	Lieberman	Thomas
Domenici	Lott	Thompson
Exon	Lugar	Thurmond
Faircloth	Mack	Warner

NAYS—38

Akaka	Glenn	Levin
Baucus	Graham	Moseley-Braun
Biden	Harkin	Moynihan
Bingaman	Hatch	Packwood
Boxer	Heflin	Pell
Bradley	Inouye	Roth
Bryan	Jeffords	Sarbanes
Bumpers	Kennedy	Simon
Byrd	Kerrey	Snowe
DeWine	Kerry	Specter
Dole	Kohl	Stevens
Dorgan	Lautenberg	Wellstone
Feingold	Leahy	

ANSWERED ''PRESENT''—1

Bond

NOT VOTING—4

Cochran	Kassebaum
Johnston	Pryor

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

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So the motion to table the amendment (No. 1483) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1484

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes for debate equally divided on the second Specter amendment, 1484, to be followed by a vote on the amendment. Who yields time?

Mr. SPECTER. Mr. President, before my 2 minutes commence, may we have order in the Chamber.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this amendment would leave it to the discretion of the trial judge, as the Federal judges have discretion in all other cases, to decide whether there ought to be discovery after the defense files a motion to dismiss. The judges currently have the full authority to stop discovery if it is inappropriate.

What is happening here, as with many of the other rules changes in the bill, is a wholesale revolution in the way securities cases are handled without having followed any of the usual procedures prescribed by law under which the Supreme Court of the United States establishes the rules after hearings and consideration by advisory committees and recommendation from the Judicial Conference, and without ever having had the Committee on the Judiciary consider these issues.

It is true that there are some frivolous lawsuits which are filed in America today, but we are dealing here with an industry which in 1993 had transactions on the stock exchanges of $3.663 trillion, new issues of $54 billion, and the savings of many small investors and the proverbial widows and orphans at risk.

The Securities and Exchange Commission does not have the resources to handle all the potential violations as enforcement matters. That is why there are private actions. When you take a look at the lawyers' fees, they are a pittance compared to the over $3.6 trillion involved. What is happening here, Mr. President, is we are not throwing the baby out with the bath water. We are throwing out the entire family with the bath water.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, if we are going to talk about the securities industry we should talk about its role in capital formation, in fact the securities industry is an integral part of the American system—and that system is now being ripped off. As a matter of fact, one law firm does handle about 30 percent of all this litigation. They go out and hire plaintiffs, they have lists of plaintiffs to chose from, and then they race to the courthouse.

Let me tell you, once they bring the suit, firms feel they have to surrender. In 93 percent of the cases brought, people give up. Do you know why? Because the average case costs you $6 million to defend; so even if you win you lose.

So the defendants are forced to settle before costs get too high. The people, the small investors get nothing back. The law firm rakes in the settlement. No wonder the lawyers want to keep the system the same.

Now, let me tell you something what this legislation says on staying discovery. When a person makes a motion to dismiss, ''discovery and other proceedings shall be stayed unless the Court finds, upon the motion of any other party, that particularized discovery is necessary to preserve evidence.''

So you can stay discovery unless the court rules against that motion. If you cannot stay discover, however, then they are in there fishing, fishing, fishing, until they find any piece of evidence to force corporate America to give up, to surrender. The little guy is not protected by this process. The interest of a group of entrepreneurial lawyers is advanced. This amendment would continue that system and let those lawyers continue to go out fishing and keep corporate America held hostage. It is about time we freed them.

Mr. President, if all time has been yielded back, I move to table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment No. 1484, offered by the Senator from Pennsylvania, [Mr. SPECTER]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BOND (when his name was called). Present

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 292 Leg.]

YEAS—52

Abraham	Frist	Mack
Ashcroft	Gorton	McConnell
Bennett	Gramm	Mikulski
Breaux	Grams	Moseley-Braun
Brown	Grassley	Murkowski
Burns	Gregg	Murray
Chafee	Harkin	Nickles
Coats	Hatch	Pressler
Coverdell	Hatfield	Pryor
Craig	Helms	Reid
D'Amato	Hutchison	Simpson
Daschle	Inhofe	Smith
Dodd	Johnston	Stevens
Dole	Kempthorne	Thomas
Domenici	Kyl	Thurmond
Faircloth	Lieberman	Warner
Feinstein	Lott	
Ford	Lugar	

NAYS—47

Akaka	Feingold	Moynihan
Baucus	Glenn	Nunn
Biden	Graham	Packwood
Bingaman	Heflin	Pell
Boxer	Hollings	Robb
Bradley	Inouye	Rockefeller
Bryan	Jeffords	Roth
Bumpers	Kassebaum	Santorum
Byrd	Kennedy	Sarbanes
Campbell	Kerrey	Shelby
Cochran	Kerry	Simon
Cohen	Kohl	Snowe
Conrad	Lautenberg	Specter
DeWine	Leahy	Thompson
Dorgan	Levin	Wellstone
Exon	McCain	

ANSWERED ''PRESENT''—1

Bond

So the motion to table the amendment (No. 1484) was agreed to.

Mr. BENNETT. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1485

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes for debate equally divided for the third Specter amendment No. 1485, to be followed by a vote on or in relation to the amendment.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have asked my colleagues to listen to this amendment. In the well of the Senate, I won several votes, finally having received a hearing on the last amendment.

What this amendment does is to accept the very stringent standard of the second circuit on pleading to show state of mind, and then it adds to the legislation the way the second circuit says you can allege the necessary state of mind.

The bill, quite properly, tightens up the pleading standards by establishing the most stringent rule of any circuit. The committee report takes pride and says that the committee does not adopt a new and untested pleading standard but takes the second circuit standard. But then in four lengthy, well-reasoned opinions, the second circuit has said this is how you can allege the required state of mind. They set two ways down to prove it, which I would like to read to you but I do not have time.

All this amendment does is says that when you take the second circuit standard, admittedly stringent, this is how you get it done—not the exclusive way—but the way you get it done. In asking the managers and the proponents of the bill, I have yet to hear any reason advanced why this is not sound, even after they conferred with their staffs.

This is just basic fundamental fairness that if you take the second circuit standard, you ought to take the entire standard, which is very tough on plaintiffs to establish state of mind, which is hard to prove. How do you get into somebody else's head? But at least

when the second circuit says this is the way it ought to be done and the bill says let us make it really tough, at least let the plaintiff know how they are going to be able to plead it by the way the second circuit itself permits.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from New York.

Mr. D'AMATO. Mr. President, I know that the proponents of this legislation are attempting to stop the kind of litigation that has made securities cases a sham. This amendment goes too far, however, because it actually tells the court how to interpret S. 240's pleading standards. S. 240 codifies the second circuit pleading standard, but this amendment goes further, to say precisely what evidence a party may present to show a strong inference of fraudulent intent. I think this straitjackets the court.

Having said that, I could accept referring to the courts interpretation, but I think we are going too far if we adopt the language that the court referred to because it would tie the courts hand by forcing it to ask that plaintiffs prove exactly the delineated facts; alleging facts to show the defendant had both the motive and opportunity to commit fraud and by alleging facts that constitute strong circumstantial evidence.

To be quite candid with you, I think it places too great a burden on the plaintiffs, and I have a difficult time understanding how the Senator from Pennsylvania feels that this would add fairness to this process. We tried to be balanced in setting this standard, that is why we did not straitjacket the court with the language in this amendment.

Mr. President, I am not going to move to table. 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 amendment No. 1485, offered by the Senator from Pennsylvania [Mr. SPECTER]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BOND (when his name was called). Present.

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 293 Leg.]

YEAS—57

Abraham	Dodd	Kennedy
Akaka	Dorgan	Kerrey
Baucus	Exon	Kerry
Biden	Feingold	Kohl
Boxer	Feinstein	Lautenberg
Bradley	Ford	Leahy
Breaux	Glenn	Levin
Bryan	Graham	Lieberman
Byrd	Heflin	Lugar
Chafee	Hollings	Mack
Cochran	Inouye	McCain
Cohen	Jeffords	Mikulski
Conrad	Johnston	Moseley-Braun
Daschle	Kassebaum	Moynihan
Murray	Robb	Shelby
Nunn	Rockefeller	Simon
Packwood	Roth	Snowe
Pell	Santorum	Specter
Pryor	Sarbanes	Wellstone

NAYS—42

Ashcroft	Faircloth	Kyl
Bennett	Frist	Lott
Bingaman	Gorton	McConnell
Brown	Gramm	Murkowski
Bumpers	Grams	Nickles
Burns	Grassley	Pressler
Campbell	Gregg	Reid
Coats	Harkin	Simpson
Coverdell	Hatch	Smith
Craig	Hatfield	Stevens
D'Amato	Helms	Thomas
DeWine	Hutchison	Thompson
Dole	Inhofe	Thurmond
Domenici	Kempthorne	Warner

ANSWERED ''PRESENT''—1

Bond

So the amendment (No. 1485) was agreed to.

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

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1480

The PRESIDING OFFICER. Under the previous order, there will be 7 minutes of debate on the Boxer amendment, with 5 minutes under the control of Senator BOXER and 2 minutes under the control of the Senator from New York, to be followed by a vote on or in relation to the amendment.

Mrs. BOXER. Thank you, Mr. President. My colleagues, I will make this very brief and, I hope, interesting, because I think it is an interesting issue that is raised by the Boxer amendment. This is the last Boxer amendment on this bill, I am happy to say.

I think we have shown in this Chamber we can be very tough on crime. Today I am giving Members a chance to show we can be tough on white-collar crime. I am afraid if we do not adopt this amendment, we are opening the door to insider trading, which could really hurt a lot of small investors.

My amendment simply says that you do not get the benefit of the safe harbor in S. 240 if you are an insider trader who personally profits in connection with the issuance of a false and misleading statement.

Let me show a couple of real examples. Here is the company called Crazy Eddie. Some may remember. What happened here? The insiders bought a lot of the stock, it went up, and at the peak, they started selling it after they made a false and misleading statement: ''We are confident that our market penetration can grow appreciably. Growing evidence of consumer acceptance of the Crazy Eddie name augurs well for continuing growth.'' They get out, and the top officer flees the country with millions of dollars. The CEO is convicted of fraud. Under this bill, the safe harbor would apply to these people.

I will show another quick example. Here is another company, T2 Medical. They said: ''T2 plans to lead the way through the 1990's. We expect steady revenue in earnings growth.'' Then there is a bad report about the company, which they obviously knew because they get out of the stock. It goes down and all the stockholders are left holding the bag.

What we are basically saying is, if you are an insider and you benefit, you should not have the benefit of the safe harbor under this bill.

I want to tell Members what the opponents of my amendment have said. First, they said my definition of insiders is too broad. Nothing could be farther from the truth. It is a boilerplate. It is the corporation, it is the officers, and the board of directors. That is what insiders are.

Then they say, ''But, Senator, you include purchases as well as sales.'' Anyone who follows the stock market knows that insiders often purchase the stock of a company before the false and misleading statement so they can get in at a cheap price.

The last thing they have said is that, ''Gee, this is covered by another statute.'' That is not true. Only if you happen to buy the specific shares that the insider sells you, are you covered in another statute. If you are an ordinary shareholder, a small investor, you get hit, because these guys run away with all the money, the stock, plus you are left holding the bag.

I want to show one article here. If Members are wondering whether insider trading is common now—because we heard about it in the 1980's—let me tell Members about it. Saturday, in the Los Angeles Times, ''Insider-Trading Probes Make a Comeback.'' '' 'We have more insider-trading investigations now than at any time since the takeover boom in the 1980's,' says Thomas Newkirk, Associate Director of Enforcement for the Securities and Exchange Commission.''

Then I thought this statement by Gary Lynch, who, as chief of enforcement at the SEC in the 1980's, brought about the investigations of Boesky and Milken: ''What's happening now is exactly what everyone predicted back in the '80's: That with the number of high profile cases brought, the incidence of insider trading would decline for a while, but as memories dulled, insider trading would pick up again,'' said Lynch. ''The temptation is too great for people to resist.''

So, insider trading is back. We should not have a safe harbor for these people. Forty-eight Members voted for one of the Sarbanes amendments, which would have taken another look at this safe harbor. It did not pass.

I say to my friends who voted against that, the least those Members can do is narrow the safe harbor for people who profit, who make false and misleading statements. I want to say that again: The only people who would not get the safe harbor in S. 240 under the Boxer amendment are those insiders who personally profit in connection with the issuance of a false and misleading statement.

I urge my colleagues, please stand up against white-collar crime. I think this is a very good amendment Members could be proud to support. I yield the floor.

Mr. D'AMATO. Mr. President, I yield 1½ minutes to the Senator from Utah.

Mr. BENNETT. Mr. President, I hesitate to challenge my friend from California. She has a background as a stockbroker. This is an area where she has great expertise.

I must share with Members my own experience in trying to recruit directors for a company that would become a public company. They said, ''The grief that goes with being a director under the present law is so overwhelming that I simply do not need it. I will not accept appointment as a director.'' The only way we could change their minds was to assure them that we had 20 million dollars' worth of officer and director insurance.

I know from my own experience as a director of a public company that the present law is very stringent and, in my opinion, adequate. I am forbidden, as a director, to buy or sell any securities 30 days prior to a public announcement of our earnings, and, after the announcement has been made, for another 48 hours after that announcement, I cannot enter the market to either buy or sell under the present law.

In my opinion, the present law is sufficient. The kind of people that are being talked about in the article that she offers from the Wall Street Journal are breaking the law now and we do not need the redundancy of the Boxer amendment.

Mr. D'AMATO. Let me say, first of all, insider trading is prohibited by section 10(B) and rule 10b-5 of the Federal securities laws. What this amendment does is destroy the safe harbor, absolutely destroys it. Any small company that pays a director with stock options will be effectively excluded from the safe harbor. All the plaintiff would have to do is allege wrongdoing to bring a suit, which will open up this whole area to continued litigation. This is a carefully crafted amendment which would destroy what we are attempting to do, which is to free corporate America from a group of bandits.

Mr. President, I move to table, 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 the amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. BOND (when his name was called). Present.

Mr. FORD. I announce that the Senator from Nevada [Mr. REID] is necessarily absent.

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

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

[Rollcall Vote No. 294 Leg.]

YEAS—56

Abraham	Frist	Lugar
Ashcroft	Gorton	Mack
Baucus	Gramm	McConnell
Bennett	Grams	Murkowski
Bingaman	Grassley	Nickles
Brown	Gregg	Packwood
Burns	Harkin	Pell
Campbell	Hatch	Pressler
Chafee	Hatfield	Roth
Coats	Helms	Santorum
Cochran	Hutchison	Shelby
Coverdell	Inhofe	Simpson
Craig	Jeffords	Smith
D'Amato	Johnston	Stevens
DeWine	Kassebaum	Thomas
Dodd	Kempthorne	Thompson
Dole	Kyl	Thurmond
Domenici	Lieberman	Warner
Faircloth	Lott	

NAYS—42

Akaka	Feinstein	McCain
Biden	Ford	Mikulski
Boxer	Glenn	Moseley-Braun
Bradley	Graham	Moynihan
Breaux	Heflin	Murray
Bryan	Hollings	Nunn
Bumpers	Inouye	Pryor
Byrd	Kennedy	Robb
Cohen	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Simon
Dorgan	Lautenberg	Snowe
Exon	Leahy	Specter
Feingold	Levin	Wellstone

ANSWERED ''PRESENT''—1

Bond

NOT VOTING—1

Reid

So the motion to table the amendment (No. 1480) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

Mr. COHEN. Mr. President, I rise today to express some concerns I have regarding S. 240, the Securities Litigation Reform Act of 1995, as reported by the Banking Committee.

The laudable goal of this legislation has been to reform the Securities Litigation System to curb frivolous lawsuits. I strongly support the goal of deterring meritless securities class action lawsuits and believe that there is room for constructive improvement in the current Federal securities litigation process. In some instances, meritless class action cases can be costly to defend against and may impose large and unnecessary costs on issuers and other participants in the market. In other cases, small investors themselves are taken advantage of by overzealous attorneys.

Nevertheless, in our quest for reform, it is crucial that we do not undermine the right of investors, particularly small investors, to protect themselves against unscrupulous swindlers who use grossly exaggerated claims to lure investors. Private litigation under Federal securities laws is an important complement to the SEC's Enforcement Program. We must not curtail legitimate rights of the investor to litigate.

Over the past several weeks, an intense battle has been waged over the airwaves on the merits and motives of this legislation. At times, these assaults have been aimed not only at the bill's provisions, but at its sponsors as well, with insinuations that supporters of S. 240 are intentionally protecting securities fraud and are against senior citizens. Unfortunately, once again mass media lobbying campaigns have distilled a complex, and I believe earnest, reform effort into a white hat or black hat screenplay, casting any one who supports this branded bill an enemy of senior citizens. Somewhere in this heated debate, I believe that a balance must be achieved that protects the rights of defrauded investors while also providing relief to above board companies who might find themselves the target of meritless or frivolous lawsuits.

Mr. President, as chairman of the Senate Special Committee on Aging, and as a strong advocate of consumer protections against the elderly, I suggest that there can and should be some middle ground. I am extremely concerned about issues that affect the welfare of our senior citizens and, in particular, about fraudulent and abusive practices that are directed against them. The Aging Committee has held a series of hearings on the special needs and issues facing the small, and often unsophisticated, investor. As interest rates declined over the last decade, the quest for higher yields has intensified, particularly among senior citizens who often rely on their investments as a principal means of support. Many of them are low- and middle-income retirees who have worked hard for their pensions, and who must now make these pensions stretch over two or even three decades.

Retirees and others know they can invest in CD's with long periods of maturity, but they are reluctant to tie up their money fearing that they may have to tap into their savings for a major operation, expensive drugs, or some other emergency. As a result, the lucrative securities market became a popular choice for the small, but often financially unsophisticated and inexperienced, investor.

For the first time in American history, investment company assets have surpassed commercial bank deposits. The percentage of U.S. households that own mutual funds has more than quadrupled since 1980, with over 38 million Americans investing in those funds. One out of three American families now have investments in mutual funds or the stock market. While this mass movement into the securities market has provided new opportunities for investors, it has also increased risk, led to a great deal of confusion, and, unfortunately, created opportunities ripe for fraud by securities dealers who misrepresent risks to unsuspecting investors.

Our Aging Committee hearings showed that low interest rates create an environment in which small investors are susceptible to outright investment fraud and abusive sales practices. Senior citizens are not the exclusive prey of these market manipulators, but one factor makes scamming the senior citizen small investor particularly odious: Younger Americans can restore some or all of their losses through new earnings, while seniors' savings are not a renewable resource. Accordingly, scammed seniors living on fixed incomes cannot write their losses off as a lesson learned for the future. Instead, their financial losses may be the loss of their entire future.

Our Aging Committee investigation and hearings revealed a wide range of small investor frauds, from penny stock scams to large mutual fund companies deceptively peddling junk bonds. Our hearings also examined the questionable marketing practices of some banks that sell uninsured investments, such as mutual funds, annuities and stocks. While we should not close the door to banks wanting to sell securities, the hearing pointed out the special dangers and problems that this trend in banking presents, namely that there is tremendous potential for confusion by bank customers about the safety and nature of the investments they are buying. As bank customers are swayed more toward uninsured investments, we must ensure that they are fully informed of the risks inherent in some of these investments and have adequate opportunity to seek redress remedies if they are intentionally misled into these investments.

I cosponsored S. 240 as introduced to indicate my support for securities litigation reform efforts. Frivolous lawsuits have become all too common. I have concerns, however, that the bill reported by the Banking Committee does not strike the appropriate balance between securities litigation reform and investor protection.

First, I question whether the safe harbor provisions of the revised S. 240 may make it very difficult to sue when intentionally misleading information clauses investors to suffer losses. The original S. 240 directed the SEC to develop regulatory safe harbor rules for forward-looking statements. The new version of S. 240, however, establishes statutory safe harbor rules. I am concerned that these rules would unwisely protect even some fraudulent statements that were made knowingly.

I have concerns that the revised version of S. 240 would leave defrauded investors with the nearly insurmountable task of establishing a corporate executive's actual intent, and that a few carefully placed disclaimers could provide a legal protection for misleading statements that were made knowingly.

I believe that the SEC should be given an opportunity to fashion a safe harbor that strikes the proper balance.

Finally, S. 240 as reported dropped the extension of the statute of limitations for private securities fraud actions contained in the original bill. I believe that the extension should have been retained in order to tip the balance of reform more toward investor protections.

I believe that the Banking Committee deserves much credit for addressing some of the major concerns with the original S. 240. The bill before us, for instance, contains no loser-pays provision, a provision of the original bill which caused me concern.

Mr. President, the challenge before us today is to identify ways to make the legal system more balanced and efficient. We must sift through the dueling advertisements and challenges of ''pro-Keating'' and ''antisenior'' on one side and challenges of ''antibusiness'' and ''antireform'' on the other. An appropriate balance between the rights of investors to hold companies responsible for wrongdoing and the need of the companies to be protected from costly, meritless litigation must be achieved.

I believe that the safe harbor rules should be implemented by regulation rather than statute. The regulatory process allows for full and fair comment by all sides to determine appropriate safe harbor rules. Also, once established, regulatory safe harbor rules offer greater flexibility than would statutory ones. In the fast-changing world of investment finance, this flexibility is important.

I wish that S. 240 retained the original safe harbor provision; because it does not, however, I regret that I can no longer support this bill.

Mr. FEINGOLD. Mr. President, the legislation currently before this body, S. 240, the Private Securities Litigation Reform Act of 1995, is very important for two reasons. First, what it seeks to achieve and second, what in actuality it will achieve if passed in its current form.

One of the stated purposes of this legislation is to curb abusive lawsuits—so-called strike suits where lawyers seek to get rich quick by preying on a company which suffers a loss in value. That is what this legislation seeks to do and no one can quarrel with this goal. The interests of the American people and the integrity of the American legal system are not served by meritless lawsuits which drain precious resources from our national economy. This is true not just in the context of securities fraud, but also in the areas of product liability, of medical malpractice, in short, in every field of American jurisprudence. Frivolous lawsuits should be discouraged.

However, what this bill will actually do is limit the rights of investors to recover money they lose due to fraud. Unfortunately, as many of colleagues have already pointed out, this legislation fails to properly balance the goal of stopping frivolous lawsuits with the need to preserve the rights of legitimate investors to recover in cases of securities fraud.

It is important to note that the laws this legislation amends, the Securities Act of 1933 and the Securities Exchange Act of 1934, were the direct result of the Great Depression. As the report to S. 240 points out—the goal of these laws was to promote investor confidence in the securities markets. Unfortunately, the legislation we are now considering will erode, not enhance, investor confidence.

I want to touch briefly upon a few areas that I find particularly problematic.

SAFE HARBORS FOR FORWARD LOOKING STATEMENTS

The pending legislation contains a so-called safe harbor provision for forward looking statements. I support the notion that full and candid disclosure regarding the potential of a given company is beneficial, not only to the potential investors but also to the companies involved. Candor, however, should not be confused with fraud. The standard established by S. 240 makes only the most blatantly fraudulent statements subject to liability. The standard of proof is so high that the private plaintiff who actually prevails will be rare indeed.

I might add that the Chairman of the Securities and Exchange Commission, Arthur Levitt, in a letter dated May 25 said in regard to this provision:

> . . . I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection. The scienter standard in the amendment is so high as to preclude all but the most obvious fraud.

It is one thing to protect statements that are made in good faith, without intent to defraud, it is another issue altogether to protect people based upon the standard contained in this legislation.

The appropriate approach, ironically the approach contained in the original bill, is to allow the SEC to complete the rulemaking process—to review comments and testimony—and determine the proper scope of the safe harbor. Unfortunately, this commonsense approach has given way to an expansive exemption for all but the most egregious statements. This is unfortunate. While we clearly want to protect companies from being dragged into court over every comment or remark they make, we do not and should not protect those who engage in fraud at the expense of innocent investors.

This is not an either-or proposition. The language of S. 240 seems to suggest that the only way to truly protect the company is to also limit the rights of investors.

I suggest this is far from the truth. The original S. 240 contained the proper approach. We should return this function to the SEC, let them do their work and adopt guidelines for a safe harbor which protects companies and investors, but not those who deal in fraud. The purpose of this legislation is to eliminate fraudulent behavior, not to protect it.

STATUTE OF LIMITATIONS

Another area of this legislation which does a disservice to the millions of Americans who invest in securities is the failure to extend the statute of limitations from bringing an action based upon securities fraud.

Under existing law, as a result of a U.S. Supreme Court ruling in Lempf versus Gilbertson, the prevailing statute of limitations is 1 year from discovery of the violation or no more than 3 years from the date of the violation. This period is far too short. The complexity of these cases necessitates an extension of this limitation.

Once again, S. 240 had the proper solution when it was introduced, yet as reported, the bill sustains the woefully inadequate status quo. The original bill extended the statute of limitations to 2 years from the date of discovery and 5 years from the date of violation. The amendment of the Senator from Nevada, Senator BRYAN, would have adopted this equitable standard.

With the exception of criminal offenses, all causes of action in the American legal system are subject to a statute of limitations. The theory being that while we want to give plaintiffs an adequate opportunity to recover, people should not live forever under the threat of litigation. The Bryan amendment recognized this and would have achieved that important balance.

The current statute of limitations goes beyond being fair to potential defendants. In fact, as Chairman Levitt pointed out in testimony, the current statute of limitations rewards those perpetrators who conceal their fraud for only 3 years.

I might also note, that in regard to those handful of attorneys who thrive on frivolous litigation, the statute of limitations is of little concern.

If, as we have heard during this debate, attorneys simply scan the newspapers looking for companies reporting bad news, then fill in the blanks on their boiler plate complaints and rush to the courthouse within days of the news reports, what difference does the statute of limitations make?

But for the innocent investor, who is saving for retirement, or to put children through college, or maybe just trying to live a little better life, it may mean the loss of a lifetime of hard work and savings. The failure to extend the statute of limitations will result in legitimate plaintiffs, through no fault of their own, being foreclosed from any recovery. The statute of limitations does matter to the average American investor—it matters a great deal.

AIDING AND ABETTING

One final area that I want to touch upon is the liability of aiders and abetters, those lawyers, accountants and other professionals who assist primary wrongdoers in committing securities fraud. The private cause of action against aider and abettors, is a necessary tool in deterring securities fraud.

Until last year, this private cause of action was available in every circuit in America, provided that the assistance was substantial and had some element of deception or recklessness. However, the Supreme Court eliminated this private right.

Why should aiders and abettors, those people who profit from the fraud, why should they escape culpability? The answer to this question, and it should be obvious to all, is that they should not escape responsibility.

Critics argue that these other professionals work behind the scenes and do not communicate directly with investors—in essence critics argue they are simply doing their jobs on someone elses behalf. Well, in my view there is a vast distinction between vigorously representing your client and perpetuating that client's fraudulent actions.

And that is what we are talking about here—instances where aiders and abettors act recklessly or knowingly in perpetrating fraud. The SEC has been very clear on this issue. Chairman Levitt came to the Senate and indicated that the conduct in question, aiding and abetting, should be deterred and that in light of the Supreme Court's holding, the only effective way to do this is for Congress to act.

I have yet to hear a salient argument as to why a professional—and these are professionals, lawyers, accountants, bankers—who recklessly or knowingly perpetrates a fraud on any investor should escape liability simply because they are not the primary defendant.

CONCLUSION

Mr. President, we have heard from all sides of this debate a constant refrain that we must reign in frivolous lawsuits. I agree with that objective, but the legislation before us is not a balanced approach. It hurts the average American investor, by limiting access to the courts, and limiting the ability to recover money that others have fraudulently taken from them.

I want to commend my colleagues from Maryland, Nevada, and California, as well as my colleague from Alabama for their efforts in improving this legislation. They have offered a number of amendments that could have improved this legislation. The amendments were uniformly rejected—that is regrettable.

This bill is important, and I had hoped that we could end up with legislation which we could all support. However, unless the protection of the average American investor is given greater consideration, I cannot support this legislation.

Mr. KERRY. Mr. President, the legislation the Senate has been considering these past few days has been the subject of intense debate. While the legislation would appear to be rather dry and technical, its effect extends to a wide range of interests. Fraudulent actions by management can destroy an individual investor's retirement nest egg; likewise, a frivolous suit filed against a start-up high-technology company can stop that business dead in its tracks.

Most of us would agree that our goal here is to strike a balance. I have been mindful that there are investors on both sides of the equation, and I have listened carefully to their concerns. I have also spoken with SEC Chairman Arthur Levitt about his agency's concerns and recommendations about enforcing our securities laws.

Me and my staff have met regularly with the high-technology community in Massachusetts on this issue. This sector, which has been the most frequent target of strike suits, is critical to our economic growth and the creation of highly skilled, family-wage jobs. I want this sector to continue to grow and prosper, but frivolous strike suits have a truly chilling effect on start-up high-technology, bio-technology, and other growth businesses. The committee report states: ''small, high-growth businesses—because of the volatility of their stock prices—are particularly vulnerable to securities fraud lawsuits when projections do not materialize.'' Companies in Massachusetts and elsewhere have been hurt, but more importantly the people in those companies—from the CEO's on down—have been hurt by such strike suits.

I can also cite cases where companies in Massachusetts repeatedly misrepresented sales, senior executives had to resign, and some of the companies went bankrupt. In one case a company paid an analyst for a leading national business magazine to publish a favorable report about its projected sales and earnings. Cases remain pending against some of the auditors, so I will not mention names. These fraudulent actions resulted in hundreds if not thousands of investors losing significant amounts, if not all, of their investments. The point is: It is not difficult to find instances of abuse on both sides of the issue.

There is no doubt that this is an extremely complex area of the law, where minor word changes can produce major consequences. For example, directing plaintiffs to plead particular facts demonstrating the state of mind of each defendant at the time the alleged violation occurred seems reasonable to defendants. But for plaintiffs, this standard is more like having to clear a pole vault bar than a high hurdle. I am pleased the committee adopted my amendment regarding the pleadings standard, and believe this example demonstrates the need for careful consideration of the effect of seemingly minor word changes in this area. That is why I believe it is of the utmost importance that we proceed cautiously in amending our Nation's securities laws.

As the committee report notes: ''S. 240 is intended to encourage plaintiffs' lawyers to pursue valid claims for securities fraud and to encourage defendants to fight abusive claims.'' According to some securities litigators, the legislation as presently construed will make it more difficult to pursue

frivolous cases, but not impossible to pursue valid ones, as some have argued during this debate. This legislation should also strengthen the hand of businesses in responding to suits they view as abusive by reducing the incentive they claim the present system imposes upon them for early settlement. If the committee's expectations prove true in practice, then I believe we will have achieved the balance we sought with regard to the initiation of so-called strike suits.

My outstanding concerns with this legislation lie at the conclusion of the process, where it is unclear whether we have achieved a balance comparable to that established at the outset. In light of the limitations on joint and several liability and in aiding and abetting in private actions, I question whether the legislation assures that investors who are victims of fraudulent securities actions will be able to recover all of their losses. Certainly, some of the provisions in the bill will help investors recover a greater share of their losses vis-a-vis the attorneys; however, it is uncertain whether they will be able to recover all their losses, as proponents of the bill claim. Here, it would appear the legislation leans toward protecting proportionately liable defendants rather than toward assuring victims of fraud will recover fully their losses. Unfortunately, the amendments offered on the floor to provide such balance did not prevail.

A title of the legislation that will directly serve investors' interests by requiring early detection and disclosure of fraud is ''Title III—Auditor Disclosure of Corporate Fraud.'' I am proud to have coauthored this title with Representative WYDEN originally as free-standing legislation, S. 630, the Financial Fraud Detection and Disclosure Act of 1993. It places on accountants and company auditors a clear responsibility for early detection and disclosure of illegal actions by management. The provision requires that if an accountant learns of an illegal act that may have a material effect on the company's financial statements, the accountant must inform management, and, if management fails take corrective action, the accountant must inform the board of directors. If the board fails to notify the SEC within 1 day of its notification, and accountant must notify the SEC the following day. Failure to provide this notification will subject the accountant to stiff civil penalties. I believe these clear procedures for early detection and disclosure of fraud by the accountants will serve the interests of both investors and business, and am pleased the committee incorporated this title into the legislation.

The securities litigation reform bill we are about to vote upon is likely to make it more difficult to bring frivolous strike suits, but my preference also would have been to include stronger investor recovery provisions in the sections relating to joint and several liability and aiding and abetting. I was disappointed that amendments on these subjects did not prevail.

On balance, however, this legislation should lead to the creation of a more favorable climate for investors and businesses. Investors should gain better information about the marketplace, more control over securities litigation should they choose to pursue class action suits, and, with the safeguards intended to weed out frivolous suits, investors should also find a climate more conducive to the fullest prosecution of securities fraud cases. A diminished threat of abusive strike suits should strengthen the ability of businesses to raise capital and to provide investors more information. Taken as a whole, therefore, I will support S. 240.

Mr. BIDEN. Mr. President, our securities laws have served this country well for more than 60 years. Remember, the 1933 and 1934 securities acts were borne out of the 1929 stock market crash. Yet, the bill we are debating would topple our well-founded securities laws.

I oppose the so-called Securities Litigation Reform Act—not because I do not think we need some reforms—but, because by supposedly discouraging frivolous lawsuits, this legislation would discourage legitimate suits too.

Let us be honest. Most corporate executives and plaintiff lawyers are responsible. What we should do is target and penalize those who abuse the system. But, we should not close the courthouse door to the many, in an attempt to reform the abuses of the few.

In an effort to fix abuses, this legislation strips safeguards that protect millions of average Americans whose pensions are invested in security plans. The result of which will be to let white collar criminals go free.

I fought for 7 long years in this Chamber to pass a tough, smart, balanced crime bill. And I stood on this floor with my colleagues on both sides of the aisle as we debated who could be tougher on crime.

Yet, here we stand today, debating a bill to give white collar crooks in three-piece suits a free ride. This so-called Private Securities Litigation Reform Act is about white collar crime.

This is about law and order. The financial losses victims suffer can wipe them out.

I realize that securities laws are complex, but the devastating impact of this legislation is simple:

It impacts our senior citizens—with 3 out of 4 seniors relying on investment income to meet some of their day-to-day living expenses.

It impacts police, firefighters, teachers, and labor and automobile union members whose pensions are invested in securities.

Whether you live in a small town or a big city, if you are a small or large investor, this legislation affects you.

I have several major concerns with this legislation. First, investors would have to prove that a corporation made a falsehood with a clear intent to deceive. That's incredibly tough to prove. Under current law, investors must show that unreasonable or reckless predictions of a corporation's performance misled investors. If this bill becomes law, however, companies could get away with making misleading, even fraudulent, statements about their earnings.

Second, accountants, auditors, lawyers, and underwriters are given a free ride—they can escape liability even if they go along with a fraudulent scheme. Some have compared that to giving the driver of a getaway car immunity from prosecution for an armed robbery.

Third, the bill fails to modestly extend the statute of limitations for investment fraud suits, which currently is too short. Instead of a 1- to 3-year statute of limitation, we should give defrauded investors 2 to 5 years. That's reasonable—and it would give victims more time to file suit so that a guilty party does not dodge liability.

Finally, this bill wipes out joint and several liability—leaving crime victims holding an empty bag and unable to get their money back.

We hear a lot of rhetoric about the attack of the vulture lawyers—preying on corporations, stockbrokers, and accountants. But what about vulnerable investors?

Some unfounded lawsuits are filed. Some lawyers do make too much from a suit—leaving defrauded investors too little. But, this massive bill—pushed through with such little examination, without a proper hearing before the Senate Judiciary Committee to assess its impact on our judicial system—is not the answer.

Let us protect the small investor—not let white collar criminals go unpunished. If we pass this bill, mark my words, we will be back here in 2, 3, 4 years undoing it. There will be another Orange County—another huge insider trading scandal—millions of defrauded Americans, parents, hard-working men and women—who will have no recourse and no hope for reimbursement if we let this bill become law.

There is a way to deal with the abuses in securities litigation. I am a cosponsor of a bill introduced by Senators BRYAN and SHELBY, S. 667, the Private Securities Enforcement and Improvements Act of 1995.

In response to the criticism that securities litigation suits are initiated by professional plaintiffs, the Bryan-Shelby bill would require plaintiff class representatives to certify their complaints, outline their interest in the pending litigation, and list any securities suits they might have filed in the prior 12 months.

The Bryan-Shelby bill also would require that multiple securities class actions brought against the same defendant be consolidated and that a lead counsel be agreed upon by the various

plaintiffs, or appointed by the court if no such agreement can be reached.

I believe these new requirements for certification of complaints and the new case management procedures would improve the securities litigation process, without resorting to the extreme measures in the Dodd-Domenici bill, which will shut the courthouse door to millions of valid claims.

The Bryan-Shelby bill also includes a reasonable extension of the statute of limitations for securities liability actions and would restore liability for aiding and abetting if an accountant or lawyer knowingly or recklessly provided substantial assistance to another person in violation of the securities laws.

Mr. President, I commend my colleagues, Senators SARBANES, BRYAN, and BOXER, for leading the effort to improve the Dodd-Domenici bill. Unfortunately, however, we were only able to get a couple amendments approved.

I appreciate my colleagues support—on both sides of the aisle—for my amendment that will maintain a civil RICO action against anyone who has been criminally convicted of securities fraud, thereby tolling the statute of limitations for such a RICO action until the final disposition of the criminal case.

I urge my colleagues to vote against S. 240. To supporters of this bill, I say, OK, you have the Nation's attention now. Let's go back to the drawing board and draft a more reasonable approach based upon the Bryan-Shelby bill to curb the relatively small number of frivolous securities lawsuits without dismantling the entire existing securities litigation process.

Mr. MOYNIHAN. Mr. President, S. 240, the Securities Litigation Reform Act, is intended to deter frivolous securities litigation while protecting the rights of investors to bring legitimate lawsuits. The sponsors of this legislation, arguing that opportunistic attorneys often file these lawsuits after precipitous reductions in stock prices, attempted to strike a delicate balance between these two competing interests.

Unfortunately, the bill fails to strike that balance. The bill would make it too difficult—if not impossible—for small investors to recover losses resulting from securities fraud. S. 240 would establish cumbersome case-filing procedures designed to discourage litigation; shield from liability those who knowingly aid or abet fraudulent schemes; and limit too strictly the liability of those who make misleading or false forward-looking projections of company performance.

While these provisions will deter frivolous lawsuits, they will also discourage meritorious ones. If the amendments offered by Senators SARBANES, BRYAN, and BOXER had been accepted by the Senate, I perhaps could have supported this bill. As it stands, however, this legislation goes too far in protecting corporations and stockbrokers at the expense of small investors. I cannot support it.

Mr. CONRAD. Mr. President, I have reluctantly decided that I cannot vote in support of the version of S. 240 that is in front of us today. As a cosponsor of S. 240, this was a difficult decision. But the changes that have been made in this legislation make this a completely different bill from the version I cosponsored. In my view, this version of S. 240 goes too far and will make it too difficult for innocent investors to recover in legitimate cases of securities fraud.

Mr. President, there is no question that we need to reform the current securities litigation system. Too often when a stock drops suddenly for reasons completely beyond the control of a corporation, the corporation finds itself the subject of a so-called strike suit. These strike suits border on legal extortion: The cost of defending the suit and the risk of huge damages create a strong incentive to settle the case even when the corporation has done nothing wrong. Moreover, these suits have targeted not just the corporation whose stock has dropped, but also the accountants, lawyers and others who participated in the preparation of documents for the Securities and Exchange Commission and the public. These businesses, which often played only a marginal role in the alleged fraud, can nonetheless be held fully liable. Finally, the current system does not serve investors well. In too many cases, lawyers walk away with millions of dollars in legal fees while the plaintiffs whose interests the lawyers are supposed to be serving recover only a small portion of their losses.

In short, the current system does not work. It imposes a burden on entrepreneurial activity and impedes the efficient functioning of our capital markets. As a result, all investors—and the economy as a whole—suffer. That is why I cosponsored S. 240. I wanted to send a strong signal that we need to reform the current system and put an end to frivolous, speculative lawsuits that serve little purpose but to enrich the lawyers who bring them.

At the same time, however, I fully recognize that there are legitimate instances of securities fraud, and we must ensure that we preserve the rights of investors to seek redress in cases of true fraud. We should not protect Charles Keating, Ivan Boesky, or Michael Milken from the investors who lost their life savings as a result of sophisticated swindles. I believed, when I cosponsored S. 240, that it achieved this balance. And I was given assurances that—in a few areas where I thought the bill might go too far in curtailing the rights of investors—modifications would be made to ensure that legitimate suits were fully protected.

Unfortunately, during the Banking Committee markup, S. 240 was significantly changed to the detriment of investors. As reported from the committee, the delicate balance in the original bill was destroyed. Instead of a relatively narrow set of changes targeted directly at frivolous strike suits, the bill that came to the Senate floor contained radical changes that will make it far more difficult to bring any suit, including a legitimate suit where real fraud has occurred.

First, the new version of S. 240 contains a huge expansion of the safe harbor for forward looking statements. S. 240 as introduced directed the SEC to develop an expanded safe harbor to encourage companies to provide more information to the market on their expected future performance. Most observers expected this to result in a relatively modest expansion of the safe harbor. In committee, this provision was amended to provide a statutory safe harbor for forward looking statements unless they are ''knowingly made with the purpose and actual intent of misleading investors.'' SEC Chairman Levitt has expressed the view that this safe harbor will protect knowingly made false, misleading, and fraudulent statements. This will reduce confidence in information and impede the efficiency of capital markets. This is a significant, and potentially dangerous, change from the version of S. 240 I cosponsored. It would make it extremely difficult to prosecute even the most outrageous of statements about expected future performance.

Second, the new version of S. 240 does not contain a necessary, modest expansion of the statute of limitations in securities fraud cases. Pursuant to the Supreme Court's Lampf decision, the statute of limitations in fraud cases is now 1 year from when the fraud was discovered but in no case longer than 3 years from the date the fraud occurred. S. 240 originally proposed to extend the statute of limitations to 2 and 5 years because in sophisticated swindles it may take longer than 1 and 3 years for a fraud to be sufficiently understood to bring suit. This was the most important unambiguously pro-investor provision in the bill. However, during markup this provision was deleted. This is a significant change; it will leave many plaintiffs with strong, legitimate complaints unable to bring suit if a fraud is uncovered too later for them to sue.

Third, the new version of the bill gives control of fraud suits to the biggest investors, virtually excluding small investors from consideration. Under the original bill, the court was required to appoint a plaintiff steering committee that held in aggregate at least 5 percent of the securities involved or securities with a market value of $10 million, whichever is smaller, unless the judge decided a lower threshold was appropriate. This formulation would have allowed a group of small investors to join together to control the lawsuit. But in committee this provision was dropped. In the new version, the court is required to appoint a single lead plaintiff, and there is a presumption that the most adequate plaintiff will be the

class member with the largest financial interest in the case, unless he cannot adequately represent the interests of the class. Unfortunately, in many cases the member with the biggest financial interest will be an institutional investor with interests, for example, holdings of stock in the corporation that are not subject to the suit or strong ties to the board of directors, that may not mirror the interests of most other class members. This provision could lead to significant litigation on whether the presumed most adequate plaintiffs other interests disqualify him and/or to settlements that do not always best serve the interests of the majority of the class members.

Fourth, the new version of the bill for the first time imposes a cap on the damages that an investor can recover. The provision limits damages to no more than the difference between the purchase price of the stock and the value of the security during the 90-day period after information correcting the fraudulent misstatement or omission is made public. Although this may appear reasonable, it creates a strong incentive for the issuer to use the safe harbor for forward-looking statements to puff the stock during this 90-day period and otherwise abuse the system by waiting to correct the misinformation until a stream of positive news can be released simultaneously.

Finally, the new version of S. 240 does not contain a provision restoring liability for aiding and abetting a fraud. In 1994, the Supreme Court ruled that the securities statute does not cover private actions for aiding and abetting. The Chairman of the SEC has testified that aiding and abetting liability should be restored. Although the original version of S. 240 similarly failed to address this issue, when I cosponsored S. 240 it was my understanding that this issue would be addressed before the bill came to the floor. However, the new version of S. 240 restores aiding and abetting liability only for individuals who act knowingly. It does not fully restore liability for other participants in a fraud.

During floor debate, a series of amendments was offered to restore the balance in the original bill. I voted for these amendments. Unfortunately, not one of these important changes was reversed. Thus, the bill that we now have before us remains significantly different from the bill that I cosponsored. In its attempt to root out frivolous lawsuits, this version of the bill will make it far too difficult for small investors to prevail when they have been defrauded by unscrupulous Wall Street dealmakers. I cannot support this unbalanced version of the bill.

It is my hope that the conferees will revisit these issues. We need securities litigation reform, and I would like to vote for a balanced conference report that fixes the many problems in the current system without creating new problems for small investors who have been fleeced by crooks on Wall Street.

Mr. WELLSTONE. Mr. President, today I address my comments once again to the reservations I have regarding an important piece of legislation that by my measuring is moving way too fast through this body, a piece of legislation that I believe may end up hurting legitimately aggrieved citizens; a piece of legislation that, although I believe it is necessary in some form and earnestly want to give it my support, I nonetheless find it difficult to support, given its present form. I am referring, Mr. President, to S. 240.

Mr. President, I have heard the charges—about unethical lawyers looking for deep pockets and hunting for a fast buck, about the tremendous number of meritless suits—some 300—that are filed and settled each year regarding alleged securities fraud. I have had extensive discussions with Minnesota-based companies, many of them new high-technology firms, about the pressing need to plug the legal loopholes that allow companies to be intimidated by unethical attorneys. And I have heard the arguments of my respected colleagues that this bill, S. 240, is the best way to stop such baseless strike suits.

First, with regard to this problem of strike suits, Mr. President, I do not think you will find anyone in this Chamber who believes in their heart that such lawsuits are in any way good for the country. Nobody is arguing on behalf of such behavior. My cautious opposition to this bill—in its present form—should not hide the fact that I consider such actions to be the equivalent of blackmail, and detestable in the extreme.

But Mr. President, there are swindlers and fraudulent securities setups out in the markets, and there are people who are legitimately hurt by such schemes. I have one report that in my State of Minnesota alone over the past decade, more than 25,000 Minnesotans have recovered $28½ million in money that was cheated out of them in stock and securities fraud; $28½ million, Mr. President, and that is just the money that was reportedly recovered. So it certainly would appear to me that in addition to the real problem of the meritless strike suits, there is another real problem—that of ongoing investment fraud.

The task of this bill in my view should be to balance these two needs: To create tighter protections for honest companies who are forced to pay the equivalent of extortion to unethical attorneys, while maintaining the protections that have existed for 60 years for legitimately aggrieved investors.

Does this bill accomplish this delicate balancing act? In my view, no, it does not. It is in my view reckless, not because of how it handles the problem of strike suits, but how it knocks down existing protections for those who have had their savings cheated out of them. One of my colleagues has in fact characterized this bill as addressing ''recklessness''—and I must say that I agree that this bill does deal with recklessness. But I must say that we part company on how and why we reach those conclusions. It is not just the subject of this bill that is recklessness—this bill itself is, by my measurement, reckless in how it turns back 60 years of protections that serve big and small investors alike.

On the surface I admit this bill appears to have very little to do with the average American family. It appears to deal with high-rolling bond salespeople and securities attorneys and CPA's who live and die by the smallest twists and turns of the financial markets. But scratch the surface and who do you find under this bill? Hard-working honest American families, that is who, Mr. President. After all, is it not retirement plans that fuel the economy? Isn't it the typical American family that has provided the capital needed by so many innovative startup firms simply by investing their hard-earned savings in stocks and securities? Is it not this great majority of our country that with $1,000 here, $5,000 there, a pension fund over there, have built the mightiest success stories that make up the American landscape?

Of course it is. But now we are presented with this bill—a complex piece of legislation by anyone's accounting—that will take away some of the protections that have served these millions and millions of investors so well and for so long. Mr. President, I liken this bill to using a sledgehammer to cut a slice of bread: if a little reform of the law is good, then an all out attack on the law must be better. I did not agree when we took a sledgehammer approach in the case of product liability reform, and I don't agree now.

There are hundreds of strike suits filed each year—but there are also thousands of legitimate cases of fraud as well. This bill should balance the two; it should make necessary corrections it seems to me to plug up the legal loopholes that allow unethical lawyers to collect while retaining important, existing investor protections. But is this the approach my colleagues have chosen? Do they propose to discreetly close loopholes, or judiciously plug up the cracks that have allowed the unethical attorneys to target big dollars? No, Mr. President, No, they do not. Instead my colleagues would hammer away at time-tested protections, saying in effect: ''No more. No more lawsuits. Unless you have overwhelming evidence, unless you lost millions, unless you have a sophisticated understanding of securities law, unless you catch the misdeed within a certain limited period, you can no longer sue to recover the money from the swindlers and cheats who robbed it from you.''

I am sure some of my colleagues would object to such a characterization of this bill—but, Mr. President, actions speak as loud as words. We have had many attempts on the floor to make this bill better, to more finely tailor

its language and scope to address the problem of strike suits. For example, we had an amendment on the floor that would have extended the period in which wronged investors could file a suit against those who committed the fraud. That sounds like a good protection to me—and it was an amendment that I supported. But did it pass? The answer is no. And let me emphasize: we have had numerous opportunities to amend this bill, make it better, more closely tailor it to the problems that exist, and I have supported those amendments. But Mr. President, those amendments have been consistently rejected.

Under this bill, investors who bring a legal challenge run the risk of facing a court order to pay the entire court costs, thus discouraging many people from bringing suit who have been defrauded. The bill also takes away the right to sue many of those who aid and abet in the fraud; effectively immunizing from private action lawyers, accountants, and countless others who may have assisted the primary wrongdoers who committee securities fraud.

Another example: This bill provides for extended immunity from private fraud liability for those corporations that release overly optimistic information when they have their first sale of stocks. This extended immunity does not protect investors; rather it is all but an open invitation for crooked corporations and swindlers to promise the Sun, Moon, and stars in their forward-looking statements, only then to take the money and run once it becomes clear that the corporation will never deliver what it promised. And those individuals, or private pension funds, or counties that invested and lost money on such a basis-too bad. Under this bill they are simply out of luck.

Individuals aren't the only ones who will be left with no protections under this bill; counties and municipal governments and public institutions will have fewer protections as well. I have heard several references to Orange County, CA, made on the floor during debate, but Orange County is not the only one hurt by losses from derivatives investments. In Minnesota alone: Dakota County, $2.5 million lost; in Chanhassen $4 million lost; the Minnesota Orchestral Association, $2 million lost; the University of Minnesota, $13-million lost; and Mr. President this is only a partial list. It is no wonder that groups like the Municipal Treasurers Association, the National Association of County Treasurers and Finance Officers, and the National League of Cities are but a few of the organizations opposing this bill as it is currently written.

Mr. President, we have heard the name of Charles Keating—perhaps one of the most famous of swindlers in recent memory—invoked many times on the floor during this debate. Some people say that under this bill, thousands of people would never have been able to recover one thin dime from Mr. Keating. I have also heard some people say that claim is not true, and that this bill will not affect individuals' rights to collect what has been taken from them.

But Mr. President, the fact that we have so many great and respected legal minds disagreeing so harshly over what this bill will actually do should be the issue here. And until I, and the rest of my colleagues, can be convinced beyond reasonable doubt that this bill will not hurt middle America, and will not swindle them out of their chance to prosecute the swindlers, there can be question. I cannot and will not support any measure that hurts those good, honest people who have entrusted us with their best interests.

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

Mr. LAUTENBERG. Mr. President, I believe I bring a somewhat different perspective to the issue of securities than most other Members of this body. Prior to coming to the U.S. Senate, I worked in the private sector. I cofounded a company with two others that today employs over 20,000. After the company went public in 1961, I filed countless statements with the SEC as its CEO. As the CEO, I believed it was important for investors to have as much information as possible.

Each year, I made it a practice to project earnings for the following year. And if those projections needed modification due to changed circumstances, I quickly went to the public to alert them to any revision. This process had significant rewards because investor confidence in my former company caused our stock, which is traded on the New York Stock Exchange, to sell at among the highest price-earnings ratios of all listed securities on any exchange.

As I look back on that period, I know that I was in the forefront of CEO's who provided investors with forward-looking statements on my company's financial health. It made sense to me then. It makes sense to me now. I know many companies want to provide this information but do not because they are concerned about their potential liability should their forecasts turn out to be off the mark. It is not in the public interest for these companies to go out of business because of a lawsuit based on a financial forecast, which despite the company's best efforts, later turns out to be inaccurate.

I remember how much the stock of biotech companies dropped when we were discussing health care last year. Should those companies be held accountable for this drop? Of course not. We want to protect such firms. But I believe this bill goes too far in the effort to do that; in fact, I believe the practical effect of this bill will be to immunize certain fraudulent statements. This is just one example of the many instances in which I believe the legislation is too extreme.

This is unfortunate because S. 240, the Private Securities Litigation Reform Act of 1995, had the potential to be a good bill, perhaps a very good bill. In my judgement, if a few key amendments had been adopted, this legislation would have eliminated current abuses in existing law without sacrificing investor protections. But, those amendments were not. As a result, the bill that will pass the Senate today and go to conference with the House will, I predict, undermine investor confidence in our markets, chill meritorious suits, and leave investors exposed to fraud. I also predict that Congress will revisit this issue in the foreseeable future. I can only hope that the next Charles Keating, whose fraudulent conduct will be facilitated by this bill, will not cost the taxpayers as much as the original.

Too often debate on this bill was reduced to accusations of special interest favoritism. It is a shame that the proponents of this bill believed anyone who opposed this legislation was merely siding with the trial lawyer bar. Likewise, the legitimate concerns of accountants and other deep pockets were downplayed by the opponents of this bill. Mr. President, I oppose S. 240, not because it might hurt trial lawyers and not because I do not believe certain groups are being unfairly targeted as deep pockets, but because it is unfair to investors and because I do not think it will serve as a deterrent to fraudulent behavior.

The sponsors of this legislation cite compelling anecdotal evidence of abuse by the so-called professional plaintiffs and their unscrupulous attorneys. I agree there are abusive securities class actions suits filed every year. I also agree that we need to protect companies, and even other shareholders, from these people. But in our zeal to tackle this problem, we should take care not to stifle legitimate claims.

Amendments were offered that would have tempered the Senate bill's overreaction to the purported securities litigation boom. There were amendments to: provide aiding-and-abetting liability in private implied actions; insert a safety net to ensure that small investors are able to fully recover their losses; extend the statute of limitations period on these claims, thus making it more difficult for bad actors to hide their fraud; and an amendment I cosponsored with Senator SARBANES that would not have insulated fraudulent statements as a result of the overly broad safe harbor provision in the bill. All were defeated.

In opposing these amendments, the sponsors of the bill cited some of the more egregious practices of professional plaintiffs and certain lawyers. What they do not mention is that this behavior would have been curbed by noncontroversial provisions contained in S. 240, provisions not affected by the amendments I mentioned above. These would include: prohibitions against referral fees and attorney conflicts of interest; requirements that the share of the settlement awarded to the name plaintiffs be calculated in the same

manner as the shares awarded to all other members of the class and that the name plaintiff certify that he did not purchase the security at the direction of his attorney; a prohibition against excessive attorneys' fees; and an assurance that all members of the class have access to information held by counsel of the name plaintiff.

I did not want to have to vote against a bill to curb frivolous securities lawsuits because I believe there are problems. I have met with accountants and executives of high-technology companies and have heard about their legal nightmares. But I have also heard from the director of my State's bureau of securities, the North American Securities Administrators Association, AARP, dozens of consumer groups, and some organizations with large pension funds.

Mr. President, I cannot in good conscience vote for a bill I believe will insulate fraudulent conduct, prevent investors injured by fraud from fully recovering damages, and chill meritorious litigation. In our rush to reform the problems detailed by the sponsors of this bill, we have overreacted.

Mr. CHAFEE. Mr. President, I am pleased to be a cosponsor of S. 240, the Private Securities Litigation Reform Act, which the Senate approved today. This proposal has been introduced by Senators DOMENICI and DODD year after year without ever reaching the full Senate for consideration. Finally, this year, the Senate debated and approved securities reform without substantial changes to the Domenici-Dodd bill, as reported by the Banking Committee.

Our's has become an increasingly litigious society. Opportunistic lawyers are prepared to spring into action with the least provocation. In the case of securities fraud suits, this class of attorneys claims to have the interests of small investors in mind, but the level of compensation they exact compared with the compensation received by their clients tells quite a different story.

As many as 300 securities fraud suits are filed annually. An astonishing 93 percent of these suits are resolved out of court, with an average settlement of more than $8 million each.

It is no accident that so many of these suits are settled out of court. That is one of the major problems addressed by S. 240. Under current law, every defendant can be found jointly and severally liable—or liable for the entire settlement cost—regardless of the extent of the defendant's involvement. It has become the practice of some lawyers to name as many deep pocket defendants as possible. Frequently, the fear of being held 100 percent responsible and the enormous cost of diverting substantial resources to defending against these suits leads these defendants to settle. S. 240 applies proportionate liability, enabling the court to determine the extent of a defendant's involvement and determining liability on the basis of that involvement.

S. 240 seeks to reduce abusive practices by prohibiting brokers or dealers from receiving a referral fee from attorneys seeking clients for class action suits; giving the court authority to determine whether a conflict of interest exists if an attorney is also a shareholder; and, by prohibiting funds discharged by the SEC from being used for attorneys' fees.

It seeks to limit frivolous lawsuits by eliminating professional plaintiffs, prohibiting attorneys' fees from exceeding a reasonable percentage of damages awarded, and giving courts the authority to appoint lead plaintiff on the basis of greatest financial loss rather than continuing the practice of naming lead attorneys based on who filed the suit first.

I believe that we have approved a bill that will benefit shareholders and corporations alike. Shareholders will have more information on which to base their investments and corporations will be able to operate in an environment free of meritless lawsuits. I commend Senators DOMENICI and DODD for proposing this worthwhile legislation and Chairman D'AMATO for moving it so swiftly through the legislative process.

Mr. PELL. Mr. President, today as the Senate comes to the conclusion of the debate over the Securities Litigation Reform Act, I state my support for this legislation. It has been a long process to achieve reform in this area and the Senate has worked for several years to craft legislation which will adequately address the problems in the laws which govern our securities industry without creating others. I commend the efforts of those most directly involved, particularly my good friend and colleague Senator DODD, for their commitment and hard work in bringing this bill to final passage.

The need for some type of reform in this area is universally acknowledged, even by those who have most vociferously opposed the version of reform contained in the final bill. Indeed, the bill had 51 cosponsors, an indication of overwhelming consensus that congressional action is necessary to correct a glaring problem. Simply put, the securities industry has been plagued by abusive and frivolous lawsuits for years. These lawsuits have been encouraged by a system that far too often does more to reward creative lawyers and undeserving plaintiffs than it does to protect the integrity of the securities markets and legitimate investors. The end result has been the unnecessary escalation of business costs as companies are forced to pay legal costs to defend against these meritless actions. In a growing number of cases, these escalated costs, combined with the chilling effect of the threat of groundless litigation, have resulted in bankruptcies, reluctance to release pertinent investment information, and in many cases, the decision to forego the formation of startup enterprises altogether. The latter has particularly been the case for fledgling high-technology companies, the next generation of American industry. As we strive to compete in the world marketplace, it becomes even more imperative that we work to discourage those aspects of our legal system which foster frivolous, costly, and unnecessary litigation.

I do not claim that this bill is perfect in all aspects. Indeed, some 17 amendments were offered to the legislation as we considered on the Senate floor and I supported many of them. I share the concerns expressed that as we rewrite our securities laws to eliminate abusive lawsuits, we must also protect the rights of legitimately wronged investors to have their day in court. Of particular concern are those small investors, many times senior citizens and those with stakes in pension funds, who face formidable odds in bringing actions against large corporations. Accordingly, I voted for stronger protection against fraudulent and misleading statements by corporate executives as well as for an alternative dispute mechanism which would have discouraged frivolous actions without the use of the courts. I also supported giving even the smallest investor a voice in choosing who would control suits brought on behalf of a large class of plaintiffs, an effort to ensure that everyone would be represented in legal actions, no matter how big or small. Unfortunately, these and other efforts to improve the bill were not supported by a majority of the Senate. However, even though these amendments did not succeed, the legislation as a whole merited support for its work to reform our legal system in a constructive way to curb unnecessary lawsuits in our securities industry without removing adequate protection for those legitimately harmed by fraud and wrongdoing.

Again, I commend the good work done by all involved with this legislation. There are still significant differences with the House that need to be worked out so I fear that we still have a way to go before the process of securities law reform is completed. With passage today, however, the Senate has taken an important step toward achieving that goal.

The PRESIDING OFFICER. Under the previous order, the committee amendment in the nature of a substitute, as amended, is agreed to, and the clerk will read S. 240 for the third time.

The bill was ordered to be engrossed for a third reading, and was read for the third time.

The PRESIDING OFFICER. Under the previous order, the Banking Committee is discharged from further consideration of H.R. 1058, and the Senate will proceed to its immediate consideration.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1058) to reform Federal securities litigation, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause of H.R. 1058 is stricken, and the text of S. 240, as amended, is inserted in lieu thereof.

The clerk will read H.R. 1058 for the third time.

The bill was read for the third time.

The PRESIDING OFFICER. Under the previous order there will now be 30 minutes of debate divided in the usual form.

Mr. SARBANES. Mr. President, I yield 5 minutes to the distinguished Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I thank the Chair.

Mr. President, at this stage of the debate I acknowledge that the die is cast and this bill will pass. I must say that I believe it is a terrible mistake.

This has not been about whether you are for curtailing frivolous lawsuits or not. There is no disagreement on that. The provisions that deal with containing frivolous lawsuits I think enjoy a vast majority of our support, and certainly this Senator.

I have asked myself. Why are we doing this? Why are we undergoing all of this exercise? For the last 6 decades we have enjoyed the world's safest securities markets. They are the envy of the world. Could it be because there is a litigation explosion? The facts belie that. In the past 20 years, the number of cases filed in class action lawsuits remain about between 290 and 315 a year. There are some 235,000 civil filings each year. So that cannot be the reason. There are some 14,000 companies that have filings with the SEC. Each year only about 140 out of those 14,000 are brought in as party defendants in these class action cases.

Is it because there has been an inability to raise capital in our markets? In the past 20 years, the amount of capital raised has increased by 58,000 percent. So it certainly cannot be that.

Mr. President, this is clearly—as I observed at the beginning—a Trojan horse that brings us to the floor of the U.S. Senate to shield a large number of people from liability for their misconduct. Under securities action no one who is simply negligent or grossly negligent is liable. So it is extremely difficult. What this has all been about, in my view, is to emasculate the private individual, the private investor, from securing relief and recover from investment fraud.

I have prepared a little chart here which I think indicates the number of hurdles that have to be surmounted in order to get to the finish line. It will be more difficult to get these cases brought because of the limitations imposed. The shorter statute of limitations. The surrender of control of the wealthiest plaintiff which in effect becomes the lead plaintiff presumptively under this. The automatic discovery stage prevents the plaintiff from ascertaining what the state of mind is of the defendants who have perpetrated the fraud. The safe harbor provisions, that the distinguished Senator from Maryland has talked about; aiders and abettors—they are home free. They do not have any liability at all. The RICO liability has been wiped out.

Ultimately, if you are able to perform a feat that even Edwin Moses would have difficulty performing, and you get to the finish line, the prospect of recovery is greatly reduced because we have eliminated the concept as between those who are guilty of reckless misconduct or totally innocent. We are simply saying that those who are guilty of reckless misconduct only have proportionate liability, and the plaintiff, the investor who is damaged, does not recover the full amount.

That overturns hundreds and hundreds of years of legal precedent. For a social and economic policy that I just cannot comprehend as between the innocent party and the wrongdoer whose conduct is at least reckless, we are saying give the reckless actor immunity from the suit. In the case of the aider and abettor and in the other case where he may be a primary violator, we simply say he or she is only liable for the proportionate share. That makes no sense.

In the 1980's, Congress enacted the infamous Garn-St Germain. Within a decade, the savings and loan industry in America imploded and the American taxpayer was asked to write a bill which constitutes hundreds of billions of dollars.

I forecast that, as a consequence of the enactment of this kind of legislation, we are going to see innocent investors by the thousands deprived of their day in court. Fifty major newspapers in America who have looked at this issue have concluded that what we are about to do is a tragic mistake.

Mr. President, as I said at the outset, I acknowledge that this legislation will pass this Chamber, but I believe that we will rue the day and that our markets will be less secure and what the proponents may intend to accomplish will, indeed, have a countereffective result.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. D'AMATO. Mr. President, I yield 5 minutes to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 5 minutes.

Mr. BENNETT. Mr. President, the debates have been made. I remember the comment by my colleague from Connecticut during the Whitewater hearings when he said everything that needs to be said has been said but not everybody has said it. So I will try not to say too much about this.

Contrary to those who say, gee, everything has been wonderful up until now, the facts clearly demonstrate that there has been a serious problem. It has affected that portion of the stock market that most needs the entrepreneurial thrust of venture capital, and this bill will correct it.

I made all of the arguments that I intend to make. I simply want to make one additional observation. This problem has generated action in the House of Representatives. Now it is generating action in the Senate. In my view, the Senate bill is more responsible than the House bill. I congratulate the authors of the bill, Senator DOMENICI and Senator DODD, the chairman of the committee, Senator D'AMATO, in seeing to it that the Senate version is more responsible than the House version. I look forward to working with them in a conference committee to see that the Senate approach be adopted in every possible circumstance as there are differences between the Senate and the House.

These men have worked very hard, very responsibly and intelligently on this bill, and I for one have been delighted to have had the opportunity to work with them. I commend the work product to the entire Senate and, if you will, to the President himself when it gets to him for his ultimate signature.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Mr. President, I yield 5 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 5 minutes.

Mr. DODD. Mr. President, I thank the Chair. Let me begin by thanking my colleague from New Mexico, Senator DOMENICI, Senator D'AMATO, Senator BENNETT, and others who have been present in the Chamber here almost for a week now. We considered 17 amendments and one motion to commit on this bill.

Let me also express my appreciation to my colleague from Maryland, my colleague from California, and my colleague from Nevada, all of whom have been actively involved in this legislation, along with the Senator from Pennsylvania, with a number of amendments that have been offered to this bill.

We have spent several years on this legislation. We have crossed the threshold of whether or not this was an area of the law that needed repair and significant repair. I would say to my colleagues that we can put behind us the days that we have rued, in a sense, the days when you ended up with somewhere between 93 and 98 percent of these cases all being settled, never going to litigation because, frankly, the system was designed in a way to produce settlements even when cases lack merit because of the outrageous costs involved. This was an area of the law where, frankly, a number of people had turned a profession into a business,

and we had lost the essence of the practice of law in the area of securities litigation.

This is a piece of legislation that we think goes a long way to protecting investors on all sides. It leaves that door very wide open for legitimate plaintiffs to bring their cases. It also makes it possible for those legitimate defendants to make sure that they will end up paying the price that they are required to pay, where they do something wrong. But it also protects the innocent investor of those very same companies from not being charged the cost of frivolous lawsuits and meritless litigation.

It is a technical area of the law but one that we think is going to do a great deal in terms of making it possible particularly for these smaller start-up companies, the bases of economic growth in the 21st century, the high-tech firms, the biotech firms, the ones that have the great volatility in the earliest stages of their development as industries and businesses from being preyed upon by meritless litigation.

There is still in the views of many, including this Senator, some legitimate discussion about the area of safe harbor. I feel very strongly that we should have a true safe harbor. My view is that in conference we are going to have to revisit the issue. We had a very close vote on an amendment offered by the Senator from Maryland.

I would love to be able to tell all of my colleagues that I am entirely satisfied everything we have done is absolutely going to work. I do not know that. I do know this, that we have corrected a significant problem and we have plugged up pleadings that were so loose that virtually almost any case that could be brought could lead to significant discovery, such as the situation where you had Peat Marwick on a $15,000 contract ending up at $7 million in legal fees. We stop the practice where you have Ratheon Corporation acquiring a firm and within 90 minutes of that announcement a lawsuit gets filed.

Those are the kinds of situations that were occurring, that we will have cleaned up with this legislation that I hope we are about to pass.

Is it perfect in every aspect? Anyone who will tell you that cannot say so with absolute certainty. This much we can say, that the previous situation, the situation that exists today, is a mess and it needs and demands to be cleaned up. And in this Senate bill we have moved great lengths toward achieving that goal.

Let me also underscore the comment made by the Senator from Utah. The House bill, in my view, goes way too far, way too far, and it is my fervent hope that we will not support the House-passed legislation.

Let me say here to my colleagues, as someone who has worked a long time along with my colleague from New Mexico on this—and I use this opportunity—that efforts to weaken this Senate bill by the House are going to cause this Senator serious reservations about recommending to his colleagues, if we come back with that, that it ought to be supported.

We have a long way to go yet with this legislation before it is done, but this is an opportunity for us to go on record to say the present system does not work; it needs to be changed.

We have made those changes here. For those reasons, I think the product we have produced is deserving of support. Again, it may not be perfect. We do not know that. Time will test that through the legal system of this country. But we think it does go a great way toward solving the kinds of problems where lawsuits were filed right and left without the kind of adequate protections for investors and innocent defendants.

For those reasons, I ask my colleagues to support this bill.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

The Senator from Maryland.

Mr. SARBANES. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Maryland has 9 minutes and 55 seconds; the Senator from New York has 7 minutes and 16 seconds.

Mr. SARBANES. I yield myself 6 minutes.

The PRESIDING OFFICER. The Senator is recognized for 6 minutes.

Mr. SARBANES. Mr. President, I think perhaps the best analogy that was used was by the Senator from Nevada earlier in this debate when he said what we have here is a Trojan horse moving forward under the pennant of frivolous lawsuits, but hidden within the Trojan horse are a lot of problems. That is this legislation. This legislation goes too far. I listened to my colleagues, and they get up and they talk about horror stories. And I do not quarrel with those horror stories. I think we need to bring those under control. And those of us on this side have consistently made that point.

But this bill goes too far. It overreaches. It is excessive. As one article said in U.S. News & World Report, ''Will Congress Condone Fraud?'' And then it concludes saying that, ''The pendulum is swinging much too far,'' and says, ''Unfortunately, some major investor frauds may have to take place before again it moves back toward the center.''

I want to avoid those major investor frauds. And that was what the whole effort to try to amend this legislation was about over the last few days.

Now, we are ignoring the advice of all of the regulators, Democrats and Republicans. The SEC, both under the former Chairman and under the current Chairman of the SEC, the 50 State securities regulators, the Government Finance Officers Association, they have all come in. They have all said, ''Yes, we want to get at the problem of frivolous lawsuits. Yes, there are reasonable ways to try to do it.'' Then they have made the point that this bill goes too far.

Now, we tried to correct it. We tried to correct the safe harbor provision, which is potentially one of the most dangerous features in this legislation. We urged the Senate to leave that to the SEC. That is where it ought to be, with the experts. The Senate rejected that.

We then said, ''Well, at least let us get a proper standard.'' We came very close on that issue, a vote of 48–50 with respect to getting a standard that was a more reasonable standard and that would not shield, as the Chairman of the SEC told us, not shield willful fraud.

The distinguished Senator from Nevada has pointed out, under the proportionate liability provision, innocent investors who are defrauded are now going to bear the burden of their loss ahead of people who participated in the fraud. I want to repeat that. People who participated in the fraud will be shielded from bearing the full burden of the fraud, and that burden will be thrown upon the innocent investor.

We sought to extend the statute of limitations from 1 to 3 years to 2 to 5 years. There is a lot of concealment that goes on in these fraud cases. And if you talk to people who get caught up in it as victims, they will tell you that often they cannot discover the fraud within a 3-year period. The SEC, once they know about a fraud, takes 2 years to bring the action. This bill requires people to act within 1 year.

We tried to restore aiding and abetting. The aiders and abettors are dancing down the street right now with this legislation. They will go scot-free. It is not a question with aiders and abettors, whether it is going to be recklessness as a standard, or whether you are going to go to a higher standard than recklessness—actual knowledge, actual intent. There is no liability for aiders and abettors. None. It is gone. This bill will make it harder for defrauded investors to bring legitimate suits and to recover their losses.

And I say to my colleagues, because a number have cosponsored this legislation at the outset, the legislation which they cosponsored had in it two very important provisions that we tried to add by amendment that are not in the bill before us. The original legislation extended the statute of limitations. The original legislation extended this statute of limitations so it took care of that particular provision. Now we have dropped that in this legislation that is before us.

And the original legislation sent the safe harbor issue, one of the most difficult and complex issues to deal with, sent it to the SEC where, I submit to you, it ought to be. That is where that ought to be made. Now they are trying to write the standard right in this bill.

So the original bill, which people cosponsored, took care of two of the issues that we have argued on the floor

of the Senate over the last few days. Why would we want to make it more difficult for defrauded investors to bring legitimate suits and make it more difficult for them to recover their losses in an effort to get at frivolous suits, which we support? This bill has gone so far, has swung the pendulum so far over that it is going to penalize, in a significant way, legitimate investors.

Now, this is bad not just for the individual investor, but it is bad for the country, it is bad for economic growth. Our markets, which are the marvel of the world, depend upon the confidence of the investors.

The PRESIDING OFFICER. The time is expired.

Mr. SARBANES. The confidence of the investor will be undermined by this legislation. I urge my colleagues to vote against it.

Mr. President, I reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

Mr. D'AMATO. Mr. President, I yield 4 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 4 minutes.

Mr. DOMENICI. Thank you very much, Mr. President.

I would like to thank the Senator from Connecticut, Senator DODD. Mr. President, I say to the Senator from Connecticut, Senator DODD, let me stay here on the floor, even though I only have a few moments, it has been a pleasure working with him on this legislation. I first got interested after I read some articles that led me to think this part of the judicial system of America was not working. That is how I got involved. I read three or four articles. I could not believe what I was reading. I was naive enough to think since it was so patently wrong, all I had to do was work on the bill and get someone like Senator DODD to help and it would all come through. I found that was not the case.

And the reason it is not the case is because this bill is bad for about 90 lawyers in America. This bill is bad for about 90 lawyers in America, not the plaintiff's bar—about 90 lawyers. And let me tell you, Mr. President, they are rich lawyers, because look at this little chart. They file these kinds of lawsuits. And out of every dollar in judgments, verdicts or settlements—here is the dollar—the high side of what the investors get is 14 cents. In many cases it is not 14 cents it is half that.

Now, let me tell you, if you start with a system that does that and is monopolized by a group of barristers who 20 years ago or 25 or 30, when I was in law school, would have been found guilty of champerty. We learned about two things you should never do, and one of them, my friend from Georgia will remember, is commit champerty, which said you should not promote unnecessary legislation that inures more to your benefit as a lawyer than to your client's. This is the epitome of that. They would not get through the door today.

The judges of yesteryear would say, ''Get rid of this kind of lawyer.'' So they are out there with gobs of money running advertisements all over the country like they are for the investors. They are 14 cents for the investor. They are 14 cents for the investor and 86 cents for themselves, the investigators who work for them, and all the other experts that they use.

Now, tell me you cannot fix that. If we could not fix it, I would give up on the U.S. Senate and say we are going to leave this up to lawyers and their entrepreneurial minds. And we are stopping that.

Essentially, under this reform lawyers are going to represent a class of people, not a select plaintiff that they choose as pet plaintiffs. Lawyers are going to be more responsible to the courts. Lawyers are going to have less fun running around getting facts.

And, Mr. President, clearly this bill is balanced.

Reform is supported by more than 19 major associations, 10 of the biggest public pension funds, 12 State pension fund administrators and regulators, and hundreds of companies—the list reads like who is who in making America's economy great.

The bill Senator DODD and I introduced has 51 cosponsors.

We heard a lot about Charles Keating. There is not a Senator in this body that would protect Keating. This bill has nothing to do with Keating. His name is well known. This bill has a lot to do with slowing down a group of entrepreneurial lawyers whose names are not well known.

The current system needs reform. It is a system that has given us millions for lawyers and pennies for plaintiffs.

When Congress enacted our securities laws, the 1933 and 1934, the basic foundation was disclosure of information and deterrence.

Congress did not by statute create the class action securities law suit under 10b and rule 10b–5. The courts created them. However, in the last decade, every significant Supreme case on the topic has scaled down the scope of the 10b–5 class action cases. It shortened the statute of limitations. It abolished aiding and abetting liability. The Court also seemed to be inviting Congress to legislate in this area. Today we are taking that historic step.

This bill gives investors a better system 12 ways:

First, it puts investors with real financial interests, not lawyers in charge of the case.

It puts investors with real financial interests, not professional plaintiffs with one or two shares of stock in charge of the case. It includes most adequate plaintiff; plaintiff certification; ban on bonus payments to pet plaintiffs; settlement term disclosure; attorney compensation reform; sanctions for lawyers filing frivolous cases; restrictions on secret settlements and attorneys' fees.

Second, it provides for notification to investors that a lawsuit has been filed so that all investors can decide if they really want to bring a lawsuit. It is likely that people trusted to manage pension funds and mutual funds—institutional investors—will get more involved (most adequate plaintiff provision).

Third, it puts the lawyers and their clients on the same side (reforms that change economics of cases, proportionate liability, settlement terms disclosure).

Fourth, it prohibits special side-deals where pet plaintiffs get an extra $10,000 or $15,000. It protects all investors, not just the lawyers' pet plaintiffs, so that settlements will be fair for all investors.

Fifth, it stops brokers from selling names of investors to lawyers.

Sixth, it creates an environment where CEO's can, and will talk about their predictions about the future without being sued. It gives investors a system with better disclosure of important information (safe harbor).

Seventh, it contains better disclosure of how much a shareholder might get under a settlement and how much the lawyers will get so that shareholders can challenge excessive lawyers' fees.

Eighth, no more secret settlements where attorneys can keep their fees a secret (restrictions on settlements under seal).

Ninth, it limits amounts that attorneys can take off the top. It limits attorneys' fees to a ''reasonable amount'' instead of confusing calculations (attorney compensation reform, banning lodestar method of calculating fees).

Tenth, it provides a uniform rule about what constitutes a legitimate law suit so that it will no longer matter where a case is filed. Investors in Albuquerque will have the same rules as investors in New York (pleading reform). It stops fishing expeditions where lawyers demand thousands of company documents before the judge can decide if the complaint is so sloppy that it should be dismissed on its face (discovery stay).

Eleventh, it will make merits matter so that strong cases recover more than weak cases. It will make sure people committing fraud compensate victims. It improves upon the current system so that victims will recover more than six cents on the dollar.

Twelfth, by weeding out frivolous cases, it gives the lawyers and judges more time to do a good job in protecting investors in meritorious cases. High-technology companies' executives can focus on running their companies and growing their businesses. Investors will get higher stock prices and bigger dividends.

S. 240 does exactly what Chairman Levitt said the system should do, protect all investors—not just a few.

I ask unanimous consent to have inserted in the RECORD the numerous organizations that have real interests, like money managers who have handled our money, who say this bill is a good bill. I also ask unanimous consent that some letter of support from various pension fund groups be printed in the RECORD.

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

SUPPORTERS OF SECURITIES LITIGATION REFORM

American Business Conference: Members of the American Business Conference include 100 chief executive officers of high-growth companies with revenues over $25 million. ABC serves as a voice of the midsize, high-growth job creating sector of the economy.

American Electronics Association: The American Electronics Association represents some 3,000 companies in 44 states that span the breadth of the electronics industry, from silicon to software, to all levels of computers and communication networks, and systems integration.

American Financial Services Association is a national trade association for financial service firms and small business. Its 360 members include consumer and auto finance companies, credit card issuers, and diversified financial services firms.

American Institute of Certified Public Accountants: The American Institute of Certified Public Accountants is the national professional organization of over 310,000 CPAs in public practice, industry, government, and academia.

Association for Investment Management and Research: The Association for Management and Research is an international nonprofit membership organization of investment practioners and educators with more than 40,000 members and candidates.

Association of Private Pension and Welfare Plans: The Association of Private Pension and Welfare Plans membership represents the entire spectrum of the private pension and employee benefits community: Fortune 500 companies, banks, insurance companies, law, accounting, consulting, investment and actuarial firms. APPWP members either sponsor directly or administer employee benefit plans covering more than 100 million Americans.

Association of Publicly Traded Companies: The Association of Publicly Traded Companies has an active membership of over 500 corporations consisting of a broad cross section of publicly traded companies, especially those traded on the NASDAQ national market.

BIOCOM/San Diego (Formerly the Biomedical Industry Council): BIOCOM/San Diego is a business association representing over 60 biotechnology and medical device companies in San Diego, CA.

Biotechnology Industry Organization: The Biotechnology Industry Organization represents more than 525 companies, academic institutions, state biotechnology centers and other organizations involved in the research and development of health care, agriculture and environmental biotechnology products.

Business Software Alliance: The Business Software Alliance promotes the continued growth of the software industry through its international public policy, education and enforcement programs in more than 60 countries, including the U.S., throughout North America, Asia, Europe and Latin America. BSA represents leading publishers of software for personal computers.

Information Technology Association of America: The Information Technology Association is a major trade association representing over 5,700 direct and affiliated member companies which provide worldwide computer software, consulting and information processing services.

National Association of Investors Corporation: The National Association of Investors Corporation is the largest individual shareowners organizations in the United States. NAIC has a dues-paid membership of investment clubs and other groups totalling more than 273,000 individual investors.

National Association of Manufacturers: The National Association of Manufacturers is the nations's oldest voluntary business association, comprised of more than 13,000 member companies and subsidiaries, large and small, located in every state. Its members range in size from the very large to the more than 9,000 small members that have fewer than 500 employees each. NAM member companies employ 85% of all workers in manufacturing and produce more than 80% of the nation's manufactured goods.

National Investor Relations Institute: The National Investor Relations Institute, now in its 25th year, is a professional association of 2,300 corporate officers and investor relations consultants responsible for communication between corporate management, shareholders, security analysts and other financial publics.

National Venture Capital Association: The National Venture Capital Association is made up of 200 professional venture capital organizations. NVCA's affiliate, the American Entrepreneurs for Economic Growth, represents 6,600 CEOs who run emerging growth companies that employ over 760,000 people.

Public Securities Association: The Public Securities Association is the international trade association of banks and brokerage firms which deal in municipal securities, mortgage and other asset-backed securities, U.S. government and federal agency securities, and money market instruments.

Securities Industry Association: The Securities Industry Association is the securities industry's trade association representing the business interests of more than 700 securities firms in North America which collectively account for about 90% of securities firm revenue in the U.S.

Semiconductor Industry Association: The Semiconductor Industry Association represents the $43 billion U.S. semiconductor industry on public policy and industry affairs. The industry invests 11% of sales on R&D and 15% of sales on new plant and equipment—more than a quarter of its revenue reinvested in the future—and thus seeks to improve America's equity capital markets.

Software Publishers Association: The Software Publishers Association is the principal trade association of the personal computer software industry, with a membership of over 1,000 companies, representing 90% of U.S. software publishers. SPA members range from all of the well-known industry leaders to hundreds of smaller companies; all of which develop and market business, consumer, and education software. SPA members sold more than $30 billion of software in 1992, accounting for more than half of total worldwide software sales.

MANAGERS OF PRIVATE OR PUBLIC PENSION FUNDS

Champion International Pension Plan: Champion Internation Pension Plan controls over $1.8 billion in total assets.

Connecticut Retirement and Trust Fund: The Connecticut Retirement and Trust Fund invests over $11 billion on behalf of over 140,000 employees and beneficiaries.

Eastman Kodak Retirement Plan: Eastman Kodak Retirement Plan manages over $10.9 billion in total assets and is ranked as one of the largest 60 pension plans in the U.S.

Massachusetts Bay Transportation Association: With over 12,000 participants, the Massachusetts Bay Transportation Association controls over $772 million in total assets.

New York City Pension Funds: Over $49 billion have been invested in the fund to insure the retirement security of 227,000 retirees and 138,000 vested employees.

Oregon Public Employees' Retirement System: Assets controlled by the fund total over $17.2 billion. The Oregon Public Employees' Retirement System is ranked among the largest 30 pension plans in the U.S.

State of Wisconsin Investment Board: One of the 10 largest pension funds in the United States, the State of Wisconsin Investment Board manages over $33 billion contributed by the State's public employees.

State Universities Retirement System of Illinois: The State Universities Retirement System is ranked as one of the country's 100 largest pension funds with total assets of $5.3 billion.

Teachers Retirement System of Texas: The Teachers Retirement System of Texas controls over $36.5 billion in total assets on behalf of its 700,000 members.

Washington State Investment Board: With assets totaling over $19.7 billion, the Washington State Investment Board is ranked in the largest 25 pension funds.

NATIONAL ASSOCIATION OF INVESTORS CORPORATION,
Royal Oak, MI, July 19, 1994.

Hon. CHRISTOPHER DODD,
Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR DODD: I am writing to you as Chairman of the National Association of Investors to congratulate you on your sponsorship of the Private Securities Litigation Reform Act of 1994 (S. 1976) and to promise the support of the National Association of Investors Corporation.

NAIC is, we believe, the largest individual shareowners organization in the United States. We currently have a dues paid membership of investment clubs and other groups totalling more than 273,000 individual investors. NAIC has been in operation since 1951 and our members are the direct owners of shares in our nation's industry. We are a cross-section of the nation's population including individuals from every race, political persuasion and economic level.

Our purpose as an organization, is to help individuals learn the benefits provided by being an owner of a business and to learn how to do so successfully. Since our founding, nearly 4 million people have taken our training programs and a high percentage of our members enjoy an earnings rate on their securities equal to or exceeding that of the S&P 500 Index.

The current situation in the law permits and even encourages the filing of lawsuits with very little merit against corporations. The benefits derived from these suits are going primarily to attorneys.

However, these payments are actually coming from the pockets of serious, lifetime owners of the corporations like our members.

These unmerited suits take corporate executives away from the main task of running the business and building it for their shareowners.

Even more importantly, the fear of these kinds of suits causes executives to release less information about the business to shareholders because of the fear that this could lead to their being sued.

Our members devote about 25% of their investments to smaller companies and many of

these companies are high technology companies that have been a particular target of attorneys filling these questionable suits.

Again let me say that our members appreciate your interest in solving these problems and thus helping the great mass of the nation's investors by reducing the threat of a large and mischievous expense.

Yours respectfully,

THOMAS E. O'HARA,
Chairman, Board of Trustees.

JULY 19, 1994.

Hon. CHRISTOPHER J. DODD,
U.S. Senate, Russell Senate Office Building, Washington, DC.
Hon. PETE V. DOMENICI,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS DODD AND DOMENICI: As pension fund managers, we are responsible for safeguarding the investments of thousands of individuals in the securities markets. In making investment decisions on behalf of these individuals our success depends on both the integrity of the market and the vitality of the American economy.

For these reasons, we are writing to applaud your initiative in addressing the fundamental problems of the securities fraud litigation system. We agree that the current system is not protecting investors and needs reform. Under the current system, defrauded investors are receiving too little compensation, while plaintiffs' lawyers take the lion's share of any settlement. Moreover, meritless litigation costs companies millions of dollars—money that could be generating greater profit for the company and higher returns for investors. Finally, the fear of such meritless litigation has caused many companies to minimize the amount of information that they disclose—the opposite of what we need to do our job effectively.

Thank you again for pursuing long overdue reforms on the securities litigation system. We look forward to working with you to make the system work for all investors.

Sincerely,

Mr. John J. Gallahue, Jr., Executive Director, Massachusetts Bay Transportation Authority, Retirement Fund; Dr. Wayne Blevins, Executive Director, Teachers Retirement System of Texas; Mr. Alan G. Hevesi, Comptroller, The City of New York, New York City Pension Funds; Mr. John A. Ball, Senior Vice President, Champion International Corp., Champion International Pension Plan; Mr. Joseph M. Suggs Jr., Treasurer, State of Connecticut, Connecticut Retirement and Trust Funds; Mr. Jim Hill, Treasurer, State of Oregon, Oregon Public Employees' Retirement System; Ms. Patricia Upton, Executive Director, State of Wisconsin Investment Board; Mr. Kenneth E. Codlin, Chief Investment Officer, State Universities Retirement System of Illinois; Mr. Gary P. Van Graafeiland, Senior Vice President, Secretary and General Counsel, Eastman Kodak Co., Eastman Kodak Retirement Plan; Mr. Basil J. Schwan, Executive Director, Washington State Investment Board.

THE COMMONWEALTH OF MASSACHUSETTS, OFFICE OF THE TREASURER,
STATE HOUSE,
Boston, MA, March 22, 1995.

Hon. ALFONSE D'AMATO,
Chairman, Senate Hart Building, Washington, DC.

DEAR SENATOR D'AMATO: I am writing you as Treasurer of the Commonwealth of Massachusetts and, in that capacity, as sole Trustee of the state's largest public pension fund for state teachers and employees. I would like to join with those elected officials around the country who are urging your committee to enact legislation to curtail the epidemic of meritless securities legislation which has begun to have a negative impact on the effectiveness and productivity of our nation's businesses and the capital formation process itself.

The concern about, and the reaction to, meritless lawsuits has caused industry, as well as accounting, law and insurance companies, to increase their costs and price tags ultimately paid by the consumer and the investing public, including a large percentage of our retirees and pension holders. Therefore, I urge your committee to enact legislation to eliminate these well-known abuses to our legal system. In doing so, I would urge the avoidance of ''lawyer bashing''. Although there is a sizable portion of the bar that generates and unduly profits from these meritless suits, the overwhelming percentage of lawyers represent their profession well and are constructive participants in our judicial system. I also urge caution in establishing a ''losers pay'' system to ensure that we do not preclude the middle class and the poor from bringing meritorious causes of action before our courts.

I am confident your committee will find a way to overhaul the current securities litigation system and pass meaningful legislation which will enhance the capital formation process in our country and enure to the economic benefit of millions of individuals and retirees who invest in corporate America for their own security.

Sincerely yours,

JOSEPH D. MALONE,
Treasurer and Receiver General.

STATE OF OHIO,
OFFICE OF THE TREASURER,
Columbus, OH, March 10, 1995.

Senator ALFONSE D'AMATO,
Chairperson, Senate Hart Building, Washington, DC.

DEAR SENATOR D'AMATO: As Treasurer of the State of Ohio, my office regularly issues debt and purchases securities on behalf of the people of the State of Ohio. In addition, my office is designated by law as the custodian of the assets of the State's pension funds. In the exercise of my responsibilities, I have become concerned that securities litigations, and the threat of securities litigation has begun to negatively impact the capital formation process essential to the economic growth for my state and the nation.

Under present law, attorneys have an incentive to file unsubstantiated claims, because there are no penalties for the filing of a meritless claim. Attorneys will file first and then use the discovery process to see if there is any merit to continuing the claim. In many cases, defendants have settled even unsubstantiated claims because it is more cost efficient to settle an unsubstantiated claim rather than to defend a lawsuit.

Furthermore, the amount of damages that plaintiffs have typically recovered represents only a percentage of their initial claims; but the lawyers who bring the claim extract substantial fees from any lawsuit filed. A system that was intended to protect investors now primarily benefits their lawyers.

The fear of meritless lawsuits has also caused many companies to minimize the amount of information they disclose to the public which is the opposite intent of the federal securities laws. Moreover, the fear of meritless lawsuits has caused accounting, law, and insurance firms to increase their costs to clients, discontinue service in some cases, and cause outside executives to refuse to serve on company's board of directors.

Federal legislation is needed to restore the protections that the 10B–5 action is supposed to provide and to eliminate the abuses of the system. At a minimum, legislation should address the liability scheme that rewards lawyers bringing meritless lawsuits and reduce the costs that the system imposes on the capital markets and business expansion.

Pension fund participants and other investors depend on the integrity of the market and the prospects of the economy. The current securities litigation system undermines both. I urge the Congress to pass meaningful reform legislation to protect the economic security of millions of individuals who invest in the securities markets.

Sincerely,

J. KENNETH BLACKWELL,
Treasurer of State of Ohio.

TREASURER OF THE
STATE OF ILLINOIS,
Springfield, IL, March 16, 1995.

Hon. CAROL MOSELEY-BRAUN,
Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: As the state official responsible for safeguarding the investments of public employees' pension funds, I am concerned about abuses in the securities litigation system that threaten investors' interests and impose unnecessary costs on the economy.

Abusive securities lawsuits are frequently filed on the basis of little more than a drop in a company's stock price. Enormous liability exposure and the onerous cost of mounting a defense leave companies with little choice but to settle, regardless of their culpability. Typically, plaintiffs recover only a small percentage of their damages, while lawyers extract substantial fees from the transactions. A system that was intended to protect investors now primarily benefits their lawyers.

Because shareholders are on both sides of this litigation, it merely transfers wealth from one group of shareholders to another. However, it wastes millions of dollars in company resources for legal expenses and other transaction costs that otherwise could be invested to yield higher returns for company investors. In addition, the fear of meritless litigation has caused many companies to minimize the amount of information they disclose, precisely the opposite of what investors need to invest safely and wisely.

Federal legislation is needed to restore the protections that the 10b–5 action is supposed to provide and to eliminate the abuses that plague the system. At a minimum, legislation should address the liability scheme that rewards lawyers for bringing abusive suits and reduce the cost that the system imposes on the capital markets and business expansion.

Pension fund participants and other investors depend on the integrity of the market and the prosperity of the economy. The current securities litigation system undermines both. I urge the Congress to pass meaningful reform legislation to protect the economic security of the millions of individuals who invest in the securities markets.

Sincerely,

JUDY BAAR TOPINKA,
State Treasurer.

STATE OF CALIFORNIA, DEPARTMENT OF CORPORATIONS, OFFICE OF THE COMMISSIONER,

Los Angeles, CA, February 9, 1995.

Re H.R. 10—The Securities Litigation Reform Act.

Hon. JACK FIELDS,

Chairman, Telecommunications and Finance Subcommittee, Committee on Commerce, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN FIELDS: As Commissioner of Corporations, I am responsible for the administration of the securities laws of the State of California. Before being appointed Commissioner of Corporations, I was an attorney in private practice specializing in corporate transactions, including securities offerings. It is an honor and privilege to present to you the following views concerning H.R. 10, the Securities Litigation Reform Act currently before your subcommittee.

I believe there is a compelling need to reform the current system of securities litigation. The problem with the current system is two-fold. First, the current system too often promotes the filing of meritless claims. Perhaps more importantly, the current system does not adequately serve the interests it is designed to protect—the interests of defrauded investors. Before I comment on particular provisions of H.R. 10, I would like to provide some background information with respect to this latter problem.

Defrauded Investors—Class Action Victims. At the January 19 Telecommunications and Finance Subcommittee hearing, the principal beneficiaries of the current system, class action attorneys, were its strongest defenders. While it is not surprising that the class action bar might put its interest in the status quo ahead of the nation's interest in a dynamic entrepreneurial economy, I have been concerned that, too often, class action lawyers appear to put their interests ahead of their clients'. The class action bar's handling of a number of cases arising out of the Prudential limited partnership scandal exemplifies this abuse of the current system.

In the 1980s, Prudential Securities engaged in a widespread pattern of sales abuses in its marketing of limited partnership investments. To settle charges stemming from these abuses, Prudential pled guilty to criminal securities law violations and entered into a comprehensive settlement with the Securities and Exchange Commission and securities regulators from 49 states. As part of this comprehensive settlement, an independent arbitration process was established to address aggrieved investors' claims. According to the Independent Claims Administrator's January 20, 1995 report, however, more than 100,000 claims or parts of claims have been rejected because they had been settled as part of a class action lawsuit. My office has received letters from scores of investors in this situation. Frequently, these investors didn't even know that their claim was part of a class action settlement. Now many feel they've been victimized twice—once by Prudential and another time by the class action litigation system ostensibly designed to protect their interests.

In the VMS Realty Partnership case, limited partnership interests were sold to thousands of unsuitable investors, often on the basis of materially misleading statements. A class action suit based upon these abuses was brought by Milberg, Weiss, Bershad, Hynes & Lerach, the nation's largest class action law firm. Despite the strong evidence of securities law violations, this case was settled for less than 8 cents on the dollar. While this may have represented a significant recovery for the lawyers, it woefully undervalued the investors' claims. Investors who opted out of the class action settlement and are now participating in the independent arbitration process are frequently receiving 100% of their losses. In addition, these investors haven't had to share their recovery with a lawyer ''representing their interest.''

The Energy Income Limited Partnership case provides another example of this type of abuse. Again, this case involved a pattern of securities law violations, which Prudential acknowledged when it pled guilty to criminal securities violations. After some discovery, the lead class action lawyers recommended that the court approve a $37 million cash settlement. After a number of state securities regulators strenuously objected, the judge deferred ruling on the proposed settlement.

Because of the regulators' action, the total settlement offer was ultimately increased more than three-fold to $120 million. At the point, the class action lawyers affirmatively fought my office's efforts to require that they clearly explain to their clients what the settlement offer meant to them—for good reason. Those investors who did not accept the settlement and are now participating in the independent arbitration process are frequently recovering 100% of their losses. Investors who accepted the recommendation of ''their lawyers'' and participated in the class action settlement, have had to accept roughly 25–30 cents for each dollar of loss.

These cases illustrate the flip-side of the abuses in the current system of class action litigation; not only are bad cases overvalued, but strong cases are too often undervalued. While quick settlement of these cases may serve the lawyers' interests, it frequently does not serve the interests of the defrauded investors.

Provisions of H.R. 10. H.R. 10 effectively addresses many of the current abuses of the securities class action litigation system. As the following analysis of certain of the provisions of H.R. 10 reflects, however, I would like to respectfully submit several suggested changes for the Subcommittee's consideration.

SECTION 202. PREVENTION OF LAWYER-DRIVEN LITIGATION

Section 202 puts in place several much-needed safeguards against certain abuses in the current system. It is important that the prosecution of securities claims be directed by the aggrieved investors, not by the lawyers. I would respectfully suggest however, that Section 202(a) be revised to evidence a strong preference for having a steering committee of investors perform this function rather than an appointed guardian ad litem. Those investors who are seeking to recover their losses are, on balance, likely to have a more complete commonality of views with the investor class than a court-appointed third party.

Section 202(b) does address a particular problem associated with class action settlements—woefully inadequate disclosure of the settlement terms. The settlement notice that was sent to investors in the Prudential Energy Income Limited Partnership case illustrates this problem. While the notice contained lengthy and complicated descriptions of the procedural history of the case, the paragraph that described the mechanism to determine what investors would receive in the settlement was buried near the back of the notice. In addition, the formula to calculate the settlement awards was nearly incomprehensible to average investors. As I noted earlier, the lead class action lawyers fought my office's efforts to make the description of the settlement terms more understandable to investors.

While Section 202(b) does provide some improvement over the current system of disclosure, I would respectfully suggest that it be amended to provide, at a minimum, that the amount that an investor could expect to receive in the settlement, on a per share or per unit basis, be prominently disclosed in the settlement notice. Section 202(b) might also be amended to require that the settlement notice be understandable to an average investor and focus more attention on the substance of the class action settlement, including the information now called for in Section 202(b), and less attention on the procedural history of the case.

SECTION 203. PREVENTION OF ABUSIVE PRACTICES THAT FOMENT LITIGATION

One of the most egregious abuses of the current system of class action securities litigation, the professional plaintiff, is effectively addressed by the elimination of bonus payments and limits on those investors who can serve as class representatives. I do have one suggested change, however. While it is important that class action representatives have a meaningful economic stake in the proceeding, I would respectfully suggest that Section 21(k) of the Securities Exchange Act, to be added by Section 203(a), be amended to reduce the amount of required investment from $10,000 to $5,000. While the amount of the minimum investment is admittedly a judgment call, I encourage the Subcommittee to strike the balance more in favor of the interests of small investors.

Under the current system, litigants are responsible for their own attorneys' fees. This can present two problems. Defendants in class action cases may feel coerced to settle a frivolous case to avoid the often high costs of litigation. In addition, the amount received by defrauded investors is reduced by the attorneys' fees, and, as a result, investors can never fully recover their losses. H.R. 10 addresses these problems by requiring the loser in a securities litigation case to pay the opposing side's legal fees in all cases.

While the solution offered by H.R. 10 should help weed out frivolous claims and afford investors an opportunity to receive full compensation for their losses, a strict loser-pays rule could put a significant and unwarranted barrier to investors, particularly small investors, seeking to recover losses allegedly associated with the defendant's fraudulent conduct. Putting too high a barrier to investors' claims could also undermine the important role that private securities litigation serves as an adjunct to governmental enforcement of the securities laws.

To address this concern, I would respectfully recommend that Section 21(m) be amended to require that the plaintiffs be obligated to pay the defendant's legal fees in those cases where (i) the case is dismissed on the pleadings or pursuant to a defendant's motion for summary judgment or (ii) the court otherwise finds at the end of the case that it was substantially without merit.

SECTION 204. PREVENTION OF ''FISHING EXPEDITION'' LAWSUITS

One of the most problematic elements of class action litigation is the prospect that a defendant who played a small role in the alleged securities law violation could be liable for the entire amount of investor losses. This prospect can be among the most coercive elements of securities litigation that compel so-called ''deep pocket'' defendants to accept unfair settlement proposals. H.R. 10 responds to this concern by requiring that plaintiffs show that the defendants were guilty of actual fraud.

I am concerned, however, that this solution to the problem associated with the rules of joint and several liability goes too far. Such a knowing fraud standard may encourage participants in the securities offering process to put a premium on remaining ignorant of the facts and undermine their commitment to do appropriate due diligence. To

avoid the unintended consequences associated with an absolute knowing fraud standard, I would respectfully suggest that Section 204 be amended to entitle investors to hold defendants who engaged in reckless conduct, not constituting knowing fraud, proportionately liable for their losses. Defendants who engaged in knowing fraud should remain jointly and severally liable for all investor losses.

While I respectfully recommend that certain changes be made to H.R. 10, I believe that H.R. 10 represents a significant step forward to correct certain of the problems in the current class action litigation system, and I want to urge the Subcommittee to continue to proceed with this important piece of legislation.

Very truly yours,

GARY S. MENDOZA,
Commissioner of Corporations.

STATE OF NORTH CAROLINA,
DEPARTMENT OF THE TREASURER,
Raleigh, NC, May 3, 1995.

Senator ALFONSE D'AMATO,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR D'AMATO: As State Treasurer and fiduciary for the North Carolina Retirement Systems and the State of North Carolina, I am writing to add my support for securities litigation reform legislation. I agree that the current securities fraud litigation system is not protecting investors and needs reform.

It is my understanding that the legislation was passed by the House of Representatives by an overwhelming bipartisan vote on March 8, 1995. Your support for these long overdue reforms would be greatly appreciated.

Sincerely,

HARLAN E. BOYLES,
State Treasurer.

STATE OF SOUTH CAROLINA,
OFFICE OF THE STATE TREASURER,
Columbia, SC, April 17, 1995.

Hon. ERNEST F. HOLLINGS,
Senate Office Building,
Washington, DC.

DEAR SENATOR HOLLINGS: As State Treasurer of South Carolina, I am concerned that abusive and meritless securities litigation inflicts tremendous harm on the capital formation process that is vital to the economic growth of South Carolina and the United States. Accordingly, I would like to join with those elected officials nationwide who are urging the Senate to pass meaningful reform legislation that would discourage meritless litigation and thereby enhance the capital formation process.

Under present law, attorneys have no disincentive to file unsubstantiated claims, because there are no penalties for filing such claims. Similarly, defendants are often pressured to settle meritless claims by the staggering costs of defending lawsuits in our overburdened courts.

Our nation's securities laws were enacted to protect investors and to improve our capital markets. However, the perverse incentive of attorneys to file meritless claims has created the exact opposite of the intended effects of our securities laws. Abusive lawsuits, triggered by a small group of lawyers, inflict tremendous harm on our nation's financial system and on the individuals and organizations drawn into them.

Our securities system was structured to provide broad disclosure of information to investors so they could make informed decisions. But there is overwhelming evidence that issuers of corporate securities filings include only limited disclosure, influenced largely by the threat of lawsuits. Additionally, lawyers, not investors, control the litigation system and reap the lion's share of financial rewards.

Growth companies are the most critical sector of our nation's economy as they provide the majority of new jobs. Unfortunately, such companies are also the target of an inordinate number of abusive lawsuits. These lawsuits undermine the confidence of investors and produce a higher cost of capital in the United States. This higher cost of capital puts us at a disadvantage with foreign competitors and harms workers, consumers, and investors.

Once again, I urge the Senate to pass meaningful reform legislation to enhance our economic future and to protect the investments of the State of South Carolina and those of individual investors.

Very truly yours,

RICHARD ECKSTROM,
State Treasurer.

STATE OF DELAWARE,
OFFICE OF STATE TREASURER,
Dover, DE, March 21, 1995.

Hon. ALFONSE M. D'AMATO,
U.S. Senate,
Washington, DC.

DEAR SENATOR D'AMATO: As Treasurer of the State of Delaware, I have become concerned that abusive securities litigation is negatively affecting the capital formation process essential to the economic growth of my state and the nation.

Problems with the current system have been well-documented in Congressional hearings, academic studies, and by the first-hand experiences of corporate executives and investors. Abusive lawsuits—often triggered merely by a stock price drop—and easy and inexpensive for plaintiffs' lawyers to bring. Once a company is sued, they are forced to settle, even if they are innocent, to avoid the high costs of fighting a meritless lawsuit. Such abusive class action litigation diverts corporate capital away from R&D, business expansion and job creation. High-technology and other high-growth companies are prime targets to these lawsuits, simply because of the inherent volatility of their stock prices.

Investors are also being harmed by the current system as it shortchanges people who have been victimized by real fraud. Studies show that plaintiffs receive 14 cents for every dollar of recoverable damages, at best, and a substantial portion of the settlement fund usually goes to the plaintiffs' attorneys. The plaintiffs' lawyers who specialize in these cases profit from bringing as many cases as possible and quickly settling them, regardless of the merits. Valid claims are being undercompensated in the current system because lawyers have less incentive to vigorously pursue them.

Investors lost out in another way. Studies show that abusive 10b-5 lawsuits are chilling voluntary corporate disclosure of information that would be useful to investors. A recent survey by the American Stock Exchange revealed that 75% of the corporate CEOs surveyed limit the information disclosed to investors out of fear of meritless lawsuits.

Federal legislation is needed to restore the protection that the 10b-5 action is supposed to provide while eliminating the abuses in the current system. Meaningful reform must include remedying the existing liability structure that creates the incentive to bring and settle meritless lawsuits. Legislation should also reduce the costs that the system imposes on the capital markets and on business and economic growth.

I urge Congress to pass securities litigation reform legislation to protect the investments of my state and of the millions of individual Americans who invest in the securities markets.

Sincerely,

JANET C. RZEWNICKI,
State Treasurer.

STATE OF COLORADO,
DEPARTMENT OF THE TREASURY,
Denver, CO, April 10, 1995.

Hon. ALFONSE D'AMATO,
Chairman, Senate Hart Building, Washington, DC.

DEAR SENATOR D'AMATO: As the Treasurer of the State of Colorado, my office issues debt and purchases securities on behalf of the people of the State of Colorado. With such responsibility, I am concerned that securities litigation and the threat of securities litigation are beginning to negatively impact our nation's business by hindering the capital formation process essential to the economic growth of Colorado and the nation.

Under the present law, attorneys are given an incentive to file unsubstantiated claims because there are no penalties for filing meritless claims. Attorneys will file claims on the basis of little more than a drop in a company's stock prices and then, through discovery, will determine if there is any merit to continuing the claim. Because of the liability exposure and the tremendous cost of defending a claim, companies are often left with no choice but to settle the unsubstantiated suit.

Additionally, the plaintiffs typically recover only a small percentage of their claim, as the lawyers extract large fees for bringing the suit. A system that was intended to protect investors now seems to benefit the lawyers.

The fear of meritless lawsuits has also caused many companies to minimize the amount of information they disclose to the public which is the exact opposite of the intent of the federal securities laws. This fear has also caused accounting and insurance firms to increase their costs to clients, discontinue service in some cases, and cause outside executives to refuse to serve on a company's board of directors.

Federal legislation is needed to restore the protections that the 10B–5 action is supposed to provide and to eliminate the abuse of the system. At a minimum, legislation should address the liability scheme that rewards lawyers for filing meritless suits and reduce the costs that the system imposes on the capital markets and business expansion.

Thank you for your consideration of this important issue.

Sincerely,

BILL OWENS,
State Treasurer.

ASSOCIATION OF PRIVATE PENSION
AND WELFARE PLANS,
Washington, DC, March 17, 1995.

Hon. PETE V. DOMENICI,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Hon. CHRISTOPHER J. DODD,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATORS DOMENICI AND DODD: On behalf of the membership of the Association of Private Pension and Welfare Plans (APPWP), I am writing to commend your efforts in pursuing reform of the securities litigation system. The APPWP is a national trade association for companies and individuals concerned about federal legislation affecting all aspects of the employee benefits system. The APPWP's members represent the entire spectrum of the private pension and employee benefits community: Fortune 500 companies, banks, insurance companies,

law, accounting, consulting, investment and actuarial firms. APPWP members either sponsor directly or administer employee benefit plans covering more than 100 million Americans.

Your initiative is necessary to address the critical problems with today's securities litigation system. As you have correctly noted, investors are ill-served by the present system. Because issuers fear abusive litigation, they have sharply curtailed the amount of information they are willing to disclose, leaving investors without information essential for intelligent decision making. To the detriment of shareholders, abusive securities litigation distracts companies from their principal tasks, discourages the development of new businesses and inhibits sound risk-taking. Finally, the existing litigation system encourages suit regardless of merit and the cost forces defendants to settle regardless of merit.

We support your efforts to change these skewed incentives, to encourage voluntary disclosure by issuers of securities and to transfer control of securities litigation from lawyers to investors. We look forward to working with you to make these reforms a reality.

Sincerely,

LYNN D. DUDLEY,
Director of Retirement Policy.

[From the Legal Times, February 1995]

TIME TO WAKE THE SLEEPING BEAR

(By Nell Minow)

In January of this year, the U.S. District Court for the Southern District of New York issued a decision dismissing a group of shareholders class actions against the Philip Morris Cos. The court noted that less than five hours after Philip Morris announced that its 40-cents-per-package price reduction on Marlboro cigarettes could reduce its operating earnings by as much as 40 percent, the first class action was filed.

The court further noted:

''[The first action was filed] by a plaintiff who had bought 60 shares of stock during the alleged class period. Four more lawsuits were filed that day, and on the very next business day . . . five additional lawsuits were commenced . . .. I note that in the few hours counsel devoted to getting the initial complaints to the courthouse, overlooked was the fact that two of them contained identical allegations, apparently lodged in counsel's computer memory of 'fraud' form complaints, that the defendants here engaged in conduct 'to create and prolong the illusion of [Philip Morris'] success in the toy industry.'''

In other words, in the race to the courthouse, the plaintiffs' lawyers had not even taken the time to do a ''global search and replace'' on a previous complaint, apparently against some toy company, to reflect the fact that the product Philip Morris was reporting on so ''fraudulently'' was actually cigarettes.

This demonstrates one-half of the problem in the current system for shareholders litigation. Most shareholder lawsuits are brought by people who care little, if at all, for shareholders as a group. The plaintiffs and their lawyers make grand statements about the integrity of the markets, but the primary motivation—and the primary outcome—is their own returns.

Typically, plaintiffs get a small award, and their lawyers get a large one. These merit less suits are filed whenever the stock performance is worse—or better—than the company predicted, and then settled by insurance companies for too much money (because insurers don't want to risk sending a complicated case to the jury).

The other half of the problem is that cases with merit are settled for too little or never brought at all. Because of free-rider and collective-choice issues, along with conflicts of interest, those shareholders with a meaningful stake have not been heard from.

The state of shareholder litigation is reminiscent of a line by William Butler Yeats: ''The best lack all conviction and the worst are full of passionate intensity.'' The system falls to protect shareholders from genuine abuses, but still deters managers from disseminating useful and legitimate information. The current proposals for securities litigation reform—a Senate bill, S. 240, that is similar to one introduced last year and a House bill, H.R. 10, that is part of the Contract With America—do a better job with the first half of the problem than with the second.

The current rules and procedures for securities class actions and derivative actions were designed to overcome the problem of collective choice. In certain cases, no one shareholder can justify the time and expense necessary to bring a lawsuit for only a pro rata share of the rewards. So the procedures were established to create incentives for participation in suits challenging fraudulent statements.

But the system fails to take into account the unusual makeup of the class of potential securities plaintiffs. The shareholder community is too diffuse, too diverse, and subject to change too frequently to be addressed meaningfully as a group.

More important, the disincentives for participation are strong. Can we see the trustees of the IBM Corp.'s pension fund joining, as plaintiffs, in a shareholder action against the management of the General Motors Corp., no matter how much is at stake?

Having created a system for filing suits that does not eliminate the powerful disincentives for legitimate plaintiffs, we are left with the tiny but highly prosperous community of ''Wilmington filers.'' The ambulance chasers of securities law, these people have made an industry out of nuisance suits. Anthony Bonden described them like this in the December 1989 issue of The American Lawyer (''The Shareholder Suit Charade''):

''Welcome to the plush and intimate confines of the Delaware chancery court, home turf of the Wilmington filers, the shareholder lawyers who sue any deal that moves. They are the bottom scrapers of the M&A world, the Wall Street Journal clippers with the mysterious professional plaintiffs. Racing to the courthouse on the merest rumor of a deal, they file triplicate copies of one another's suits—complaints that themselves read like duplicates from every other case. They are ''rapacious jackals,'' in the memorable words of Chicago federal judge Charles Kocoras in 1982, ''whose declared concern for the corporate well-being camouflages their unwholesome appetite for corporate dollars.'' And they are the ''pilgrams''—early settlers—litigators who never have to prove their mettle in a trial.''

What we want is for shareholders with a meaningful stake to file suit to enforce limits on corporate directors and managers who have neglected or abused their obligation to be candid about the company's status and prospects. We do not want shareholders with microscopic stakes to file dozens, even hundreds, of nuisance suits and to settle on terms that benefit the plaintiffs a little, their lawyers a lot, and their fellow shareholders not at all. We want to encourage corporate communication about the company and its prospects, but we want to discourage communication that is misleading or fraudulent.

The proposals before Congress address these goals with the following important and urgently needed reforms: The Racketeer Influenced and Corrupt Organizations law should not apply to ordinary securities cases. Forward-looking statements, as defined by the Securities and Exchange Commission, should have some ''safe harbor'' protection. Plaintiffs should bear the burden of proving that the defendant had ''actual knowledge'' that a statement was false or that a relevant statement was omitted. And a stay of discovery should be provided once a motion to dismiss, based on the safe harbor for forward-looking information, has been filed.

These measures will reduce the number of sloppy, race-to-the-courthouse actions, like the ones filed against Philip Morris, and put less pressure on insurers to settle. They will also encourage use of alternate dispute resolution. Indeed, the ADR provisions in the current bills should be strengthened, perhaps even requiring referral to a certified mediator with a background in securities law, who would resolve as many issues as possible.

To reduce the conflicts of interest between plaintiffs and their fellow shareholders, the proposals provide for appointment of a guardian ad litem or a plaintiff steering committee. This makes other aspects of the bills—including a minimum requirement for stock ownership and a limit on the number of actions a plaintiff can bring—unnecessary and possibly counterproductive. As long as there is an independent mechanism for ensuring that the interests of all shareholders are met, the identity and the holdings of the name plaintiff are unimportant. Indeed, an individual shareholder may be an excellent representative of the group.

Litigation reform efforts in fields where corporations pay big awards always raise the question of the English, or ''loser pays,'' rule. The theory is that ''loser pays'' discourages frivolous suits. But in this context, it is unnecessary.

There are already sufficient penalties available for frivolous suits. Furthermore, judges can penalize litigants by refusing to approve attorney fees, as the U.S. District Court in Maine did in a 1992 case, Weinberger, et al. v. Great Northern Nekoosa Corp., et al.

Lawyers had filed suit on behalf of the shareholders of Great Northern Nekoosa, a takeover target of the Georgia-Pacific Corp. Since the ultimate deal was better for shareholders than the proposal on the table at the time that the suit was filed, the attorneys argued that they had made an important contribution for which they deserved to be paid. Georgia-Pacific agreed to pay them $2 million, subject to what was expected to be routine approval by the court.

Instead, the court refused to allow any payment at all, issuing a decision with detailed objections to almost every item and calculation put forward to support the $2 million in fees. The judge ruled that even had the law firms justified their involvement, they had overbilled by 80 percent: ''Exaggeration, rather than restraint, has been the watchword of the plaintiff's counsel's entire exercise. . . . [Even a Michelangelo should not charge Sistine Chapel rates for painting a farmer's barn.''

Since the plaintiffs bar normally takes these shareholders cases on a contingency basis, a decision like the one in the Georgia-Pacific case is a powerful deterrent to frivolous and unnecessary suits.

But just as we have to address the problem of too many bad suits, we need to address the problem of too few good ones. Institutional investors, including pension funds and money managers, often ignore notices of shareholders suits. It is almost unheard of for them to file one. The ''loser pay'' rule will only make this problem worse.

On the contrary, to encourage large shareholders to take on the task—and the commercial risk—of filing suit against major corporations, we may need to compensate them for the time and resources they expend. A steering committee, as in bankruptcy cases, could review such awards.

The Department of Labor, which has jurisdiction over ERISA and Taft-Hartley pension funds, has already raised the consciousness of the pension-fund community about its obligations with regard to proxy voting. The department could do the same with regard to shareholder litigation. Along with the other agencies that have jurisdiction over institutional investors—the SEC, the Internal Revenue Service, and the banking agencies—the Labor Department should establish a standard for evaluating a potential suit as one would any other asset.

To produce real reform—by encouraging suits brought to hold management's feet to the fire and discouraging suits brought to line the pockets of plaintiffs and their lawyers—institutional investors must be persuaded to share the burden of bringing shareholder litigation. When the system does not provide adequate incentive for them to protect their own interests and those of their fellow shareholders, it is institutional investors and their beneficiaries whom the system has failed the most.

TESTIMONY OF MARYELLEN ANDERSEN, INVESTOR AND CORPORATE RELATIONS DIRECTOR, CONNECTICUT RETIREMENT & TRUST FUNDS AND TREASURER OF THE COUNCIL OF INSTITUTIONAL INVESTORS, BEFORE THE SENATE BANKING SECURITIES SUBCOMMITTEE, JULY 21, 1993

Good morning. My Washington advisor ordered me not to start by telling you who I am and who I represent. She says you already know, or you wouldn't have invited me. She also says it is silly to read a string of titles and numbers, and it puts everyone to sleep.

So I won't read you a string of titles. But I think it is critical to emphasize that if there is *any* constituency here today that has every reason to get the securities litigation system right, and no reason to want to skew the system to favor anyone, it is the constituency I represent.

This is the constituency. I am here representing the public employees and retirees of the state of Connecticut. As some of you know, the state pension system invests over $9.54 billion dollars on behalf of over 140,000 employees and beneficiaries. I am also the Treasurer of the Council of Institutional Investors, whose members invest over $600 billion on behalf of many more millions of union, public, and other corporate employees and beneficiaries.

Why do we care about this legislation? We care because we are the largest shareholders in America. We are ones who are hurt if a system allows someone to force us to spend huge sums of money in legal costs by merely paying ten dollars and filing a meritless cookie cutter complaint against a company or its accountants when that plaintiff is disappointed in his or her investment. Our pensions and our jobs depend on our employment by and investment in our companies. If we saddle our companies with big and unproductive costs that other companies in other countries do not pay, we cannot be surprised if our jobs and raises begin to disappear and our pensions come up short as the population ages.

But we are also the shareholders who want to preserve our ability to sue when it is appropriate. We are the shareholders who are benefitted if the SEC or private parties bring appropriate law suits that police our markets and care for millions of individual investors who might not otherwise be able to protect themselves.

Let me emphasize this point. As the largest shareholders in most companies, we are the ones who have the most to gain from meritorious securities litigation. The awards directly and positively affect our returns. So, besides the general value that meritorious lawsuits have for keeping our markets clean, they have direct immediate financial value to us. We certainly, therefore would be foolish to advocate any change that would discourage the proper enforcement of our securities laws.

However, we are also both the employees and taxpayers who depend on corporate employers and a corporate tax base, and we are the millions of individual consumers of corporate goods and services. In both of these roles we are the ones who pay the cost of *all* corporate litigation, meritorious and otherwise. We pay by not getting raises, we pay by higher prices, we pay through lower shareholder returns. You must remember, in other words, that whenever you see a deserving plaintiff awarded, we are the ones paying the price. We are also the ones paying the settlements when the lawsuits are frivolous. And we are the ones paying the huge lawyers' fees. Since the Council of Institutional Investors' average retiree makes only $552 a month, we feel we are pretty needy and deserving too.

In short, we are the ones who are hurt if the system doesn't work right or efficiently, and we are the ones who stand to benefit most if it does.

And, with all due respect to the other parties present, I believe we are the ones with both the interest and the expertise necessary to address these issues and come up with solutions that are genuinely in the public interest.

What, then, do we think? I think most of us feel that despite all the strong language and political blood letting that this legislation has produced; there is reason to believe the system isn't yet working right.

There is still major disagreement about whether there are a huge number or a small number of frivolous securities strike suits filed. There is disagreement about whether the recent growth in the number of these suits is temporary or permanent. But whether the number is large or small, and whether the problem is temporarily worse than usual or not, the problem is one to be addressed: it is in our collective interest to look for ways to reduce or eliminate any frivolous or inefficient efforts to use our legal system and our private markets like a shareholder lottery.

There are also still major disagreements about the size and utility of the legal, administrative, settlement, and lost opportunity costs generated by the present system. But we all know that because of the tremendous number of these cases the costs are very significant. It is in our collective interest to look for ways to reduce these costs and insure that every dollar spent is spent as efficiently as possible and is as likely as possible to go to innocent victims, affected shareholders, and public administrative costs, not on individuals whose wealth depends on generating lawsuits more-or-less regardless of merit.

So I am here to offer to work with those who have every interest in getting this matter right—with labor, with the business community, with other investors, and with you and the SEC—to offer up our best effort at identifying and addressing securities litigation reform to protect our jobs and our pensions.

I am not here to endorse this specific piece of legislation or to pretend to be an expert on the intricacies of this bill or this issue more generally. I am not an accountant or a securities lawyer—my Washington advisor says this makes me ''a civilian.'' But one needn't be an expert to realize the importance of this issue and to conclude that this issue must be addressed to ensure that the system protects us as investors, employees, retirees, and citizens.

I close by repeating my offer to have the Council work with you, the SEC, labor, and business to try to reach constructive solutions to this and other litigation-related problems.

Mr. DOMENICI. I thank the Senator from New York for yielding. And I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I yield the remainder of our time to the distinguished Senator from California, who has been such a powerful advocate throughout this debate.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mrs. BOXER. Mr. President, I thank my ranking member so much. Since people are thanking people for working with them on this, I just have to say what an honor it has been to take this issue to the floor of the U.S. Senate with two of my role models, frankly, Senator SARBANES and Senator BRYAN. I have been so honored to be part of this team because when we started, we were really laughed at in some ways saying, ''Well you'll never get any votes for anything.'' By God, we actually won a couple of amendments.

We came close to fixing the safe harbor provision. I think we have shown with tenacity that we can make our points, and I am going to try to do that in the last couple of minutes.

Why do we need securities laws in the first place? Clearly, it is to protect the average investor. There are so many tears being shed here for corporate directors, and, by the way, most of them are wonderful, honorable, decent people in the community and they help the engine of economic growth, but I have not seen any tears shed on the other side for the victims of securities fraud.

I hear bashing of lawyers, that is in. Sure, bash, bash, that is the politics of the nineties. Every time we put up an amendment, bash the lawyers, beat the amendment.

But what we are about is saying get rid of the frivolous lawsuits, but do not give fast-moving insiders and others a chance to make a quick buck at the expense of the small investor.

I am going to tell you what some of the press have said about this bill relating to S. 240. The St. Louis Post-Dispatch: ''Don't protect securities fraud.'' That is what they think this bill does.

Contra Costa Times: ''Why would any Member of Congress vote to protect those involved in fraud at the expense of investors?''

Seattle Post-Intelligencer: ''The legislation is opposed by the U.S. Conference of Mayors, the Government Finance Officers, the American Association of Retired Persons, and the North American Securities Administrators Association.''

''S. 240 is bad news for investors. It would tie victims in legal knots while immunizing white-collar crooks against having to pay for their misdeeds.'' The Raleigh, NC, News and Observer.

The Philadelphia Inquirer: ''A crook is a crook, and S. 240 would relax penalties for many stock crooks.''

And then we have Jane Bryant Quinn of Newsweek: ''S. 240 makes it easier for corporations and stockbrokers to mislead investors.''

The Seattle Times: ''This legislation has proceeded almost unnoticed because it is hideously complicated.''

It is so complicated it is bad for the average investor. I hope we will register a ''no'' vote on this final passage.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, we have heard a lot said about this bill. I want to first commend Senators DOMENICI and DODD for their stewardship. Senator DOMENICI outlined how he detected a system that was more interested in making huge profits for lawyers and not give a whit about the so-called victims. In many cases, there were no victims until the small investors, people who had invested in companies that these lawsuits were manufactured against, became the victims.

Let me tell you about the people who brought these suits. About 30 percent of these suits were brought by one law firm—by one law firm. They went out and they hired their plaintiffs. Sixty-five plaintiffs appeared in two cases, 12 plaintiffs appeared in three cases, 3 plaintiffs appeared in four cases. They appeared to get their bonuses, $10,000, $15,000, $20,000—and by allowing their names to be used these plaintiffs allow the lawyers to race to the courthouse.

Let me tell you what this bill does. It ends the use of professional plaintiffs. I have not heard anybody say anything about that. It forces lawyers to work for real clients. We say the pension funds, the little guys who have invested in them, they should select who the lawyers are.

This bill will empower courts to weed out frivolous cases. It gives defendants the leverage to fight cases when they did nothing wrong. Now they cannot fight, they have to surrender, otherwise they are hit for millions of dollars in costs or damages, so even if you win you lose.

S. 240 will require accountants to report fraud to authorities. Nobody says anything about that. It gives the SEC the ability to go after bad guys, a power which they do not have today.

It will get more information to investors by making it so that people can make projections without being sued. It is a good bill, and it is long overdue. We would rectify a terrible situation that exists at the present time by passing this bill.

Mr. President, I urge the adoption of S. 240. I yield back the remainder of my time.

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 having been read the third time, the question is, Shall the bill, H.R. 1058, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. BOND (when his name was called). Present.

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

The result was announced—yeas 70, nays 29, as follows:

[Rollcall Vote No. 295 Leg.]

YEAS—70

Abraham	Gorton	Mikulski
Akaka	Gramm	Moseley-Braun
Ashcroft	Grams	Murkowski
Baucus	Grassley	Murray
Bennett	Gregg	Nickles
Bradley	Harkin	Nunn
Brown	Hatch	Packwood
Burns	Hatfield	Pell
Campbell	Helms	Pressler
Chafee	Hutchison	Reid
Coats	Inhofe	Robb
Cochran	Jeffords	Rockefeller
Coverdell	Johnston	Roth
Craig	Kassebaum	Santorum
D'Amato	Kempthorne	Simpson
DeWine	Kennedy	Smith
Dodd	Kerry	Snowe
Dole	Kohl	Stevens
Domenici	Kyl	Thomas
Exon	Lieberman	Thompson
Faircloth	Lott	Thurmond
Feinstein	Lugar	Warner
Ford	Mack	
Frist	McConnell	

NAYS—29

Biden	Dorgan	Levin
Bingaman	Feingold	McCain
Boxer	Glenn	Moynihan
Breaux	Graham	Pryor
Bryan	Heflin	Sarbanes
Bumpers	Hollings	Shelby
Byrd	Inouye	Simon
Cohen	Kerrey	Specter
Conrad	Lautenberg	Wellstone
Daschle	Leahy	

ANSWERED ''PRESENT''—1

Bond

So, the bill (H.R. 1058), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 1058) entitled ''An Act to reform Federal securities litigation, and for other purposes'', do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Private Securities Litigation Reform Act of 1995''.

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

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION OF ABUSIVE LITIGATION

Sec. 101. Elimination of certain abusive practices.
Sec. 102. Securities class action reform.
Sec. 103. Sanctions for abusive litigation.
Sec. 104. Requirements for securities fraud actions.
Sec. 105. Safe harbor for forward-looking statements.
Sec. 106. Written interrogatories.
Sec. 107. Amendment to Racketeer Influenced and Corrupt Organizations Act.
Sec. 108. Authority of Commission to prosecute aiding and abetting.
Sec. 109. Loss causation.
Sec. 110. Study and report on protections for senior citizens and qualified retirement plans.
Sec. 111. Amendment to Racketeer Influenced and Corrupt Organizations Act.
Sec. 112. Applicability.

TITLE II—REDUCTION OF COERCIVE SETTLEMENTS

Sec. 201. Limitation on damages.
Sec. 202. Proportionate liability.
Sec. 203. Applicability.

TITLE III—AUDITOR DISCLOSURE OF CORPORATE FRAUD

Sec. 301. Fraud detection and disclosure.

TITLE I—REDUCTION OF ABUSIVE LITIGATION

SEC. 101. ELIMINATION OF CERTAIN ABUSIVE PRACTICES.

(a) PROHIBITION OF REFERRAL FEES.—Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)) is amended by adding at the end the following new paragraph:

''(8) PROHIBITION OF REFERRAL FEES.—No broker or dealer, or person associated with a broker or dealer, may solicit or accept, directly or indirectly, remuneration for assisting an attorney in obtaining the representation of any person in any private action arising under this title or under the Securities Act of 1933.''.

(b) ATTORNEY CONFLICT OF INTEREST.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(f) ATTORNEY CONFLICT OF INTEREST.—In any private action arising under this title, if a plaintiff is represented by an attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such ownership or other interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the party.''.

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

''(i) ATTORNEY CONFLICT OF INTEREST.—In any private action arising under this title, in which a plaintiff is represented by an attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such ownership or other interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the party.''.

(c) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(g) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Except as otherwise ordered by the court upon motion by the Commission, or, in the case of an administrative action, as otherwise ordered by the Commission, funds disgorged as the result of an action brought by the Commission in Federal court, or as a result of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by

private parties seeking distribution of the disgorged funds.''.

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following new paragraph:

''(4) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Except as otherwise ordered by the court upon motion by the Commission, or, in the case of an administrative action, as otherwise ordered by the Commission, funds disgorged as the result of an action brought by the Commission in Federal court, or as a result of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking distribution of the disgorged funds.''.

SEC. 102. SECURITIES CLASS ACTION REFORM.

(a) RECOVERY RULES.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(h) RECOVERY RULES FOR PRIVATE CLASS ACTIONS.—

''(1) IN GENERAL.—The rules contained in this subsection shall apply in each private action arising under this title that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure.

''(2) CERTIFICATION FILED WITH COMPLAINTS.—

''(A) IN GENERAL.—Each plaintiff seeking to serve as a representative party on behalf of a class shall provide a sworn certification, which shall be personally signed by such plaintiff and filed with the complaint, that—

''(i) states that the plaintiff has reviewed the complaint and authorized its filing;

''(ii) states that the plaintiff did not purchase the security that is the subject of the complaint at the direction of plaintiff's counsel or in order to participate in any private action arising under this title;

''(iii) states that the plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary;

''(iv) sets forth all of the transactions of the plaintiff in the security that is the subject of the complaint during the class period specified in the complaint;

''(v) identifies any action under this title, filed during the 3-year period preceding the date on which the certification is signed by the plaintiff, in which the plaintiff has sought to serve as a representative party on behalf of a class; and

''(vi) states that the plaintiff will not accept any payment for serving as a representative party on behalf of a class beyond the plaintiff's pro rata share of any recovery, except as ordered or approved by the court in accordance with paragraph (3).

''(B) NONWAIVER OF ATTORNEY-CLIENT PRIVILEGE.—The certification filed pursuant to subparagraph (A) shall not be construed to be a waiver of the attorney-client privilege.

''(3) RECOVERY BY PLAINTIFFS.—The share of any final judgment or of any settlement that is awarded to a representative party serving on behalf of a class shall be calculated in the same manner as the shares of the final judgment or settlement awarded to all other members of the class. Nothing in this paragraph shall be construed to limit the award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class to any representative party serving on behalf of the class.

''(4) RESTRICTIONS ON SETTLEMENTS UNDER SEAL.—The terms and provisions of any settlement agreement of a class action shall not be filed under seal, except that on motion of any party to the settlement, the court may order filing under seal for those portions of a settlement agreement as to which good cause is shown for such filing under seal. For purposes of this paragraph, good cause shall exist only if publication of a term or provision of a settlement agreement would cause direct and substantial harm to any party.

''(5) RESTRICTIONS ON PAYMENT OF ATTORNEYS' FEES AND EXPENSES.—Total attorneys' fees and expenses awarded by the court to counsel for the plaintiff class shall not exceed a reasonable percentage of the amount of damages and prejudgment interest awarded to the class.

''(6) DISCLOSURE OF SETTLEMENT TERMS TO CLASS MEMBERS.—Any proposed or final settlement agreement that is published or otherwise disseminated to the class shall include each of the following statements, along with a cover page summarizing the information contained in such statements:

''(A) STATEMENT OF PLAINTIFF RECOVERY.—The amount of the settlement proposed to be distributed to the parties to the action, determined in the aggregate and on an average per share basis.

''(B) STATEMENT OF POTENTIAL OUTCOME OF CASE.—

''(i) AGREEMENT ON AMOUNT OF DAMAGES.—If the settling parties agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement concerning the average amount of such potential damages per share.

''(ii) DISAGREEMENT ON AMOUNT OF DAMAGES.—If the parties do not agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement from each settling party concerning the issue or issues on which the parties disagree.

''(iii) INADMISSIBILITY FOR CERTAIN PURPOSES.—A statement made in accordance with clause (i) or (ii) concerning the amount of damages shall not be admissible in any Federal or State judicial action or administrative proceeding, other than an action or proceeding arising out of such statement.

''(C) STATEMENT OF ATTORNEYS' FEES OR COSTS SOUGHT.—If any of the settling parties or their counsel intend to apply to the court for an award of attorneys' fees or costs from any fund established as part of the settlement, a statement indicating which parties or counsel intend to make such an application, the amount of fees and costs that will be sought (including the amount of such fees and costs determined on an average per share basis), and a brief explanation supporting the fees and costs sought.

''(D) IDENTIFICATION OF LAWYERS' REPRESENTATIVES.—The name, telephone number, and address of one or more representatives of counsel for the plaintiff class who will be reasonably available to answer questions from class members concerning any matter contained in any notice of settlement published or otherwise disseminated to the class.

''(E) REASONS FOR SETTLEMENT.—A brief statement explaining the reasons why the parties are proposing the settlement.

''(F) OTHER INFORMATION.—Such other information as may be required by the court.''.

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

''(j) RECOVERY RULES FOR PRIVATE CLASS ACTIONS.—

''(1) IN GENERAL.—The rules contained in this subsection shall apply in each private action arising under this title that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure.

''(2) CERTIFICATION FILED WITH COMPLAINTS.—

''(A) IN GENERAL.—Each plaintiff seeking to serve as a representative party on behalf of a class shall provide a sworn certification, which shall be personally signed by such plaintiff and filed with the complaint, that—

''(i) states that the plaintiff has reviewed the complaint and authorized its filing;

''(ii) states that the plaintiff did not purchase the security that is the subject of the complaint at the direction of plaintiff's counsel or in order to participate in any private action arising under this title;

''(iii) states that the plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary;

''(iv) sets forth all of the transactions of the plaintiff in the security that is the subject of the complaint during the class period specified in the complaint;

''(v) identifies any action under this title, filed during the 3-year period preceding the date on which the certification is signed by the plaintiff, in which the plaintiff has sought to serve as a representative party on behalf of a class; and

''(vi) states that the plaintiff will not accept any payment for serving as a representative party on behalf of a class beyond the plaintiff's pro rata share of any recovery, except as ordered or approved by the court in accordance with paragraph (3).

''(B) NONWAIVER OF ATTORNEY-CLIENT PRIVILEGE.—The certification filed pursuant to subparagraph (A) shall not be construed to be a waiver of the attorney-client privilege.

''(3) RECOVERY BY PLAINTIFFS.—The share of any final judgment or of any settlement that is awarded to a representative party serving on behalf of a class shall be calculated in the same manner as the shares of the final judgment or settlement awarded to all other members of the class. Nothing in this paragraph shall be construed to limit the award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class.

''(4) RESTRICTIONS ON SETTLEMENTS UNDER SEAL.—The terms and provisions of any settlement agreement of a class action shall not be filed under seal, except that on motion of any party to the settlement, the court may order filing under seal for those portions of a settlement agreement as to which good cause is shown for such filing under seal. For purposes of this paragraph, good cause shall exist only if publication of a term or provision of a settlement agreement would cause direct and substantial harm to any party.

''(5) RESTRICTIONS ON PAYMENT OF ATTORNEYS' FEES AND EXPENSES.—Total attorneys' fees and expenses awarded by the court to counsel for the plaintiff class shall not exceed a reasonable percentage of the amount of damages and prejudgment interest awarded to the class.

''(6) DISCLOSURE OF SETTLEMENT TERMS TO CLASS MEMBERS.—Any proposed or final settlement agreement that is published or otherwise disseminated to the class shall include each of the following statements, along with a cover page summarizing the information contained in such statements:

''(A) STATEMENT OF PLAINTIFF RECOVERY.—The amount of the settlement proposed to be distributed to the parties to the action, determined in the aggregate and on an average per share basis.

''(B) STATEMENT OF POTENTIAL OUTCOME OF CASE.—

''(i) AGREEMENT ON AMOUNT OF DAMAGES.—If the settling parties agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement concerning the average amount of such potential damages per share.

''(ii) DISAGREEMENT ON AMOUNT OF DAMAGES.—If the parties do not agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement from each settling party concerning the issue or issues on which the parties disagree.

''(iii) INADMISSIBILITY FOR CERTAIN PURPOSES.—A statement made in accordance with

clause (i) or (ii) concerning the amount of damages shall not be admissible in any Federal or State judicial action or administrative proceeding, other than an action or proceeding arising out of such statement.

''(C) STATEMENT OF ATTORNEYS' FEES OR COSTS SOUGHT.—If any of the settling parties or their counsel intend to apply to the court for an award of attorneys' fees or costs from any fund established as part of the settlement, a statement indicating which parties or counsel intend to make such an application, the amount of fees and costs that will be sought (including the amount of such fees and costs determined on an average per share basis), and a brief explanation supporting the fees and costs sought.

''(D) IDENTIFICATION OF LAWYERS' REPRESENTATIVES.—The name, telephone number, and address of one or more representatives of counsel for the plaintiff class who will be reasonably available to answer questions from class members concerning any matter contained in any notice of settlement published or otherwise disseminated to the class.

''(E) REASONS FOR SETTLEMENT.—A brief statement explaining the reasons why the parties are proposing the settlement.

''(F) OTHER INFORMATION.—Such other information as may be required by the court.''.

(b) APPOINTMENT OF LEAD PLAINTIFF.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(i) PROCEDURES GOVERNING APPOINTMENT OF LEAD PLAINTIFF IN CLASS ACTIONS.—

''(1) EARLY NOTICE TO CLASS MEMBERS.—

''(A) IN GENERAL.—In any private action arising under this title that is brought on behalf of a class, not later than 20 days after the date on which the complaint is filed, the plaintiff or plaintiffs shall cause to be published, in a widely circulated national business-oriented publication or wire service, a notice advising members of the purported plaintiff class—

''(i) of the pendency of the action, the claims asserted therein, and the purported class period; and

''(ii) that, not later than 60 days after the date on which the notice is published, any member of the purported class may move the court to serve as lead plaintiff of the purported class.

''(B) ADDITIONAL NOTICES MAY BE REQUIRED UNDER FEDERAL RULES.—Notice required under subparagraph (A) shall be in addition to any notice required pursuant to the Federal Rules of Civil Procedure.

''(2) APPOINTMENT OF LEAD PLAINTIFF.—

''(A) IN GENERAL.—Not later than 90 days after the date on which a notice is published under paragraph (1)(A), the court shall consider any motion made by a purported class member in response to the notice, and shall appoint as lead plaintiff the member or members of the purported plaintiff class that the court determines to be most capable of adequately representing the interests of class members (hereafter in this subsection referred to as the 'most adequate plaintiff') in accordance with this paragraph.

''(B) CONSOLIDATED ACTIONS.—If more than one action on behalf of a class asserting substantially the same claim or claims arising under this title has been filed, and any party has sought to consolidate those actions for pretrial purposes or for trial, the court shall not make the determination required by subparagraph (A) until after the decision on the motion to consolidate is rendered. As soon as practicable after such decision is rendered, the court shall appoint the most adequate plaintiff as lead plaintiff for the consolidated actions in accordance with this paragraph.

''(C) REBUTTABLE PRESUMPTION.—

''(i) IN GENERAL.—Subject to clause (ii), for purposes of subparagraph (A), the court shall adopt a presumption that the most adequate plaintiff in any private action arising under this title is the person or group of persons that—

''(I) has either filed the complaint or made a motion in response to a notice under paragraph (1)(A);

''(II) in the determination of the court, has the largest financial interest in the relief sought by the class; and

''(III) otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.

''(ii) REBUTTAL EVIDENCE.—The presumption described in clause (i) may be rebutted only upon proof by a member of the purported plaintiff class that the presumptively most adequate plaintiff—

''(I) will not fairly and adequately protect the interests of the class; or

''(II) is subject to unique defenses that render such plaintiff incapable of adequately representing the class.

''(iii) DISCOVERY.—For purposes of clause (ii), discovery relating to whether a member or members of the purported plaintiff class is the most adequate plaintiff—

''(I) may not be conducted by any defendant; and

''(II) may be conducted by a plaintiff only if the plaintiff first demonstrates a reasonable basis for a finding that the presumptively most adequate plaintiff is incapable of adequately representing the class.

''(D) SELECTION OF LEAD COUNSEL.—The most adequate plaintiff shall, subject to the approval of the court, select and retain counsel to represent the class.''.

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new subsection:

''(k) PROCEDURES GOVERNING APPOINTMENT OF LEAD PLAINTIFF IN CLASS ACTIONS.—

''(1) EARLY NOTICE TO CLASS MEMBERS.—

''(A) IN GENERAL.—In any private action arising under this title that is brought on behalf of a class, not later than 20 days after the date on which the complaint is filed, the plaintiff or plaintiffs shall cause to be published, in a widely circulated national business-oriented publication or wire service, a notice advising members of the purported plaintiff class—

''(i) of the pendency of the action, the claims asserted therein, and the purported class period; and

''(ii) that, not later than 60 days after the date on which the notice is published, any member of the purported class may move the court to serve as lead plaintiff of the purported class.

''(B) ADDITIONAL NOTICES MAY BE REQUIRED UNDER FEDERAL RULES.—Notice required under subparagraph (A) shall be in addition to any notice required pursuant to the Federal Rules of Civil Procedure.

''(2) APPOINTMENT OF LEAD PLAINTIFF.—

''(A) IN GENERAL.—Not later than 90 days after the date on which a notice is published under paragraph (1)(A), the court shall consider any motion made by a purported class member in response to the notice, and shall appoint as lead plaintiff the member or members of the purported plaintiff class that the court determines to be most capable of adequately representing the interests of class members (hereafter in this subsection referred to as the 'most adequate plaintiff') in accordance with this paragraph.

''(B) CONSOLIDATED ACTIONS.—If more than one action on behalf of a class asserting substantially the same claim or claims arising under this title has been filed, and any party has sought to consolidate those actions for pretrial purposes or for trial, the court shall not make the determination required by subparagraph (A) until after the decision on the motion to consolidate is rendered. As soon as practicable after such decision is rendered, the court shall appoint the most adequate plaintiff as lead plaintiff for the consolidated actions in accordance with this paragraph.

''(C) REBUTTABLE PRESUMPTION.—

''(i) IN GENERAL.—Subject to clause (ii), for purposes of subparagraph (A), the court shall adopt a presumption that the most adequate plaintiff in any private action arising under this title is the person or group of persons that—

''(I) has either filed the complaint or made a motion in response to a notice under paragraph (1)(A);

''(II) in the determination of the court, has the largest financial interest in the relief sought by the class; and

''(III) otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.

''(ii) REBUTTAL EVIDENCE.—The presumption described in clause (i) may be rebutted only upon proof by a member of the purported plaintiff class that the presumptively most adequate plaintiff—

''(I) will not fairly and adequately protect the interests of the class; or

''(II) is subject to unique defenses that render such plaintiff incapable of adequately representing the class.

''(iii) DISCOVERY.—For purposes of clause (ii), discovery relating to whether a member or members of the purported plaintiff class is the most adequate plaintiff—

''(I) may not be conducted by any defendant; and

''(II) may be conducted by a plaintiff only if the plaintiff first demonstrates a reasonable basis for a finding that the presumptively most adequate plaintiff is incapable of adequately representing the class.

''(D) SELECTION OF LEAD COUNSEL.—The most adequate plaintiff shall, subject to the approval of the court, select and retain counsel to represent the class.''.

SEC. 103. SANCTIONS FOR ABUSIVE LITIGATION.

(a) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(j) SANCTIONS FOR ABUSIVE LITIGATION.—

''(1) MANDATORY REVIEW BY COURT.—In any private action arising under this title, upon final adjudication of the action, the court shall include in the record specific findings regarding compliance by each party and each attorney representing any party with each requirement of Rule 11(b) of the Federal Rules of Civil Procedure.

''(2) MANDATORY SANCTIONS.—If the court makes a finding under paragraph (1) that a party or attorney violated any requirement of Rule 11(b) of the Federal Rules of Civil Procedure, the court shall impose sanctions on such party or attorney in accordance with Rule 11 of the Federal Rules of Civil Procedure.

''(3) PRESUMPTION IN FAVOR OF ATTORNEYS' FEES AND COSTS.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), for purposes of paragraph (2), the court shall adopt a presumption that the appropriate sanction for failure of the complaint or the responsive pleading or motion to comply with any requirement of Rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

''(B) REBUTTAL EVIDENCE.—The presumption described in subparagraph (A) may be rebutted only upon proof by the party or attorney against whom sanctions are to be imposed that—

''(i) the award of attorneys' fees and other expenses will impose an undue burden on that party or attorney; or

''(ii) the violation of Rule 11(b) of the Federal Rules of Civil Procedure was de minimis.

''(C) SANCTIONS.—If the party or attorney against whom sanctions are to be imposed meets its burden under subparagraph (B), the court shall award the sanctions that the court deems appropriate pursuant to Rule 11 of the Federal Rules of Civil Procedure.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934

(15 U.S.C. 78u) is amended by adding at the end the following new subsection:

''(l) SANCTIONS FOR ABUSIVE LITIGATION.—

''(1) MANDATORY REVIEW BY COURT.—In any private action arising under this title, upon final adjudication of the action, the court shall include in the record specific findings regarding compliance by each party and each attorney representing any party with each requirement of Rule 11(b) of the Federal Rules of Civil Procedure.

''(2) MANDATORY SANCTIONS.—If the court makes a finding under paragraph (1) that a party or attorney violated any requirement of Rule 11(b) of the Federal Rules of Civil Procedure, the court shall impose sanctions in accordance with Rule 11 of the Federal Rules of Civil Procedure on such party or attorney.

''(3) PRESUMPTION IN FAVOR OF ATTORNEYS' FEES AND COSTS.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), for purposes of paragraph (2), the court shall adopt a presumption that the appropriate sanction for failure of the complaint or the responsive pleading or motion to comply with any requirement of Rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

''(B) REBUTTAL EVIDENCE.—The presumption described in subparagraph (A) may be rebutted only upon proof by the party or attorney against whom sanctions are to be imposed that—

''(i) the award of attorneys' fees and other expenses will impose an undue burden on that party or attorney; or

''(ii) the violation of Rule 11(b) of the Federal Rules of Civil Procedure was de minimis.

''(C) SANCTIONS.—If the party or attorney against whom sanctions are to be imposed meets its burden under subparagraph (B), the court shall award the sanctions that the court deems appropriate pursuant to Rule 11 of the Federal Rules of Civil Procedure.''.

SEC. 104. REQUIREMENTS FOR SECURITIES FRAUD ACTIONS.

(a) SECURITIES ACT OF 1933.—

(1) STAY OF DISCOVERY.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(k) STAY OF DISCOVERY.—In any private action arising under this title, during the pendency of any motion to dismiss, all discovery and other proceedings shall be stayed unless the court finds, upon the motion of any party, that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party.''.

(2) PRESERVATION OF EVIDENCE.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(l) PRESERVATION OF EVIDENCE.—It shall be unlawful for any person, upon receiving actual notice that a complaint has been filed in a private action arising under this title naming that person as a defendant and that describes the allegations contained in the complaint, to willfully destroy or otherwise alter any document, data compilation (including any electronically recorded or stored data), or tangible object that is in the custody or control of that person and that is relevant to the allegations.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

''SEC. 36. REQUIREMENTS FOR SECURITIES FRAUD ACTIONS.

''(a) MISLEADING STATEMENTS AND OMISSIONS.—In any private action arising under this title in which the plaintiff alleges that the defendant—

''(1) made an untrue statement of a material fact; or

''(2) omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading;

the complaint shall specify each statement alleged to have been misleading, the reason or reasons why the statement is misleading, and, if an allegation regarding the statement or omission is made on information and belief, the plaintiff shall set forth all information on which that belief is formed.

''(b) REQUIRED STATE OF MIND.—

''(1) IN GENERAL.—In any private action arising under this title in which the plaintiff may recover money damages only on proof that the defendant acted with a particular state of mind, the complaint shall, with respect to each act or omission alleged to violate this title, specifically allege facts giving rise to a strong inference that the defendant acted with the required state of mind.

''(2) STRONG INFERENCE OF FRAUDULENT INTENT.—For purposes of paragraph (1), a strong inference that the defendant acted with the required state of mind may be established either—

''(A) by alleging facts to show that the defendant had both motive and opportunity to commit fraud; or

''(B) by alleging facts that constitute strong circumstantial evidence of conscious misbehavior or recklessness by the defendant.

''(c) MOTION TO DISMISS; STAY OF DISCOVERY.—

''(1) DISMISSAL FOR FAILURE TO MEET PLEADING REQUIREMENTS.—In any private action arising under this title, the court shall, on the motion of any defendant, dismiss the complaint if the requirements of subsections (a) and (b) are not met.

''(2) STAY OF DISCOVERY.—In any private action arising under this title, all discovery and other proceedings shall be stayed during the pendency of any motion to dismiss, unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

''(3) PRESERVATION OF EVIDENCE.—It shall be unlawful for any person, upon receiving actual notice that a complaint has been filed in a private action arising under this title naming that person as a defendant and that describes the allegations contained in the complaint, to willfully destroy or otherwise alter any document, data compilation (including any electronically recorded or stored data), or tangible object that is in the custody or control of that person and that is relevant to the allegations.

''(d) LOSS CAUSATION.—In any private action arising under this title, the plaintiff shall have the burden of proving that the act or omission alleged to violate this title caused any loss incurred by the plaintiff. Damages arising from such loss may be mitigated upon a showing by the defendant that factors unrelated to such act or omission contributed to the loss.''.

SEC. 105. SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

(a) SECURITIES ACT OF 1933.—Title I of the Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 13 the following new section:

''SEC. 13A. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

''(a) SAFE HARBOR.—

''(1) IN GENERAL.—In any private action arising under this title that is based on a fraudulent statement, an issuer that is subject to the reporting requirements of section 13(a) or section 15(d) of the Securities Exchange Act of 1934, a person acting on behalf of such issuer, or an outside reviewer retained by such issuer, shall not be liable with respect to any forward-looking statement, whether written or oral, if and to the extent that the statement—

''(A) projects, estimates, or describes future events; and

''(B) refers clearly (and, except as otherwise provided by rule or regulation, proximately) to—

''(i) such projections, estimates, or descriptions as forward-looking statements; and

''(ii) the risk that actual results may differ materially from such projections, estimates, or descriptions.

''(2) EFFECT ON OTHER SAFE HARBORS.—The exemption from liability provided for in paragraph (1) shall be in addition to any exemption that the Commission may establish by rule or regulation under subsection (e).

''(b) DEFINITION OF FORWARD-LOOKING STATEMENT.—For purposes of this section, the term 'forward-looking statement' means—

''(1) a statement containing a projection of revenues, income (including income loss), earnings (including earnings loss) per share, capital expenditures, dividends, capital structure, or other financial items;

''(2) a statement of the plans and objectives of management for future operations;

''(3) a statement of future economic performance contained in a discussion and analysis of financial condition by the management or in the results of operations included pursuant to the rules and regulations of the Commission;

''(4) any disclosed statement of the assumptions underlying or relating to any statement described in paragraph (1), (2), or (3); or

''(5) a statement containing a projection or estimate of such other items as may be specified by rule or regulation of the Commission.

''(c) EXCLUSIONS.—The exemption from liability provided for in subsection (a) does not apply to a forward-looking statement that is—

''(1) knowingly made with the purpose and actual intent of misleading investors;

''(2) except to the extent otherwise specifically provided by rule, regulation, or order of the Commission, made with respect to the business or operations of the issuer, if the issuer—

''(A) during the 3-year period preceding the date on which the statement was first made—

''(i) was convicted of any felony or misdemeanor described in clauses (i) through (iv) of section 15(b)(4)(B); or

''(ii) has been made the subject of a judicial or administrative decree or order arising out of a governmental action that—

''(I) prohibits future violations of the anti-fraud provisions of the securities laws, as that term is defined in section 3 of the Securities Exchange Act of 1934;

''(II) requires that the issuer cease and desist from violating the anti-fraud provisions of the securities laws; or

''(III) determines that the issuer violated the anti-fraud provisions of the securities laws;

''(B) makes the forward-looking statement in connection with an offering of securities by a blank check company, as that term is defined under the rules or regulations of the Commission;

''(C) issues penny stock, as that term is defined in section 3(a)(51) of the Securities Exchange Act of 1934, and the rules, regulations, or orders issued pursuant to that section;

''(D) makes the forward-looking statement in connection with a rollup transaction, as that term is defined under the rules or regulations of the Commission; or

''(E) makes the forward-looking statement in connection with a going private transaction, as that term is defined under the rules or regulations of the Commission issued pursuant to section 13(e) of the Securities Exchange Act of 1934; or

''(3) except to the extent otherwise specifically provided by rule or regulation of the Commission—

''(A) included in a financial statement prepared in accordance with generally accepted accounting principles;

''(B) contained in a registration statement of, or otherwise issued by, an investment company, as that term is defined in section 3(a) of the Investment Company Act of 1940;

''(C) made in connection with a tender offer;

''(D) made in connection with an initial public offering;

''(E) made by or in connection with an offering by a partnership, limited liability corporation, or a direct participation investment program, as those terms are defined by rule or regulation of the Commission; or

''(F) made in a disclosure of beneficial ownership in a report required to be filed with the Commission pursuant to section 13(d) of the Securities Exchange Act of 1934.

''(d) STAY PENDING DECISION ON MOTION.—In any private action arising under this title, the court shall stay discovery during the pendency of any motion by a defendant (other than discovery that is specifically directed to the applicability of the exemption provided for in this section) for summary judgment that is based on the grounds that—

''(1) the statement or omission upon which the complaint is based is a forward-looking statement within the meaning of this section; and

''(2) the exemption provided for in this section precludes a claim for relief.

''(e) AUTHORITY.—In addition to the exemption provided for in this section, the Commission may, by rule or regulation, provide exemptions from liability under any provision of this title, or of any rule or regulation issued under this title, that is based on a statement that includes or that is based on projections or other forward-looking information, if and to the extent that any such exemption is, as determined by the Commission, consistent with the public interest and the protection of investors.

''(f) COMMISSION DISGORGEMENT ACTIONS.—

''(1) IN GENERAL.—If the Commission, in any proceeding, orders or obtains (by settlement, court order, or otherwise) a payment of funds from a person who has violated this title through means that included the utilization of a forward-looking statement, and if any portion of such funds is set aside or otherwise held for or available to persons who suffered losses in connection with such violation, no person shall be precluded from participating in the distribution of, or otherwise receiving, a portion of such funds by reason of the application of this section.

''(2) JUDGMENT FOR LOSSES SUFFERED.—In any action by the Commission alleging a violation of this title in which the defendant or respondent is alleged to have utilized a forward-looking statement in furtherance of such violation, the Commission may, upon a sufficient showing, in addition to all other remedies available to the Commission, obtain a judgment for the payment of an amount equal to all losses suffered by reason of the utilization of the forward-looking statement that are not compensated through final adjudication or settlement of a private action brought under this title arising from the same violation.

''(g) EFFECT ON OTHER AUTHORITY OF COMMISSION.—Nothing in this section limits, either expressly or by implication, the authority of the Commission to exercise similar authority or to adopt similar rules and regulations with respect to forward-looking statements under any other statute under which the Commission exercises rulemaking authority.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

''SEC. 37. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

''(a) SAFE HARBOR.—

''(1) IN GENERAL.—In any private action arising under this title that is based on a fraudulent statement, an issuer that is subject to the reporting requirements of section 13(a) or section 15(d) of the Securities Exchange Act of 1934, a person acting on behalf of such issuer, or an outside reviewer retained by such issuer, shall not be liable with respect to any forward-looking statement, whether written or oral, if and to the extent that the statement—

''(A) projects, estimates, or describes future events; and

''(B) refers clearly (and, except as otherwise provided by rule or regulation, proximately) to—

''(i) such projections, estimates, or descriptions as forward-looking statements; and

''(ii) the risk that actual results may differ materially from such projections, estimates, or descriptions.

''(2) EFFECT ON OTHER SAFE HARBORS.—The exemption from liability provided for in paragraph (1) shall be in addition to any exemption that the Commission may establish by rule or regulation under subsection (e).

''(b) DEFINITION OF FORWARD-LOOKING STATEMENT.—For purposes of this section, the term 'forward-looking statement' means—

''(1) a statement containing a projection of revenues, income (including income loss), earnings (including earnings loss) per share, capital expenditures, dividends, capital structure, or other financial items;

''(2) a statement of the plans and objectives of management for future operations;

''(3) a statement of future economic performance contained in a discussion and analysis of financial condition by the management or in the results of operations included pursuant to the rules and regulations of the Commission;

''(4) any disclosed statement of the assumptions underlying or relating to any statement described in paragraph (1), (2), or (3); or

''(5) a statement containing a projection or estimate of such other items as may be specified by rule or regulation of the Commission.

''(c) EXCLUSIONS.—The exemption from liability provided for in subsection (a) does not apply to a forward-looking statement that is—

''(1) knowingly made with the purpose and actual intent of misleading investors;

''(2) except to the extent otherwise specifically provided by rule, regulation, or order of the Commission, made with respect to the business or operations of the issuer, if the issuer—

''(A) during the 3-year period preceding the date on which the statement was first made—

''(i) was convicted of any felony or misdemeanor described in clauses (i) through (iv) of section 15(b)(4)(B); or

''(ii) has been made the subject of a judicial or administrative decree or order arising out of a governmental action that—

''(I) prohibits future violations of the anti-fraud provisions of the securities laws;

''(II) requires that the issuer cease and desist from violating the anti-fraud provisions of the securities laws; or

''(III) determines that the issuer violated the anti-fraud provisions of the securities laws;

''(B) makes the forward-looking statement in connection with an offering of securities by a blank check company, as that term is defined under the rules or regulations of the Commission;

''(C) issues penny stock;

''(D) makes the forward-looking statement in connection with a rollup transaction, as that term is defined under the rules or regulations of the Commission; or

''(E) makes the forward-looking statement in connection with a going private transaction, as that term is defined under the rules or regulations of the Commission issued pursuant to section 13(e); or

''(3) except to the extent otherwise specifically provided by rule or regulation of the Commission—

''(A) included in financial statements prepared in accordance with generally accepted accounting principles;

''(B) contained in a registration statement of, or otherwise issued by, an investment company;

''(C) made in connection with a tender offer;

''(D) made in connection with an initial public offering;

''(E) made by or in connection with an offering by a partnership, limited liability corporation, or a direct participation investment program, as those terms are defined by rule or regulation of the Commission; or

''(F) made in a disclosure of beneficial ownership in a report required to be filed with the Commission pursuant to section 13(d).

''(d) STAY PENDING DECISION ON MOTION.—In any private action arising under this title, the court shall stay discovery during the pendency of any motion by a defendant (other than discovery that is specifically directed to the applicability of the exemption provided for in this section) for summary judgment that is based on the grounds that—

''(1) the statement or omission upon which the complaint is based is a forward-looking statement within the meaning of this section; and

''(2) the exemption provided for in this section precludes a claim for relief.

''(e) AUTHORITY.—In addition to the exemption provided for in this section, the Commission may, by rule or regulation, provide exemptions from liability under any provision of this title, or of any rule or regulation issued under this title, that is based on a statement that includes or that is based on projections or other forward-looking information, if and to the extent that any such exemption is, as determined by the Commission, consistent with the public interest and the protection of investors.

''(f) COMMISSION DISGORGEMENT ACTIONS.—

''(1) IN GENERAL.—If the Commission, in any proceeding, orders or obtains (by settlement, court order, or otherwise) a payment of funds from a person who has violated this title through means that included the utilization of a forward-looking statement, and if any portion of such funds is set aside or otherwise held for or available to persons who suffered losses in connection with such violation, no person shall be precluded from participating in the distribution of, or otherwise receiving, a portion of such funds by reason of the application of this section.

''(2) JUDGMENT FOR LOSSES SUFFERED.—In any action by the Commission alleging a violation of this title in which the defendant or respondent is alleged to have utilized a forward-looking statement in furtherance of such violation, the Commission may, upon a sufficient showing, in addition to all other remedies available to the Commission, obtain a judgment for the payment of an amount equal to all losses suffered by reason of the utilization of the forward-looking statement that are not compensated through final adjudication or settlement of a private action brought under this title arising from the same violation.

''(g) EFFECT ON OTHER AUTHORITY OF COMMISSION.—Nothing in this section limits, either expressly or by implication, the authority of the Commission to exercise similar authority or to adopt similar rules and regulations with respect to forward-looking statements under any other statute under which the Commission exercises rulemaking authority.''.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 24 of the Investment Company Act of 1940 (15 U.S.C. 80a–24) is amended by adding at the end the following new subsection:

''(g) REGULATORY AUTHORITY FOR FORWARD-LOOKING STATEMENTS.—

''(1) IN GENERAL.—The Commission shall review and, if necessary to carry out the purposes of this title, promulgate such rules and regulations as may be necessary to describe conduct with respect to the making of forward-looking statements that the Commission deems does not provide a basis for liability in any private action arising under this title.

''(2) REQUIREMENTS.—A rule or regulation promulgated under paragraph (1) shall—

''(A) include clear and objective guidance that the Commission finds sufficient for the protection of investors;

''(B) prescribe such guidance with sufficient particularity that compliance shall be readily ascertainable by issuers prior to issuance of securities; and

''(C) provide that forward-looking statements that are in compliance with such guidance and that concern the future economic performance of an issuer of securities registered under section 12 shall be deemed not to be in violation of this title.

''(3) EFFECT ON OTHER AUTHORITY OF COMMISSION.—Nothing in this subsection limits, either expressly or by implication, the authority of the Commission to exercise similar authority or to adopt similar rules and regulations with respect to forward-looking statements under any other statute under which the Commission exercises rulemaking authority.''.

SEC. 106. WRITTEN INTERROGATORIES.

(a) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(m) DEFENDANT'S RIGHT TO WRITTEN INTERROGATORIES.—In any private action arising under this title in which the plaintiff may recover money damages only on proof that a defendant acted with a particular state of mind, the court shall, when requested by a defendant, submit to the jury a written interrogatory on the issue of each such defendant's state of mind at the time the alleged violation occurred.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

''(m) DEFENDANT'S RIGHT TO WRITTEN INTERROGATORIES.—In any private action arising under this title in which the plaintiff may recover money damages, the court shall, when requested by a defendant, submit to the jury a written interrogatory on the issue of each such defendant's state of mind at the time the alleged violation occurred.''.

SEC. 107. AMENDMENT TO RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964(c) of title 18, United States Code, is amended by inserting before the period '', except that no person may rely upon conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962''.

SEC. 108. AUTHORITY OF COMMISSION TO PROSECUTE AIDING AND ABETTING.

Section 20 of the Securities Exchange Act of 1934 (15 U.S.C. 78t) is amended—

(1) by striking the section heading and inserting the following:

''LIABILITY OF CONTROLLING PERSONS AND PERSONS WHO AID AND ABET VIOLATIONS''; AND

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

''(e) PROSECUTION OF PERSONS WHO AID AND ABET VIOLATIONS.—For purposes of any action brought by the Commission under paragraph (1) or (3) of section 21(d), any person that knowingly provides substantial assistance to another person in the violation of a provision of this title, or of any rule or regulation issued under this title, shall be—

''(1) deemed to be in violation of such provision; and

''(2) liable to the same extent as the person to whom such assistance is provided.''.

SEC. 109. LOSS CAUSATION.

Section 12 of the Securities Act of 1933 (15 U.S.C. 77l) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Any person'';

(2) by inserting '', subject to subsection (b),'' after ''shall be liable''; and

(3) by adding at the end the following:

''(b) LOSS CAUSATION.—In an action described in subsection (a)(2), if the person who offered or sold such security proves that any portion or all of the amount recoverable under subsection (a)(2) represents other than the depreciation in value of the subject security resulting from such part of the prospectus or oral communication, with respect to which the liability of that person is asserted, not being true or omitting to state a material fact required to be stated therein or necessary to make the statement not misleading, then such portion or amount, as the case may be, shall not be recoverable.''.

SEC. 110. STUDY AND REPORT ON PROTECTIONS FOR SENIOR CITIZENS AND QUALIFIED RETIREMENT PLANS.

(a) FINDINGS.—The Congress finds that—

(1) senior citizens and qualified retirement plans are too often the target of securities fraud of the kind evidenced in the Charles Keating, Lincoln Savings & Loan Association, and American Continental Corporation situations;

(2) this Act, in an effort to curb unfounded lawsuits, changes the standards and procedures for securities fraud actions; and

(3) the Securities and Exchange Commission has indicated concern with some provisions of this Act.

(b) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall—

(1) determine whether investors that are senior citizens or qualified retirement plans require greater protection against securities fraud than is provided in this Act and the amendments made by this Act; and

(2) if so, submit to the Congress a report containing recommendations on protections that the Commission determines to be appropriate to thoroughly protect such investors.

(c) DEFINITIONS.—For purposes of this section—

(1) The term ''qualified retirement plan'' has the same meaning as in section 4974(c) of the Internal Revenue Code of 1986; and

(2) the term ''senior citizen'' means an individual who is 62 years of age or older as of the date of the securities transaction at issue.

SEC. 111. AMENDMENT TO RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964(c) of title 18, United States Code, is amended by inserting before the period '', except that no person may rely upon conduct that would have been actionable as fraud in the purchase of sale of securities to establish a violation of section 1962'': Provided however, That this exception shall not apply if any participant in the fraud is criminally convicted in connection therewith, in which case the statute of limitations shall start to run on the date that the conviction becomes final.

SEC. 112. APPLICABILITY.

The amendments made by this title shall not affect or apply to any private action arising under title I of the Securities Exchange Act of 1934 or title I of the Securities Act of 1933 commenced before the date of enactment of this Act.

TITLE II—REDUCTION OF COERCIVE SETTLEMENTS

SEC. 201. LIMITATION ON DAMAGES.

Section 36 of the Securities Exchange Act of 1934, as added by section 104 of this Act, is amended by adding at the end the following new subsection:

''(e) LIMITATION ON DAMAGES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), in any private action arising under this title, the plaintiff's damages shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the value of that security, as measured by the median trading price of that security, during the 90-day period beginning on the date on which the information correcting the misstatement or omission is disseminated to the market.

''(2) EXCEPTION.—In any private action arising under this title in which damages are sought, if the plaintiff sells or repurchases the subject security prior to the expiration of the 90-day period described in paragraph (1), the plaintiff's damages shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the security and the median market value of the security during the period beginning immediately after dissemination of information correcting the misstatement or omission and ending on the date on which the plaintiff sells or repurchases the security.''.

SEC. 202. PROPORTIONATE LIABILITY.

Title I of the Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

''SEC. 38. PROPORTIONATE LIABILITY.

''(a) APPLICABILITY.—This section shall apply only to the allocation of damages among persons who are, or who may become, liable for damages in any private action arising under this title. Nothing in this section shall affect the standards for liability associated with any private action arising under this title.

''(b) LIABILITY FOR DAMAGES.—

''(1) JOINT AND SEVERAL LIABILITY.—A person against whom a judgment is entered in any private action arising under this title shall be liable for damages jointly and severally only if the trier of fact specifically determines that such person committed knowing securities fraud.

''(2) PROPORTIONATE LIABILITY.—Except as provided in paragraph (1), a person against whom a judgment is entered in any private action arising under this title shall be liable solely for the portion of the judgment that corresponds to the percentage of responsibility of that person, as determined under subsection (c).

''(3) KNOWING SECURITIES FRAUD.—For purposes of this section—

''(A) a defendant engages in 'knowing securities fraud' if that defendant—

''(i) makes a material representation with actual knowledge that the representation is false, or omits to make a statement with actual knowledge that, as a result of the omission, one of the material representations of the defendant is false; and

''(ii) actually knows that persons are likely to rely on that misrepresentation or omission; and

''(B) reckless conduct by the defendant shall not be construed to constitute knowing securities fraud.

''(c) DETERMINATION OF RESPONSIBILITY.—

''(1) IN GENERAL.—In any private action arising under this title in which more than 1 person is alleged to have violated a provision of this title, the court shall instruct the jury to answer special interrogatories, or if there is no jury, shall make findings, concerning—

''(A) the percentage of responsibility of each of the defendants and of each of the other persons alleged by any of the parties to have caused or contributed to the violation, including persons who have entered into settlements with the plaintiff or plaintiffs, measured as a percentage of the total fault of all persons who caused or contributed to the violation; and

''(B) whether such defendant committed knowing securities fraud.

''(2) CONTENTS OF SPECIAL INTERROGATORIES OR FINDINGS.—The responses to interrogatories, or findings, as appropriate, under paragraph (1) shall specify the total amount of damages that the plaintiff is entitled to recover and the percentage of responsibility of each person found to have caused or contributed to the damages sustained by the plaintiff or plaintiffs.

''(3) FACTORS FOR CONSIDERATION.—In determining the percentage of responsibility under this subsection, the trier of fact shall consider—

''(A) the nature of the conduct of each person; and

''(B) the nature and extent of the causal relationship between that conduct and the damages incurred by the plaintiff or plaintiffs.

''(d) UNCOLLECTIBLE SHARE.—

''(1) IN GENERAL.—Notwithstanding subsection (b)(2), in any private action arising under this title, if, upon motion made not later than 6 months after a final judgment is entered, the court determines that all or part of a defendant's share of the judgment is not collectible

against that defendant or against a defendant described in subsection (b)(1), each defendant described in subsection (b)(2) shall be liable for the uncollectible share as follows:

''(A) PERCENTAGE OF NET WORTH.—Each defendant shall be jointly and severally liable for the uncollectible share if the plaintiff establishes that—

''(i) the plaintiff is an individual whose recoverable damages under the final judgment are equal to more than 10 percent of the net financial worth of the plaintiff; and

''(ii) the net financial worth of the plaintiff is equal to less than $200,000.

''(B) OTHER PLAINTIFFS.—With respect to any plaintiff not described in subparagraph (A), each defendant shall be liable for the uncollectible share in proportion to the percentage of responsibility of that defendant, except that the total liability under this subparagraph may not exceed 50 percent of the proportionate share of that defendant, as determined under subsection (c)(2).

''(2) OVERALL LIMIT.—In no case shall the total payments required pursuant to paragraph (1) exceed the amount of the uncollectible share.

''(3) DEFENDANTS SUBJECT TO CONTRIBUTION.—A defendant against whom judgment is not collectible shall be subject to contribution and to any continuing liability to the plaintiff on the judgment.

''(e) RIGHT OF CONTRIBUTION.—To the extent that a defendant is required to make an additional payment pursuant to subsection (d), that defendant may recover contribution—

''(1) from the defendant originally liable to make the payment;

''(2) from any defendant liable jointly and severally pursuant to subsection (b)(1);

''(3) from any defendant held proportionately liable pursuant to this subsection who is liable to make the same payment and has paid less than his or her proportionate share of that payment; or

''(4) from any other person responsible for the conduct giving rise to the payment that would have been liable to make the same payment.

''(f) NONDISCLOSURE TO JURY.—The standard for allocation of damages under subsections (b) and (c) and the procedure for reallocation of uncollectible shares under subsection (d) shall not be disclosed to members of the jury.

''(g) SETTLEMENT DISCHARGE.—

''(1) IN GENERAL.—A defendant who settles any private action arising under this title at any time before final verdict or judgment shall be discharged from all claims for contribution brought by other persons. Upon entry of the settlement by the court, the court shall enter a bar order constituting the final discharge of all obligations to the plaintiff of the settling defendant arising out of the action. The order shall bar all future claims for contribution arising out of the action—

''(A) by any person against the settling defendant; and

''(B) by the settling defendant against any person, other than a person whose liability has been extinguished by the settlement of the settling defendant.

''(2) REDUCTION.—If a person enters into a settlement with the plaintiff prior to final verdict or judgment, the verdict or judgment shall be reduced by the greater of—

''(A) an amount that corresponds to the percentage of responsibility of that person; or

''(B) the amount paid to the plaintiff by that person.

''(h) CONTRIBUTION.—A person who becomes liable for damages in any private action arising under this title may recover contribution from any other person who, if joined in the original action, would have been liable for the same damages. A claim for contribution shall be determined based on the percentage of responsibility of the claimant and of each person against whom a claim for contribution is made.

''(i) STATUTE OF LIMITATIONS FOR CONTRIBUTION.—Once judgment has been entered in any private action arising under this title determining liability, an action for contribution shall be brought not later than 6 months after the entry of a final, nonappealable judgment in the action, except that an action for contribution brought by a defendant who was required to make an additional payment pursuant to subsection (d) may be brought not later than 6 months after the date on which such payment was made.''.

SEC. 203. APPLICABILITY.

The amendments made by this title shall not affect or apply to any private action arising under title I of the Securities Exchange Act of 1934 commenced before the date of enactment of this Act.

TITLE III—AUDITOR DISCLOSURE OF CORPORATE FRAUD

SEC. 301. FRAUD DETECTION AND DISCLOSURE.

(a) IN GENERAL.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting immediately after section 10 the following new section:

''SEC. 10A. AUDIT REQUIREMENTS.

''(a) IN GENERAL.—Each audit required pursuant to this title of the financial statements of an issuer by an independent public accountant shall include, in accordance with generally accepted auditing standards, as may be modified or supplemented from time to time by the Commission—

''(1) procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts;

''(2) procedures designed to identify related party transactions that are material to the financial statements or otherwise require disclosure therein; and

''(3) an evaluation of whether there is substantial doubt about the ability of the issuer to continue as a going concern during the ensuing fiscal year.

''(b) REQUIRED RESPONSE TO AUDIT DISCOVERIES.—

''(1) INVESTIGATION AND REPORT TO MANAGEMENT.—If, in the course of conducting an audit pursuant to this title to which subsection (a) applies, the independent public accountant detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have a material effect on the financial statements of the issuer) has or may have occurred, the accountant shall, in accordance with generally accepted auditing standards, as may be modified or supplemented from time to time by the Commission—

''(A)(i) determine whether it is likely that an illegal act has occurred; and

''(ii) if so, determine and consider the possible effect of the illegal act on the financial statements of the issuer, including any contingent monetary effects, such as fines, penalties, and damages; and

''(B) as soon as practicable, inform the appropriate level of the management of the issuer and assure that the audit committee of the issuer, or the board of directors of the issuer in the absence of such a committee, is adequately informed with respect to illegal acts that have been detected or have otherwise come to the attention of such accountant in the course of the audit, unless the illegal act is clearly inconsequential.

''(2) RESPONSE TO FAILURE TO TAKE REMEDIAL ACTION.—If, after determining that the audit committee of the board of directors of the issuer, or the board of directors of the issuer in the absence of an audit committee, is adequately informed with respect to illegal acts that have been detected or have otherwise come to the attention of the accountant in the course of the audit of such accountant, the independent public accountant concludes that—

''(A) the illegal act has a material effect on the financial statements of the issuer;

''(B) the senior management has not taken, and the board of directors has not caused senior management to take, timely and appropriate remedial actions with respect to the illegal act; and

''(C) the failure to take remedial action is reasonably expected to warrant departure from a standard report of the auditor, when made, or warrant resignation from the audit engagement; the independent public accountant shall, as soon as practicable, directly report its conclusions to the board of directors.

''(3) NOTICE TO COMMISSION; RESPONSE TO FAILURE TO NOTIFY.—An issuer whose board of directors receives a report under paragraph (2) shall inform the Commission by notice not later than 1 business day after the receipt of such report and shall furnish the independent public accountant making such report with a copy of the notice furnished to the Commission. If the independent public accountant fails to receive a copy of the notice before the expiration of the required 1-business-day period, the independent public accountant shall—

''(A) resign from the engagement; or

''(B) furnish to the Commission a copy of its report (or the documentation of any oral report given) not later than 1 business day following such failure to receive notice.

''(4) REPORT AFTER RESIGNATION.—If an independent public accountant resigns from an engagement under paragraph (3)(A), the accountant shall, not later than 1 business day following the failure by the issuer to notify the Commission under paragraph (3), furnish to the Commission a copy of the accountant's report (or the documentation of any oral report given).

''(c) AUDITOR LIABILITY LIMITATION.—No independent public accountant shall be liable in a private action for any finding, conclusion, or statement expressed in a report made pursuant to paragraph (3) or (4) of subsection (b), including any rule promulgated pursuant thereto.

''(d) CIVIL PENALTIES IN CEASE-AND-DESIST PROCEEDINGS.—If the Commission finds, after notice and opportunity for hearing in a proceeding instituted pursuant to section 21C, that an independent public accountant has willfully violated paragraph (3) or (4) of subsection (b), the Commission may, in addition to entering an order under section 21C, impose a civil penalty against the independent public accountant and any other person that the Commission finds was a cause of such violation. The determination to impose a civil penalty and the amount of the penalty shall be governed by the standards set forth in section 21B.

''(e) PRESERVATION OF EXISTING AUTHORITY.—Except as provided in subsection (d), nothing in this section shall be held to limit or otherwise affect the authority of the Commission under this title.

''(f) DEFINITION.—As used in this section, the term 'illegal act' means an act or omission that violates any law, or any rule or regulation having the force of law.''.

(b) EFFECTIVE DATES.—The amendment made by subsection (a) shall apply to each annual report—

(1) for any period beginning on or after January 1, 1996, with respect to any registrant that is required to file selected quarterly financial data pursuant to the rules or regulations of the Securities and Exchange Commission; and

(2) for any period beginning on or after January 1, 1997, with respect to any other registrant.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. D'AMATO. Mr. President, I send an amendment to the title to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Amend the title so as to read:

''An act to amend the Federal securities laws to curb certain abusive practices in private securities litigation, and for other purposes.''

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

The amendment was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. D'AMATO. Mr. President, I ask unanimous consent that S. 240 be placed back on the calendar.

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

Mr. D'AMATO. Mr. President, I would like to take just a few seconds to thank a very dedicated staff. Laura Unger, for the dedicated job she has done in a very complex bill—really, without her work, not only during the process on the floor but in committee, we would not have had this legislation. And our staff director, Howard Menell.

Let me also say it was a pleasure working with the ranking member, Senator SARBANES, handling a complex piece of legislation like this with a divergence of opinions. I think we demonstrated the process can work when people are willing to work at it in good will.

Notwithstanding differences of opinion, I could not ask, I think, for fairer debate, et cetera, as we tried to keep this moving. So I thank my colleagues. And certainly Senator DOMENICI and Senator DODD did an excellent job on this bill, bringing it to the point we could bring it to the floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I would like to reciprocate to the chairman of the committee with respect to his sentiments. I point out, I think this legislation was considered in a way that I would hope all legislation can be considered. We had opening statements. Then we moved from opening statements to taking up amendments. We considered the amendments seriatim, we had good debate on the amendments, voted on the amendments, then we had closing statements, and then we went to final passage of the bill.

So I hope Members will agree, I know a number of Members I talked to felt we had a good consideration of it. People had a chance to express their points of view. We resolved them and moved forward.

I thank the chairman of the committee for his effort to construct a fair framework in which to address this legislation.

I thank my colleagues, and I want to acknowledge in particular the staff work of Mitchell Feuer, Andy Vermilye, and Brian McTigue, all of whom worked indefatigably on this legislation.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I thank the managers of the bill. I think they did demonstrate we can have an orderly debate and not waste any time. I do not remember there being very many quorum calls. It took a while, but it is a very important piece of legislation, and I want to comment both the managers and also my good friend, the chairman of the committee, Senator D'AMATO. I think this is probably his first major bill as chairman. I think he has done an outstanding job and I appreciate it very much.

Everybody has had a chance to debate. Nobody was shut off. There were not any cloture motions filed. There was not any time wasted. In fact, I was home last night watching on C–SPAN when you were all up here—watching you on C–SPAN, watching you debating until 9, 9:30, 10 o'clock. I commend the managers.

Mr. SARBANES. Will the majority leader yield for a question? Does it look better to watch it on C–SPAN than to watch it in person?

Mr. DOLE. It is better because you are further away. It was very interesting. The Senator from Pennsylvania was speaking and the Senator from Utah was answering. It was fairly quiet up here. It was fairly quiet at home, too, at 10 o'clock at night.

In any event, I thank the Democratic leader for his cooperation, too, and members of the staff on each side and others who participated in this bill.

Mr. DASCHLE. Mr. President, I associate myself with the remarks of the majority leader and his compliments for both managers of the bill just passed.

This is not an easy piece of legislation, both because of its complexity as well as its controversy. But I must say that our colleagues on both sides of the aisle have certainly acted in a very responsible manner. We have had a good debate. As the distinguished Senator from Maryland has said on a number of occasions, it is a debate that I think bears even closer watch and closer consideration as we go through the final stages of passage of this very important piece of legislation.

I particularly want to single out the distinguished Senator from Maryland, the ranking member, for his extraordinary work in leading our caucus in this effort and in sharing, as he has, his very valuable insights on a number of the ramifications of the bill and the amendments pending. He did an outstanding job and I deeply appreciate his leadership in this regard.

Let me also commend my colleague, the distinguished senior Senator from Connecticut, Senator DODD, for his advocacy of the legislation. While we differed on many of the issues pertaining to the bill, he, too, ought to be commended for the way with which he conducted this debate.

This has been a good debate. I appreciate very much the cooperation of the Republican leadership in ensuring that all Senators have the opportunity to present their amendments and to be heard as completely as they were heard, now, over the last several days.

I hope, now, as we turn to the budget conference report, that colleagues will use the time available to us, beginning at noon, to present their views. We will have 10 hours of debate. It is very important that we utilize this time as efficiently and as appropriately as we can. So I encourage colleagues on this side of the aisle to come to the floor beginning at noon to make their remarks and to utilize the opportunities that we will have over the course of the next several hours to express ourselves on this budget resolution.

So, again Mr. President, I commend our managers on the bill just passed, and hope we can have a good debate on the budget conference report beginning at noon.

I yield the floor.

UNANIMOUS-CONSENT AGREEMENT—BUDGET CONFERENCE REPORT

Mr. DOLE. Mr. President, I ask unanimous consent that at 12 noon—this has been cleared by the Democratic leader—the Senate begin 4 hours debate to be equally divided in the usual form on the budget conference report, and that when the Senate receives the conference report to cover the budget, House Concurrent Resolution 67, there be 6 hours remaining for consideration.

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

Mr. DOLE. I hope we may be able to use some more time later in the day.

MORNING BUSINESS

Mr. DOLE. Mr. President, I also ask unanimous consent there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each, between now and 12 noon.

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

REGULATORY REFORM

Mr. DOLE. Mr. President, we have had our colleagues, a number on each side—five, six, seven on each side—meeting in Senator DASCHLE's office on reg reform. They have made some progress. I am not certain what will be the final result.

We hope this afternoon, at least at 4 o'clock, to either go to reg reform or to try to proceed to reg reform—I think it depends on what happens during talks in the afternoon—to demonstrate, first of all, we are gaining a lot of support for the bill and, second, that it would be on the table, on the floor when we come back after the recess. We are not quite there yet, but I think they are working in good faith on each side.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I ask unanimous consent that I may speak as in morning business.

The PRESIDING OFFICER. The Senator has that right.

PAKISTAN AND THE F–16'S

Mr. PRESSLER. Mr. President, many years ago I sponsored an amendment dealing with our aid to Pakistan, and it has been a thorn in the side of our relationship with Pakistan. It ultimately involved the delivery of several F–16's. I had recently proposed a solution to that problem, a resolution of that problem, to the President of the United States.

As my colleagues know, I have held a special interest in South Asia for a number of years. I have the highest admiration for the character of the South Asian people as they strive to better their conditions.

The singular tragedy of South Asia has been war—the reality of conflicts past and the fear of future bloodshed. Pakistan and India have fought three wars since independence in 1947. Tension still remains high.

What was once a conventional military standoff has now become more ominous. Both sides can assemble nuclear weapons. Both sides are striving to obtain modern delivery systems, such as ballistic missiles and aircraft. Just last week, the New York Times and Defense News reported that in the past 3 months, Pakistan has received from Communist China key components that could be used in M–11 ballistic missiles. Without question, a nuclear war between India and Pakistan would be cataclysmic. The names of the perpetrators, and their accessories, would be cursed for a millennium.

To its credit, Mr. President, the U.S. Senate consistently has taken the initiative to promote peace and stability in South Asia—the core of that leadership has been the Senate Foreign Relations Committee. A decade ago, the committee—under the chairmanship of the distinguished senior Senator from Indiana [Mr. LUGAR]—decided to use the leverage of our aid to Pakistan to try to keep it from going nuclear. Just as important, the committee also decided that should Pakistan choose a nuclear option, we would not condone its action through United States aid.

Mr. President, those were the key reasons why the U.S. Congress adopted the so-called Pressler amendment 10 years ago. It was the right thing to do. President Ronald Reagan agreed. So did the Government of Pakistan at that time. I believe the Pressler amendment is needed now more than ever. To the extent that the current administration and this Congress chooses to back away from that standard, the prospects for regional instability and war are increased accordingly. Unfortunately, some have called for a myriad of modifications to the Pressler amendment, ranging from one-time waivers to outright repeal.

Mr. President, I have a more in-depth analysis of the Pressler amendment, which I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. PRESSLER. In summary, any unilateral attempt to weaken or modify the Pressler amendment for whatever reason—whether it be for economic assistance, or drug or terrorism control—would not be in the best interest of our more critical nuclear nonproliferation goals. I urge my colleagues to study this extended analysis before the Senate considers the foreign aid authorization bill later this year.

Today, however, I would like to discuss the initiative I offered to the committee 1 month ago—a new, constructive initiative that will make a significant contribution toward achieving a number of our foreign policy goals.

As my colleagues well know, in 1990, President Bush could no longer certify, under the terms of the Pressler amendment, that Pakistan did not possess a nuclear explosive device. As a result, 28 F–16 aircraft ordered by Pakistan could not be delivered. Today, those planes remain undelivered. Of these 28, 11 were sold on a foreign military sales basis—paid for up-front by the American taxpayer. The remaining 17 were paid for by Pakistan for about $650 million.

Let me be clear: I will oppose any attempt to waive the Pressler amendment to allow for Pakistan to take delivery of these aircraft. My rationale is simple: F–16's are capable of carrying a nuclear payload. It would be contrary to the spirit and letter of our Nation's nuclear non-proliferation policy for this Congress to allow Pakistan to take possession of nuclear delivery vehicles under any condition short of current law.

Doing so would have grave implications. Delivery of the F–16's could spark an unprecedented, destabilizing arms buildup in South Asia. This is not in the best interests of the people of the region. I would hope that no Member of Congress would want his or her fingerprints on any proposal that would spark such an unfortunate turn of events.

I recognize this leaves the United States in a quandary—a quandary that I hope we can eliminate. To do so, Mr. President, please allow me to turn our attention to the South China Sea, where the Communist Chinese military machine is on the march.

Taiwan continues to be threatened with an increasing level of intimidating military exercises by Communist China. In addition, the Philippine Government is the victim of Chinese aggression in the Spratley Islands. The Philippines and the other surrounding countries in the region are concerned that this increased activity by the Chinese military is a prelude to an outright attempt to gain control over the South China Sea.

Three points about the Philippines are worth mentioning:

First, the Philippines is the democratic country in Asia with the weakest military. Its government needs modern planes and naval craft. Second, the Philippines has a security treaty with the United States. The Philippine people are our allies.

Third, the U.S. Senate—through the leadership of former Foreign Relations Committee Chairman LUGAR and the distinguished Senator from Massachusetts, Mr. KERRY—was instrumental in bringing democracy back to the Philippines in 1986. We must not turn our back on them now.

My initiative is very simple. First, we arrange for the immediate delivery to the Philippines, on a FMS basis, of 11 F–16's of the 28 held up by the Pressler amendment—the ones already paid for by the American taxpayer.

At the same time, I recommended last month that we open negotiations with Taiwan on the immediate delivery of the remaining 17 aircraft. Taiwan already is purchasing 150 of the same model F–16 but the delivery date is not until June 1997.

At the time of my announcement, I sent letters to President Clinton, Philippine President Ramos and President Lee of the Republic of China, detailing my initiative. Last week, President Clinton responded to my proposal, stating that he was open to a third-party sale if it met certain areas of concern. First, the President said that a third-party transfer must serve our national interest. I agree. In fact, my initiative produces a number of winners:

For Pakistan, the F–16 issue goes away as an irritant in its relations with the United States. For India, 28 nuclear delivery vehicles do not show up on her border, and that is something I feel very concerned about. I think if these F–16's went to Pakistan, it would accelerate the arms race there. I feel strongly we should be friends with both India and Pakistan. Both countries have done a great deal with us and for us.

I see in the long range a trading partnership with both countries, and friendship. But also this will help us with Taiwan.

Taiwan can, for a price, close its 2-year window of vulnerability to modern Russian aircraft in the hands of Chinese pilots. Finally, the Philippines can get the air defense it needs.

By this initiative, a number of American foreign policy goals would be furthered: lower tensions in South Asia, maintenance of a strong nuclear nonproliferation policy, and an enhanced deterrent capability of two democratic, nonnuclear powers in Asia. At home, American aerospace would have new markets, and the American taxpayer would receive a measurable enhancement of our global security for almost no cost.

Second, the President stated that we would need to consider the return to Pakistan of the military equipment

other than the F–16's for which it has paid. Frankly, I believe we must study this option carefully. I would oppose the return of any military equipment to Pakistan that would serve to undermine our nuclear non-proliferation goals, and add to the current instability in the region. We should not limit the third-party sale option just to the F–16's exclusively.

Third, the President noted that a third party sale may not be satisfactory to Pakistan if it does not receive most, if not all, of the funds they originally paid to the United States Government for the aircraft. As I stated last month, if the Congress opts to use any of the funds raised from my initiative to compensate Pakistan for the previously paid F–16's, I would not object. However, I would hope that full compensation is not made a condition by the President for pursuing a third party sale. As it stands right now, I believe it would be difficult to convince Congress to either authorize the delivery of the F–16's to Pakistan, or appropriate the full amount paid by Pakistan. My initiative provides the Government of Pakistan the first real opportunity to gain some compensation in the near future.

I ask unanimous consent that the text of my letter to President Clinton dated May 23, 1995, and his response dated June 22, be printed in the RECORD following my remarks.

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

(See exhibit 2.)

Mr. PRESSLER. Mr. President, I am pleased the President remains open to a possible third party sale. Frankly, I believe that is his only option. Let me state for the record that the Republic of China is open to my proposal. I also received a very positive initial response from representatives of the Philippine Government.

This initiative is simple but bold. I hope my colleagues will join with me in urging the administration to make this initiative their own. I stand ready to do my part to reach a solution that serves our national interest—first and foremost being the preservation of a tough, sound nuclear nonproliferation policy.

Mr. President, last month, I had the opportunity to testify before the Foreign Relations Committee and present this idea. I am glad that the President has responded favorably. But much remains to be done to work out this agreement.

This has been a difficult matter to approach because in regard to the amendment that was passed in the 1980's, one could say that Pakistan purchased these planes with their eyes open, so to speak. They knew, on the one hand, of the existence of our law that said we would not continue aid if they developed a nuclear bomb. And, very frankly, they were not being candid in what they told the then Vice President and President George Bush about their nuclear program.

So if you take it from that point of view strictly, when the Pakistanis got into this thing, they had full knowledge of what they were doing back home in terms of developing a nuclear bomb. They knew our law said what it said, and they moved forward with this purchase which would have been in violation.

So we could say, ''Well, let us just let them be, that they made a bad deal, and they paid the price.'' On the other hand, there has been a great distinction in Pakistan. The military people have not always told the civilian government what is going on, very frankly. And the civilian government has engaged in some perhaps unwise decisions based on bad information. That is really Pakistan's problem, I suppose.

But, as the years have gone by, I see an opportunity to get these F–16's to Taiwan, which needs them to counterbalance China, and to the Philippines, which is a longtime ally of ours.

EXHIBIT 1

IN DEFENSE OF THE PRESSLER AMENDMENT

WHAT THE PRESSLER AMENDMENT REQUIRES

The Pressler Amendment requires Pakistan to satisfy two conditions before it is eligible to receive U.S. foreign assistance, including US military equipment or technology. Aid may be provided in any fiscal year only if the President has certified in that year that Pakistan (a) ''does not possess'' a nuclear explosive device and (b) that the proposed assistance ''will reduce significantly'' the risk of possession.

COMMON CRITICISMS OF THE PRESSLER AMENDMENT

Critics of the Pressler Amendment have alleged that this legislation: (1) is unfair and discriminatory; (2) is not effective; (3) is counterproductive; (4) penalizes Pakistan when it has not even assembled, deployed, or tested weapons; (5) is inflexible; (6) inhibits US encouragement of a free market in Pakistan; (7) hurts US economic competitiveness; (8) sets back US human rights initiatives; (9) interferes with US counter-terrorism and counter-narcotics efforts; and (10) fosters anti-Americanism in Pakistan.

Not one of these criticisms holds up to responsible analysis. The criticisms reveal more about the critics themselves than about any real shortcomings in the legislation. In particular, these criticisms reflect: (1) a profound misunderstanding of the purposes of the Pressler Amendment, (2) a flagrant case of historical amnesia; (3) a cynical fatalism about the inevitability of proliferation; (4) an ignorance of the regional, global, and US national security consequences of a Pakistani bomb; (5) the susceptibility of the legislative process to special interest lobbying; (6) the triumpth of slogans over analysis as a basis of policy; (7) an utterly bizarre conception of what constitutes a ''friend'' of the United States; (8) a distorted perspective on US national priorities; (9) a preference for the management rather than the prevention of proliferation; and (10) a compulsive desire to channel even more taxpayer dollars into unproductive pursuits.

REBUTTALS TO SPECIFIC CRITICISMS

1. ''Unfair and Discriminatory''

Between 1981 and 1990, Pakistan gave the US government both formal and informal assurances about the peaceful nature of its nuclear program, the level of enrichment of its uranium, foreign nuclear procurements, cooperation with China, and other such issues relating to nonproliferation issues—in each case, Pakistan broke its word.

It is not unfair for America to defend its interests by punishing those who violate their commitments to us.

On eight occasions, Congress authorized special waivers of US nonproliferation laws to permit aid to continue to flow to Pakistan. To this day, Pakistan is the only country ever to have received (or required) a waiver of the Glenn/Symington sanctions in order to qualify for US aid. It is true that America engaged in discrimination, but this was discrimination on behalf of Pakistan and against all other countries that played by the rules.

How can Pakistan simultaneously condemn the country-specific discrimination in the Pressler Amendment without also condemning the country-specific discrimination that authorized such aid?

Pakistan is not the only country to be mentioned by name in the context of nonproliferation sanctions—for years, Iraq, Iran, Libya, North Korea, and Cuba have been designated for special controls and sanctions.

US relations with India also have been affected by a variety of US nonproliferation laws. Because of India's unsafeguarded nuclear program, there is no US/Indian agreement for nuclear cooperation; US military cooperation with India is negligible; and the US will not export certain forms of missile equipment and technology to India and other goods related to weapons of mass destruction. Though sanctions under Glenn/Symington have not been invoked against India, it is because India, unlike Pakistan, has not violated that law.

2. ''Not effective''

US policy throughout the 1980s asserted that US aid was an effective way to lure Pakistan away from the bomb—yet Pakistan made its most significant nuclear achievements precisely when US aid was flowing at its highest levels.

The Pressler Amendment sanctions accomplished what $5 billion in US economic and military aid failed to accomplish—it led Pakistan to stop producing highly-enriched uranium.

The Pressler Amendment succeeded in enabling the continuation of US efforts to drive the Soviets out of Afghanistan while not sacrificing a bottom-line US nuclear nonproliferation objective: nonpossession. If it were not for this compromise, aid could have been terminated in 1985.

The Pressler Amendment was then and remains now a statement of the priority that America attaches to nonproliferation as a goal of policy.

The Pressler Amendment has unquestionably made Pakistan—especially its air force, army, and navy—pay for its misguided decisions to pursue the bomb. Indeed, if Pakistan once again qualifies for US aid, it will no doubt be Pakistan's military that will stand to benefit the most from the new aid. This gives Pakistan a tangible incentive to satisfy the certification terms under Pressler.

3. ''Counterproductive''

Though the sanctions have undoubtedly weakened Pakistan's military capabilities, there is no evidence that the sanctions have ''driven'' Pakistan to rely more upon nuclear deterrence as a national defense strategy.

Pakistan's decisions to stop producing highly-enriched uranium, not to test, and not to assemble or deploy nuclear weapons hardly suggests a policy of increased reliance on a nuclear deterrent.

The US denial of technology and aid has slowed down Pakistan's bomb-making potential, a long-standing goal of US nonproliferation policy.

Though Pakistan still has a nuclear weapons-capability and is still cooperating with China on the bomb, these activities were not ''caused by'' the Pressler Amendment. Pakistan was seeking this capability and engaging in this cooperation with China well before the Pressler Amendment came into existence.

For a truly counterproductive policy, one must look to the 1980s, when US taxpayers shelled out $5 billion in aid that was supposed to appease Pakistan's nuclear ambitions . . . aid that coincided Pakistan's acquisition of the bomb. Today, critics of the Pressler Amendment are arguing that more US taxpayer money should be channeled down that drain.

4. ''No assembly, deployment, or testing''

Pakistan's decisions not to assemble, deploy, or test have very little to do with the flow of US aid.

The US nuclear arsenal in the 1950s was stored in separate components: was the US a non-nuclear-weapon state as a result?

Even the State Department concedes that a country can still possess the bomb even if it has not yet actually assembled one.

Pakistan's position is that it does not ''possess'' the bomb because it has not assembled the requisite materials. By this logic, Pakistan could acquire a nuclear arsenal with hundreds of weapons simply by not tightening down the last screw on the casing of each bomb.

Pakistan's new emphasis on the issue of assembling is just another chapter of Pakistan's long history of dissembling about its bomb.

It is widely believed that Pakistan got a pre-tested bomb design from China. Why would Pakistan want to or need to test a pretested design?

Pakistan has very limited supplies of bomb-usable nuclear material. Why should it waste such precious material on an unnecessary test?

Why should Pakistan engage in a test that would only give India an excuse to commence a regional nuclear arms race that Pakistan could never win?

If Pakistan's nuclear program is, as its government claims, devoted entirely to peaceful purposes, how can it claim that it has ''kept components separate'' and not ''assembled'' the bomb? What would it have to assemble if its program were peaceful? If its program is so peaceful, why does it refuse to agree to international inspections independent of what India does?

5. ''Inflexible''

Supporters of the Pressler Amendment make no apologies to the charge that the law has been ''inflexible,'' assuming a normal dictionary definition of this term: ''of an unyielding temper, purpose, will, etc.'' The alternative of passive accommodation has little attraction to supporters of nonproliferation.

Even with the so-called ''inflexible'' label, the following activities take place: (a) the US still issues licenses to export commercial munitions and spare parts to Pakistan, including spares for Pakistan's nuclear-weapons delivery vehicle, the F–16; (b) US military visits and joint training exercises continue to take place; (c) US aid with respect to agriculture, counter-terrorism, nutrition, population control, literacy, advancement of women, health and medicine, environmental protection, disaster relief, and many other areas can continue to flow to Pakistan via nongovernmental organizations; (d) the Export-Import Bank also has extended loans, grants, and guarantees to Pakistan; (e) PL–480 agricultural aid continues; (f) arms control verification assistance continues (a seismic station); (g) millions of dollars of aid in the ''pipeline'' as of October 1990 was allowed to flow to Pakistan; (h) cooperation on peace keeping is continuing; and (i) Pakistan continues to receive billions of dollars in development assistance via multilateral lending agencies.

Pakistan used almost $200 million in FMS credits to fund the purchase of 11 F–16's between FY 1989 and 1993, of which about $150 million were used after the Pressler sanctions were invoked.

The US continues to review and approve licenses of dual-use technology to Pakistan.

All the above hardly suggest that the PRESSLER Amendment has been unduly inflexible.

6. ''Free Market''

Pakistan has a long way to go before it has a free market and the Pressler Amendment is hardly to blame.

A recent Heritage Foundation worldwide review characterized Pakistan's economy as ''Mostly Not Free.'' The report found that Pakistan has a ''very high level of protectionism.''

The only market that is truly free in Pakistan is its black market.

Free markets are an important US interest, but not an end in themselves—they need to be weighed against other US interests, especially national security, defense, and nonproliferation objectives. Encouraging a free market in weapons of mass destruction should not be high on America's list of priorities.

7. ''Hurts US Economic Competitiveness''

The US has exported hundreds of millions of dollars in defense goods to Pakistan since the Pressler Amendment came into effect.

In 1994, the Commerce Department approved $96 million in exports of dual-use goods to Pakistan, about triple the amount approved in each of the three previous years.

Total US exports to Pakistan still come to less than $1 billion. Even if all of this trade was lost, it would have no effect whatsoever upon the US national trade balance or US economic competitiveness. By comparison, US exports worldwide in 1994 were worth well over a half trillion dollars.

8. ''Sets Back Human Rights Initiatives''

Congress has expressly authorized the transfer of assistance to Pakistan via nongovernmental groups to advance the cause of human rights (as indeed several other nonmilitary causes).

Despite some modest improvements since the days of General Zia, the Pakistani government continues to repress the human rights of Pakistani citizens, as most recently documented both by the State Department's annual human rights report and a recent global survey by Amnesty International.

The US experience in Iran should have taught us to beware of cultivating cozy relationships with a repressive government.

9. ''Interferes with Counter-Terrorism and Counter-Narcotics Efforts''

Congress has expressly authorized the transfer of assistance to Pakistan via nongovernmental groups to terrorism and narcotics trafficking.

Widespread terrorism and narcotics trafficking persists in Pakistan.

Pakistan's recent cooperation with the US in apprehending terrorists indicates that the PRESSLER Amendment is no insuperable obstacle to such cooperation.

10. ''Fosters Anti-Americanism''

Anti-Americanism was not born in Pakistan with the enactment of the PRESSLER Amendment—it predated the amendment and has causes far beyond a nuclear dispute between the US and Pakistan.

America opposes the global spread of nuclear weapons: it should come as no surprise to witness leaders of governments that are secretly building bombs encouraging anti-Americanism.

America seeks to defend its national interests, not to win popularity contests. As President Clinton stated on October 18, 1994: ''There is nothing more important to our security and to the world's stability than preventing the spread of nuclear weapons and ballistic missiles.''

U.S. AID POLICIES AND PAKISTAN'S BOMB: WHAT WERE WE TRYING TO ACCOMPLISH?

Letters to Congress from Presidents Reagan and Bush, 1985 to 1989, required under sec. 620E(e) of Foreign Assistance Act (Pressler Amendment):

''The proposed United States assistance program for Pakistan remains extremely important in reducing the risk that Pakistan will develop and ultimately possess such a device. I am convinced that our security relationship and assistance program are the most effective means available for us to dissuade Pakistan from acquiring nuclear explosive devices. Our assistance program is designed to help Pakistan address its substantial and legitimate security needs, thereby both reducing incentives and creating disincentives for Pakistani acquisition of nuclear explosives.''—President George Bush, 10/5/89; President Ronald Reagan, 11/18/88; 12/17/87; 10/27/86; and 11/25/85.

President George Bush, letter to Congress (addressed to J. Danforth Quayle as President of the Senate), 12 April 1991, urging abandonment of Pressler certification requirement:

''. . . my intention is to send the strongest possible message to Pakistan and other potential proliferators that nonproliferation is among the highest priorities of my Administration's foreign policy, irrespective of whether such a policy is required by law.''

Deputy Assistant Secretary of State Teresita Schaffer, testimony before House subcommittee, 2 August 1989:

''None of the F–16's Pakistan already owns or is about to purchase is configured for nuclear delivery . . . a Pakistan with a credible conventional deterrent will be less motivated to purchase a nuclear weapons capability.''

Deputy Assistant Secretary of Defense Arthur Hughes, testimony before House subcommittee, 2 August 1989:

''Finally, we believe that past and continued American support for Pakistan's conventional defense reduces the likelihood that Pakistan will feel compelled to cross the nuclear threshold.''

Deputy Assistant Secretary of State Robert Peck, testimony before House subcommittee, 17 February 1988:

''We believe that the improvements in Pakistan's conventional military forces made possible by U.S. assistance and the U.S. security commitment our aid program symbolizes have had a significant influence on Pakistan's decision to forego the acquisition of nuclear weapons.''

Special Ambassador at Large Richard Kennedy, testimony before two House subcommittees, 22 October 1987:

''We have made it clear that Pakistan must show restraint in its nuclear program if it expects us to continue providing security assistance.''

Assistant Secretary of State Richard Murphy, testimony before Senate subcommittee, 18 March 1987:

''Our assistance relationship is designed to advance both our non-proliferation and our

strategic objectives relating to Afghanistan. Development of a close and reliable security partnership with Pakistan gives Pakistan an alternative to nuclear weapons to meet its legitimate security needs and strengthens our influence on Pakistan's nuclear decision making. Shifting to a policy of threats and public ultimata would in our view decrease, not increase our ability to continue to make a contribution to preventing a nuclear arms race in South Asia. Undermining the credibility of the security relationship with the U.S. would itself create incentives for Pakistan to ignore our concerns and push forward in the direction of nuclear weapons acquisition.''

Deputy Assistant Secretary of State Howard Schaffer, testimony before House subcommittee, 6 February 1984:

''The assistance program also contributes to U.S. nuclear non-proliferation goals. We believe strongly that a program of support which enhances Pakistan's sense of security helps remove the principal underlying incentive for the acquisition of a nuclear weapons capability. The Government of Pakistan understands our deep concern over this issue. We have made clear that the relationship between our two countries, and the program of military and economic assistance on which it rests, are ultimately inconsistent with Pakistan's development of a nuclear explosives device. President Zia has stated publicly that Pakistan will not manufacture a nuclear explosives device.''

Special Ambassador at Large Richard Kennedy, testimony before two House subcommittees, 1 November 1983:

''By helping friendly nations to address legitimate security concerns, we seek to reduce incentives for the acquisition of nuclear weapons. The provision of security assistance and the sale of military equipment can be major components of efforts along these lines. Development of security ties to the U.S. can strengthen a country's confidence in its ability to defend itself without nuclear weapons. At the same time, the existence of such a relationship enhances our credibility when we seek to persuade that country to forego [sic] nuclear arms . . . We believe that strengthening Pakistan's conventional military capability serves a number of important U.S. interests, including non-proliferation. At the same time, we have made clear to the government of Pakistan that efforts to acquire nuclear explosives would jeopardize our security assistance program.''

Statement by Deputy Assistant Secretary of State Harry Marshall, 12 September 1983, before International Nuclear Law Association, San Francisco:

''U.S. assistance has permitted Pakistan to strengthen its conventional defensive capability. This serves to bolster its stability and thus reduce its motivation for acquiring nuclear explosives.''

President Ronald Reagan, report to Congress pursuant to sec. 601 of the Nuclear Nonproliferation Act (''601 Report''), for calendar year 1982—

''Steps were taken to strengthen the U.S. security relationship with Pakistan with the objective of addressing that country's security needs and thereby reducing any motivation for acquiring nuclear explosives.''

President Ronald Reagan, report to Congress pursuant to sec. 601 of the Nuclear Nonproliferation Act (''601 Report''), for calendar year 1981—

''Military assistance by the United States and the establishment of a new security relationship with Pakistan should help to counteract its possible motivations toward acquiring nuclear weapons. . . . Moreover, help from the United States in strengthening Pakistan's conventional military capabilities would offer the best available means for counteracting possible motivations toward acquiring nuclear weapons.''

Assistant Secretary of State James Malone, address before Atomic Industrial Forum, San Francisco, 1 December 1981.

''We believe that this assistance—which is in the strategic interest of the United States—will make a significant contribution to the well-being and security of Pakistan and that it will be recognized as such by that government. We also believe that, for this reason, it offers the best prospect of deterring the Pakistanis from proceeding with the testing or acquisition of nuclear explosives.

Undersecretary of State James Buckley, testimony before Senate Foreign Relations Committee, 12 November 1981:

''We believe that a program of support which provides Pakistan with a continuing relationship with a significant security partner and enhances its sense of security may help remove the principal underlying incentive for the acquisition of a nuclear weapons capability. With such a relationship in place we are hopeful that over time we will be able to persuade Pakistan that the pursuit of a weapons capability is neither necessary to its security nor in its broader interest as an important member of the world community.''

Testimony of Undersecretary of State, James Buckley, in response to question from Sen. Glenn, Senate Foreign Relations Committee, 12 November 1981, on effects of a nuclear detonation on continuation of cash sales of F–16's:

''[Sen. Glenn] . . . so if Pakistan detonates a nuclear device before completion of the F–16 sale, will the administration cut off future deliveries?

''[Buckley] Again, Senator, we have underscored the fact that this would dramatically affect the relationship. The cash sales are part of that relationship. I cannot see drawing lines between the impact in the case of a direct cash sale versus a guaranteed or U.S.-financed sale.''

Undersecretary of State James Buckley, letter to NY Times, 25 July 1981:

''In place of the ineffective sanctions on Pakistan's nuclear program imposed by the past Administration, we hope to address through conventional means the sources of insecurity that prompt a nation like Pakistan to seek a nuclear capability in the first place.''

FROM MYTH TO REALITY: EVIDENCE OF PARKISTAN'S ''NUCLEAR RESTRAINT''

Early 1980's—Multiple reports that Pakistan obtained a pre-tested, atomic bomb design from China.

Early 1980's—Multiple reports that Pakistan obtained bomb-grade enriched uranium from China.

1980—US nuclear export control violation: Reexport via Canada (components of inverters used in gas centrifuge enrichment activities).

1981—US nuclear export control violation: New York, zirconium (nuclear fuel cladding material).

1981—AP story cites contents of reported US State Department cable stating ''We have strong reason to believe that Pakistan is seeking to develop a nuclear explosives capability . . . Pakistan is conducting a program for the design and development of a triggering package for nuclear explosive devices.''

1981—Publication of book, ''Islamic Bomb,'' citing recent Pakistan efforts to construct a nuclear test site.

1982/3—Several European press reports indicate that Pakistan was using Middle Eastern intermediaries to acquire bomb parts (13-inch ''steel spheres'' and ''steel petal shapes'').

1983—Recently declassified US government assessment concludes that ''There is unambiguous evidence that Pakistan is actively pursuing a nuclear weapons development program . . . We believe the ultimate application of the enriched uranium produced at Kahuta, which is unsafeguarded, is clearly nuclear weapons.''

1984—President Zia states that Pakistan has acquired a ''very modest'' uranium enrichment capability for ''nothing but peaceful purposes.''

1984—President Reagan reportedly warns Pakistan of ''grave consequences'' if it enriches uranium above 5%.

1985—ABC News reports that US believes Pakistan has ''successfully tested'' a ''firing mechanism'' of an atomic bomb by means of a non-nuclear explosion, and that US krytrons ''have been acquired'' by Pakistan.

1985—US nuclear export control violation: Texas, krytrons (nuclear weapon triggers).

1985—US nuclear export control violation: US cancelled license for export of flash x-ray camera to Pakistan (nuclear weapon diagnostic uses) because of proliferation concerns.

1985/6—Media cites production of highly enriched, bomb-grade uranium in violation of a commitment to the US.

1986—Bob Woodward article in Washington Post cities alleged DIA report saying Pakistan ''detonated a high explosive test device between Sept. 18 and Sept. 21 as part of its continuing efforts to build an implosion-type nuclear weapon;'' says Pakistan has produced uranium enriched to a 93.5% level.

1986—Press reports cite US ''Special National Intelligence Estimate'' concluding that Pakistan had produced weapons-grade material.

1986—Commenting on Pakistan's nuclear capability, General Zia tells interviewer, ''It is our right to obtain the technology. And when we acquire this technology, the Islamic world will possess it with us.''

1986—Recently declassified memo to then-Secretary of State Henry Kissinger states, ''Despite strong U.S. concern, Pakistan continues to pursue a nuclear explosive capability . . . If operated as its nominal capacity, the Kahuta uranium enrichment plant could produce enough weapons-grade material to build several nuclear devices per year.''

1987—US nuclear export control violation: Pennsylvania, maraging steel & beryllium (used in centrifuge manufacture and bomb components).

1987—London Financial Times reports US spy satellites have observed construction of second uranium enrichment plant in Pakistan.

1987—Pakistan's leading nuclear scientist states in published interview that ''what the CIA has been saying about our possessing the bomb is correct.''

1987—West German official confirms that nuclear equipment recently seized on way to Pakistan was suitable for ''at least 93% enrichment'' of uranium; blueprints of uranium enrichment plant also seized in Switzerland.

1987—US nuclear export control violation: California, oscilloscopes, computer equipment (useful in nuclear weapon R&D).

1987—According to photocopy of a reported German foreign ministry memo published in Paris in 1990, UK government officials tells German counterpart on European nonproliferation working group that he was ''convinced that Pakistan had 'a few small' nuclear weapons.''

1988—President Reagan waives an aid cutoff for Pakistan due to an export control violation; in his formal certification, he confirmed that ''material, equipment, or technology covered by that provision was to be

used by Pakistan in the manufacture of a nuclear explosive device.''

1988—Hedrick Smith article in New York Times reports US government sources believe Pakistan has produced enough highly enriched uranium for 4–6 bombs.

1988—President Zia tells Carnegie Endowment delegation in interview that Pakistan has attained a nuclear capability ''that is good enough to create an impression of deterrence.''

1989—Multiple reports of Pakistan modifying US-supplied F–16 aircraft for nuclear delivery purposes; wind tunnel tests cited in document reportedly from West German intelligence service.

1989—Test launch of Hatf-2 missile: Payload (500 kilograms) and range (300 kilometers) meet ''nuclear-capable'' standard under Missile Technology Control Regime.

1989—CIA Director Webster tells Senate Governmental Affairs Committee hearing that ''Clearly Pakistan is engaged in developing a nuclear capability.''

1989—Media claims that Pakistan acquired tritium gas and tritium facility from West Germany in mid-1980's.

1989—ACDA unclassified report cites Chinese assistance to missile program in Pakistan.

1989—UK press cites nuclear cooperation between Pakistan and Iraq.

1989—Article in Nuclear Fuel states that the United States has issued ''about 100 specific communiques to the West German Government related to planned exports to the Pakistan Atomic Energy Commission and its affiliated organizations,'' exports reportedly included tritium and a tritium recovery facility.

1989—Article in Defense & Foreign Affairs Weekly states ''sources close to the Pakistani nuclear program have revealed that Pakistani scientists have now perfected detonation mechanisms for a nuclear device.''

1989—Reporting on a recent customs investigation, West German magazine Stern reports, ''since the beginning of the eighties over 70 [West German] enterprises have supplied sensitive goods to enterprises which for years have been buying equipment for Pakistan's ambitious nuclear weapons program.''

1989—Gerard Smith, former US diplomat and senior arms control authority, claims US has turned a ''blind eye'' to proliferation developments in Pakistan and Israel.

1989—Senator Glenn delivers two lengthy statements addressing Pakistan's violations of its uranium enrichment commitment to the United States and the lack of progress on nonproliferation issues from Prime Minister Bhutto's democratically elected government after a year in office; Glenn concluded, ''There simply must be a cost to non-compliance—when a solemn nuclear pledge is violated, the solution surely does not lie in voiding the pledge.''

1989–1990—Reports of secret construction of unsafeguarded nuclear research reactor; components from Europe.

1990—US News cites ''western intelligence sources'' claiming Pakistan recently ''cold-tested'' a nuclear device and is now building a plutonium production reactor; article says Pakistan is engaged in nuclear cooperation with Iran.

1990—French magazine publishes photo of West German government document citing claim by UK official that British government believes Pakistan already possesses ''a few small'' nuclear weapons; cites Ambassador Richard Kennedy claim to UK diplomat that Pakistan has broken its pledge to the US not to enrich uranium over 5%.

1990—London Sunday Times cites growing US and Soviet concerns about Pakistani nuclear program; paper claims F–16 aircraft are being modified to nuclear delivery purposes; claims US spy satellites have observed ''heavily armed convoys'' leaving Pakistan uranium enrichment complex at Kahuta and heading for military airfields.

1990—Pakistani biography of top nuclear scientist (Dr. Abdul Qadeer Khan and the Islamic Bomb), claims US showed ''model'' of Pakistani bomb to visiting Pakistani diplomat as part of unsuccessful nonproliferation effort.

1990—Defense & Foreign Affairs Weekly reports ''US officials now believe that Pakistan has quite sufficient computing power in country to run all the modeling necessary to adequately verify the viability of the country's nuclear weapons technology.''

1990—Dr. A. Q. Khan, father of Pakistan's bomb, receives ''Man of the Nation Award.''

1990—Washington Post documents 3 recent efforts by Pakistan to acquire special arc-melting furnaces with nuclear and missile applications.

1991—Wall Street Journal says Pakistan is buying nuclear-capable M–11 missile from China.

1991—Sen. Moynihan says in television interview, ''Last July [1990] the Pakistanis machined 6 nuclear warheads. And they've still got them.''

1991—Time quotes businessman, ''BCCI is functioning as the owners' representative for Pakistan's nuclear-bomb project.''

1992—Pakistani foreign secretary publicly discusses Pakistan's possession of ''cores'' of nuclear devices.

EXHIBIT 2

U.S. SENATE,
Washington, DC, May 23, 1995.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Occasionally there is an opportunity to take a bold initiative which will further multiple American foreign policy goals. Two of those goals are the maintenance of peace and stability in South Asia and the deterrence of aggression in East Asia. Such an opportunity is at hand.

The inability of the President since October 1, 1990, to make the necessary certification under section 620E(e) of the Foreign Assistance Act of 1961 (relating to the nuclear activities of Pakistan) has prevented the delivery of twenty-eight F–16 aircraft to Pakistan. Since F–16s in American service are nuclear delivery vehicles, the possibility that these aircraft might yet be delivered to Pakistan has raised enormous concern in neighboring India. At the same time, our inability to transfer the aircraft is an irritant in our relations with Pakistan. For now, the aircraft in question are in storage in Arizona.

In East Asia, both the Republic of China on Taiwan and the Philippines have been the victims of aggression from the People's Republic of China. In the case of the former, it's military exercises designed to intimidate; in the latter it's the actual take over of Philippine territory in the South China Sea.

To serve as a deterrent for aggression across the Taiwan Straits, Taiwan has ordered 150 American F–16 aircraft. However, these aircraft will not begin to arrive in Taiwan until June of 1997 suggesting that there may be a ''window of opportunity'' for conflict. With regard to the Philippines, a combination of historical factors and the need to devote defense resources to opposing internal subversion has led to a severe lack of external defense capability.

Considering the twenty-eight F–16 aircraft in storage, it appears that eleven of them were to be delivered to Pakistan under the United States Foreign Military Sales (FMS) program. Essentially, they were paid for already by the American taxpayer. The remaining seventeen aircraft were paid for by Pakistan.

Therefore, I recommend that the Administration open negotiations with the Governments of the Philippines and the Republic of China on Taiwan for the transfer of the aircraft. Eleven of the aircraft could be transferred to the Philippines on an FMS basis and the remaining seventeen could be the subject of negotiations for payment with Taiwan. If a decision is made to return to Pakistan some or all of the money collected, I would not object.

If this initiative were carried out, it would directly further American foreign policy goals in South and East Asia, respectively. In South Asia tensions would be reduced as twenty-eight potential nuclear delivery vehicles would be removed from the region. In East Asia the military strength of our friends and allies would be enhanced significantly and a clear signal would be sent regarding our determination to oppose aggression.

This initiative is simple but it requires a bold imagination for execution. I hope that you will join with me in putting it into effect and making a significant contribution to our national security.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

THE WHITE HOUSE,
Washington, June 22, 1995.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for writing to me about the opportunity before us to resolve the F–16 issue with Pakistan. I appreciate your initiative and hope some new thinking will help create a consensus between the Administration and Congress for a satisfactory solution.

As you know, when I met with Prime Minister Bhutto in April, I told her I would explore with Congress the options for returning either the F–16s and equipment or the funds Pakistan had paid. The proposal to sell the planes and return the funds is one possibility if we can resolve some areas of concern. First, we must determine that the transfer of this equipment to third parties would be in our national interest. Second, we would need to be prepared to return to Pakistan the equipment other than F–16s for which it has paid. We would need to work with Congress on the necessary authorities to do so. Third, such a proposal may make this solution less than satisfactory for the Government of Pakistan if it results in the return to Pakistan of significantly less money then they originally paid for the aircraft.

Again, let me say that a solution accepted by Congress and by Pakistan will clear the way for a more serious discussion of the critical nonproliferation issues that concern us all. It will also help to improve the atmosphere in our bilateral relations and thus advance other U.S. interests in the region.

Sincerely,

BILL CLINTON.

MILITARY BUILDUP IN CHINA

Mr. PRESSLER. Mr. President, on a totally separate subject, I have been concerned about the military buildup by China. I cannot understand who China views as its enemy. I cannot understand why China is not only building up its nuclear arsenal, but also proliferating ballistic missile technology to countries like Iran and Pakistan. China should be concerned about the

potential for a nuclear arms race by Islamic nations in South Asia and the Middle East. Indeed, if that does occur, if Iran does join the nuclear club, Israel will certainly react.

So the point I am making is I think the President can use my initiative not just to solve one of our foreign policy problems as it relates to Pakistan. He can use it to show our continued friendship with Taiwan. Taiwan is a democracy and a growing economic power in the Pacific. Taiwan usually is on our side 100 percent, even though we do not treat its leaders that way when they come here. Our relationship with Taiwan is one of the ironies of history.

My initiative sends a signal to the Chinese that we are going to be tough in that region and we will look after our allies, and that includes the Philippines, which would also get eleven of the F–16's under my initiative.

As I said earlier, my initiative is a bold step, but it is a partial solution. It is a step forward. I am glad that President Clinton has apparently begun to embrace this concept, to explore with these countries to see if we can get the F–16's out to Taiwan and the Philippines. Again, it is an initiative that can get some money back to Pakistan, although I would not necessarily guarantee full compensation because frankly, Pakistan had their eyes open when they went into this deal. Further, the Government of Pakistan was not being candid with the President of the United States at that time about what was going on in their nuclear program.

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

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

MEDICARE

Mr. PRESSLER. Mr. President, I would like to speak on the subject of Medicare.

There has been much unjustified criticism of the Republican budget plan by the Democrats. As my colleagues know, we will be voting in this Chamber possibly tomorrow night on the budget of the United States for the next 7 years, the basic outline. And for the first time in nearly three decades, we are moving toward a balanced budget by the year 2002. I am proud of this great achievement.

This is the toughest budget since I have been a Member of Congress. It is tough, it is sound and it is right. If we can pass it in the House and in the Senate, it will be the first time in a long time that we have gone in the other direction—the right direction. Finally we will start to pay our bills as they become due.

Up to this point, we have been going in the wrong direction—of runaway spending and the build up of a huge Federal debt.

Included in the budget plan are reductions in the rate of growth in Medicare. I want all senior citizens to understand this budget. I am a champion of senior citizens. My mother is a senior citizen living in Sioux Falls. In fact, I will be one someday in the not too far future. So I am concerned about this subject. My goal is to save Medicare for our seniors. This budget saves Medicare. This budget will provide senior citizens with stability.

The present rate of increase of Medicare is about 10 percent a year. It is growing too fast, and if left alone, it will go bankrupt by the year 2002. This budget slows the rate of increase to about 7.2 percent. Thus, Medicare is still going to grow, but it is not going to grow quite as fast. We are slowing the growth to save the program from overheating and breaking down altogether.

How do we get the savings? It comes from streamlining some of the national administration. It comes from certain cost control reforms, and so forth.

Americans should not be misled about what we are doing here. Both Democrats and Republicans agree that Medicare is going to go bankrupt unless somebody steps forward with a plan to save it. So I would say to my liberal friends, what is your plan? The Republicans have a solvent plan. The Domenici-Dole plan in the Senate will save Medicare. We have to save Medicare.

Let me say a word or two about some of the other areas. This budget takes an across-the-board approach. I know every group that has a stake in the Federal budget will feel it. But I would say to farmers, ranchers, small businessmen, students, and others, that lower interest rates are one of your main concerns. Students, for example, pay back their loans at the going rate of interest after they have graduated from college. To the students of America, I say that one of the greatest threats to your economic security is, the massive Federal debt. That debt keeps interest rates high, forcing students to pay their college loans back at high interest rates. We are going to have high interest rates if we do not do something about the size of our deficit.

A third area of concern here is inflation and the soundness of our monetary system internationally. If we continue to build up the huge Federal debt, we also will be building up the specter of high inflation, high interest rates, and a currency that is not respected in the world, a currency that is weak, and a currency that will eventually be overtaken by the German mark or the Japanese yen.

So, Mr. President, as we engage in this debate on the budget for the next 2 days and as we vote on it here in the Senate tomorrow evening, let us remember that we are trying to save Medicare. We are trying to save our economy for our children—an economy with lower interest rates, a solvent dollar, and low taxes.

We are going to have many eloquent speeches in this Chamber about how the Federal Government is taking away money from here and taking away money from there. But if the Federal Government does not have any money to give, it ultimately has to take that money back either through inflation, high interest rates, and higher taxes, which will lead to all types of economic suffering.

So in conclusion, Mr. President, my concern here is to explain why I will be voting for the Dole-Domenici approach. I urge my colleagues to vote for it. We will have to fight off false charges that we are against senior citizens or that we are against farmers or we are against workers. That is not true. We are for them. This is an historic budget plan for all Americans. Everyone agrees the alternative is bankruptcy, the loss of the Medicare Program, and economic chaos. We are going to save our budget. We are going to save Medicare. We are going to save our economy. We are going to save our children's future.

I urge my colleagues to join us in voting for the Dole-Domenici budget.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BIDEN. Parliamentary inquiry, Mr. President.

Are we in morning business?

The PRESIDING OFFICER. We are. The Senator can speak for up to 10 minutes under the previous order.

Mr. BIDEN. I thank the Chair. I seek recognition for the purpose of speaking on the issue of the arms embargo in Bosnia.

The PRESIDING OFFICER. The Senator is recognized.

LIFTING THE BOSNIAN ARMS EMBARGO

Mr. BIDEN. Mr. President, I rise today to argue again for lifting the illegal and what I believe to be immoral arms embargo against the Government of Bosnia and Herzegovina. Actually, Mr. President, we should not even be in a position today of having to lift an embargo. In April 1992, when the Republic of Bosnia and Herzegovina was recognized internationally and granted admission to the United Nations, it automatically became covered by article 51 of the U.N. Charter, which grants every State the elemental right of self-defense.

Inexplicably, however, the Bush administration was asleep at the switch

and failed to act to abrogate the illegal embargo.

For 3 years, Mr. President, I have repeatedly advocated lifting this unfair and illegal embargo. I would prefer that the timing of the lift be responsive to the wishes of the Bosnian Government which, after all, is the aggrieved party. The aggrieved party is literally fighting for its life.

Not only am I frustrated and angry at the current situation, I am also disturbed that our country, which has been the beacon of hope to freedom-loving people around the world, should even be contemplating refusing to give the Bosnians the tools with which to defend themselves.

How much more, Mr. President, do the Bosnians have to suffer? They have been invaded across an international border by troops equipped and assisted by the fourth largest army in Europe. Against the Bosnian Serbs with sophisticated, modern weapons including planes, tanks, rocket launchers, and heavy artillery, the Bosnian Government forces have fought with small arms and dogged determination. Although recently they have been able to capture a few heavy weapons, and reportedly have been covertly supplied with modest defense weaponry, the Bosnian Government forces are still vastly underarmed compared to the Serbian aggressors.

Mr. President, let me repeat the phrase that I just used: Serbian aggressors. There is no moral equivalence in this conflict. The Government of the Republic of Bosnia and Herzegovina, one of the successor states of the former Yugoslavia, gave absolutely no provocation to the Bosnian Serbs, who have torn this small country apart.

On the contrary, in 1991 and early 1992, while Serbs and Croats were fighting in neighboring Croatia, the Bosnian Government strove to retain the multireligious and multiethnic fabric of its own State. But unscrupulous demagogic politicians like Milosevic in Serbia and Karadzic in Bosnia, in order to implement their vicious racist ideology, exploited fears and successfully widened existing religious and socioeconomic divisions. From this incitement came the centrally planned murder, rape, and vile ethnic cleansing that have so revolted the civilized world.

Mr. President, let us not tolerate criminals cynically wrapping themselves in religious garb. The Bosnian Serbs' behavior has absolutely nothing to do with Orthodox Christianity. French President Jacques Chirac forcefully made this point at a dinner of European Union leaders when he reportedly rebuked the President of Greece, an apologist for the Bosnian Serbs. He said, ''Don't speak to me about any religious war,'' Chirac said. ''These are people without any faith, without any sense of law. They are terrorists.''

Yet somehow Western European statesmen have criticized the Bosnian Government forces and chastised them for trying to break the blockades of Sarajevo and Bihac. Imagine the impertinence, Mr. President. Sarajevo has been blockaded for 38 months, more than 3 years. Its long-suffering population has been shelled and sniped at, and denied water, food, medicine, electricity, and gas. Mr. President, they literally string blankets and sheets across the narrow streets of the old parts of Sarajevo. When I was first there, I thought it was an unusual way of drying their laundry. I asked, ''why are they hanging sheets and blankets there?'' I was told that they are hanging there for only one reason—to thwart the Bosnian Serbs from sniping at Moslem, Croatian, and Bosnian Serb children. That is why they are there. No one denies this. Sniping at children is the Bosnian Serbs' calculated plan, which they carry out nearly every day.

Senator DOLE and I went to visit a hospital in Sarajevo. The only people there were children from ages 6 to 20 who were the victims of sniper fire—not random fire, not what they are doing with random shelling—sniper fire. So there is, in fact, a campaign of terror going on. And so here you have Sarajevo and Bihac, Sarajevo blockaded for 38 months, shelled and sniped at, the target of terrorist activities.

And so now, when outgunned Bosnian Government forces try to break the siege, which contravenes the U.N. resolution, not to mention basic human rights, what is the reaction of the most advanced industrialized democracies?

Well, Mr. President, in mid-June, we got a taste of their reaction at the G–7 summit in Halifax. The world's wealthiest nations, the United States included, called upon all parties, even those who have been under siege for 38 months, to display the greatest restraint. Is that not nice? This callous declaration surely set a new standard for arrogance, for blaming the victim.

I would ask the well-fed gentlemen of the G–7 if they could look into the face of an undernourished, weakened Sarajevo mother who gets shot at, literally shot at, while running to fetch a plastic jug of water for her children, and tell her that her government's army should display the greatest restraint.

Mr. Akashi, a great world citizen, a top U.N. diplomat in the Balkans, in deliberate violation of his own organization's declaration, announced on June 9 that UNPROFOR, the U.N. protective forces, henceforth would act only if the Bosnian Serbs agreed. Keep in mind that the Bosnian Serbs have Sarajevo, Bihac, and other cities under siege.

Mothers literally cannot go to get water because all the water has been cut off. The gas and electricity has been cut off. So they go to a public fountain, a spring, and are shot at, murdered cold-bloodedly—in cold blood. And Akashi says on June 9, that by the way, we, the U.N. forces, will take no action on any matter unless we first check with the snipers, the Bosnian Serbs.

Now, is that not wonderful? Is that not wonderful? But if the Bosnian Serbs do not agree, then the United Nations will not act. What is the Bosnian Government, having been criticized for trying to break the siege, supposed to do? They are under siege—no water, no food, no electricity, in a campaign to kill their children. And their government is told not to act unless the United Nations first talks to the Bosnian Serbs.

Well, Mr. President, the criticism of the Bosnian army for attacking to break the siege would be laughable if it were not so utterly grotesque. Nonetheless, some West European governments have criticized the United States for our advocacy of the victimized Bosnian Moslems.

Perhaps the following piece of counterfactual analysis might be helpful to our friends in London and Paris.

What if, Mr. President, a Moslem-dominated Bosnia and Herzegovina had attacked a peaceful, Orthodox Christian Serbia, carried out barbaric atrocities against Orthodox Serbian civilians, and then proudly announced that its policy of so-called ethnic cleansing had been successful—would Christian Europe then be sitting idly by, conjuring up excuse after excuse for not halting the cruel and cowardly aggression? I think the answer is self-evident.

Bigotry, sad to say, spreads more easily than tolerance. So we must not allow ourselves to fall into the trap of labeling all Serbs—in Bosnia, Serbia, or elsewhere—as racists. Nearly 200,000 Serbs, sometimes referred to as the forgotten Serbs, continue to live in the territory under the control of the Bosnian Government.

When I first visited Bosnia several years ago, I met with the Council of Leadership of the Bosnian Government, four of whom were Serbs. The army was 28-percent Serbian. It was a multiethnic country—the army and the Bosnian Government made up of Serbs, Croats, and Moslems, all of whom were Bosnians.

So I want to make it clear that not all the Serbs, by any stretch of the imagination, in fact, are like the aggressors.

I might add that when I visited Belgrade over 2 years ago and met with a group of about 75 leaders from business, academia, and other walks of life, including the press, two things were clear: First, the vast majority of the people living in Serbia did not know the truth. Second, if they did they would not support either the ethnic cleansing by the Bosnian Serbs or the actions taken by their own government. I felt they did not support what Karadzic was suggesting. But all they had was a totally government-controlled television outlet, like the old Communist days in Yugoslavia. So all they saw on the news were Bosnian Serb children being slaughtered and even hung up on racks like chickens. All pure propaganda, not true. The world acknowledges this now.

Milosevic did it to enrage his population, to play on centuries-old fears and divisions, and it worked. But the vast majority of the Serbian people are good, honorable, and decent, but they do not know the truth.

In the Government-controlled portion of Bosnia, there is an organized Bosnian Serb political opposition to Mr. Karadzic and his fellow thugs in Pale. There are many Bosnian Serbs and Bosnian Croats serving in the army of Bosnia and Herzegovina, including the Government army's deputy chief of staff who is a Bosnian Serb.

Indeed, there are thousands of decent, moral Serbs in Sarajevo, Belgrade, and elsewhere whose personal values rise above the primitive, provincial racism of Karadzic, Milosevic, and company.

Despite the almost unbelievable privations endured by Sarajevans, the Bosnian capital's Moslem, Orthodox, Catholic, and Jewish citizens are still living together, hoping against hope that their sophisticated city can receive the basics—food, water, and medicine—currently denied them by the Serbian bullies in the hills who cowardly snipe at their children and indiscriminately lob shells at innocent civilians.

I have already outlined the legal basis and moral imperative for giving the Bosnian Government the means to defend itself. Now I would like to address the tactical arguments often given against lifting the arms embargo.

Some critics assert that the Bosnian Serbs would react by overrunning the eastern enclaves of Srebrenica, Gorazde, and Zepa. I would remind those critics, first of all, that the Serbs have been attacking Gorazde for weeks without success. More importantly, the U.N. Security Council has called for defense of the safe areas with air power, if necessary, and with vigorous American leadership, NATO could do so.

A second criticism is that lifting the arms embargo would induce UNPROFOR to pull out. But I regret to say, Mr. President, that UNPROFOR troops have become the world's most expensive hostages and have ceased to be able to carry out their mandate. UNPROFOR has publicly abandoned its attempt to protect Sarajevo from bombardment of heavy artillery. On June 17, a U.N. spokesman admitted: ''The policy of weapons-collection points has now been abandoned.''

Moreover, the United Nations is manifestly unwilling to honor its commitment to use all necessary means—that is what the U.N. resolution says—all necessary means to bring supplies to the desperate civilian populations of Sarajevo, Bihac, and the eastern enclaves.

Mr. President, UNPROFOR is now mainly in the business of protecting itself, which I do not blame it for doing, but that is all it does. It has outlived its usefulness and should be withdrawn, independent of whether or not we lift the arms embargo.

Another frequently heard criticism of lifting the arms embargo unilaterally is that it would cause a rift in NATO. Mr. President, in case anyone is not looking, there is already a rift in NATO, and it is going to get bigger as the American people think over why we spend $110 billion a year, every year, for NATO. For what purpose? For what purpose? If they cannot affect events in Bosnia, for what purpose are our American taxpayers spending $110 billion a year?

Mr. President, I step back to no man or woman in this Senate in being a supporter of NATO. I respectfully suggest that I have been one of its strongest advocates for more than 20 years. But it seems to me that if we do not move and do something, NATO will be split and fractured more than by our unilaterally lifting an arms embargo.

NATO will be signing its own death warrant by a continuation of its ineffectual response in Bosnia, hobbled as it is by incomprehensible U.N.-controlled rules of engagement.

Some critics claim that lifting the arms embargo would automatically lead to spreading of the conflict to other parts of the Balkans. Mr. President, this assertion flies in the face of the facts by ignoring the example of the deterrence policy already employed by the United States on Serbia's southern border.

There, an outstanding success story of the Clinton administration's Balkan policy has been the sending of several hundred American troops to join the Nordic U.N. contingent in the former Yugoslav Republic of Macedonia. Combined with our warning to Milosevic not to even dream of attacking, this action—not the existence of the arms embargo—is what has kept Belgrade's hands off the fledgling Macedonian State.

He knows we mean it there and he has not moved. We should extend the warning to Milosevic that any intervention of his army in the conflict in Bosnia, either to aid the Bosnian Serbs after the lifting of the embargo or to harass the evacuation of UNPROFOR troops, would result in massive, disproportionate retaliation against Serbia proper.

Finally, some opponents of lifting the embargo foresee a dire precedent for unilateral embargo-breaking elsewhere, such as those currently in effect against Iraq and Libya.

The line goes, ''If we unilaterally lift the arms embargo against Bosnia, won't our allies lift the arms embargo against Iraq and Libya?'' But surely, Mr. President, one can point out even to the most disingenuous foreign politician that there is a world of difference between sanctions against Bosnia, the victim of international aggression, on the one hand, and an embargo against Iraq, a notorious international aggressor, on the other hand. We can and should use our considerable leverage against countries who would threaten deliberately to ignore this obvious and fundamental distinction.

In conclusion, Mr. President, in actuality, opponents of lifting the illegal arms embargo against Bosnia ignore a much more ominous precedent than breaking the U.N. sanctions.

The geostrategic reality of the future is that the primary danger to peace will much more likely come, not from nuclear missiles, but from regional crises, often in the form of ethnic conflicts and oppression of minorities.

In that context, therefore, the more dangerous precedent would be to reward an aggressor for his cold-blooded invasion, vile ethnic cleansing, murder, rape, pillage, and starvation by blockade. Europe, unfortunately, has other potential Milosevics and Karadzics. That is the sad reality to which we must adjust as we prepare to enter the 21st century. That, Mr. President, is not feel-good idealism. It is nuts-and-bolts realpolitik, and we should begin to practice it.

I yield the floor.

OFF-SHORE OIL AND NATURAL GAS DRILLING

Mr. BIDEN. Mr. President, I rise today to commend the House Appropriations Committee for its vote yesterday to restore the moratorium on off-shore oil and natural gas drilling. A bipartisan coalition of coastal State members led the successful fight to rightly reverse the subcommittee's recommendation to lift this needed ban.

Mr. President, our Nation's coastline is perhaps our most beautiful and cherished natural resource. With the Fourth of July weekend fast approaching, many American families are planning to head to the beech to escape the heat, walk along the boardwalk, and swim in our oceans. When they look out to sea, the only sight should be the Sun melting into an endless horizon. They do not want to see gigantic oil and gas drilling rigs and most importantly they do not want to expose their children to pollution.

Mr. President, for 14 years the Congress has stood behind the off-shore ban, which strikes a fair balance between the need for development of natural resources and environmental protection. Yesterday, the full Appropriations Committee recognized the necessity of this balance and I again commend committee members of both parties for their foresight.

I remain deeply concerned, however, that there may be yet another attempt to lift the ban as the appropriations bill moves through the legislative process. I will watch this situation closely and will oppose vigorously any attempt to open our shoreline to needless exploitation.

THE 100TH ANNIVERSARY OF THE INVENTION OF VOLLEYBALL IN MASSACHUSETTS

Mr. KENNEDY. Mr. President, most people know about the famous sport that was born during the late 19th century in Massachusetts. The sport was basketball, and its birthplace was Springfield. But what many may not know is that Massachusetts also gave birth to another outstanding game during that same era.

In 1895, William G. Morgan, the physical fitness director of the YMCA in Holyoke, invented a sport that he regarded as a cousin of badminton and called mintonette. Today, it is known as volleyball, and this year it is celebrating its 100th anniversary.

Just as the slams of Dee Brown and the no-look passes of Sherman Douglas for the Celtics today bear no resemblance to the basketball played beneath the peach baskets of the 19th century, the hard-hitting and fast pace that characterize volleyball today are a far cry from Morgan's invention.

He initially developed it for his noon businessmen's fitness class. He wanted a game that was less strenuous than basketball, that did not require physical contact, but that would still provide excellent exercise. Morgan's game was originally played indoors, with a soccer ball stripped of its leather cover. The rules were a conglomeration of regulations adapted from basketball, baseball, tennis, and handball. The net was 6 feet high, compared to the standard 8 feet today, and players could hit the ball as many times as necessary to return it. A game consisted of nine three-out innings, like baseball. A ball hitting the floor more than once was an out.

For a time, the Holyoke YMCA was volleyball's only home. But when players began to take the game outdoors, its popularity soared. Nets started appearing on playgrounds and beaches throughout Massachusetts and surrounding areas. In 1916, the YMCA and the NCAA jointly issued a new set of rules similar to those in use today.

At that time, there were 200,000 players of the still mostly American game. But when U.S. soldiers introduced volleyball to Europe during the First World War, the game began to spread to other countries, and it spread even more rapidly during the Second World War.

In 1947, the International Federation of Volleyball was created with 13 charter members. That number has now grown to 180. By the time volleyball became an official Olympic sport in 1964, teams from Europe and Asia were often dominant. Japan had developed a power game that later spread across the globe, and Soviet bloc nations frequently prevailed in international competitions.

In the 1970's, the United States built state-of-the-art training centers, in a major effort to recapture our own game. The result was the Los Angeles miracle of 1984. The American men's team had been ranked 19th in the world, and hadn't even qualified for the games since 1968. In 1984, it surprised and delighted the Long Beach Arena crowd by defeating Brazil in straight games to win the gold medal. Millions of Americans watched on television and shared in the glory of that magical night, leading to a rebirth of the sport throughout the Nation. America had finally caught up to our own game. Led by Steve Timmons and Karch Kiraly, the American team played an extremely exciting brand of volleyball and dominated the sport. At those same Olympics, the U.S. women's team also shined, winning a silver medal.

A large part of the game's rebirth in America has been on the beach, where professional beach volleyball is rapidly gaining popularity. One of the stars of the beach game is Massachusetts native Karolyn Kirby.

Kirby, from Brookline, grew up as a sports lover, cheering on the Celtics, Red Sox, and Bruins. In high school, she excelled in volleyball. She was a star collegiate player indoors, earning All-America designation at both Utah State and the University of Kentucky.

After college, she took up the outdoor game, and is now the world's best female beach volleyball player. She has been the No. 1 player on the Women's Professional Volleyball Tour since 1990, and she has won or shared the tour's MVP crown four times. She is also the world's No. 1-ranked beach player and will likely represent the United States in 1996 when beach volleyball becomes a full medal sport at the Olympics.

What makes volleyball such a popular sport is that it can be played at all skill levels and by all ages. Forty million Americans now play, making it one of the top 10 participatory sports in the Nation. Most of those 40 million citizens may not be adept at the bump-set-spike play, but they enjoy the game immensely, because it brings families and friends together in backyards, parks, playgrounds, and beaches throughout the Nation.

To commemorate this auspicious 100th anniversary, the men's Division I championship was held in Springfield in May, and was won by UCLA. The women's Division I championship is scheduled for December at the University of Massachusetts.

In October, the women's Division III title finals will be played at Mount Holyoke and Smith Colleges, and in conjunction with that event, new members will be inducted into the Volleyball Hall of Fame at Heritage State Park in Holyoke.

In addition, more than 250 men's and women's teams gathered for an international volleyball celebration from May 27 to June 3 at Westover Air Force Base in Massachusetts. The occasion was the annual USA Volleyball Indoor Open Championships, and for the first time in the event's 67-year history, teams from around the world participated.

Massachusetts is extremely proud of this aspect of its heritage, and I welcome this opportunity to commend all those who have made volleyball such a positive addition to the life of our Nation.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, the skyrocketing Federal debt, which long ago soared into the stratosphere, is like the weather—everybody talks about it but scarcely anybody had undertaken the responsibility to trying to do anything about it. That is, not until following the elections last November.

When the new 104th Congress convened in January, the U.S. House of Representatives approved a balanced budget amendment to the U.S. Constitution. In the Senate all but one of the Senate's 54 Republicans supported the balanced budget amendment; only 13 Democrats supported it. Since a two-third-vote is necessary to enact a conditional amendment the Senate's amendment failed by one vote. There will be another vote later this year or next year.

Mr. President, as of the close of business yesterday, Tuesday, June 27, the Federal debt—down to the penny—stood at exactly $4,890,154,885,704.22 or $18,563,11 for every man, woman, and child on a per capita basis.

NO TRADE WAR BETWEEN THE UNITED STATES AND JAPAN

Mr. GRAMM. Madam President, I yield myself 15 minutes.

Madam President, I think we are all happy today that there is going to be no trade war between the United States and Japan, and I congratulate the President for avoiding that crisis. But I think it is interesting to look back at all the political bravado of the Clinton administration in the last several months, to look back at all of their statements saying they were not going to budge an inch. Yet, today, when the final agreement came out, it is a voluntary agreement with no specifically defined targets. I think we have seen, once again, in dealing with the Clinton administration, after all is said and done, there is always more said than done.

CHARLES ''CHICK'' REYNOLDS

Mr. BYRD. Mr. President, it has been said that each man's death diminishes us all. Certainly all who knew him have felt a loss due to the recent passing of Charles ''Chick'' Reynolds.

A reporter of outstanding experience and qualifications, ''Chick'' Reynolds began his career in stenotype reporting in 1949, when he was employed by the Department of Defense.

In 1950, he went to work for the Alderson Reporting Co. here in Washington, where he continued until 1971, at which time he opened his own stenographic reporting firm. In 1974, he was

appointed an official reporter with the Senate Official Reporters of Debates serving in that capacity until he became Chief Reporter in 1988.

When ''Chick'' Reynolds was a working stenotype reporter, he was considered one of the fastest and most accurate in the country. He reported on Federal agency hearings and on various committees in both the House and the Senate, including the Joseph McCarthy and Jimmy Hoffa hearings on Capitol Hill. He was assigned to cover the White House during the Kennedy, Johnson, and Nixon administrations, and was in the Presidential motorcade on that tragic day when President Kennedy was assassinated in 1963.

''Chick'' Reynolds served the Senate and the Nation with distinction for 21 years, and only discontinued that service when ill-health forced him to do so earlier this year. His was an outstanding career, but, the recounting of one's career successes can never completely give the whole measure of a man.

By all accounts, ''Chick'' Reynolds in both his private and professional lives was an eminently decent human being, with great affection for his wife, Lucille, and a fine sense of humor. He was fond of saying that he took Lucille everywhere he went so that he would never have to kiss her goodbye. He liked to tell a story about one sultry evening when he was stuck in traffic on route 95 with the windows rolled down because of a faulty air conditioner. His only passenger, his cat, suddenly decided that it was too hot in the car, and leaped out of the window. ''Chick'' pulled over immediately and spent some time frantically searching for the cat in the heat and congestion. He did not want to go home to Lucille without that cat.

''Chick'' Reynolds was a man to whom his fellow employees could continually look for counsel and instruction, always given with humor and genuine concern. Those who worked with him are indeed fortunate to have been so close to this very special life. ''Chick'' will not be forgotten by his colleagues in the Senate. The institution has been diminished by his passing. His great competence and his institutional memory and comprehension are not easily replaced in a world now more interested in speed than in considered contemplation and mature judgment. ''Chick'' Reynolds was surely *sui generis,* one of a kind, in a world often far too short on wisdom and experience.

I extend my sincere regret and deep condolences to his family, and most especially to his beloved Lucille. He is gone. But, the lives ''Chick'' Reynolds touched and the difference he made through his service here, and through the force of his warm and magnanimous personality will remain. The Senate and all who knew him are measurably better for the life and example of Charles ''Chick'' Reynolds.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

THE BUDGET RESOLUTION

The PRESIDING OFFICER. There will now be a period for debate on House Concurrent Resolution 67, the concurrent resolution on the budget for fiscal year 1996.

The Chair, in his capacity as a Senator from the State of Missouri, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, is the pending business before the Senate the concurrent budget resolution?

The PRESIDING OFFICER. We are in a period for debate on the budget resolution.

Mr. DOMENICI. I understand that we have decided to take 4 hours today, equally divided, and Senator EXON might have other Senators who want to speak during his 2 hours.

Mr. EXON. I advise the Chair that the answer to that is yes.

Mr. DOMENICI. Mr. President, I want to say to Senators—particularly to those who are conferees and, in addition, those on the Budget Committee, all of them—I am not sure they knew we were going to be on this at noon today. Perhaps they thought it would be later, or perhaps even some might have thought tomorrow. I ask that they come to the floor, or call us if they would like some time. I would like as many of them who like to speak to do so. We will have some time tomorrow. I understand three of them want to speak today. This is my invitation to them so that we can arrange the time.

Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 15 minutes.

Mr. DOMENICI. Mr. President, today, the fiscal year 1996 concurrent budget resolution conference agreement, which will be before the Senate shortly, represents, in my opinion, a very historic step in bringing the Federal budget under control, bringing it to balance in 7 years by slowing the growth in Federal spending.

This blueprint that has been crafted is one which, first and foremost, reaches a balance by the year 2002 and does that by ratcheting down the deficit to a balance in 2002. It does that by reducing expenditures of the Federal Government. There are no other items making up that reduction and ratcheting down those deficits, other than reducing the amount of Government spending.

This provides, in addition, up to $245 billion in tax relief. But I want to repeat what we have spoken about so often in the Senate—that relief comes only when we have achieved a balanced budget by adopting this resolution with mandatory caps on the expenditures of appropriated accounts, with one set of caps for defense and one set for all the rest of the expenditures that occur annually, called ''appropriated accounts''; and then when we present from the respective committees to the Budget Committee the reconciliation bill, which will accommodate and respond to the instructions given by this resolution, and once they are in the hands of the Budget Committee here and in the House, we will have them evaluated by the Congressional Budget Office, the authenticator, the neutral group, chosen by most, and only a couple of years ago chosen officially before the American people by the President of the United States, as the real authenticator, which would have no smoke and mirrors, which would be objective—we will ask that entity to evaluate our performance. If the caps are enforced—and we intend to enforce them—and that bill called ''reconciliation''—a strange name, but I guess the best way to say it is that it reconciles the laws of the country with the budget resolution, thus, it is called reconciliation. That big package will address the issues of Medicare, Medicaid, and many other entitlements, and it will attempt to make Medicare solvent for the next 10 to 12 years, instead of leaving it on a spend-out that would yield to bankruptcy within 6 to 7 years. They will not have enough money to pay their bills in 6 to 7 years. So when that event occurs, and it is certified by that authenticator, then we will tell the American people and the U.S. Congress that we have a balanced budget.

At that point in time, what will happen is the $245 billion will be released to the Finance Committee in the Senate and its counterpart in the Ways and Means Committee in the House, and they will proceed. While we remain the custodians of the reconciliation bill, we are holding it, they will produce the tax bill after they have debates in their committee, and they will send that tax bill to the Budget Committee, who will then be the guardian of both and bring both to the floor. One will not be passed without the other. We will pass the big reconciliation bill, which the authenticator will say gets you to balance; and then, Mr. President, the American people should know that tax cuts cannot get you out of balance. That is part of the mandate. The tax cuts cannot, in the last year, the seventh year, be bigger than the economic dividend which created a surplus in that last year. It is around $50 billion. So if some wonder whether the tax cuts are going to deny the people of this country a balanced budget, it will not.

The deficits in each of the previous years will be a little higher than we thought they would be as the bill left the U.S. Senate, because we have to accommodate to $75 billion—not $245 billion, but to $75 billion more than we had accounted for in our budget. Those will be spread back across by way of increased deficits annually. But in the final year you will be in balance.

So we believe it is an exciting time, an exciting event to speak about today, to speak about tomorrow, and then to ask the U.S. Senate to vote yes or no. I am very hopeful that the vote will be more than 50 voting for it. I believe that is going to be the case, which means it will pass.

It will do a lot of good things for America. First of all, it demonstrates a commitment to keep our promise to the American people that we will, working together with them, enact a balanced budget for the American people.

It also is an answer to many—most of whom are on that side of the aisle—who said we do not need a constitutional balanced budget to get a balanced budget.

Saying, over and over, ''Just do it. Take the action that you must.'' We took it seriously. In 7 years, we produce that kind of budget.

From this Senator's standpoint, there is probably no event on the domestic side, in the past three or four decades, that is more important to the future of America and more indicative that we are changing directions, than this budget resolution. It is the framework to change the fiscal policy of America, and to change the way the Federal Government operates with and toward the sovereign States and the people of the country.

There should, when it is implemented, be less Government here. I believe the American people have been saying they want less Government here. It will say, ''You have more power at the State level.'' It will say, ''We are giving you more power over programs we have held both the purse strings and the power over.''

It is a vote of confidence in the Governors and legislators of America who are closer to the people than we are, and who are capable of modifying and melding programs so that they do not fall prey to the one-shoe-fits-all philosophy. That if there is one program with one definition, and one set of strings, it must be good for all Americans and for all States. It will change that premise of Government.

Incidentally, Mr. President, there is no question that we cannot get there unless we reform and alter and make better the programs of health care that America as a United States Government manages or funds, or operates. We will do that.

We will reform Medicaid and Medicare—at least our committees will—in response to this instruction of this budget resolution, requiring that they reconcile the law. I will talk about that in a little while.

In addition, sometimes we forget that of all our responsibilities, there is only one that we do alone and that the sovereign States do not do and we do not ask them to. That is our national defense. I assume when we come here as Senators and take the oath that we pledge our support to our Constitution and our Nation, but I think it is obvious that we are, at the minimum, committing ourselves to the national defense.

So we take care of the national defense here, also. Before we are finished with our presentation, for those who say we have raised defense spending while we have reduced spending in certain social programs—in particular, the entitlements—we will show the American people that, truly, defense, when we are finished with our 7 years, will not have grown, but of a steady starting point, will have come down by $17 billion—$17 billion less than 1995. So, while it comes down, contrary to what is being said by some, Medicare, Medicaid, and other entitlements will go up. Medicare itself will go up by 252 billions of dollars—not down—up. Medicaid will go up by about $180 billion cumulative over the 7 years—not down—up.

I would like to go on with a few other summaries and a few definitions. Then at the appointed time I will yield to Senator EXON, and from my side of the aisle, since we have half the time, fellow Republicans, I would like some Senators to use some of this time this afternoon, 15 or 20 minutes, by each Senator genuinely interested.

Let me give Senators Webster's definition of the word ''compromise.'' The third definition of compromise in this source dictionary ''is something midway between other things in quality, effect and criteria,'' et cetera.

Compromise is something our Founding Fathers envisioned. Clearly, this conference agreement before the Senate today is a compromise. Let me suggest from my standpoint, the Senator who chaired the Budget Committee that got it started out, that put the package together, I truly believe this is an excellent package and a very solid compromise that will serve our people well.

Clearly, the House did not get everything it wants in its 5-year blueprint for America; nor did we. Balance is achieved in 7 years by, first, reducing the rate of growth in total spending.

Let me give a few numbers and ways to look at that. Total Federal spending grows from $1.5 trillion in 1995 to $1.875 trillion in 2002. The average growth rate, Mr. President, will be 3 percent a year. When it goes from $1.5 trillion to $1.875—almost $1.9 trillion—it will grow at 3 percent. The Federal deficit would grow next year to nearly $200 billion if we do not adopt and enforce this resolution. Mr. President, $200 billion without the changes in policy which will reduce that to $170 billion. Thereafter, it will decline to a surplus of $7 billion in the year 2002.

The total deficit reduction over the next 7 years will reach almost $900 billion. Everyone should understand that reduction occurs while the budget is still growing. It is a reduction in the amount of growth by $900 billion, including the interest we will save.

The tax reductions that are contemplated, we should understand very clearly, and every Member of the Senate should, first, there is nothing in this budget resolution that will tell our Finance Committee, the tax-writing committee, what taxes they should reduce. There is nothing in any budget resolution adopted under the laws of this land that can tell a committee precisely what their finished product will be.

I cannot stand here and say that I am clairvoyant enough or understand the mind of the Finance Committee so well that this $245 billion, if they use it, will yield certain tax cuts. What I can say, unequivocally, that those reductions cannot and will not occur until the committees of this Senate have first met their spending reduction instructions.

Let me repeat: The tax reductions that we speak to, which I have alluded to in terms of how we constrain them so as to assure balance, cannot occur and will not occur unless the committees of the U.S. Senate—from the Agriculture to the Labor Committee, to the Finance Committee, to Government Operations, to Energy and others—until they reconcile the law and change it pursuant to this instruction to save the money, there will not be any opportunity for our Finance Committee of the U.S. Senate to pursue a tax bill.

Once that certification occurs—and I have explained that heretofore. Let me do it again. There will be, flowing from the Budget Committee to the Finance Committee, an allowable of $245 billion, $170 billion of which, Mr. President, is the economic dividend which we are entitled to for having reached balance. They will then proceed to write a tax bill, and they must have sufficient votes to get it done. And when they put it in the reconciliation bill in our hands, as custodians of both they will need 51 votes of the floor of the Senate also.

So in a very real sense, the Senate of the United States will decide what tax cuts there will be in this $245 billion allowed. And Senators will have a very big input into it. Ultimately, once again we will have to go meet with the House, who will do their job, and we will have to see what the product is.

Cumbersome it is. Unpredictable, with certainty today—even as short a time as 3 months from now we cannot predict, because committees will do their will. But we have come as close as we have ever come to putting an enforceable blueprint before the committees of this Senate. And the only thing they have to decide: Do you want to be part of balancing the budget or not? And if you do, you have to do what you

have been told to do. And I am not telling them what to do. When this vote occurs tomorrow, and a majority of this Senate says aye, the Senate is telling them what to do.

There is no other way under current procedures to get that job done. You could never bring those bills here without a budget resolution because they would be debated forever, amendable forever, and Americans would be waiting until God knows when for a balanced budget. So, while it is not nice to tell committees you have 2½ months or 3, because the date they must produce is September 22, they will produce it and send it over to the Budget Committee for interpretation.

I am certain most of the discussion in opposition to this budget resolution will say it is too quick, not quite the right time, this economy is perhaps not as robust as it was 2½ years ago. Let me say to everybody watching and all our Senators, for those who do not want to balance the budget of the United States it is never the right time to balance it. For, if you are on the up side of the business cycle, with a buoyant 4 percent growth, there will be those who say it is not the right time because we do not want to put any damper on that. Let us let that great economy go on. If you do it in the middle of the business cycle there will be those saying, oh, no, do not do that. It is too close to coming down. And if you wait until now, when you we have had a rather robust recovery for a rather prolonged time, there will be those saying do not do it now. We need to make sure the economy continues on.

But to all of those critics, I remind you that if a balanced budget is not worth something to our children and to the future and to opportunity for the future, then we ought not be doing it. But if it is, we ought to do it, for it has a bigger positive effect in our economic lives and the lives of our children than the temporariness of an up or down in the business cycle.

But, did you hear how much we are reducing the deficit in the first year? We are reducing it by $30 billion. It would have been $200 billion. We will get it down to $170. To anyone who wants to criticize this on the basis that it is bad for the economy, then let them say that a $30 billion reduction could harm an economy of almost $6 trillion.

I am also certain that there will be those who will say we should not reform Medicare. We should not do that as fast as we are doing it. And we will hurt people. And some will even say we are cutting Medicare.

Let me suggest, Medicare is going to grow from $158 billion to $244 billion as an annual expenditure of Medicare by the year 2002. It will grow at an annual average rate of 6.4 percent. The total Medicare spending over the next 7 years will top $1.6 trillion. Medicare is borderline solvent. It will not have money to pay its bills in 6 or 7 years. By the changes we are asking, the reforms we are asking, it will be made solvent and will be there for our seniors.

One last observation that should not go unnoticed. Per capita expenditures on Medicare will increase from $4,900 per recipient to $6,700 per recipient by the year 2002. Relative to what I perceive to be an unsustainable current spending path, the conference agreement reduces Medicare spending from that expected amount, which I do not believe was sustainable, and reduces it by $270 billion.

I will talk about Medicaid in due course, defense and nondefense spending. But, obviously, at this point I have given to the U.S. Senate and those concerned and observing at least an overview of why we are doing what we are doing.

I close with just my own pledge and my own feelings on this day about this event. Mr. President, fellow Senators, the time has come for adult Americans leading this country to produce a Government plan that no longer asks our children and grandchildren to pay our bills. The time has come for us to say enough is enough. No more burden on our children to pay for the deficit spending of today. Sooner or later we must do it for the general good of our country and for the specific well-being of our children and grandchildren. And I stand ready to support what we are suggesting and recommending because I believe the better good and the broader and more basic good for our country will come from us being responsible.

Mr. President, I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I yield myself such time I might need off time on our side.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I want to start out by congratulating my good friend, Senator DOMENICI from New Mexico, the chairman of the Budget Committee, for the remarks he has just made.

I say to Senator DOMENICI, the remarks I will make in the next few moments are certainly not intended directly at him. I have the highest regard for him, his ability, and, generally speaking, I would subscribe wholeheartedly to the road he just outlined to get from here to there with regard to a balanced budget.

I worked with Senator DOMENICI on the Budget Committee since I came here 17 years ago. He is a principled individual. He worked very hard to put this budget together. Unfortunately, we were not able to see eye to eye. I would simply say to my friend from New Mexico that the main disagreement here, as he understands fully, is not the goal that I think we both want, a balanced budget, but—and there has been considerable discussion and debate—which will continue—the roads or the paths we follow to get from here to there.

I think in summation, before I begin my remarks, I just wanted to say that he is the Republican leader and I am the Democratic leader. When we have this kind of democracy in action we are entitled to the majority view, we are entitled to the minority view. I simply say, I congratulate him for what he has done. I hope we could work together in the future.

But certainly, as he knows full well, the events of the last few months have not made it possible for us to join forces as I hoped, earlier, we might be able to. That is not his fault and it is not mine. That is the system under which we operate.

Mr. DOMENICI. Will the Senator yield?

Mr. EXON. I will be happy to yield.

Mr. DOMENICI. Mr. President, let me first say I am very gratified by the remarks, and I appreciate them. Frankly, I must say the feeling is mutual. I did not feel very good when I heard the Senator was not going to be around here very long, that he decided to go home and retire. I think he has done an excellent job for his people and for this great country. I am very sorry we do not have a budget we both can stand up here and say we are for.

I am quite sure that in many of the difficulties, many of the exact issues, the Senator from Nebraska and I would be on the same boat, he and I, traveling down that stream, trying to get to ''Balanceville,'' I guess I would say. We are not there this year. I know the Senator will hope for us the best in our journey. We will try to get there. If the Senator from Nebraska cannot help us now, perhaps he might later on when the President chooses to make it more difficult for us.

Maybe the Senator—who knows—might be in one of those meetings to see what we can do.

I thank him very much.

I yield the floor.

Mr. EXON. I thank my friend. I appreciate his very generous remarks. We have been on different sides on many issues. In 1993, when we passed the first great deficit reduction bill in history offered by the President, while I thought that my friend and colleague from New Mexico probably agreed with many of the thrusts of the President's initiative, he still was not able to support it.

I have reviewed some of the statements that he made in opposition to the President's measure which received not one single Republican vote in either the U.S. Senate or the House of Representatives. With that thought in mind, I have gone through the remarks that I am about to make and hope that Senator DOMENICI and others might not, in a year or two, be able to point back and say EXON said this and it did not turn out that way.

I will simply say that we do get carried away with rhetoric from time to time. I am going to try to be straightforward about this and explain my position, and the general Democratic position with regard to what we think is

an unfair, very troubled, very bumpy road, especially with regard to our senior citizens, our veterans, rural America, and others not so fortunately situated financially.

Mr. President, today we bring down the curtain on the first act of this budget drama that has been unfolding since February. And I hope I can bring a little Nebraska common sense to the sound and fury that has swirled around this budget.

Contrary to what we may read in the papers or see on television, the budget we are debating should not be about Presidential politics. It is not about the Republican Party or the Democratic Party.

This budget is about 100 million American households. It is about the 250 million Americans who are looking to us to make the right decisions about this budget. That is not the province of any person or party.

I am glad the President has become engaged in this landmark debate on how to balance the budget. The American people want to see cooperation between the two parties. They crave rational and civil discourse and meaningful dialog. They hope that we will take the best ideas—regardless of party—and forge a tough new alloy from these different metals.

Unfortanately, my Republican colleagues have a different view. They believe that their budget is so pure, so sacred, so perfect that it cannot be touched by those of us on this side of the aisle.

I am reminded of a story that Will Rogers told. It seems that a woman confessed to her priest that she was guilty of the sin of pride. She said, ''When I look in the mirror, I think I'm beautiful.'' The priest said, ''That's not a sin. That's a mistake!''

And so it is with this Republican budget. The Republicans may think so, but their budget has not improved with time. It has not turned into a dazzling butterfly. It is a mistake on a colossal scale.

At the opening of the conference on the budget, I predicted that the Senate budget would deteriorate. I wish that I had been wrong, but with each violent lurch forward, this budget gets meaner and uglier. The all-Republican conference merely twisted the knife.

And that is the story of Republican priorities throughout this budget: From bad to worse—from worse to worst.

Were the Medicare cuts softened to ease the pain on the elderly? No, they are worse—$14 billion worse, bringing the total Medicare cuts to $270 billion. That is the largest cut in Medicare history coming from the self-proclaimed saviors of Medicare. Hit men is more like it.

What about Medicaid? Was there any attempt to help the elderly, disabled and the children who rely on this health safety net? Not a chance in this Republican budget. Medicaid was slashed by an additional $7 billion, bringing the cuts to a staggering $182 billion over 7 years.

What about rural America, already reeling from the $11.9 billion in cuts in the Senate budget? This new budget heaps on further abuse with an additional $1.4 billion in agriculture cuts bringing the total damage to $13.3 billion.

And what about the tax cut? What about the so-called economic dividend we heard so much about on the Senate floor in May? It was the once and future tax cut. It was the tax cut that was not a tax cut, in the parlance of my friends across the aisle.

Thank goodness, we can finally end that charade. We can dispense with the play-acting. There is a tax cut in this conference agreement. It is a whopping $245 billion tax cut—$75 billion more than the Senate economic bonus and it is on page 32 of the conference report. That is where the Senate Republicans accommodate the Contract With America. ''Caved in'' would be a more accurate description.

We know how the Republicans will pay for the $245 billion tax cut. They pay for it by strip mining Medicare and Medicaid. They pay for it by gouging education, job training, and the earned income tax credit. They pay for it by flailing rural America.

Of course, we do not have any firm details on the tax cut itself. That will be up to the tax-writing committees, as Senator DOMENICI indicated. But I think we can venture a good guess at what will be in this witches' brew. The conference agreement is the vessel for the Contract With America and it's filled to the brim with tax cuts, primarily for the wealthy.

The Wall Street Journal reported that the $245 billion Republican tax cut could include such goodies for America's wealthiest as a $64 billion capital gains tax revision and a $500-per-child tax credit for families making up to $200,000 per year—key provisions of the Contract With America.

The sense-of-the-Congress resolution, sponsored by Senator BOXER, that stated that 90 percent of the tax benefits should go to working families making under $100,000 was changed beyond recognition. It was gutted in conference to drop the $100,000 cut-off. It was totally rewritten to conform with the Contract With America.

House conservatives are threatening to derail the reconciliation bill unless it meets their far-right litmus test. Representative PHIL BURTON, leader of the so-called Conservative Action Team, told the Journal, and I quote, ''It is imperative that it''—the child tax credit—''be kept at $200,000.'' House Ways and Means Chairman ARCHER said, and I quote, ''I'm not going to go back and do another tax bill.'' And why should he when the Senate Republicans are waving the white flag to the Speaker of NEWT GINGRICH's, army.

Mr. President, families making $200,000 a year do not need any largesse from the Federal Government. It is astonishing that at a time when we are asking for a helping hand for our elderly, our students, and middle-income Americans, we are giving a handout to the wealthy. It is obscene that my Republican colleagues are contemplating tax cuts for families making six figures. Is this mainstream America, Mr. President? I emphasize that. I think the Republicans are not so much concerned about mainstream America as they would have you believe. My Republican friends talk much about it. I can simply sum up by saying it certainly is not mainstream Nebraska.

Mr. President, the most confusing part of the tax cut package is that it costs $245 billion, but it is supposedly financed with an economic bonus of only $170 billion. Anyone can tell you that is $75 billion short.

Republican leaders have gone to great pains to explain this sleight of hand by focusing on the net effects of the cut and the bonus in the year 2002. In that year, the economic bonus will be $50 billion, the CBO says. The Republican package will thus be restricted to $50 billion as well for that year. In preceding years, however, the cost of the tax package will exceed—will exceed, Mr. President—the savings from the economic bonus by a significant margin. I underline that. In the preceding years, the costs of the tax package will exceed the savings from the economic bonus by a significant margin.

Despite the differences in the cost, the Republicans claim that the $245 billion tax cut can be included in the budget without compromising the goal of zero deficits in the last year.

In order for all of this to pan out, spending cuts in programs like Medicare and Medicaid once again will have to be used to finance the additional costs. This is coming from the party that claims it is ''saving'' Medicare. For Medicare, any more of these kinds of ''savings'' will assure that there will not be anything left for the program.

My Republican colleagues are not only short $75 billion to pay for their tax cut, they are also short on explanations. They are not explaining to the American people that the extra $75 billion in tax cuts would result in higher debt service and, in turn, higher deficits—up to $100 billion—for the years leading up to the magic balanced budget year of 2002, and that, in turn, would cause higher debt service costs for those intervening years. Mr. President, that is clear.

I mentioned earlier that this budget is about American people, and so it is. I want to take a few minutes to get beneath the shiny surface of this budget that is all glitter and glut for the wealthiest. Nowhere do we see this more than in Medicare and Medicaid. The Republicans now siphon off $275 billion from Medicare to help pay for their tax cut. That means the average Medicare beneficiary will pay $3,345 more over the next 7 years in out-of-

pocket costs—$860 more alone in the year 2002.

The $182 billion in Medicare cuts is especially harsh on the elderly, the disabled and children. Average Federal and State spending would be reduced by nearly 30 percent by the year 2002, and of the children covered by Medicare, more than half live in working families.

Mr. President, under the Republican budget, the States would be forced to roll back the number of people served. I estimate that 8 million people, including children, could fall through the safety net by the year 2002. As many as 2.9 million seniors and disabled, including children, could lose access to long-term care.

From day one of this budget, I have expressed my deepest concern about the betrayal of rural America. Rural America has been sold out. Rural America became a popular fall guy for this Republican budget. What is particularly galling to this Senator is that agriculture is being asked to take such a whack once again. It is totally out of all proportion to other cuts in the budget.

Where is fairness in this budget? Farm program cuts in the Republican budget represent 20 to 25 percent in spending reductions over the next 5 years.

Agriculture Secretary Glickman warns, and I quote, ''Cuts in spending of this magnitude could be especially burdensome on those farming areas that specialize in the production of target price commodities and could reduce producer payments, incomes, and their ability to borrow.''

The Republican budget does not stop with these programs. It wraps its fingers around and squeezes the life from numerous programs vital to Americans. The earned-income tax credit was high on their hit list. The EITC, as it is commonly called, is a refundable tax credit for working families. It helps families get off and stay off welfare by boosting the value of low-wage jobs.

While the conference report folds EITC changes into the overall savings for welfare reform, the description suggests that the far more draconian Senate-passed cuts are assured. If enacted, these provisions would result in tax increases—that is right, Mr. President, tax increases—for more than 14 million families. Families with two or more children would be the hardest hit, losing $305 in 1996 alone. More than 72,000 Nebraska families will lose $110 million in benefits under this proposal over the next 7 years. They would experience an average tax increase of $230 in 1996 alone. Families with two children would lose $290 in 1996.

Mr. President, do not tell me that there are no tax increases in the Republican budget because they are there and they are real.

The Republicans are just as shortsighted about job training. The conference cut job training by 20 percent. That means that by the year 2002, 1.3 million fewer disadvantaged youths will be able to participate in the summer jobs programs. That also means that nearly 1.3 million fewer dislocated workers could be assisted in their efforts to return to productive employment.

Mr. President, let us look, too, at education. The Republican budget makes scandalous cuts in one of the greatest investments our Nation can make.

Let us start at the beginning with Head Start. Under the Republican budget, preschool children from disadvantaged backgrounds could be denied this critical service that prepares them to succeed in school. Even if Head Start was funded at the current level of the current law, over 350,000 children would be denied services over the next 7 years because the population of eligible children will continue to grow.

The same is true with title I, education for the disadvantaged. Under the conference agreement, up to 2 million children from disadvantaged backgrounds could be denied funding to help them improve basic math and reading skills. And that is even if title I programs were funded at the current levels.

We have also heard a lot about the hit on student loans. The conference agreement assumes elimination of the in-school interest subsidy for 500,000 graduates and professional students. This would cost an average graduate student between $3,000 and $6,600 more in interest payments over the life of his or her loan.

However, do not for one second believe that this is the full extent of the cut. Eliminating this subsidy for graduate students does not account for the full $10 billion cut required by the conference agreement. All students, including undergraduates, could be required to pay hundreds of dollars more for loans in the form of higher upfront fees or loss of the grace period that currently prevents interest from accruing on loans until 6 months after graduation.

Under the conference agreement, the 3.7 million college students receiving Pell grants—30,000 of them in Nebraska alone—could lose the value of these grants and see them cut dramatically. Even if Pell grants were funded at current levels, their value would decrease by nearly 40 percent by the year 2002 simply because of inflation. And student population will continue to grow over this time. Nearly half of all of the Pell grant recipients have annual incomes of less than $10,000 a year. Fairness, Mr. President? I think not.

I also want to touch briefly on impacted aid. Under this Republican budget, Nebraska school districts, with large amounts of Federal land within their boundaries, could see their operating budget shrink to unacceptable levels.

The level of funding for veterans programs and the cuts therein are an abomination. For example, the cut in VA medical funding will result in the cancellation of approximately 74 projects. These are projects which are needed for the VA to meet current community health care delivery standards. Our veterans deserve better than this Republican budget.

Mr. President, I could go through this budget function by function and line by line and program by program and prove how it hurts ordinary Americans and hurts them badly. That is what is often lost in these budget debates—the human factor. We speak in baselines. We speak in acronyms. We do not speak in terms that put a face to the budget. And I have been able to partially do that today in these remarks.

In conclusion, let me say that the face that is reflected in the Republican budget is not one of mainstream America. It is not the face of our elderly. It is not the face of our children. It is not the face of our middle class or our veterans or our working poor. It is not the face of rural America. And as one from rural America, I can assure you beyond any question that it is not the face of rural America.

The face reflected in this Republican budget is one for the privileged few, the wealthiest among us who do not have to worry about Medicare or job training or college tuition loans or crop prices or the state of care at the local Veterans Administration hospital. They are not being asked to make the sacrifice.

The others are the ones that are being asked to make this sacrifice, all for the good of the wealthiest citizens of America. They are the ones, the wealthiest, who will benefit most from this package with a $250 billion unfair tax cut. From the beginning of this budget process I have stated that the only way to balance the budget is through shared sacrifice. The only way to balance the budget is through bipartisanship. But for the past 6 months my Republican colleagues have worn blinders. They have seen only their core constituency. They have seen only their own party, which has veered dramatically to the right.

If the Republicans insist on maintaining their narrow version, they do so at their own peril and the peril for mainstream America. The stage has been set for a confrontation between the Republican Congress and the Democratic White House. I have called it a train wreck. That is an apt description.

However, if the Republicans open their eyes, they will see there is an alternative, one that will get us to the same destination and without the chaos of a Government held hostage to politics.

That alternative is called bipartisanship. I tell my Republican friends, meet us halfway, and we will create a budget that is not only a balanced one, but represents the whole citizenry of this great Nation.

Mr. President, I understand that there has been an informal agreement

that we could go next to Senator KENNEDY. And, if acceptable, I would yield to him whatever time he might need. And then following that, it would be two Republican Senators in a row, after the two Democrats, myself and Senator KENNEDY.

In furtherance of that agreement, and if there is no objection, I yield 15 minutes or such additional time as he might need to my friend and colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Thank you very much, Mr. President. I want to say at the outset how much all of us appreciate the good efforts of our friend and colleague from New Mexico, Senator DOMENICI, and Senator EXON in trying to help chart responsible expenditures for our national endeavors. And I want to thank, in particular, the Senator from Nebraska for an extraordinary statement. He clearly understands these issues in fiscal terms. But I think, most importantly, he understands them in human terms. This afternoon he explained very eloquently to the Senate and to the American people the impact of these budget recommendations on the families of our great country. And I want to build on his excellent presentation.

In looking at a budget, we have to consider the bottom line in terms of the expenditures, but we also have to consider what the real impact on the families of this country is going to be. When we talk about having ''fair sacrifice'' and ''shared sacrifice,'' it is only fair to try to review, in some detail, exactly where the belt-tightening is going to come. And when we look over, as the Senator from Nebraska has pointed out, the total expenditures, we find out that it does come down particularly hard on the working families of this country, and it comes down particularly hard on the children of those working families, those that go on to our fine State schools and colleges across the country and those that go into the schools that enhance students' academic achievement and accomplishments. In addition, the burden falls on the men and women who have been a part of our great national economy and national life over a period of many years and now are experiencing, and should experience, the glories of old age with a degree of security in Medicare. Moreover, the burden falls on those who, out of necessity, are being attended to with the coverage of Medicaid.

Of the extraordinary cuts that we are going to be facing in the Medicaid program, two-thirds of the cuts are going to be from home care for the very frail and the neediest, the poorest of Americans. SSI is covered within that chunk, and the rest is in the coverage of some 18 million children. These are poor children. We are going to see significant cuts in the coverage of poor children. Half of those poor children have working parents. This gives us some idea of where the burdens are going to fall.

So it seems to me, Mr. President, as we review this budget, that there is going to be a significant burden placed on the Medicare for elderly people who have built this country, sacrificed for their children, and made America the strong country that it is.

In addition to Medicare and Medicaid, there is also a slash in the education programs that the Senator from Nebraska already discussed. There will be a significant slash in college opportunities. The Senator from Nebraska talked about the reduction in assistance for graduate students who receive loans. These students are now able to defer those loans until they get out of graduate school. We call that the in-school interest rate. The fact is, those who are going to the graduate schools will pay for it, as well as those in the colleges.

Every family should know that students will not be able to defer college loan interest while they are still in school. This ought to be a wake-up call for every family that is making $75,000 a year or less. Eighty-eight percent of all of the college loan programs go to families that are making $75,000 a year or less. Well, I have news about what this means for your family. After 10 hours of debate on the floor of the U.S. Senate, and after this legislation is passed, it is going to mean that your children, if they are fortunate enough to get a student loan, are going to pay one-third more—from $3,500 to $4,500 more—for that student loan program. Obviously, the amount rises even higher in relation to the size of the loan.

As the Senator from Nebraska also pointed out, there is a slash in wages for working families. There will be $21 billion in tax benefits for tax expenditures over the next 7 years of this program. But, the men and women who will have a tax increase are those individuals who are making $26,000 a year or less. That is why I think it is only fair, when we look at what this budget means, to do what the Senator from Nebraska has done, to see who it is going to impact adversely.

There will be an adverse impact, as the Senator from Nebraska has pointed out and the Senator from Maryland has pointed out, on working families who are making $26,000 or less a year. We have news for you: Your taxes are going up. Taxes will not go up if you are in the very wealthy incomes of this country, but they are going up for working families, and it is going to mean less in take-home pay for the worker.

It is not surprising to me, Mr. President, that this budget would come out this way, because the Republicans have resisted any increase in the minimum wage to make work pay. They have failed to say to men and women who are prepared to work 40 hours a week, 52 weeks of the year, that you will not live in poverty, which has been an age-old commitment since the late 1930's under Republican and Democratic administrations.

We have opposition to increasing the minimum wage to make it a livable one. We have an assault on the Davis-Bacon families who are averaging $27,000 a year to try to cut their wages. And now we have, on the measure that is before us, the $21 billion burden in taxes that is going to be on the working families of this country. When we look over here at this chart, we see that this proposal asks our seniors, the very young, those going to college, the working families—all Americans—if they are prepared to tighten their belts if they need to because we have a shared responsibility for our national interest that is what is called for in the name of our national interest. Why are we doing it?

The answer is right over here on this chart. It is to pay for the $245 billion of tax cuts for the wealthiest individuals in this country. This is what we are asking workers: ''Tighten your belts.''

This is what we are saying to those who want to go to college—the 88 percent of those who get student assistance who come from families making $75,000 a year or less: ''You are going to have your belt tightened; you are going to pay anywhere from $3,000 to $5,000 more over the life of your indebtedness.'' We are going to undermine higher education programs.

We are saying to families that we are going to penalize 350,000 to 500,000 young children who will not be able to go to a Head Start Program. We are going to exclude the 2 million American children who otherwise would qualify for programs that assist the economically distressed under the Title I program. We are going to slash the School-to-Work Program that was enacted and had strong bipartisan support in the Congress last year.

Finally, we are saying to our senior citizens over the period of these next 7 years, ''You are going to pay a cumulative total of some $3,200 out-of-pocket more with this Republican budget,'' if we are going to have shared cuts in Medicare between the provider and between the beneficiary. If you are a family on Social Security and retired, you will pay a cumulative total of $6,400. The average income for those families is only about $17,000.

Make no mistake about it, we will hear a lot of talk about a billion dollars here and a billion dollars there. What I am talking about here is who it is going to hit. For what? To pay for these tax cuts for the rich.

Finally, I would have thought—I am about to yield to my friend from Maryland—at least out of a sense of some decency, that the Budget Committee would have come returned to the floor and said, ''I know we have voted on the billionaires tax cut.'' What is the billionaires tax cut? It is the provision that exists in the IRS that says, effectively, that if you have made hundreds of millions of dollars over the past years, you renounce your citizenship,

take citizenship overseas, and say, ''Goodbye, America,'' and become a modern-day Benedict Arnold, you can take all of your accumulations of wealth and not pay any taxes. That is wrong.

We have already overwhelmingly voted on that issue. I would have thought that the Budget Committee, returning from conference would have said—and the House has gone on record on this—we are serious enough to indicate we are going to close that loophole, so that we are not going to have so many cuts in Medicare, education, or wages for working families. But it is not in there, I say to my friends. All that stands in there are the provisions which will provide some $245 billion for tax benefits that will go to the wealthiest individuals.

If you read, as I am sure the Senator from Maryland has, the Senate budget closely, you will notice that a measure passed the Senate that said that 90 percent of any tax would go to working families under $100,000 a year. I do not know whether the Senator from Maryland noticed, in reading through the budget, but the conference eliminated the $100,000—eliminated the $100,000. We know what is going on. We know who they want to benefit. It is the wealthiest individuals.

Why? When the Senate passes something so overwhelmingly that says that 90 percent of the tax benefits is going to go to those working families that earn under $100,000, and it comes back from conference saying it will go to working families, but they take off the $100,000, what does that say? I can tell you what it says to this Senator. It says, ''You are right; when we get our chance to cut the $245 billion, who is going to get it? It is going to pay for the tax cuts for the rich.''

Mr. SARBANES. Will the Senator yield for a question?

Mr. KENNEDY. That is what this is about. That is basically what we are talking about in these 10 hours prior to the time the Senate is going to vote, and it is going to be something that every family in this country should pay attention to.

They should pay attention today. They should pay attention tomorrow. They should pay attention to when these measures are put before the Congress in real terms, in terms of the cuts on appropriations and in terms of reflecting the budgets over the period of these next several weeks. If the American people want us to go on that path, then they should be urging all of us to vote ''yes.''

However, if the American people say, ''Hey, wait a minute, wait a minute, wait a minute. Cuts in education, cuts in our Medicare, raising the taxes for working people—for tax cuts for the wealthiest individuals? That is not what last fall was about.'' It certainly was not about that in my State of Massachusetts, and it was not about that in the State of Maryland. Maybe it was in some other part of this country. But that is not what the people of my State elected me to see done—cutting education, cutting college opportunities, cutting wages for working families, and slamming it to the retirees so that we can get tax cuts for the wealthiest individuals.

(Mr. FAIRCLOTH assumed the chair.)

Mr. SARBANES. If the Senator will yield for a question, I ask the Senator from Massachusetts—because I know that there will be an effort to defend this budget resolution on the basis that it is going to balance the budget over a 7-year period—if they did not provide $245 billion in tax cuts for the wealthy, is it not the case that we could reduce the slashes in these programs by $245 billion and still have a balanced budget?

Mr. KENNEDY. The Senator is absolutely correct. In real terms, it would say to those 18 million children—effectively a quarter of all of the children in this country that are covered by the Medicaid Program—and, it would say to the 5 to 7 million of those that are going to lose any kind of coverage under this Medicaid cut, that you still will have some coverage. What it would say to those children, half of whom are the sons and daughters of working families that are trying to make it in the United States of America, is that they would not lose their coverage. And what it would say to the frailest senior citizens, the ones absolutely dependent upon the Medicaid Program in so many instances, that they will receive assistance, and so forth. The Senator is correct. If we could take that $245 billion and say that we are not going to have those kinds of cuts in the Medicaid Program, we would say to those seniors and to those children that they are important and we are not going to balance the budget by cutting support for their significant needs.

Mr. SARBANES. If the Senator will yield further. This is an extremely important point. I thank the Senator from Massachusetts for the very effective way in which he has made the point. People must understand that the very deep cuts in these programs that are so important to them—Medicare for our senior citizens, educational assistance in order to send our young people to college, and the earned income tax credit for working families—that these very deep cuts being made in those programs in this budget resolution are not solely in order to balance the budget. Those deep cuts are being made in order to provide $245 billion that will be given in tax cuts for the people at the top end of the income scale.

There is a direct connection between the Senator's two charts, and it must be understood. A senior citizen must understand that the Medicare cuts to which they are going to be subjected are much more severe and much deeper in order to create a pot of money with which to give a tax cut to the very people at the top end of the income scale. This is a very important point because senior citizens are going to be told that this is necessary in order to balance the budget, and balancing the budget is a good thing for them. But cuts of this magnitude are not necessary to balance the budget.

So the issue that is posed by this budget resolution is the simple question: Is it more important for America that people with six-figure incomes, $200,000, $300,000, $400,000, should get a tax cut and a senior citizen should suffer a reduction in their Medicare benefits? Is it more important to give a tax break to those at the very top of the income scale and deny a young person the opportunity to go to college? That is the question that is being framed by the priorities that are outlined in this budget resolution. These deep cuts are not being made to balance the budget; $245 billion of those deep cuts are not to balance the budget; they are to give a tax break to the wealthiest people in the country.

I defy anyone to explain to me the fairness and the rationale of doing that. As the Senator from Massachusetts has so eloquently stated, you are going to have young people wanting to go to college who are going to find doing so much more difficult because of this resolution. I ask the Senator, has the forgiveness of interest on the money people borrow to go to college while they are in school been eliminated by this budget resolution?

Mr. KENNEDY. Well, effectively, it will mean that the in-school interest which was deferred until after college and after graduate school, that provision will effectively be wiped out. You recover approximately $3 billion to recover the in-school interest for graduate students. Under the mandate in the Republican budget, the only way you can make the other money up is to require those young people, the day after they get that loan, when they are going to school, to start off repaying it immediately.

Let me comment about that and I will yield further. The fact of the matter is that a year ago, even 2 years ago, when we were considering the direct loan program in higher education, our Republican friends asked us over here on the Labor and Human Resources Committee, ''After the graduation date, should we not give the students 6 months to be able to find a job so they do not take that first job just to pay back loans?'' It did make sense, and we had a strong bipartisan coalition in support of it. We overwhelmingly passed an amendment to give the college student or graduate student a very short period of time, 6 to 9 months to get that first job, deferring payment of loans during that time. And it made sense from an actuarial point of view. You are demonstrating, when that young person has the 6 to 9 months, by and large they get a better job and it is easier to pay back the loans. That is

the history of the payback of the student loan program. So, now we are going in just the opposite direction.

Our Republican colleagues persist in suggesting that this budget eliminates the in-school interest subsidy for graduate students only. But the numbers do not add up. This budget requires savings of $10.8 billion over 7 years from student loan accounts.

But eliminating the in-school interest subsidy for graduate students saves only $3 billion over 7 years, according to the official CBO numbers that govern this budget. That leaves the budget $7 billion short in the student loan accounts alone.

Where will that $7 billion come from in this Republican budget? It will come from the nation's students one way or another. Either the Republicans will eliminate the in-school interest subsidy for undergraduates as well as graduates. That would save the required $10 billion. Or students will be asked to give up the other benefits that we have fought to secure for them—on a bipartisan basis—over the last 5 years. They will no longer have the 6-month grace period in which to find a job before they have to start paying back loans. That would save $3 billion. Or they will face higher up-front loan fees and interest rates. That would save another $3½ billion.

The bottom line is that this budget assumes a $10 billion cut in student loan accounts, and the graduate student subsidy accounts for less than one third of that amount. It is bad enough that the Republicans have designed a budget that taxes students to pay for tax cuts for the rich. It's worse that they insist on hiding the ball about the true impact of these cuts on the Nation's students.

It is important to note also that the student loan cuts are only a portion of the total education cuts contained in this misguided budget. This Republican budget contains the largest education cuts in U.S. history. It eliminates one-third of the Federal investment in education by the year 2002, based on Congressional Budget Office estimates. The specific cuts are as follows:

COLLEGE AID

Cuts $30 billion in Federal aid to college students over the next 7 years.

Half of all college students receive Federal financial aid.

Seventy-five percent of all student aid comes from the Federal Government.

Increases personal debt for students with subsidized loans by 20 to 48 percent by eliminating the in-school interest subsidy.

Affects up to 4 million students a year.

Undergraduate students who borrow the maximum of $17,125 will pay an extra $4,920.

Reduces Pell grants for individual students by 40 percent by the year 2002, or terminates Pell grants altogether for over 1 million students per year, even assuming a freeze at 1995 levels.

Could increase up-front student loan fees by 25 percent, raise interest rates on student loans, or eliminate the grace period for students to defer payment on loans after graduation.

SCHOOL AID

Elementary and Secondary Education Act: Cuts funding for improving math and reading skills to 2 million children; reduces funding for 60,000 schools.

Safe and drug free schools and communities: Cuts over $1 billion in anti-drug and antiviolence programs serving 39 million students in 94 percent of the Nation's school districts.

Head Start: Denies preschool education to between 350,000 and 550,000 children.

Special education: Eliminates $5 billion in Federal support for special education services for 5.5 million students with disabilities.

Goals 2000: Denies assistance to 47 States and more than 3000 school districts helping students to achieve higher education standards.

School-to-work: Cuts $5.3 billion from initiatives to improve job skills for up to 12 million students through local partnerships of businesses, schools, and community colleges.

Technology: Eliminates Federal initiatives to develop and provide educational technology for the classroom through collaboration with private funders.

Now, that you have heard the facts, I would like to ask the Senator a question as to whether or not he would agree with me. We will hear these eloquent statements about how this glidepath for the country is moving us toward a balanced budget and that it is necessary for these college students to pay 30 percent more on their student loans, see a further reduction in the value of the Pell grants which go to the neediest children—a 40-percent reduction in that program over the life of this budget. We are going to see the indebtedness of the young people of this country increase dramatically.

Would the Senator from Maryland tell me how he would be able to convince the students in the State of Maryland who get a student loan program, how he would be able to convince them and say that what we are doing to you is increasing your indebtedness so we will have a balanced budget so that your future would be better off? Is there any logic to that rationale? I do not see it.

I do not see how we say to the young people, going back to the point of the Senator from Maryland, that we are taking the savings and putting it toward a tax cut for the rich. We are trying to say to the young people going to schools and colleges, ''Pass this and your future will be more secure.'' Someone better tell the college students they will pay 30 percent more for their loans. And the value of their Pell grant will be 40 percent less, meaning they have to borrow more. How are they better?

Mr. SARBANES. Some of them will not get an education.

Mr. KENNEDY. The Senator is correct.

Mr. SARBANES. The fact is some are on the edge now, and they need the forgiveness of the interest while they are in school in order to be able to pay their tuition.

What we have done now is knocked some students out of even getting an education. The ones who are able to go on will assume an even heavier burden.

I know an argument that will be made. They will say to the young people, ''We will be reducing the deficit over time and that is a desirable thing for you.'' I will not quarrel with that.

The fact of the matter is that these programs are being cut an additional one-quarter of $1 trillion, $250 billion, in order to give tax cuts to the people at the top end of the income scale.

If we did not do that, if we did not give the tax cuts, we would have $250 billion with which we could ease the deep cuts that are being made in these programs. Our young people would have a much greater chance to get an education.

I ask the Senator from Massachusetts, is not the loan program we are talking about, the Stafford loan program—is that what it is called?

Mr. KENNEDY. Yes, named after one of the very important education leaders from the State of Vermont, who happened to be a Republican.

Mr. SARBANES. A Republican; just to prove the point that in the past there was very strong bipartisan support for this program.

Mr. KENNEDY. The Senator is correct.

I think it is important for these families to understand something else. That is, what has been happening in the States. So often around here we say we can cut student loans because the States will make up the difference. I can say that the cost of tuition in my own State of Massachusetts—for our State schools and colleges—has the second-highest tuition rates of any State in the country, if we include the tuition and fees. Of course, there are different ways of calculating it.

When we talk about what a family is paying out, what both the students and their parents are having to do, we have seen a significant reduction, over $350 million less, in State appropriations in support our higher education system. I daresay that has been happening in many, many States.

It is important for families that care about the education of their young to recognize that when we do this today there is not any indication—maybe in some States, but by and large, the past record is not encouraging—that States will be making up the difference and assisting those needy students.

Let me ask the Senator from Maryland a question. I can remember not long ago, probably in the last 8 or 9 years, when the tuition for the University of Massachusetts in Boston was

$800. They raised it to $950. About 12 percent of all the student applications went down with that $150 increase. This happened because 85 percent of the students that go to University of Massachusetts in Boston had parents that never went to college and 85 percent of the students that went there already worked 25 hours a week or more.

These are kids trying to get an education. Hard working, recognizing the importance of education being their opportunity—150 bucks makes a big difference—and we are talking to these students about hundreds, thousands of dollars of increased indebtedness to them.

We are talking about what happens in those schools and colleges—I know that the Senator from Maryland pays attention to what happens in his State and education policy there, generally—but does the Senator not agree with me that $200 or $300 increases in tuition is big money?

When we ask the families to take on indebtedness, when they are paying a mortgage, and when we force them to pay for other things—for example, in the greater Boston area we have seen dramatic increases in the water rate to pay for unfunded Federal programs to help clean up the clean water —the families turn to us and say, ''Look, we have had it up to here. What are you doing to us? Why are you cutting back in terms of our children's future, our family's future.'' I wonder whether the Senator from Maryland does not find similar stories in his own State.

Mr. SARBANES. Mr. President, I say to the distinguished Senator, we are experiencing exactly the same problem in Maryland. The Governor of my State has indicated clearly that there is no way that the State can compensate for these cuts. So the cuts will actually fall on our young people who are trying to get an education.

The critical question before the Senate is, when we balance the budget, how will we go about doing it? What priorities are we going to set? Who will feel the impact of the affect of this balancing effort?

As the Senator from Massachusetts has pointed out very clearly in his chart, this plan cuts education, it cuts Medicare, it cuts nutrition programs, it slashes important investments in our Nation's future, it raises taxes on working people by the impact on the earned income tax credit. So the children, the elderly, and working families, are asked to bear the brunt of this deficit reduction. And then the conference agreement provides for large tax decreases for the very wealthy.

We must put those two things together. In effect, what is happening in this resolution is we are slashing all these programs for people who need them, in order to give a large tax break to the wealthy—not in order to balance the budget. If we did not give the large tax break, we would have $250 billion less in these severe cuts, and the budget would still be balanced.

It is not a matter of balancing the budget. It is a matter of slashing these important programs, in order to give large tax cuts to the very wealthy.

I defy anyone with any reasonable sense of priorities to tell me why someone making $200,000, $300,000, $400,000 a year, should get a tax cut, and a young person trying to get to college should now have to pay interest on their college loan while they are in school and not working. Or why a very wealthy person should get a tax cut, and a senior citizen on Medicare who is fighting to find the means to provide for their health care needs is going to experience a decrease in their medical services. That is the sense of priorities that is contained in this concurrent resolution, which has been made far worse in the conference than when it left the Senate. The budget was bad enough when it left the Senate. Now it has been made worse. The cuts in the student loans have been doubled in the conference.

This sense of priorities that is in this budget resolution is a disaster for America.

I very much hope it will be rejected.

Mr. KENNEDY. Mr. President, I say finally, because the hour has moved on and there are others who wish to speak, the final bottom line of what the Senator from Maryland has pointed out, it is not just older people, it is not just students, it is not just some workers, it is America's working families.

This all comes together. It all comes together for working families. It is their children that are going to be paying more out for the loans. It is their parents who are going to be paying out more for their copayments, deductibles, and for other payments that Medicare will not cover.

It is their families, their immediate families, that will find their taxes rising higher, if they are making less than $26,000, than they otherwise would have. It is their schools that will not get those incentive grants to enhance their academic achievement. It is their children in those schools that will be denied the violence and drug abuse prevention programs, to try to help those young people resist the appeals of violence and substance abuse.

This is what this issue is really about. This Republican budget is historic indeed. It is an historic attack on American working families, senior citizens, children, families, and veterans, brought to us by the same Republican Party whose policies created the huge budget deficits of the 1980's.

The Republican budget takes the bad bill passed by the Senate and makes it worse: Greater tax breaks for the rich, deeper cuts in Medicare and Medicaid, even heavier burdens for families struggling to educate their children. Americans will be paying a higher price for the impact of this budget well into the next century if these harsh cuts ever actually become law.

But, these cuts will not become law if Democrats have anything to say about it. The Republican budget deal being rammed through Congress is veto bait. It is even worse than the misguided version passed earlier by the Senate. Splitting the difference between the extreme Senate version and the even more extreme House version is a hold-your-nose compromise that is beginning to smell already. The Medicare cuts are extreme by any standard. These cuts are far deeper than any cuts that could conceivably be justified by any need to keep Medicare solvent. The Republican argument on the insolvency of Medicare is a sham.

Mr. President, I hope this measure will not be accepted. I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from the State of Washington.

Mr. GORTON. Mr. President, I am authorized by the manager on this side to yield myself such time as I may take. I point out the Senator from New Hampshire, under the previous order, is the next to be recognized.

Mr. President, do you remember that wonderful phrase that a few years ago was turned into the title of a movie, ''Only In America,'' an expression of awe and wonder? Mr. President, I think we have to rephrase it as a question of stunned disbelief. Only among Democrats, only among the few left on that side of the aisle who, as liberals, worship at the shrine of an ever-increasing Government, only among those who debate against this budget resolution is a $300-billion-plus increase in what this country will spend on Medicare described not as a cut but a slash.

Mr. President, if this budget resolution passes, not only will we preserve a Medicare system which otherwise will go bankrupt, we will spend more than $300 billion in increased Government support of Medicare in the next 7 years. Yet these last two Senators speak of cuts and slashes, deserting of our commitments.

The increase in Medicaid during that period of time will be almost half as much. It is also described as a cut, as a slash. Only among liberal Democrats, Mr. President, only among liberal Democrats is a modest reduction in a check coming to an individual from the Government described as a tax increase. But that is the way we mistranslate for the American people. If your welfare payment goes down, that is a tax hike by their description. Only among Democrats, Mr. President.

Mr. President, they are right about this. This is perhaps the most significant budget resolution to be passed by the Congress of the United States since we instituted the concept of budget resolutions. Why? Because this is the first one that gives a real and enforceable promise that the budget will be balanced. It is the goal of this process to end the time, the decades during which Members of Congress spend the people's money and send the bills to their children and to their grandchildren. That is not a policy for our

future, for those children and for those grandchildren. We propose to end that era.

Why? Because borrowing, year after year, $200 billion more than we can repay, eats into our ability to invest in our own future. It drives up interest rates and drives up job opportunities for the very people our opponents, in defending the status quo and defending those deficits, claim to be supporting but are actually oppressing. Even the promise in this budget resolution, if appropriately enforced, gives us a dividend of $170 billion for the public sector in lower interest rates on the debt we have, and in increased tax collections from a more vibrant economy which has created more jobs. And it gives far more than that to the people whom we are here to serve.

Granted, on the part of the manager of this bill for the Democrats and some of his colleagues, there is lip service given to the idea of a balanced budget, someday, long in the future—but not now and not in this way. Always in some different way.

The President of the United States, when he was a candidate, told us he would pass a balanced budget. He claimed 2 years ago to have reduced our budget deficit which he did almost entirely by increasing taxes on the American people and then is surprised this year when the tax bill comes due and at the very time it comes due, because money is taken out of our pockets, we have a pause, a dip in our own economy—a possible recession caused by those tax increases.

Earlier this year, the President was not interested in a balanced budget at all. More recently, he has come to feel it is appropriate. But not now and not in this way and not with valid figures.

We say it is time. The time is now and this is the way. Some of us will say, as we often do in many bills here: This bill is not perfect, but it is the best we can come up with. Mr. President, I guess I do not think it is perfect. It is not exactly what I would have written or the direction I would have gone. But that is absolutely irrelevant. There are 100 of us here in this body, each with a different point of view, and none of us with an absolute certainty as to what perfection is. But what this is is the reaching toward a goal. Perfection is not our goal, a balanced budget is. This budget will lead us to that point and in doing so, will allow more money to remain in the pockets of the American people, will create more jobs for them, will lower the interest rates on their homes and, not at all incidentally, lower the interest rates on those student loans we have heard so much about—undoubtedly by considerably more than whatever the changes in those loan policies may well be. A balanced budget is a concrete goal. A balanced budget is what we will reach if we pass and enforce this budget resolution.

In doing so, yes, Mr. President, we will lower taxes on the American people. Only over there on that side of the aisle, Mr. President, is a $500 family tax credit for any person who makes enough money to pay $500 in income taxes described as a tax break for the rich. Only over there is someone who pays any income tax at all and gets a break under this proposal—rich.

The people whom we serve will be surprised to learn how many of the wealthy there are who presumably are on the dole of these tax reductions. And I guess, Mr. President, that is the single worst element of this proposal from the point of view of those who love the status quo and love the Government we have today. The thought that an American—any American—might possibly be allowed to keep any additional amount of what they earn is the worst possible policy from their point of view because they believe the Government ought to be spending that money, and we do not. That is the difference between us.

Mr. President, this is a budget resolution that will build America. And this is a budget resolution which I must say is a tribute to the senior Senator from New Mexico, the chairman of the Budget Committee. New Mexico's inestimable gift to the U.S. Senate, my friend, the friend of the Presiding Officer, who, with a tremendous commitment to the future of this country and a patience which I know that I could not match and a willingness to listen to different points of view, both reasonable and unreasonable but never abandoning the goal of a better America, an America which stops sending its bills to its future, has led us to a budget resolution which will reach that goal.

I want to say in conclusion, Mr. President, that I hope this budget resolution passes with a large majority. But large or small, it will make for a better country, and its passage will be a magnificent tribute to its author, the senior Senator from New Mexico.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from New Mexico.

Mr. DOMENICI. Mr. President, I understand Senator GREGG is going to follow with his remarks for as long as he wants to and then we have another Senator on our side ready. We will go back and forth. I will have to leave the floor for a little while.

I say to Senator GORTON, let me just thank you for those remarks. I appreciate them. I want to say frankly to the U.S. Senate, while everyone will be here to participate in this victory, that our system puts a special burden and a special responsibility on committees. And every now and then a committee has an opportunity to do something very, very sensational, or fall back into a quagmire of making excuses, or let us do it like we have always done it. But this Budget Committee is made up of a group of veterans and a group of newcomers, two of whom are on the floor, Senator GORTON is here, and Senator GREGG is here. They did an excellent job. I mean they did not flinch. They voted for tough, tough things because they had a goal and they wanted to achieve it.

I want to thank Senator GORTON for his participation, as well as all the other members.

Let me say to Senator GREGG that I asked him early on to head a task force on the toughest part of this budget. How do we fix in some meaningful way the rampant growth of entitlements led by the two health care programs, but not exclusively. And he worked for well over 2 months with exciting ideas, and difficult challenges. You came up with some very, very rational reasons, and we followed them ever since.

So I thank him for that. I am sure the Senate looks forward to his remarks. He has a wonderful way of showing what reality is instead of letting those who would be against everything show it their way. I hope the Senate and the people pay attention to his analysis today.

I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire.

Mr. GREGG. Mr. President, first I want to thank the Senator from New Mexico for his very generous comments, and join the Senator from Washington in exalting the efforts of the Senator from New Mexico who has for the first time in 25 years been able to put this country on the right track. Passing a balanced budget resolution is an amazing event. But, more importantly than that—and I know that this is what the Senator from New Mexico has kept his energies focused on in this area, and has kept us all focused on the goal—it is a great gift to our children and to the next generation. The Senator from New Mexico has a few, and also has a few grandchildren.

It was because of his concern about their future and the fact that he has been for many years fighting the battle of making sure that we do not pass on to our children and our grandchildren a Nation which is bankrupt, that he has kept this committee and this Congress focused on the end line. The end line is to produce a budget which gets to balance, and as a result reduces the burden of debt which we are passing on to our children.

So, once we pass this budget—which I am sure we will—and once we institute its recommendations, it will be a tremendous gift, which really will have been because of the author of and the wrapper of, and which we will be passing on to our children as a result of his efforts. I thank the Senator from New Mexico for having given us all this leadership in this area.

I also would like to pick up on a comment that was made by the Senator from Washington because he is a pretty astute observer of this. He sort of alluded to the fact that we just heard a presentation from the Senator from Massachussetts and the Senator from

Maryland which essentially said, if you would argue it properly, they were presenting the philosophy of the liberal approach to Government, sort of the philosophers of the left, so to say. It is their belief that Government must always grow and must always expand.

I think their real outrage comes from the fact that we are contracting the size of Government. We are saying that really it cannot be allowed to constantly grow and expand beyond the ability to pay for it. And that as we contract the size of Government we are going to return some of the benefit of the contraction in the size of Government, or at least its rate of growth—we are never going to actually downsize it, but the rate of growth—return some of the benefit of that to the people through a tax break. It is sort of like prying money out of the hand of someone who is at the door of death, the liberal philosophy being at the door of death in my opinion, to try to get them to give any money back to the American people through tax cuts.

That is what we are proposing. Think about it in the context of what these tax cuts are. They represent two-tenths of 1 percent of the total spending that the Federal Government will undertake over the 7-year period. We are going to spend $12 trillion over the next 7 years. We are talking about cutting taxes $245 billion. Yet, you would think that we were exercising a scorched earth policy against the actions of the Government by instituting that sort of really rather minuscule return to the American people of their benefit. Is this going to flow to the wealthy in America? First off, the resolution says it is not. The resolution says the tax cuts shall flow to the working people of America. And that is pretty obvious.

We are talking about primarily the biggest tax cut being a benefit for the working families, people with kids; a $500 tax credit to people with kids. Now, sure, a lot of wealthy Americans have kids. A lot of middle-class Americans have kids. A lot of lower-income Americans have kids. I suspect if you were to line all those kids up and put them on a scale, you would find that the number of kids of the middle class and working Americans far exceed by a factor of millions, I suspect, the number of kids of the wealthy Americans.

So, by definition, the vast majority of this tax cut is going to flow to just plain working American families that have children. That is where it is going. And is it such an outrage to take two-tenths of 1 percent of the spending that is going to occur over the next 7 years and say we are going to rebate it to you, the American people? Well, it is, if you are a liberal, because, basically, if you are a liberal, you believe you own that money, and you should not give it up. We own it, if you look at it from a liberal prospective. We should design the programs to tell you how to run your family.

Well, what we are saying is let us let the American people have the money and manage their own families a little bit, have a little bit more money to manage their own families rather than have the Federal Government tell them how to run their families and how the money will be spent. This whole tax cut issue is really a lot of smoke from the other side both on substance and I think on policy also.

I wanted to focus a little bit today on some other issues because we have heard a lot about how we are slashing and cutting Medicare and Medicaid and we are raising defense spending, and I have not heard too many numbers that have defended that in real terms because they cannot, if you look at the numbers.

The fact is that if you take a freeze baseline—I think that is the only way to do it honestly—you say what are we spending today on Medicare; what are we spending today on Medicaid; what are we spending today on defense. Let us say it was $100 today. Two years from now, are we going to be spending $102 on these programs, or are we going to be spending $98 on these programs?

That is an honest way of evaluating whether or not spending is going up or coming down. None of this current services baseline, none of this assumption baseline. It is what you actually take out and put on the table in the way of dollars for these programs. That is what counts for whether or not it goes up or it goes down.

If you look at those numbers—like everybody else in this institution, I only function now with charts—you will see that over the 7-year period, Medicare spending, off the current baseline of a freeze, which would be $176 billion, goes up $349 billion. That is new dollars that we will be spending on Medicare over the next 7 years over what is being spent this year.

Medicaid spending under this budget goes up $149 billion over the next 7 years over what we are spending this year. Defense spending goes down—this number happens to be wrong; it has been reestimated—$13 billion over the 7-year period.

So this representation that we are somehow slashing Medicare, slashing Medicaid, in order to raise defense spending is absolutely false. There is no other word for it. It is false. The fact is Medicare and Medicaid spending are going up, and this chart shows it in a bar graph. This is how much Medicare spending goes up. This is how much Medicaid spending goes up. And as you can see, it is a very sizable portion. Medicare spending is going up almost—well, better than twice Medicaid spending, but Medicaid spending is going up better than 149 times what defense spending is going up because defense spending is not going up; it is going down. And so let us have a little integrity around here when we start talking these numbers.

Some other numbers that I think are important are how these spending factors that we undertake over the next 7 years relate to the past 7 years, because we have heard a lot about how we are cutting Medicare, we are cutting Medicaid, and we are increasing defense.

Well, if you look at it in relationship to the last 7 years, defense spending was $2.02 trillion over the last 7 years. Over the next 7 years, it is going to be $1.88 trillion. We will spend less on defense over the next 7 years than we spent on defense in the prior 7 years.

Remember, there is no adjustment for inflation in here. That means defense is going down in hard dollars. It means defense is going down, if you look at it in inflationary dollars, even more. So defense is going down in comparison to the last 7 years.

If you look at Medicaid spending and compare it to the last 7 years, over the last 7 years we spent $445 billion in Medicaid. Over the next 7 years we are going to spend $772 billion on Medicaid, almost twice the amount of money we spent in the last 7 years. So we are dramatically increasing the amount we are spending on Medicaid.

If you look at Medicare, Medicare spending over the last 7 years was $923 billion. If you look at it over the next 7 years, we are going to spend $1.6 trillion or 73 percent more than we spent in the prior 7-year period.

How can you define that as a cut? There must be some new math that I did not learn when I was in school that you get if you go to certain schools in this country which could define an increase of 73 percent as a cut. Not only is it not a cut, it is a substantial increase.

Why are we doing this in the Medicare accounts? I think we have to understand that this budget resolution accomplishes a couple of very significant public policy events.

No. 1, of course, is it balances the budget for the first time in 25 years, which is absolutely critical to our children. We hear a lot of talk about children and concern for the children. I do not think there is any question that everybody in this institution is genuinely concerned about our children and their future and how we address them. But I cannot think of a single thing that is more important relative to our children's future than to be able to give them the opportunity to have a prosperous lifestyle. And whether or not you have a prosperous lifestyle depends on how much debt you have to pay.

It works that way in your home. If you run up a big debt and you have to pay it off, you are basically going to have a lot of trouble doing that. You are going to have to work hard, and you are probably going to work longer hours and you are probably going to find that you are able to keep less because you are paying off a big debt. This country is passing a big debt on to its kids, and unless we get this budget under control, it will get a lot bigger.

So the most significant thing this resolution does is it improves the opportunity for our children to have a decent and prosperous lifestyle, and that, I believe, is the largest gift of all, as I said earlier, and will far outweigh some of the negatives that were alleged will occur from the other side, which I do not agree to anyway. But even if you accepted them on face value, they are far outweighed by the positive of balancing this budget for our children's future.

Second, what this budget does is that, in driving this Government to be fiscally responsible and managed in a way that we can afford it, we are taking a hard look at all the major programs that are in this institution. And a lot of them were created with good intentions, but they have not worked. The classic example, of course, is welfare. No program has had a more disastrous track record than welfare considering the amount of money that has been spent on it. I am sure there are more disastrous programs, but in relationship to the amount of dollars spent on it, it would be hard to find.

The fact is what this budget does is assumes that we are going to take the welfare system and improve it substantially, basically by putting it back in the control of the States that have the imagination and flexibility and the originality to create new and aggressive programs, and the Governors are excited about the opportunity. I can tell you, as a former Governor, they will deliver a heck of a lot more dollars to the recipients that need it by having flexibility than by having a huge bureaucracy on their back. So we are going to reorganize welfare.

We are also going to take a hard look at the other entitlement programs, all of them, but the one entitlement program that needs the most scrutiny because it is the most sensitive and it is the most critical right now is Medicare, because the trustees of the Medicare trust fund—and this is not a Republican group; in fact, four of the six trustees are members of this administration, including the Secretary of HHS and the Secretary of the Treasury—the trustees of the Medicare trust fund have said that if something is not done to correct the fundamental financial situation or imbalance of the trust fund, it will go bankrupt in the year 2002.

This is a chart that reflects that. This is where we are today, and this is where it goes—bankruptcy in 2002 for the trust fund.

What are the practical implications of that? The practical implications are that there will be no insurance program for seniors in the year 2002. And so what does this budget proposal put forward? It puts forward ways in which we can effectively address that issue and bring under control the rate of growth of the Medicare trust fund so that we can afford it, and so that it will exist and work well for our seniors.

It does not assume that seniors will get less care. It actually assumes that seniors will get more care. They will get more care because we will give them more options; we will give them more choices. And in the process, we will, hopefully, move them from a fee-for-service system into fixed-cost systems which can deliver high quality care but for costs which are predictable.

Are we talking about cutting the Medicare trust fund to do this or cutting Medicare spending to do this? No. As I mentioned earlier, we are talking about increasing it rather dramatically, $345 billion of increase over the 7 years. And what does that work out in this inflation factor? It works out to the fact that today the Medicare spending is growing at 10.5 percent.

What we are talking about in this resolution is accomplishing a rate of growth that is basically 6.4 percent. Mr. President, 6.4-percent rate of growth. That is what we are assuming for the Medicare spending under this resolution. Is that a cut? Only if you function under the liberal new math. Under any reasonable math, even moderate math, a 6.4-percent annual increase is still an increase in spending and it a very substantial increase in spending. In fact, it represents twice the rate of growth of inflation. That is the commitment we made in this budget. And it is a significant commitment to our senior citizens, and it will, we believe, produce a budget which will be in balance.

Now, there has been some discussion about a couple other issues I wanted to touch on quickly. That is the education issue. There is a representation, if you were to listen to the earlier colloquy between the Senators from Maryland and Massachusetts, that all students everywhere will be impacted adversely by this resolution. Well, I think maybe they are not up to speed on what the resolution does.

The resolution does say that graduate students will be impacted, but undergraduate students will continue to have their programs and have them pretty much the way they are today. Graduate students, yes. They will be asked to pay the cost of interest on their loans after they graduate from graduate school. Their interest on their loans will accrue while they are in graduate school, which they do not now.

What does that mean? Well, it basically means John and Mary Jones working at the local diner, 60 hours a week to try to make ends meet, will no longer have to subsidize the guy who is going to law school and his graduate loan and the interest on that graduate loan. It means that lawyers, in fact, they will still be subsidizing them to some degree but that person going to law school will, when they get out of law school, because their earning capacity will be significantly increased, be required to pay the burden of the interest that was accrued on that loan. I think that is fairly reasonable.

Yes, we should maintain the programs for undergraduates. I believe they should keep undergraduates free from the interest cost during the period they are in school. But for graduates, I can see no legitimate reason for not requiring them once they get out of graduate school, where they have increased their earning capacity dramatically, to pay back that interest. Because, after all, if we do not do that, what we are basically doing is transferring to our wealthiest Americans, the graduate students, from our moderate- and middle-income Americans' tax dollars, something that there appears to be outrage about over the tax cut. It does not clone that direction as mentioned earlier. But it seems to be acceptable relative to graduate students from that side of the aisle, this income transfer, from hard-working Americans to people who are clearly going to be quite wealthy once they get out of the graduate schools, whether it is law school or medical school or whatever.

So that is, I think, a bit of a specious argument to begin with. But second it is specious because it ignores probably the most underlying positive event which this balanced budget amendment is going to generate for all Americans, not just for the Federal Government; that is, the fact that all the economists that have looked at this, including CBO, have said if we put in place a budget which balances the Federal budget over the next 7 years and does it in real numbers, with real terms, as this one does, that there will be a drop in the interest rates in this country of 2 percent. A 2-percent drop in interest rates is a huge benefit to homeowners, to people who are borrowing on their credit cards, people who are buying cars, and equally people who are going to graduate school. And I suspect just that the percent drop will more than pay for the cost of incurring the interest in later years or will certainly pick up a significant proportion.

So, I do not find this argument to be very persuasive. Good politics, which unfortunately appears to be a big part of this debate, but not persuasive on the facts as is the argument that there is a Medicare cut here which is maybe good politics but is inaccurate and clearly not true on the facts.

Now, the President presented a budget in this process also. The President has presented a number of budgets. The first budget was out of balance by $200 billion a year or $1.2 trillion over 5 years. And then he came forward and presented a second budget, just a little while ago. And that unfortunately came forward, scored by his own folks on the basis of his own numbers, something that he said he would not do, not scored by CBO. And when it was scored by CBO it turned out that budget was also out of balance by about $200 billion a year for essentially as far as the eye could see.

But I want to congratulate the President. I think he has stepped on the playing field, finally. We have had a second effort here in June. And basically he has gotten involved in the process where he was not before. His first budget was clearly a walkaway from the budget process. Sort of a Pontius Pilot approach to the budget, just washing his hands of it. But this budget is not what he presented. Granted, CBO has scored it as a budget which does not get to balance. But when it was sent up it was sent up with some very basic assumptions which I think are good assumptions and good intentions.

First, he has agreed we need to get to a balanced budget. His timeframe is 10 years. Ours is 7. I was interested in the Senator from Massachusetts's discussion of this issue. I was thinking that if we were to accept the President's budget, the Senator from Massachusetts would have been here—I am sorry I did not have a chance to ask him this—would have been here for 45 years before we get to a balanced budget, if I calculate right, since 1965. In any event, it is a long way away, but at least we agree it is a balanced budget.

Second, he has stated that we need Medicaid and Medicare reform. That is important. Because you cannot get to a balanced budget unless you address the issue of Medicaid and Medicare spending.

Third, he has agreed we need welfare reform. He not only agrees to it, he was the primary mover in this area. I give him credit for coming out early and aggressively to do something in the area of welfare reform, and hopefully we can accomplish it. So those are three areas of agreement.

Fourth, he has agreed that other entitlement programs have to be addressed and discretionary spending has to be addressed and in the budget he sent up he had some good numbers in those areas.

And fifth, he has proposed a tax cut. Less than what is in this budget but still a tax cut so it recognizes the need to flow dollars back to the people as we address this issue of balancing the budget.

So, on five major points, five major points, we are basically in agreement, and the question comes down to dollars and timing. I think there is an area for significant action here.

For example, in the Medicare, for all the slashing and cutting that we are alleged to do from Members on that side of the aisle in the Medicare accounts, I would point out if you compare the President's number to our number, in outlays—that is really the only honest way to do it—you take out all the assumptions, and the President's number is only $11 billion off from our number each year in a program that is spending hundreds of billions of dollars. Not really a very significant difference in the sense of coming to agreement. Significant difference? Yes. But a difference which is clearly manageable—Mr. President—$11 billion on accounts which spend hundreds of billions of dollars. So the President's numbers and our numbers are pretty close.

On Medicaid it is even closer. The President's outlay numbers are only $9 billion different from ours. On some of the other entitlements, welfare, for example, $10 billion of difference from ours. Those are numbers that are very close. And I think they are numbers that can be resolved. And so the President has come forward with a budget which basically agrees philosophically with five of the points we have been raising: First, you need to get to balance; second, you need to address Medicare and Medicaid; third, you need welfare reform; fourth, you need to address the other entitlements in discretionary accounts; and, fifth, you need a tax cut. Which is what our budget does.

And then his numbers in the key accounts, which are the entitlements accounts, are clearly in striking distance of our own numbers. So it seems to me there is an opportunity there for significant action to reach accommodation and reach agreement. Which brings me back to my original premise, which is that this budget is a no-nonsense, make-sense budget about how we get to balance and delivers to our children the opportunity to have a country which has some prosperity and hope for them.

The President, from his presentation, appears to also understand the need for that. I hope that the Members on the other side of the aisle would agree with the President's view and agree that these goals are what are needed and agree that these numbers are places he can start, because as we go over to the appropriations and reconciliation process, maybe we can reach the accommodations necessary to deliver to our children this gift which is so critical, a balanced budget.

I thank the President, and I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Chair recognizes the Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I give 15 minutes of our time to the distinguished Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Senator from New Jersey, and I thank my colleagues.

Let me first say that a balanced budget should be our goal. In fact, I offered an alternative budget resolution during debate on the budget in the Senate that balanced the budget, and did so by 2004, without counting Social Security surpluses, and did so with a different set of priorities contained in the budget before us today.

I think it is fair to say that the Republican budget resolution before us today is a fraud. Over and over, we have heard it stated on the floor of the Senate and in the news media that they have balanced the budget. Apparently, nobody has bothered to look at the budget resolution, because if you look at the budget resolution, you find out they have not balanced the budget. Here it is. Here is the conference report that we are debating today, and on page 3 of conference report, under ''Deficits,'' it says:

> For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

And we go to the year 2002, in which they are claiming they have balanced the budget. Do you know what one finds? It is the dirty little secret of this budget. There is not a zero by ''deficits'' in the year 2002. That is what we would have if they balanced the budget. It does not say zero. It says the deficit in fiscal year 2002 is $108.4 billion. That is not a balanced budget. That is not within hailing distance of a balanced budget. That is a budget that is not anywhere close to balancing, a $108 billion deficit in the year 2002.

How is it the Republicans claim they have balanced the budget? They claim it because they are looting and raiding the Social Security trust funds of every dime of surplus that is in those accounts. That is their plan. That is what they have in mind for America, to take every penny, every dime of the Social Security surplus, more than $600 billion over the next 7 years, take it all, spend it on other things, use it to give tax cuts to the wealthiest among us. That is the plan that is before us. It is a giant fraud. It is a huge hoax. That is what is before the American people today.

This is the biggest transfer-of-wealth scheme ever in the history of this country. They are going out there and taking money from people from their payroll taxes—and by the way, 73 percent of the American people pay more in payroll taxes than they pay in income taxes—and they are taking that money from them on the promise that it will be used to fund their Social Security retirement.

That is not what they are doing. They are taking that money and they are spending every dime of the Social Security surpluses. Just in the year 2002, they are taking $108 billion of Social Security trust fund surpluses. They are using that to spend on other parts of the budget, and they are using it to give giant tax breaks to the wealthiest among us. That is their plan.

If the American people are hoodwinked on this one, at some point they will find the bill coming due, because last year the Entitlements Commission told us precisely what will happen if such a plan goes forward. We will face either an 85-percent tax increase or a 50-percent cut in benefits in order to fund those entitlement programs, because it does not add up.

Mr. President, this Republican budget is a monument to misguided priorities. It is unfair and just plain wrong. There are draconian reductions in Medicare, Medicaid, education, agriculture,

and public investments that benefit average Americans. And why? So they can give massive tax breaks to the wealthiest among us.

This budget, make no mistake, is a return to trickle-down economics. It gives the wealthy a massive tax reduction and asks the middle class to pay the bill. One middle-class program after another is reduced in order to finance a tax break for those that have the most.

For example, the Republicans are reducing Medicare $270 billion over this 7-year period; Medicaid by $182 billion. Make no mistake, rural hospitals all across America will close. I have dozens of such hospitals in my State. I have talked to the administrators. I have asked them the effect of these budget plans, and they have said to me, ''Senator, we will close our doors. We will have no option.''

Our Republican friends say they are for welfare reform, they want people to work. They are right about that, people should work. But with the budget cuts that they have outlined, people will not be working. The Congressional Budget Office told the Finance Committee, under the Senate Republican plan that 44 of the 50 States in this country will not have a work requirement. They will not be able to have a work requirement. They will be better off taking a 5-percent penalty and not having any work requirement in 44 of the 50 States of this country because there will not be enough funds for child care and for job training. What a fraud, but the wealthy will get their tax cut.

The Republicans take domestic spending, spending in this country on infrastructure, spending on education, spending on research and development—the very things that are critical to our future—and they cut those $190 billion below a hard freeze.

In the budget plan I offered, we froze those programs for 7 years. Their program cuts $190 billion below a freeze, tough, harsh cuts in education, in infrastructure and research, in the things that matter to the future of our country, but the wealthy will get their tax cut.

The Republican budget agreement also makes draconian and drastic cuts in agriculture programs. Many people do not understand agriculture outside of the heartland of the country. But I tell you, our farmers work every day competing not only against the French farmer and the German farmer, but against the French Government and the German Government, and this budget signals unilateral disarmament; we are going to give up in this trade battle; we are going to leave that playing field to our European competitors; and we are going to back away from one more market where the United States has been dominant; we are going to raise the white flag of surrender in this trade battle and give up these agricultural markets.

Make no mistake, that is precisely what is going to happen under this plan.

Middle-class program after middle-class program will be devastated, but the wealthy will get their tax cut. Those priorities do not make sense, and they certainly do not benefit the middle class. The tax cuts that our friends have in mind are tax cuts that benefit disproportionately those who are the wealthiest among us.

This chart shows an analysis of the House plan. We do not yet have the Senate plan. The House plan is very clear in terms of who benefits from the Republican tax bill. If you are a family of four earning over $200,000 a year, you get an $11,000 tax break. If you are a family of four earning $30,000 a year, you get $124. That is 100 times as much to the family of four earning $200,000 as to the family of four earning $30,000. That is the Republican idea of targeting tax relief: Give the crumbs to the middle class; give the cake to the wealthy. That is the Republican plan that is before us today.

This budget resolution is nothing more than a repeat of the failed trickle-down economics of the 1980's. We learned a lesson in the 1980's that some have forgotten. We learned then that wealth does not trickle down, it gets sucked up. That is precisely what the plan before us today will do: Big bucks for the big guys and crumbs for the middle class. That is the plan that is before us.

I say to my colleagues and friends that if these policies are enacted, we will witness an even larger redistribution of wealth than the one that took place in the early 1980's. I remind my colleagues what happened. From 1983 to 1989, the last time the Republicans had control, this is what happened to growth in financial wealth in this country. The top 1 percent got 66 percent of the increased wealth in that period—the top 1 percent got 66 percent of the increased wealth. The bottom 80 percent—the vast majority of the people in this country—went backward. They saw their wealth reduced by 3 percent.

Mr. President, the Republican commentator, Kevin Phillips, had an interesting comment on National Public Radio several weeks ago. He said:

> If the budget deficit were really a national crisis . . . we'd be talking about shared sacrifice, with business, Wall Street, and the rich—the people who have the big money—making the biggest sacrifice. Instead, the richest 1 or 2 percent—far from making sacrifices—actually get new benefits and tax reductions.

That is the plan that is before us—an enormous transfer of wealth, from the middle class and the lower income people to those who are the highest on the income scale in this country. That is not fair, that is not right, and that is not an economic plan for the future of America.

During Senate debate on the budget resolution, I and a number of my colleagues offered an alternative balanced budget, one that balanced the budget by the year 2004, without counting Social Security surpluses. And we had much different priorities. Yes, we reduced the rate of increase in Medicare and Medicaid, because that must be done—but not in the draconian fashion contained in this budget resolution.

We also had reductions in the rate of growth for nutrition programs, and others—but not the draconian reductions that we see here. We were able to do that by going to the wealthiest among us and asking them to participate in a plan to restore America's fiscal health. Shared sacrifice; everybody has to play a part. That is the American way. That is the way we ought to do what needs to be done.

Mr. DORGAN. I wonder if the Senator from North Dakota will yield for a question.

Mr. CONRAD. I am happy to yield.

Mr. DORGAN. I appreciate it. I have been watching some of the discussion. I have noticed several Members of the majority side nearly breaking their arms patting themselves on the back in the last hour or so because they say they have brought a balanced budget to the floor of the Senate. I noticed in the press conference at which they unveiled it, they said they kept their promise, ergo, a balanced budget. I notice the press reported that they had brought a balanced budget to the floor of the Senate. Then I notice on page 3 of the document before the Senate, the very chart that I think the Senator from North Dakota has, Senator CONRAD, where it says ''deficits,'' it appears they have been patting themselves on the back too soon.

The Senator from North Dakota is saying, is he not, that there are no balanced budgets in 2002? In fact, this budget resolution would leave a deficit of $108 billion in the year 2002; is that correct? And, if so, why is everybody patting themselves on the back and claiming that the budget is in balance if on page 3 it says it is not in balance, that it is $108 billion short of balance in the year 2002?

Mr. CONRAD. The Senator is exactly right. I think they are hoping nobody actually reads the document. So far, they have been wildly successful in that. The news media have not bothered to read the source document either. If they do, they will see under ''deficits'' in the year 2002, it does not say zero; it does not say they have reached a balanced budget. It shows a deficit of $108 billion in the year 2002. That is because they have looted every penny of the Social Security surplus trust funds during this period.

The PRESIDING OFFICER. The time yielded to the Senator from North Dakota has expired.

Mr. CONRAD. I yield the floor, Mr. President.

Mr. LAUTENBERG. Mr. President, we will yield to the Republican side now, despite the fact that we had only

one Democrat speak after two Republicans in a row. But we have a distinguished friend on the other side, Senator GRASSLEY from Iowa, who wishes to speak. I now yield so that the Senator can use some of his time.

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

Mr. GRASSLEY. Mr. President, I yield myself 20 minutes.

The PRESIDING OFFICER. The Senator is recognized for 20 minutes.

Mr. GRASSLEY. Mr. President, I do not want to engage the Senator from North Dakota because I want to make my remarks and run to a meeting that I have to have. But I want to make this point in his presence, and we can argue about it at a later time. What he said I am not going to say is inaccurate because he has the documentation for what he said. But he spoke about our document and our claim of a balanced budget as being a fraud on the American people. We can accept that judgment if he is willing to say that if we had the President's document as a final document before this body to pass as the budget resolution for this year, with the claim that the President balanced it in the year 2005, which is 3 years longer than ours, the Senator from North Dakota would have to say that the President's budget is a fraud on the American people, because the document that we have before this body, that we correctly claim will balance the budget by the year 2002, uses exactly the same accounting procedure that has been used in this body by both Republicans and by Democrats when they were in the majority. It would also be used by the President of the United States in saying he had a balanced budget.

The President would use the same approach that we used. The fact of the matter is that our document is not a fraud. Our document balances the budget by the year 2002. And except for the fact that the President of the United States uses OMB numbers instead of CBO projections for the future, I would have to say that the President balances the budget by the year 2005. Therefore, the President's document is not a fraud and our document is not a fraud.

I hope that if the Senator from North Dakota is going to say that the way we do business and account for the balance is a fraud, he would be willing to say that the way the President of the United States did it as well was fraudulent. But the fact is that we are balancing the budget. We are balancing the budget because the United States people have finally sent a very clear message to the Congress of the United States that it is morally wrong for this generation to live high on the hog and to let our children and grandchildren pick up the bill.

Now, most of the debate behind the desire to have a balanced budget in this body is going to be based solely upon the public policy that it is good economics to have a balanced budget. And I agree with those statements. But I think that the main reason we should balance the budget is because for one generation we had anything we want through the Federal budget because of the bottomless pit of borrowing and that is not right. I do not believe it was ever right.

Obviously, it got into the thinking of public servants that there was nothing wrong with one generation living off future generations.

We are finally going to be able to put our house in order so that after the year 2002, we are going to be able to pay our own way. Then future generations can have a better life. They will not be saddled with the high interest and the high debt. If we did not change business as usual in this country on fiscal policy, future generations would be facing tax rates in the high 80 percent to pay for the debt that we have loaded on them.

If any Member wonders whether or not we can have a great future without borrowing to the extent to which we borrow, $4.9 trillion, just think, for the first 165-year history of our country, except for the years you classify as war years, our forefathers were able to show surpluses in budgets of the Federal Government 3 out of 4 years.

So the economic philosophy that has come to dominate public policymaking in Washington, DC, that somehow we had to have a deficit to have prosperity, that does not square with the practice of our forefathers who lived within their income and still built a strong, viable economy and a society that was strong.

The moral arguments for this budget are very, very strong, I think the overriding reason for victory that the balanced budget brings.

One other comment that is somewhat a reaction to what has been said on the other side of the aisle about the tax cuts, most importantly about the hogwash of the tax cuts going to the wealthy. I think they express those points of view because there is not an appreciation of what $500 per child in the pockets of middle-class Americans can do for the families of America and what it can do for the economy.

Maybe there is not an appreciation by the limousine liberals of America of what $500 means to a family because the philosophy on the other side of the aisle, quite frankly, is that somehow all the resources of this country belong to the Government, that we let, somehow out of the goodness of our heart, a certain amount of money be given by the Government to the families.

That is all wrong. Everything belongs to the families and the workers of America. Under our constitutional system, people might give up some of their resources to Government through taxes to exercise certain functions that can be done by Government for the good of all of society.

In the last 30 or 40 years, the concept of tax expenditures has crept into our policymaking here in Washington. We say that the deduction for children is a tax expenditure. We say that the tax deduction for interest on home mortgage is a tax expenditure. We say this or that which you can subtract from your income tax is a tax expenditure.

Well, a tax expenditure implies that Government owns all the resources of this Nation and we might expend some of the money back to the families to keep.

We can complain about high taxes and $500 tax credits for families on the other side of the aisle very easily when you start with the concept that every penny made by the working families of America in this country belongs to the Government and Government is going to let the families keep something. That turns good reasoning on its head.

We, on this side of the aisle, accept the premise that all the resources of this country belong to the families and the workers of America and that we, Government, ought to only take from those families what is legitimately needed to exercise the legitimate functions of Government.

That is why on the other side of the aisle they can make light of and maybe even make fun of a $500 tax credit per child.

I want to commend the chairman of the Budget Committee for his hard work in reaching this budget compromise. I want to say it this way so the American people out there, cynical about one person any place in American society maybe can make a difference—and I believe one person can make a difference. I believe that any one person, any place, regardless of their station in American life, can make a difference if they want to. Our society and our system of government allows that to happen. And each person that says they cannot make a difference belittles their contributions that they can make and underestimates their contribution that they can make to American society.

That is true in this body, as well. One person can sometimes make a difference. I think that Senator PETE DOMENICI's desire to have a sound fiscal policy for this country and to work to a balanced budget has made a difference, just because of the single individual of Senator DOMENICI. I think I can hold him up as an example, when people are cynical about an individual in Congress making a difference, that we are going to have a balanced budget in the year 2002 because of 1 person out of 535 in this Congress. Maybe I ought to say at least of the 100 Members of the Senate, because Senator DOMENICI of New Mexico, chairman of the Budget Committee, made a difference.

I suppose, as the Senator from Washington said about an hour ago, everybody cannot have everything that they want in a balanced budget. You can have everything you want when you can borrow unlimited amounts of money to pay for it. But the principle of a balanced budget, for the first time

in a generation, dictates that you cannot have all your desires. It dictates the establishment of priorities within Government. It also dictates that every Member of this body cannot have everything they want in a budget.

I, too, like the Senator from Washington, can find parts of this conference report that maybe I do not like. But we cannot lose sight of its singular accomplishment that it balances the budget in 7 years.

This balanced budget will mean that our children and grandchildren will have a better tomorrow. This resolution will also help working families today with lower interest rates and better wages because of the increased productivity that is going to come from it.

It is for these reasons that I intend to vote for this conference report.

While the Congress has produced a balanced budget for the benefit of our children, I want to note by contrast, that the administration has still failed to provide a plan to achieve balance.

Last week I spoke on the floor, urging the administration to provide the additional spending cuts necessary for their new budget proposal to achieve balance. And I urged them to do what the President said he was going to do in February 1993 in his first budget resolution, to use the Congressional Budget Office's economic projections.

As is well known, CBO has stated that President Clinton's budget proposal—that is the second one this year—provides a deficit of $210 billion in the year 2002, the year that Congress' budget resolution gets into balance, the Republican budget resolution gets our budget in balance.

And in the year 2005, the President's budget will still have a $209 billion deficit.

I am very pleased that leaders on the other side of the aisle have already come forward, urging their President to provide for more spending cuts and to use CBO's economic projections so his budget will have integrity and so it will actually be in balance.

Monday's Wall Street Journal quotes the minority leader as saying that President Clinton must find hundreds of billions of dollars in more spending cuts. And in the Washington Times that same day, the minority leader is quoted as saying the White House will comply with CBO estimates.

Another Democratic Senator is quoted in the Washington Times as saying, ''They cooked the numbers. The President needs to get back to the CBO numbers.''

I am glad to see Members on the other side of the aisle agree that the administration must use CBO estimates and must provide hundreds of billions of dollars in more spending cuts. This is necessary if the White House is going to have any credibility in efforts to achieve a balanced budget.

Now the ball is once again in the White House court. I strongly encourage the administration not to punt the ball for a third time. The American people do not want their President to abdicate leadership on the budget. They are glad he is in the ballgame now, but we want him in the ballgame playing as a full member of the team.

This budget we have before us preserves Medicare. Medicare would otherwise be bankrupt in the year 2002. I am glad the President recognizes in his budget that Medicare would be bankrupt by the year 2002, and he proposes slower growth of Medicare as we propose slower growth of Medicare. And even with slower growth, it is still going to grow at 7 percent. Even at slower growth the per capita expenditure for Medicare is going to go up from $4,900 today to $6,500 in the year 2002. We are going to be spending $1.7 trillion on Medicare. We are going to have Medicare still be one of the biggest, if not the biggest programs in the Federal budget. Medicare will not go bankrupt under this budget.

Agriculture is going to do very well under this budget. I thank the chairman for helping us in the Senate hold a strong line on the Senate's figures for agriculture. I think this conference report represents a real victory for agriculture because the House was going to cut agriculture $17 billion for 7 years. Normally, splitting the difference we would have been cutting more than $14 billion. Our figures will be at $13 billion, just above the Senate's recommendations, and the conference retained the sense-of-the-Senate language that only 20 percent of the savings required of the Agriculture Committee should be realized from farm programs.

No one will benefit more from this effort to balance the budget than our family farmers. Because of the intense amount of capital that it takes to be a family farmer and because, especially among young farmers, so much of this capital is borrowed, lower interest rates will be of enormous benefit to this capital-intensive industry. Lower interest rates will result from a balanced budget.

The Food and Agricultural Policy Research Institute, which is a combination of the University of Missouri and Iowa State University, analyzed the impact on the farm economy of a balanced budget. In a preliminary estimate, this organization took the CBO estimates of reduced interest rates that would be realized from a balanced budget and said it would translate into a $2.5 billion increase in farm income in the year 2002.

Finally, on the subject of taxes, this conference report assumes $245 billion in tax cuts for the American people, especially working families. I am particularly pleased that under this budget resolution there can be no tax cuts until after CBO has certified that the budget does get to balance.

We all know we have a credibility problem with the American people when we talk about balancing the budget and cutting taxes at the same time. But we overcome that problem with the American people because this resolution will ensure that we have done the hard work first, that we have actually cut the necessary spending that it takes to achieve a balanced budget. It will be an enforceable reconciliation package. And then it will be scored by the Congressional Budget Office so we know there are *x* number of dollars available for a tax cut and that the tax cut is paid for and we do not cut taxes until that is done. That protects us from the usual traditional use of smoke and mirrors that are too often used, and never gets us to our targeted deficit reduction.

When it comes to tax cuts, as a member of the Finance Committee I state categorically I do not agree with the House of Representatives that we should give middle-income tax cuts to families up to $200,000. As a member of the Finance Committee, I will be working to have that be capped at $100,000. But there is no question that families will greatly benefit from being able to retain more of their income. Families will be able to use those resources for their children's education, their children's health, their children's nutrition. Let the families make the decision, not big Government make the decision on where this money should be spent. Because I am confident that families will make the better choice.

One last note on taxes. I want to make a brief comment about a small, very small but very important part of this budget resolution. I am very pleased that the House agreed to join the Senate in rejecting the off-budget funding for the Internal Revenue Service. The off-budget funding was proposed by the administration to provide for approximately 6,000 more IRS agents. The Senate last month, by a vote of 58 to 42, and it was a bipartisan vote, rejected this off-budget funding for the Internal Revenue Service. By rejecting this off-budget funding gimmick the Congress showed, first, that we would not engage in smoke and mirrors budgeting to achieve balance and, second, by eliminating this off-budget funding for IRS, we showed the American people that this Congress is committed to getting big Government off their back. The IRS has more than sufficient resources to do its job. It does not need the thousands more agents knocking on taxpayers' doors, as proposed by the administration.

This was a small but important victory for the taxpayers. It is a symbol that this new Congress did get a message from the last November election that Americans want to see a smaller, less intrusive Government. In this regard, again, this could not have been done without the help of the chairman of the Budget Committee, Senator DOMENICI. His dogged work in ensuring that this off-budget funding for the IRS was eliminated made that possible.

This victory would not have been possible, then, without his determined support. I want to close by saying this

is truly a historic vote. I did not think I would see the day when we would have a credible budget conference report that would get us to balance, either in my public service or in my lifetime. By adopting this conference report we take the necessary steps to put our fiscal house in order and provide the benefits of a balanced budget to our children and grandchildren.

We all tell our children and grandchildren that it is good and important to have dreams and hopes. This budget will help our children and grandchildren make these dreams and hopes come true.

I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank the distinguished occupant of the chair.

Mr. President, the Republican budget before us purports to solve our deficit problem in 7 years. However, it will not do the job. For one thing, the budget claims balance by using billions of dollars in the Social Security trust fund. In some ironic way that is almost a joke because no company, no corporation—and I come with some experience having been the CEO of a major American corporation, the one that I helped build with a couple of other young fellows—none of them would dare propose to show their balance sheets, or their financial statement, as having been balanced using the company's pension fund.

By the way, Mr. President, I allow myself up to 20 minutes or such time less than that which I care to use.

The PRESIDING OFFICER. That is the Senator's right.

Mr. LAUTENBERG. Mr. President, no corporation would dare use the pension fund that does not belong to them as a line on their financial statement suggesting that in fact they have had a pretty good year. That would amount to absolute fraud. And I think any chairman or president of a company who signs such a statement, the financial officer, could be accused and charged with fraud, and could be charged with violation of the accounting rules that apply to public companies.

Meanwhile, my Republican colleagues claim that they are going to balance the budget in 7 years, but only by using billions of dollars in the Social Security trust fund that are reserved for senior citizens, the beneficiaries. I hope they will not break their arms patting themselves on the back about this.

In any case, Mr. President, there is a much larger question involved in this debate. And that question is Whose side are you on?

Those on the Republican side of the aisle are on the side of high-income people with lots of assets. And so it is not surprising that they advocate a tax cut for the wealthy.

They claim it will help the economy. I think it was at one point called trickle down. Trickle down was something like—I know this is a play on words—trickle-dee trickle-dum. But the fact is that trickle down economics did not work.

Meanwhile, Mr. President, we Democrats are here to represent ordinary Americans. The people who work every day, trying to provide for their families, trying to buy a home, a roof over their heads, trying to supply an education for their children, trying to reserve funds for their older age, or trying to help a parent. These people will not benefit by a tax cut to the rich.

Mr. President, the Republicans justify their budget by talking about debt. But there is a lot of confusion about debt.

Debt is a recognized and an acceptable aspect of personal and business life in this country. Show me a company, any company of size, a company doing $50 million a year, $100 million a year, probably a lot smaller than that, that does not have debt on its books, and I will show you a private company owned by perhaps one individual. But assume as soon as you get other owners in the business, public companies and so forth, it goes almost without saying that they need debt, that they need to borrow to expand, to invest in the future, to invest in research, product development, and marketing. That is the way it is.

What is the dream of the average American family? The largest asset that most Americans have is their home. And I do not know anybody, middle income, modest income, or rich, that buys a home for cash. They go to the bank or they go to a lending institution. They say, ''Lend me money based on my collateral; the brick and mortar that was used to build my house, the piece of property that I own.'' And for many, throughout their lifetime of work, the largest asset that they acquire is their home or the equity in their home at such time as they dispose of it.

So it has to be with government at times. And we ought not to make phony comparisons of government to business or government to individuals. You hear the argument that American families balance their budget, so why not government. That is phony. Everybody knows that. Every American family lives like every American business conducts itself. They borrow money. It is part of our system.

Yet we should try to balance the operating budget. And there is no question that we need to do much more to cut wasteful spending and move in that direction.

There may be some disagreement about the date, whether it is the year 2002 or the year 2005. But both Democrats and Republicans share the overall goal.

The question is how do we get there and who pays the ultimate price? Whose side are you on?

We have heard our friends on the other side claim that they are not cutting Medicare, or that they are simply cutting into the growth of Medicare. The fact of the matter is that when you take $270 billion out of Medicare over the next 7 years, with the huge growth in the number of beneficiaries, and rising medical costs, that money goes for less per person than it would otherwise. These cuts in Medicare will mean a cut of over $3,300 per individual, almost $7,000 per couple, over the next 7 years. And that is a lot of money for the average family. As a matter of fact, the average senior citizen today pays 20 percent of his or her income in out-of-pocket health care costs.

We are talking about people whose incomes at best are modest. Seventy-five percent of Medicare recipients have incomes under $25,000 a year; 35 percent have incomes under $10,000 a year. But we are talking about an average increase for those folks of $3,300 per person, or roughly almost $7,000 for a senior couple.

Student loans—it is going to cost students $3,000 more over the period of a student loan. And the question is, who is going to be deprived of the opportunity to go to college?

Mr. President, I have heard lots of personal stories about our colleagues. There are some illustrious, distinguished careers that were built among people here in this body with relatively modest starts. And I was one of those people. I came from a family where my mother was widowed at age 36. I was 18 and had already enlisted in the Army to do what I had to in World War II. There was no money in that household—nothing. The modest allotment that I sent home was small. It helped my mother. She worked hard to take care of my sister and herself and to maintain the small apartment that they lived in.

When I got out of the service, I was 22. I wanted to go to college and was accepted to a fine university. Were it not for the GI bill, Mr. President, I do not know which way my career would have gone. But I created a business. I am actually a member of the hall of fame of an industry, the information processing industry, for what is called my pioneering efforts in building the service side of the computer business today larger than the hardware side of the computer business. A company I helped found with two other fellows today employees over 20,000 people. It is a wonderful story about America and the success that can be achieved here from three poor kids, and I was one of them. The other two are brothers.

It was the GI bill that sent me to Columbia University. Without that I never would have known which turn to take in the road, very frankly. But with that assistance from the Government, I made a contribution. It is an industry that employs over a million people today, and I take some measure of the credit for having helped create

the notion that you could buy computer services outside of your company; you did not have to own the hardware and you did not have to have the programmers, the technicians; you could do it—all because I got a start from my Government.

My father during the Depression years was humiliated by the fact that he had to work under a WPA program. It was a very unpleasant experience. But my father knew even more than his dignity, he had to have a week's pay and he had to put some food on the table, and he had to maintain the respectability that he had as head of the household. So he took a Government program job. It was not long, but it was necessary.

So here we have education, employment. If only my father had health insurance during the year of his sickness when my mother worked behind the counter of a luncheonette so she could pay doctor bills and administer to him at the same time.

So here we have a picture of America, Mr. President. What kind of a country are we? Is our mission primarily to cut taxes for the wealthy or is our mission here to build citizenry in the proudest way possible, to make patriots out of people because they love their country, because their country does something for them? And if it takes us a couple of years more to eliminate a budget deficit, so it shall be. Because the price of not doing it could be detrimental to our country for decades to come.

We go to the 21st century with the heaviest competition that this country has ever seen, whether it is from the European Union, 350 million people strong, or from the Pacific rim where energy is just boiling and people want to take our markets and take our products and take our opportunity. We can avoid being in that competition very clearly by not educating our people, by not training them, by not penetrating those markets, by eliminating Government's assistance in helping to get to those markets. We can do those things. In this case, a penny saved is liable to be a dollar lost.

So we have to do this with some sense of compassion, with some sense of mission about what our democracy is like.

And yet, in this budget, we are going to take away the earned-income tax credit for modest families. We are going to make students pay more to get their loans. And we are going to cut Medicare benefits.

But we are going to take care of our friends who are in the high side of the income strata. We are going to make sure that they get their tax cut. I think it is ridiculous.

The people who are looking at this placard have to ask themselves the question: Whose side are you on? Where are we going to go? Are we going to be a Government that provides energy and seed money and encouragement for people to develop, or are we going to say, no, no, no, you have to live without these things and if the child does not have sufficient nutrition, so be it. And if the child does not have an education and goes to prison, we will build enough prisons. But will we build enough pride in our citizenry? That is the question.

So we are here with a conference report today that says we are going to give out 245 billion dollars' worth of tax cuts, but we are going to take $270 billion out of Medicare and $182 billion out of Medicaid.

Medicaid. My goodness, I live in a State that has the second- or third-highest per capita income in the country, New Jersey, but we also have the paradox of some of America's poorest cities in our midst. And those cities and other urban areas, where incomes are not high, very often are totally dependent on Medicaid to carry the hospitals that will serve the needs of children. But we are going to say we are going to cut that because we are saving money. Yes, we are saving over here. We are going to give some to those rich guys over there, but we are saving money. And so those children will not get treated. And what kind of respect will they have for themselves, their families or their country if they have not enough to eat and not enough health care? Not much, I can tell you. They will find other ways to satisfy their basic needs.

(Ms. SNOWE assumed the chair.)

Mr. LAUTENBERG. And so, Madam President, the debate will go on and we will have different perspectives, but the one thing that will ring through this debate loudly and clearly in my view is: Whose side are you on? The Democrats believe that people in modest income levels, people in the middle class may need that extra little push to help them move their families along so that they can move up the social and economic ladder. And our friends on the other side will say, no, no, no, we are not going to spend money on those silly programs like child nutrition and day care and those kinds of things. No, we have to give tax cuts to the rich so that they can perhaps let something trickle down for others.

I do not believe that is what America wants. It will be interesting to see how the American public receives this debate.

And with that, Madam President, I am prepared to yield.

Madam President, the next speaker is ordered from the Republican side, and they will allot their time as they see fit.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I thank the Chair. I yield myself whatever time I may take—I believe 15 minutes or so.

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

Mr. ABRAHAM. I thank the Chair.

Madam President, last November, voters sent 11 new Members to the Senate. I believe all of us came to Congress dedicated to keeping the promises we made in our campaigns, and specifically we promised to end business as usual and to replace the old equation here in Washington of higher taxes and more Government with smaller Government and the goal of letting people keep more of what they earn.

Central to our campaign was a commitment to end 25 years of deficit spending here in the Congress.

Today, the Senate is debating a budget resolution which delivers on those promises. First and foremost, this resolution balances the Federal budget over the next 7 years. It does so by slowing the growth of Federal spending from 5 percent a year to 3 percent a year. In dollars, that means Federal spending will continue to grow from $1.6 trillion next year to $1.9 trillion in the year 2002.

Now some, of course, have argued that we moved too fast. But the facts are quite simple. If we do not take action now, America will face an economic crisis far greater than any this Nation has ever confronted before. Here is why.

If Washington keeps spending money the way it has for the last quarter of a century, the Medicare trust fund will go bankrupt in 7 years. In 15 years spending on entitlements and interest payments on the national debt alone will equal all tax revenues. That means not $1 for national defense, law enforcement, education, job training, veterans programs and so on, unless we run up even higher deficits in the future, deficits at levels we have never previously contemplated.

Most importantly, unless the actions we begin in Congress are enacted and signed by the President, a child born this year, 1995, would during their lifetime pay $187,000 in Federal taxes, not in total, but just to cover their share of interest on the national debt that already exists and will accumulate during their lifetimes.

By adopting this budget we can avoid fiscal disaster and begin the process of removing the mountain of debt from the backs of our children. Moreover, balancing the budget also sets the stage for an era of lower interest rates, accompanied by expanded job creation and a higher standard of living. Balancing the budget will result in significantly lower interest rates, which means that the average homeowner can save up to $500 per month on their mortgage. In addition, the GAO reports that balancing the budget could produce real income growth of up to 36 percent by the year 2020. For families and children then, balancing the budget means more than just reducing public debt, it means keeping a roof over their heads, putting food on their table, going to better schools and financing retirement. It means a brighter future.

How do we get there? We get to a balanced budget by setting priorities and making tough decisions. We get to a

balanced budget by keeping our promises, promises to eliminate wasteful spending, to evolve programs to the States and control growth of entitlements and provide taxpayers with some badly needed relief.

First, this resolution trims the fat off of the Government and does so by eliminating unnecessary agencies, consolidating duplicative programs and privatizing those functions that are better served by the private sector.

The resolution includes the elimination of almost 150 departments, administrations, agencies, commissions, committees, boards and councils—everything from the Board of Tea Experts to the Department of Commerce. It also assumes the privatization of entities like the naval petroleum reserve and the Uranium Enrichment Corporation and the Alaska Power Marketing Administration, all of which provides services which are better left to the private sector.

Finally, this resolution consolidates duplicative programs to make the Government less cumbersome and more efficient. And all these reforms save the American taxpayer $190 billion over the next 7 years.

This budget also devolves powers to State and local governments. During my campaign I promised the people of Michigan to return the operation of various Government functions back to the State, where Governor Engler and our legislature are out front on important issues like reforming welfare, Medicaid and education. I know Governors from other States are equally as innovative.

This budget takes advantage of the tremendous talent outside the beltway by utilizing block grants to replace the hundreds of Federal welfare, housing and education programs. These block grants, which in many committees are already moving forward on a bipartisan basis, will provide the Governors with the resources and the freedom they need to carry out such reforms.

Another promise I made to the people in Michigan was to work to control the growth of Federal entitlement programs. The need for this reform was made apparent in February when the Medicare trustees announced the trust fund will be insolvent 7 years from now. The trustees concluded that the HI program is severely out of financial balance and that the trustees believe that the Congress must take timely action to establish long-term financial stability for the program. This budget embraces this call to act by addressing both the short- and the long-term insolvency of Medicare programs.

First, it allows Medicare to continue to grow at a 6.4 percent rate per year. This reform enables Medicare to pass the trustee short-term solvency test while still growing at twice the rate of inflation.

Second, the resolution includes a call for a special commission to address the long-term stability questions facing Medicare and to advise Congress on how to keep Medicare's promise for future generations. President Clinton's most recent budget endorses this approach by advocating similar reforms.

Now, we have heard a lot during the debate on this budget when it first came before us, and we heard already today, and I am sure tomorrow we will hear issues raised as to whether or not we should do these things with regard to entitlement programs and Medicare in particular, whether or not we can limit the growth to twice the rate of inflation. And the claims will be made that this is impossible to do simply because, if we did this at the current rate of growth, the current rate of inflation in health care programs, it will have this, that or the other effect. All these horror stories we heard suggests it is impossible to change any system in this country.

That is certainly not the case, at least based on the recent evidence we have seen in the health care area. What we have seen is that in the private sector the inflationary health care has been dramatically reduced as corporate America, small business America, as families in America have addressed these growth problems by finding innovative ways to deal with health care and health insurance costs, by engaging in more preventive medicine and joining managed care facilities, by finding other alternatives to simply assuming that the rate of inflation can never change. I think it can. I think on a bipartisan basis we can, while providing the same level of service, limit the rate of growth of Medicare to the types of percentage that are contained in this budget resolution.

Another central promise of my campaign was to fight for tax relief for America's families and businesses. Federal, State, and local taxes today combine to take almost 40 percent of every American's dollar that they earn. The tax burden on American families has increased by 300 percent over the past 40 years. Our Tax Code is excessive and it is often arbitrary and too often it chokes innovation and job creation.

In my campaign, I promised the people of Michigan to support much-needed tax relief, like the $500 per child family tax credit, which we have talked about already and will continue to discuss in this body. This budget delivers on those promises by providing $245 billion in relief over the next 7 years. Under this resolution when spending has been cut and a balanced budget is ensured, $245 billion is made available to the Finance Committee for legislation providing family tax relief and incentives to stimulate savings and investment. And we need those incentives. Recent economic indicators suggest the economy may be slowing down. If slower growth is on the horizon, then we need to do more than just focus on spending. Slower economic growth endangers our common goal of a balanced budget in the year 2002. According to the OMB a 1-percent slower economic growth rate translates into $150 billion in higher deficits over the next 5 years. By including real incentives for investment and savings, we can help stimulate the economy and ensure that revenues keep pace with projections.

A good example of how this can work, I think, was embodied in Jack Kemp's original enterprise zone proposal. In these zones lower taxes on capital would encourage businesses and employers to go into economically depressed areas, spurring economic growth and job creation. The primary benefits of these zones go to the residents of the zones themselves as their neighborhood is given a much-needed boost. And within the next few weeks I plan to introduce a bill that would supercharge the current empowerment zones with powerful savings and investment tax incentives such as those that have been previously outlined in enterprise zone bills to try to create that kind of job creation.

By including a tax cut in the budget, we are opening the door for tax reforms like enterprise zones, family tax credits, and other incentives for savings and investment. These tax cuts in turn will increase—grow, create jobs, improve savings and ultimately improve the standard of living for most Americans. I intend to work with the Finance Committee to provide Americans with a profamily, progrowth tax cut this year.

Madam President, 2 weeks ago Bill Clinton sent to Congress a proposal that embraces the central themes of this Republican budget. It cuts spending. It limits the growth of entitlements, and it provides Americans with relief from excessive Federal taxes. In short and in many ways, the President's budget alternative vindicates Republican efforts to balance the budget. While the plan falls short of its goals, which has been quantified by the Congressional Budget Office, I still think it is a good start in the right direction. I also hope that the President now will support other Republican efforts to create jobs and strengthen our economy, and I look forward to working with the administration to do so.

Madam President, this budget resolution takes a historic step toward balancing the budget by slowing the growth of Government and returning power to the States. It is a credit to Senator DOMENICI and to the members of the Budget Committee and to the leadership, I think, that we have set this goal and stuck with it.

As is the case, I know, with the President and many others in this Chamber, there are parts of this budget resolution that I wish were different. There is an area, for example, in the student loan area where I wish it were different, closer to something that I had worked out before.

But I think it does an extraordinarily good job of ordering priorities and reaching the commonly held objective of bringing the budget into balance,

and it is the reason that I strongly support what we are attempting to do today and tomorrow.

The question before Congress is not just about dollars and cents, revenues and outlays. The question confronting us is whether this will be the first generation of Americans that fails to pass on to our children as much freedom and opportunity as we inherited from our parents. Like many other new Republicans in Congress, I ran for the Senate promising to fight for an agenda that would guarantee my children and their generation more freedom and opportunity. This budget, I think, keeps those promises, because it guarantees that the freedoms and opportunities for future generations are greater than ever. I look forward to working with the President and, hopefully, congressional Democrats to get this job done.

We heard earlier today numerous people comment on the implications of this budget. The previous speaker was quite eloquent in trying to outline his view of America and where he thought this budget would take us. He talked about his family and their experiences in this country. I would just like to close by talking about my family.

My grandparents were all immigrants. They came to this country about a century ago in search of freedom. None of the four could speak English. Probably cumulatively the four had about $5 in resources when they got here. But they came to this country because they wanted to live in a country that was free and they wanted their kids and their grandchildren and future generations of their family to live in a nation that was free.

They did not come here seeking a nation for the purpose of finding a place where there were great Government benefits. They believed in their own capacities to do things, and they wanted a place where they would have a chance to enjoy the freedom to do the things they want.

My parents were very hard-working folks. Neither of them had a college education. They were not really well educated, in fact, but they cared an awfully lot about their children and they wanted my sisters and me to have a little more opportunity than they did.

My dad worked for almost 20 years as a UAW member on an assembly line in Lansing, MI, in an Oldsmobile factory, and he and my mom had a small business after that. They worked very hard, 6, sometimes 7 days a week, to give my sisters and me a chance to have the other part of the American dream—freedom and opportunity.

I think what they envisioned for my generation and what I think they all wanted for my children's generation was a chance to grow up in a nation that provided these opportunities. I sincerely believe that if we burden the next generations with an ever-increasing amount of debt, we will not pass on the kind of freedom that my grandparents came to this country to find and that my parents tried to pass on to my sisters and to me.

I just will close by saying this. We heard a lot of talk about compassion and which party has the ability to provide it and what this budget will do. But just remember, Madam President, that in this budget, we will be spending over the 7-year period involved something in the vicinity of $12 trillion of taxpayers' money, of moneys sent to us by hard-working people across this country. We are a very compassionate Nation, I think, and we are spending most of those dollars in one way or another on programs which benefit people who are less fortunate.

So I think we are a compassionate Nation. If we continue to provide the people with the freedoms and the incentives to pursue their entrepreneurial instincts and pursue the kind of opportunity my grandparents came to this country to find, we will get the job done.

I cannot imagine, in a nation that does as much, how we can ever get to the floor and suggest we are not compassionate, our programs are not effective. I think this budget allows us to continue providing support for people who are truly needy but, at the same time, make it possible for people to enjoy the freedom and opportunities in America.

So I strongly support what we have done and look forward to working to adopt this resolution.

At this time, I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Madam President, I yield 10 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I am struck sometimes, in listening to the discussion on the floor of the Senate, by some Members of the Senate who think that it is always intrusive to ask someone in this country to pay taxes; that it is, after all, their money and they should not be required to send it, and the only reason the Congress asks them to send it is so the Congress can squander it on one thing or another.

The fact is, in our country, we do a lot of things together. When we do things together, there is an obligation for all of us to pay for it—educating our kids, building our roads, paying for our police and fire protection, and providing for the common defense of our country. That is what we must do in our country, and all of us have an obligation to pay for some of that. And we do that through taxes.

None of us enjoys it, perhaps, but I happen to consider the taxes I pay a good investment in my children's education. I am pleased I do. I happen to consider the taxes that I pay something that I am proud to do to support the men and women, for example, who serve in our Armed Forces and risk their lives in defense of this country's liberty and freedom. So I think we ought to talk about what is it that makes a good country and what are our obligations to each other and to our country.

About 6 months ago, I went to Dulles Airport to meet an airplane. I had about a month or two prior to that been watching television and saw on television a young woman in Bosnia whose parents had been killed, who had been critically wounded herself, and who lay in a hospital for some long while. Her brother, in the same attack that killed her parents and critically wounded her, was miraculously spared, and he was able to come to the United States. She, on the other hand, when she recovered from her wounds, after laying in critical condition, having lost her parents and then her brother having been taken from her, was living in a single room with a candle trying to study, despondent over losing her family.

I decided I was going to see if I could help this young woman somehow, and I did. She came to the United States, and I picked her up at Dulles Airport and reunited her with her brother. Coincidentally, this happened 1 year to the day after my daughter had died.

I was thinking on the way to the airport to meet this young woman from Bosnia who had suffered from such tragedy a lot of things that were very emotional for me, because we could not do much to save my daughter, and yet I thought perhaps I was helping some other young woman start a new life. I felt at least in some ways maybe there was some opportunity to reach out.

Her plane arrived and she got off the plane and was overcome with emotion as she met her brother, whom she never expected again to see. She cried and was extraordinarily emotional. When we were talking after this, she said to me, ''It was only something I barely was able to dream about, that I might some day ever come to the United States of America. You don't have any idea what this means to someone to be able to come to the United States of America. We view the United States as a land of opportunity, as a place where opportunity exists to live a good life and live in peace and live in freedom.''

I thought to myself, when she said that through her tears, that all of us in this Chamber, I think, and probably all of us in this country from time to time, take too much of this country for granted. If by chance we are able to hear from others what this country means to them, we can understand again what our great grandparents and grandparents and our parents helped build in this country. It is a pretty remarkable, special, unusual place. This is a superpower, a world economic leader. It did not start that way. But because of genius in people, because of a free market capitalist system, because of businesses that took risks, and, yes, even because of Governments that did

things and invested the taxpayers' money and also provided opportunity, this country has progressed. We led the way.

We, as we moved along, decided there is a right way and a wrong way to do things. The captains of industry in the turn of the century were producing tainted meat with rat poison. Upton Sinclair wrote his book about how they killed rats by lacing the bread with arsenic. He said they would shove the bread and rats down the chute and it would get mixed in and they would produce a mystery meat that would end up on the shelf. We decided we did not want to eat tainted meat.

We also decided we did not want to pollute our air. In the last 20 years, we are using twice as much energy and we have cleaner air. Is it because the captains of industry said we are going to spend money to clean up emissions? No, it is because people here in the Senate and across the way in the House said there is a right way and a wrong way to do things. We said we were going to require less pollution. Yes, it will cost a little more. But we have cleaner air now than we had 20 years ago, and we have cleaner water than we had 20 years ago.

Is it a nuisance to comply with all of that? I suppose so. Is it good for our kids to leave this country in better shape? You bet it is. The Government provided leadership and did the right thing. We have to provide the leadership in fiscal policy as well. Do we not have to balance the Federal budget? You bet. There is no question about that. There ought not to be one scintilla of debate on the floor of the Senate on the question of whether we should put our fiscal house in order. The question is not whether we should, the question is how. There is a right and a wrong way to do that as well.

The Federal budget represents our priorities. One hundred years from now they can look at the budget and figure out what the people in this country thought was important to them. They can determine that just by looking at what they decided to spend money on. I know it is easy to criticize. I do not mean to be critical. As has been said, ''Any jackass can kick a barn door down, but it takes a carpenter to build one.'' Yet, I must be critical of the priorities in the budget. I think they are wrong.

I want to balance the budget. I have supported initiatives to do so. But I do not think we ought to make it harder for kids to go to college. That is what this budget does. I do not think we should do it by deciding that health care is going to be more expensive for the poor and elderly. We do not advance the economic interests of this country when we decide a poor child at school should not be entitled to a hot lunch, but the richest Americans are entitled to a tax cut. That does not make sense for this country.

This is a debate about priorities. I have been watching people break their arms patting themselves on the back today for a balanced budget. I only observe that if you take this document that is on every single desk in the Senate and turn to page three, look at the heading called deficits, and look at the year 2002, you will see that in the year 2002, on this majority party budget deficit document, it says the budget is not in balance. It is, in fact, a $108 billion deficit.

I have a standing offer of $1,000 of Senator ROCKEFELLER's money—because he has a little more than the rest of us, so he would provide $1,000 of his money to anyone—to any Member of the Senate or any journalist who would demonstrate to us that this budget is in balance. I made that offer 24 hours ago, and nobody has taken the $1,000 dollars yet, and nobody will, largely because this budget is not in balance. Everybody in this Chamber knows it. Yet, they are spending most of their time complimenting themselves on doing something they have not done. That might be fun for them and might eat up some of their time, and it might even convince some people it is in balance. But those who have taken simple arithmetic and who can read page numbers can simply go to page 3 and understand that it is not in balance.

Again, I say, about priorities, that the priorities here are not the right priorities. We can, should, and will debate the priorities. And, in my judgment, it is investing in our children's education. It is in balancing the budget, but doing so in a way that spends money that is productive, that yields investments.

If I have 1 or 2 minutes left, I want to tell a story I have told before. It represents what I think is the future of this country. The oldest Member of Congress, when I came here, was Claude Pepper. I went to his office to meet him. Behind his desk were two pictures on the wall. One was of Orville and Wilbur Wright taking their first flight. You know, it was autographed. That is how old Claude was. It said, ''To Congressman Pepper with deep admiration.'' He came to Congress in the 1930's and was still here in the 1980's. Beneath the autographed picture of Orville and Wilbur Wright making their first flight was a picture of Neil Armstrong standing on the Moon.

What was it in that relatively short period of decades that produced people that went from the ground to the air to the Moon? Education and genius. It was massive amounts of education in our country, allowing people to become the best they can be—engineers, scientists, and more. It was not just going to the Moon; it was progressing in so many other areas. Why? Because we made the right investments. We understood the right priorities.

The right priorities, in my judgment, are this country's children. This budget short-changes America's children. Someone once said that 100 years from now your income will not matter, or how big your house was, but the world might be a different place because you were important in the life of a child.

The question for us about priorities is: Will we pass a budget that is important in the lives of America's children? If we will, it will not be this one because its priorities are wrong. We can do much better, and will, if we reject this budget, reject the tax cuts for the rich, reject more money for defense, and invest more in America's kids, and make sure we take care of the things that are important in this country.

I yield back the entire balance of my time.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Madam President, I rise today in support of the budget agreement. I want to congratulate Senator DOMENICI. I want to congratulate Congressman KASICH. It is very seldom in American politics that you get an opportunity to vote for a big bill—a budget in this case—that takes a step toward fundamentally changing the way our Government does its business.

I am not saying that this is the be-all and end-all of budgeting. I am not saying that this budget in and of itself is going to fundamentally change the future of America. But I am saying that it is an important step in the right direction. It is clearly the most dramatic and important budget that we have adopted in the U.S. Congress since 1981.

I believe that the American people will be beneficiaries of this budget. And it is not perfect, from my point of view. I think we could have cut spending more. I think we could have let working people keep more of what they earned. I think we could have done more to change fundamentally American Government. The bottom-line truth is that this is a dramatic change in policy, and I think everybody who has had anything to do with this budget can be proud of what they have done.

Let me set in perspective what we are doing here today. We are writing, over a 7-year period, a binding budget that, if enforced over that 7-year period, will balance the Federal budget. That is something that we have not done since 1969.

The important thing to note about this budget is that we are not promising to do things in the future that will balance the budget. What we are doing in this budget, and in the follow-on legislation that we will adopt this year, is we are making changes now that will, over the next 7 years, if the economy stays roughly as we now anticipate it will stay, in a modest recovery mode, balance the Federal budget and will, for the first time in over a quarter-century, mean that the Federal Government is living within its means. That is a very important change in public policy. What did it take to achieve this change?

Some of our colleagues on the other side of the aisle are going to talk about deep cuts, about denying benefits, but let me try to set that in perspective.

Since 1950, Federal spending has grown, on average, about 7½ percent a year. Federal spending since 1950 has grown 2.5 times as fast as family income has grown.

An interesting number is, that if the family budget since 1950 had grown as fast as the Federal budget has grown, and if the Federal budget had grown as fast as the budget of the average family in America has grown, the average income of working families in America today would be almost $130,000 a year and the Federal Government would be one-third the size it is today.

Given a choice between the America we have and that America, I would take the America of higher family income and smaller government.

What we are doing in this budget is limiting the growth of Federal spending to no more than 3 percent a year, each year, for the next 7 years.

Now I know we have many people on the other side who will say, well, after having grown at 7½ percent a year for 40 years that to limit the growth to 3 percent a year is going to decimate Government programs.

I would just like to remind my colleagues that every day in America, businesses make tougher decisions than that just to keep their doors open. Every day in America, families make far tougher decisions than that in dealing with the real world problems that families in America face every single day.

The difference is that families and businesses live in the real world in America where you have to make tough choices. Our Government has not lived in the real world for the past 40 years. I think we can take a little pride in the fact that this budget is a major step toward bringing our Government in Washington back into the real world that everybody else lives in.

Under the old budget, under the Clinton budget, the Federal Government over the next 7 years would have spent $13 trillion. Under this budget, we are still going to spend $12 trillion. We are talking about spending roughly $1 trillion less than we would have spent.

But we are talking about more than simply controlling the growth of Government. We are talking about something that I fought for in the Senate. I offered an amendment to cut spending further so we could let working families keep more of what they earn. That amendment was not successful. But I am very proud of the fact that the conference accepted, basically, a variant of the House language that allows working families to keep more of what they earned.

In 1950, the average family with two little children in America sent $1 out of every $50 it earned to Washington, DC. Today that average family with two children is sending $1 out of every $4 it earns to Washington, DC.

I do not think there are many people in America that believe that Washington is doing a better job of spending that family's money than that family would do if we let them keep more of what they earn, to invest in their own children, in their own family, in their own business.

I am very proud of the fact that we are making a major step in this budget that is going to let us enact a $500 tax credit per child so that families can spend more of their own money on their own children on their own future.

In our tax cut, we call for a cut in the capital gains tax rate. I know the President says if you cut tax rates, rich people will exploit the situation. They will invest their money. If they are successful they will earn profits.

Welcome to America. That is how our system works. We want to encourage more people to invest money. I do not understand a country and a Government and people who love jobs but hate people who create them. I do not understand all this class warfare that we are always debating about. If we want people to invest money, we have to provide incentives to people who have money. Those are basically people who have been successful.

What a different world our President is from than the world I am from. When I was growing up and we rode by the nicest house in town, never once did my mama point her finger out and say, ''We ought to tax those people, and give us their money.'' My mother always pointed her finger out and said, ''If you work hard and you make good grades, you can have a house like that.'' I like my mama's America a lot better than I like Bill Clinton's America.

I am proud of the fact that in our budget we provide incentives for people to invest their money to create jobs and growth and opportunity so that other Americans can get their foot on the bottom rung of the economic ladder and climb up and begin to create success for themselves, their family, and their country.

This tax cut that we are talking about in this bill sounds like a small amount of money in Washington, DC, $500 per child. Many have said, well, it is not enough money to make any difference. Well, to a two-child family in Texas, that is $1,000. And $1,000 is real money. The fact that $1,000 is not real money in Washington, DC, tells more about the problems in Washington, DC, than it does about anything else.

The tax credit for children that we contemplate in our budget will mean that a family with four children, that makes $35,000 a year, will be taken off the income tax rolls. A family with two children that earns $45,000 a year, if we go on now and adopt the tax cut that goes with this budget, will see its income taxes cut by one-fourth.

This will mean that working families can keep more of their own money to invest in education, in housing, in nutrition. The President, in criticizing our budget, says this budget cuts spending on children. This is not a debate about how much money we spend on children, but it is certainly a debate about who will do the spending.

President Clinton and the Democrats want the Government to do the spending. We want the family to do the spending. We know the Government and we know the family. We know the difference.

We believe that letting families keep more of what they earn to invest in their own children will mean that they will do a better job and they will be richer and freer and happier.

When we concluded the debate on this budget, I was concerned that we were not going to fulfill the promises that Republicans made in the campaign.

We promised the American people three things if they made Republicans the majority: No. 1, we would balance the budget; No. 2, we would let working families keep more of what they earn; No. 3, we would provide incentives for economic growth. I am proud of the fact that in this final budget we are balancing the budget over a 7-year period. We are letting families keep more of what they earn. We are providing incentives for economic growth.

Promises made, promises kept. That is something that there has not been enough of in Washington, DC. I am very proud to have been part of an effort where we have fulfilled our promises and where we are, in fact, beginning to change the way our Government does its business. I served in the House and in the Senate. I have never had an opportunity to vote for a budget that if fully enforced, under realistic assumptions, would do the job of balancing the Federal budget. I am very proud that I am going to have an opportunity to cast my vote for this budget. It may very well be that 2 years from now or 4 years from now we will have to go back and make an adjustment. It may very well be that we will have to reduce the growth in spending further at some point to get the job done. I am certainly willing to do that.

The important thing today is—and I think every Member of the Senate, whether they vote for this budget or not, can be proud of the fact—that we have written a budget that is a fundamental change. This budget would never have been written had the 1994 elections not been held, had there not been a fundamental change in the makeup and control of Congress.

But we are writing, today, a budget that under realistic assumptions will balance the budget over the next 7 years. It represents a change in policy. It represents the fulfillment of a commitment that we have made to the American people. I think every person who is privileged to serve in the Senate today can be proud of the fact that this budget does what the American people wanted done, change the way we do business in Washington.

It does not complete the job. In and of it itself today, it does not balance the budget. But it lays the foundation for a 7-year program that if we stay with it, if we are willing to make

changes when things go wrong—and they inevitably go wrong—with modest adjustments over the next 7 years, we can guarantee the American people that we will balance the Federal budget, and if things go well, we can do it without further action.

I think that is a tremendous achievement. I am very proud to have played a small role in it. I congratulate Senator DOMENICI. I congratulate Members of the House and Senate. And I am delighted to have an opportunity to cast a vote for this budget.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Madam President, I yield myself 10 minutes.

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

Mr. SIMON. Madam President, there is credit to be spread around. And there is blame to be spread around, for the deficit and where we are. I thought Senator DORGAN's remarks earlier were right on target. It is why I am proud to have him as a Member of the U.S. Senate.

The Republicans, and I specifically commend Senator DOMENICI, deserve credit for having the target of balancing the budget. The Democrats, on the other hand, I think, have the right priorities, and the priorities that we are offered in this budget are not the priorities that the Nation needs.

I add that I would feel much better about this if we had a balanced budget amendment. I would feel better because we would have interest at least 1 percent lower and that means, over a 7-year period, $170 billion to spend on things that are needed in this country. And the irony is that some of the groups that fought the balanced budget amendment are now having their programs hurt because we do not have a balanced budget amendment. We need it also because our history is that when we adopt a program like this we keep it for about 2 years, as in Gramm-Rudman—which I voted for—and then it becomes too politically awkward, and we lose it.

What is wrong in terms of the priorities that we have? For national defense, we increase spending. We already are spending more than the next eight countries in the world combined. If you go back to the 1973 defense budget and add the inflation factor, we end up spending more money in fiscal year 1996 than we did in fiscal year 1973, and the Berlin Wall has fallen. You would never guess it, looking at the budget. In 1973, we had troops in Vietnam. In 1973, we had almost twice as many troops in Europe. In 1973, we were building up our nuclear arsenal. Now we are buying, including buying weapons the Defense Department says we do not need—B–2 bombers. They tell us it is a white elephant, yet we are going to go ahead, I assume. We will have a vote on it, not with my vote, but we will go ahead and have B–2 bombers. We are going to spend $59.8 billion in an increase over where we are right now on national defense.

International affairs, foreign aid. I recognize it is not popular. But among the industrial nations of the world, do you know where we are in terms of percentage of our budget that we spend on foreign aid? We are dead last. And the great threat today is not a military threat. I want a strong military, but the great threat is instability. And we are saying in our budget we want to keep that military option as the greater option to the economic option. It does not make sense.

What other nations today worry about is, frankly, not whether we have the equipment technology and the manpower to respond. The question is whether we have the backbone in the administration, in Congress, in the American people, not in our Armed Forces. Cutting back foreign aid, though it is politically popular, it is extremely shortsighted.

Education? I commend the Presiding Officer, the junior Senator from Maine, for her amendment which added money back in for education. Yet, this budget cuts back education a total of $67 billion. Every study—conservative, liberal, you name it—says what we ought to be doing for the future of our country is we ought to be investing more in education. Yet this budget does the opposite.

Medicaid? We hear a lot of Medicare. I agree with my colleagues who make the speeches on Medicare. But frankly, I am more concerned about Medicaid because Medicaid is poor people. When we reduce the spending on Medicaid $182 billion, let us keep in mind, half the people on Medicaid are children, poor children. Would the people of the United States want us to cut back on that? I do not think so.

Tax cuts? I disagree with the Republicans. I disagree with the Democrats on tax cuts. I do not think we ought to be having tax cuts when we have deficits. Would I like a tax cut? Of course. We all like tax cuts. But if I give myself a tax cut, I know I am hurting the future of my three grandchildren. Faced with that option, the American people do not want a tax cut. Yet, both political parties are pandering—that is what we are doing, pandering—on the tax cut. The Senate, assuming that you had interest reduction, would have given a $170 billion tax cut; the House, $345 billion; the conference is $245 billion. Are we better off applying that to the deficit or applying it to education? I think, very clearly, the Nation would be much ahead if we applied it to the deficit or to education.

I ask unanimous consent, Madam President, to have printed in the RECORD a column by Robert Samuelson that appeared in the Washington Post called ''Macho Tax Cuts,'' and a New York Times editorial, ''The Rich Get Richer Faster.''

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

MACHO TAX CUTS: DON'T BELIEVE IT, THEY'RE ACTUALLY TINY AND UNDESIRABLE

(By Robert J. Samuelson)

Among Republicans, cutting taxes has always been macho. Writing recently in the Wall Street Journal, House Speaker Newt Gingrich said the case for tax cuts rests on the ''key principle'' of the Contract With America, which is: ''The American government's money does not belong to the American government. That money belongs to Americans, and it's time to give Americans some of their own money back.'' It will surely surprise most Americans to know that, once they've paid their taxes, the money still belongs to them. But if so, why be timid? Give all of it back. End taxation. Period.

The silliness of this rhetoric emphasizes the undesirability of instant tax cuts. Taxes are the price of government; they shouldn't be cut unless the budget is in surplus. The populist pap that tax money belongs to ''the people'' is simply the latest of many pretexts, advanced by both parties, to prolong budget deficits. The money belongs to ''the people'' until ''the people'' divert it to government for purposes that, presumably, serve their needs. If Americans want lower taxes, they'll have to ordain smaller government.

These arguments are now relevant because, in the current House-Senate conference to write a budget, tax cuts loom as the largest disagreement. Between 1996 and 2002, the House would cut taxes by $354 billion; the Senate would reduce taxes only if balancing the budget provides extra revenues through faster economic growth. The tax cuts taint otherwise courageous budget proposals. Although the Republicans' plans can be faulted on details, they broach the critical—often unpopular—choices that must be faced to control spending and deficits.

By contrast, the instant tax cuts feed the illusion that people don't have to pay for government. It is, ironically, the House Republicans who best discredit this false logic. In a new book (''Restoring the Dream: The Bold New Plan by House Republicans''), they call a balanced budget a ''moral imperative'' to avoid burdening ''our children and our children's children'' with a huge federal debt. If so, what's the excuse for adding $354 billion to that debt, which under the House plan would grow to $4.5 trillion in 2002, up from $3.6 trillion in 1995?

One possible excuse is that Americans need to be bribed, via lower taxes, to accept unpleasant spending cuts. Although this is plausible, some public-opinion surveys actually suggest just the opposite. A recent NBC/Wall Street Journal poll asked respondents to select priorities: Deficit reduction (54 percent) ranked ahead of tax cuts (37 percent). A CBS/New York Times poll similarly asked respondents to choose deficit reduction or tax cuts: 56 percent picked lower deficits and 40 percent lower taxes.

Mostly, the tax cuts indulge partisan symbolism—''hey look, we shrunk government.'' In fact, this is highly misleading, because the tax cuts would be tiny. They would average about 3.8 percent for individuals and families, estimates the Joint Committee on Taxation. In 2002 the federal tax burden would be 18.2 percent of our economy's output (gross domestic product), says the House Budget Committee. If taxes weren't cut, the tax burden would be only 18.8 percent of GDP. (Indeed, the tax burden has been highly stable since World War II. It averaged 17.6 percent of GDP in the 1950s and 19 percent in the 1980s.)

The $354 billion of tax cuts are so small because, in the same seven-year period, federal spending would total about $12 trillion. For many Americans, the tax cuts would be trivial or nonexistent. There's a $500 tax credit

for each child under 18 in families with less than $200,000; but that wouldn't affect 77 percent of taxpayers, says the Joint Committee. There's modest relief (up to a $145 credit) of the so-called marriage penalty, but that would apply to only about 11 percent of taxpayers.

The obvious danger is the tax cuts could prevent a balanced budget. The House plan rests on optimistic assumptions. Economic growth is expected to rise and interest rates to fall. They might not. Spending on Medicare—federal health insurance for the elderly—is assumed to slow sharply. Even if (a big if) legislation is passed to curb Medicare, the desired savings might no materialize. Health spending has routinely resisted precise forecasting.

The drive for lower taxes may also impel unwise spending cuts. Defense is the federal government's first responsibility. Is it adequately financed? Maybe not. It would be virtually frozen for seven years with little adjustment for inflation. In 2002, defense spending ($280 billion under the House plan) would be about $45 billion below the present ''base line.'' Republicans would also transfer, via block grants, welfare, Medicaid and, possibly, some food programs to states. But if block grants are set too low, states will have to raise taxes or cut services sharply.

It is imprudent to cut taxes before the consequences of these policies are better understood. Finally, tax cuts are simply unfair before the budget is balanced. Until then, they would mainly represent a transfer from the poor (whose benefits are cut) to the well-to-do. About half the tax cut of the House bill would go to the eighth of taxpayers making more than $75,000 a year, who also pay about half the taxes. Naturally, these people tend to vote Republican while the poor don't.

The politics are straightforward, but in a cynical age, they may not be shrewd. By and large, Americans see through rhetorical ruses. If tax cuts are passed, people will ultimately grasp that they don't amount to much. They will feel (correctly) misused, especially if deficits persist. The dilemma for House Republicans is that, having made an unprincipled promise to cut taxes, they cannot change without seeming to break their word. But it is better to admit a mistake than to perpetuate it.

A balanced budget aims to restore discipline to government—to revive traditional notions that choices must be made, that people must pay for what they get and that government must live within limits. Such discipline is not just an accounting exercise. It is also a moral code. It takes government seriously and seeks not only to eliminate what it can't (or shouldn't) do but also to improve what it should (and can) do. A lot of Republicans aren't there yet; they're too busy, in Tarzan fashion, thumping their chests and screaming: ''Me Tax Cutter.''

[From the New York Times, Apr. 18, 1995]

THE RICH GET RICHER FASTER

The gap between rich and poor is vast in the United States—and recent studies show it growing faster here than anywhere else in the West. The trend is largely the result of technological forces at work around the world. But the United States Government has done little to ameliorate the problem. Indeed, if the Republicans get their way on the budget, the Government will make a troubling trend measurably worse.

Some inequality is necessary if society wants to reward investors for taking risks and individuals for working hard and well. But excessive inequality can break the spirit of those trapped in society's cellar—and exacerbate social tensions.

After years of little change, inequality exploded in America starting in the 1970's. According to Prof. Edward Wolff of New York University, three-quarters of the income gains during the 1980's and 100 percent of the increased wealth went to the top 20 percent of families.

The richest 1 percent of households control about 40 percent of the nation's wealth—twice as much as the figure in Britain, which has the greatest inequality in Western Europe. In Germany, high-wage families earn about 2.5 times as much as low-wage workers; the number has been falling. In America the figure is above 4 times, and rising.

Interpreting these trends requires caution. Inequality rose here in the 1980's in part because the United States created far more jobs—many low-paid—than did Western Europe. Low-paying jobs are better than no jobs. Rising inequality in the United States has also been caused in substantial part by middle-class families that moved up the income ladder, opening a gap with those below them.

About half of Americans move a substantial distance up or down the income ladder over a typical five-year period. In a mobile society, where workers rotate among high- and low-earning jobs, earnings gaps are less frightening because any given job would be less entrapping.

But mobility has offset none of the increased inequality in income. Studies at the Maxwell School at Syracuse University show that mobility in America is not higher than in Germany. Nor does mobility here appear to be higher today than it was in the early 1970's.

The best guess about the factor behind burgeoning inequality is technology; the wage gap between high- and low-skilled workers in America doubled during the 1980's. College graduates used to earn about 30 percent more than high school graduates, but now earn 60 percent more. Prof. Sheldon Danziger of the University of Michigan estimates that trends in private pay rates explain about 85 percent of recent increases in inequality; Reagan-Bush tax cuts for the rich and spending cuts for the poor explain much of the other 15 percent.

But even if government is not the main actor, it could be part of the solution. Changes in the Canadian economy during the 1980's also hit hard at low-wage workers. But there the Government stepped in to keep poverty rates on a downward path. In the United States, poverty rose.

House Republicans are now pushing the Federal budget in the wrong direction. At a time when employers are crying out for well-educated workers, the G.O.P. proposes to cut back money for training and educational assistance. America needs better Head Start, primary and secondary education. It needs to train high school dropouts and welfare mothers. The G.O.P. policy would leave the untrained stranded. That would harm the nation's long-term productivity—and further distort an increasingly tilted economy.

Mr. SIMON. Madam President, the goal of balancing the budget is noble. I applaud that. I joined the Republicans when that vote was established in the Budget Committee. I went over and voted with the Republicans for that. The priorities that we have in this budget, however, are wrong. I think we will have to reexamine this as we move into reconciliation, as we move ahead. I will be here a year and a half. Within a year after I get out of this body, we will be shifting away from this goal unless we change the priorities. I think the goal is one we ought to be fighting for, and I hope we will shift the priorities.

(Mr. GRAMS assumed the chair.)

Mr. SIMON. Mr. President, I have how much time remaining on this side?

The PRESIDING OFFICER. The Senator from Illinois has 4 minutes and 45 seconds.

Mr. SIMON. Mr. President, if someone on this side wants to take the time now, fine. Otherwise, I will yield that remaining time. I yield the time that remains to the Senator from Washington, and I ask unanimous consent that I be allowed to yield an additional 4 minutes to the Senator from Washington from the 6 hours remaining under the statute on the budget resolution.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. It is not clear from that when my colleague would want that time. Does he want that time tonight?

Mr. SIMON. Now. We are talking about yielding 10 minutes to the Senator from Washington now.

Mr. DOMENICI. We have been asked by the Republican leader—you have 4 minutes. We have 2 minutes. Is that correct? The Senator can yield that 4 minutes to her right now. Or he can wait and do a bigger package.

Mr. SIMON. The Senator from Washington indicates she would like to wait and take it a little later then.

Mr. DOMENICI. The Republican leader is here. If the leader would not mind, I have 2 minutes in which I would like to respond. Then we will yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have 2 minutes left. I will take it now. I understand the other side will yield back this time, and we will give the floor to the Republican leader at that time.

Mr. President, I think perhaps with all of the things said on that side of the aisle, I would like to make two points. It has always been a problem with bodies such as this, legislative bodies in which everybody seems to be for the same idea, everybody seems to say we want to get to the same place. But the difficulty is to get them to go to that place following the same path, to decide they want to do some tough things and to concede and compromise along the way.

So, Mr. President, I did not expect this U.S. Senate to unanimously agree on a balanced budget and then say we were doing it the right way. So Americans should understand that is the way it is always done in bodies such as this. Everybody agrees on some principles, but how you get there only Senators can decide.

Second, the question has been asked on whose side is this budget or whose side are we on? Mr. President, I say to the Senator and to the American people, this budget is a budget for all Americans. We do not believe we want to pick and choose. We want a budget that is good for our country, we want a budget that is good for Americans, and we want a budget that is good for our

children and for our grandchildren and children not yet born. We are convinced we cannot spend on the programs that are currently part of America at the same level, and give everybody everything they are getting under current programs, and be a budget that is good for all Americans, because the debt will continue, the interest rates will go up. And what it all boils down to it is that Americans will pay in the end with less of an economy, less good jobs, and less opportunities.

So I answer the question posed on that side of the aisle with a great deal of pride, that this budget is good for America and the people of America. We are not picking and choosing. We are producing a budget that will make America a better place for everyone.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, I rise in opposition to this conference report.

When Senator DOMENICI's budget resolution passed the Senate, I said it was a good accountant's budget. That is, it had the right bottom line, and it made some tough choices by eliminating Cabinet Departments and reducing spending. But in the end, it failed the test of priorities and values.

It cut Medicare service by $256 billion, which would reduce the essential Medicare health services for older Americans by nearly a quarter and place intense financial pressure on their children. And it weakened our future prospects by cutting education severely.

At the same time, the Senate budget left in place wasteful Federal projects like courthouses, foreign spending like the so-called TV Marti, and luxury items like space telescopes. At the same time, it provided a large tax cut whose benefits went primarily to wealthy individuals and corporations rather than middle-income Americans.

So I voted against it. But I hoped that with some changes in these priorities areas it could be made acceptable.

Unfortunately, the opposite has happened.

Medicare will be cut by an additional $14 billion, threatening the well-being of Montana's 125,000 senior citizens and the survival of Montana's rural hospitals.

Support for agriculture will decline by an additional $1.4 billion to a total of $13.3 billion over 7 years. Per farm, that means agricultural supports will fall by $1,000 every year for the next 7 years. And with 85 percent of American farms grossing under $100,000 per year, we will see a severe cut in income all over rural America.

Education will be reduced by $10 billion, meaning our children will be less able to compete with our trade rivals abroad.

And wealthy people will get $75 billion more in tax breaks, which comes directly from senior citizens, rural hospitals, agricultural producers, and investment in education.

Finally, it is no longer a good accountant's budget. Senator DOMENICI's sober projections have been replaced by unrealistic rosy scenario assumptions about growth, interest rates, and so on. It is far less likely to lead to a balanced budget.

So this budget is significantly worse than the version the Senate voted on last month. It is less disciplined. Less far-sighted. And more damaging to senior citizens, rural America, and our future.

I oppose it, and I urge the conference committee to go back to the drawing board and start over.

Mr. EXON. How much time is remaining on our side?

The PRESIDING OFFICER. Three minutes twenty seconds.

Mr. EXON. I ask unanimous consent that we be allowed to reserve that time for later in the debate without further charging to this side of the aisle.

How much time is left on the other side?

The PRESIDING OFFICER. Five seconds.

Mr. DOLE. Five seconds?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. We will yield that back.

[Laughter]

Mr. EXON. We do not yield ours back at this time.

UNANIMOUS CONSENT AGREEMENT

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I have been conferring throughout the day with the distinguished Democratic leader, Senator DASCHLE. I think we have an arrangement that will satisfy most of our colleagues on both the budget and regulatory reform and the program for the remainder of the week.

So I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 118, S. 343, the regulatory reform bill, and we have 1 hour of debate on S. 343 commencing as soon as we obtain the consent.

Mr. DASCHLE. Mr. President, reserving the right to object, I will not object, but simply to clarify what I understand to be the circumstances.

Senator DOLE, the majority leader, and I have been talking about the opportunity for Senators to discuss the issue of regulatory reform and to do it in the context of S. 343 for the next hour. Then it would be our assumption that we could go back to it again sometime tomorrow and discuss it further. But it is also our understanding that there will not be any amendments offered during this time, to accommodate the effort that is now underway on both sides in good faith off the floor to try to continue to work through some of the disagreements that may continue to exist with regard to the draft that Senator DOLE and Senator JOHNSTON and others have been working on.

It is with that understanding that I think this would be a very good approach and would offer no objection at this time.

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

Mr. DOLE. Mr. President, let me thank the distinguished Democratic leader.

There has been some progress. There have been a number of meetings. I am not certain whether either one of us can stand here and predict that everything is going to be worked out. I would guess the odds are that probably not everything is worked out. But we had a bipartisan press conference today. We think there is an opportunity here for a bipartisan improvement. We may reach a point where we have to say, OK, we will offer amendments and have the debate, up or down, and then proceed with the bill in that fashion.

Mr. DASCHLE. If I could just clarify the majority leader's understanding as I have stated it, is that correct?

Mr. DOLE. That is correct.

I ask unanimous consent that between now and 5 p.m. we debate S. 343, and that the time be equally divided and then we go back to the budget resolution, and all time consumed this evening be subtracted from the statutory time limitation on the budget resolution.

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

SCHEDULE

Mr. DOLE. So, for the information of all Senators, there will be no further votes today. When the Senate completes its business this evening it will stand in recess until 9 a.m. on Thursday June 29, 1995; following the prayer, the leaders' time will be reserved, and there will be a period for the transaction of routine morning business not to extend beyond the hour of 10:30 a.m.

As I understand, there will be a Democratic caucus in the morning at 9:30. So, I think there are requests for morning business. Then perhaps following that caucus the two leaders would have further conversation. Hopefully, we could proceed again for a period of time on S. 343, regulatory reform.

Then also, depending on the House action on the budget conference report, we could eat up more time than the 10 hours. We now have 6 hours remaining on the budget, as I understand it.

So there will be no more votes tonight. We will try to accommodate many of our colleagues who must travel long distances and who would like to depart tomorrow evening. It is our hope that we could work that out. There may be a rescissions package. I understand it is still in negotiation with the White House, with Senator

HATFIELD and Senator BYRD on this side and their House counterparts. If that can be done, I hope we can get an agreement on the Senate side that we do it by consent. Otherwise, it would be open to amendment and we would be here for days. But I believe that if the White House, the President, and bipartisan leaders on appropriations can agree on a package, perhaps we could obtain consent to do that. If we had to do that Friday morning, perhaps we could do it without a vote.

Mr. DASCHLE. That would be my hope as well. We have a lot of Senators we are trying to accommodate. This is an important effort. It has been under way now for a couple of weeks. We are so close, it would be nice to finish it and be convinced that it is our best product. Indeed, I think it would be.

The PRESIDING OFFICER. Without objection, the foregoing requests are agreed to.

COMPREHENSIVE REGULATORY REFORM ACT

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

The legislative clerk read as follows:

A bill (S. 343) to reform the regulatory process, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs to strike out all after the enacting clause and inserting in lieu thereof the language shown in italic; and from the Committee on the Judiciary with amendments as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''Comprehensive Regulatory Reform Act of 1995''.

[SEC. 2. DEFINITIONS.

[Section 551 of title 5, United States Code, is amended—

[(1) in paragraph (13), by striking out ''; and'' and inserting in lieu thereof a semicolon;

[(2) in paragraph (14), by striking out the period and inserting in lieu thereof ''; and''; and

[(3) by adding at the end thereof the following new paragraph:

[''(15) 'Director' means the Director of the Office of Management and Budget.''.

[SEC. 3. ANALYSIS OF AGENCY RULES.

[(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

[''SUBCHAPTER II—ANALYSIS OF AGENCY RULES

[''§ 621. Definitions

[''For purposes of this subchapter the definitions under section 551 shall apply and—

[''(1) the term 'benefit' means the reasonably identifiable significant favorable effects, including social, environmental and economic benefits, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule;

[''(2) the term 'cost' means the reasonably identifiable significant adverse effects, including social, environmental, and economic costs that are expected to result directly or indirectly from implementation of, or compliance with, a rule or an alternative to a rule;

[''(3) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition;

[''(4)(A) the term 'major rule' means—

[''(i) a rule or a group of closely related rules that the agency proposing the rule, the Director, or a designee of the President reasonably determines is likely to have a gross annual effect on the economy of $100,000,000 or more in reasonably quantifiable direct and indirect costs; or

[''(ii) a rule or a group of closely related rules that is otherwise determined to be a major rule by the agency proposing the rule, the Director, or a designee of the President on the ground that the rule is likely to result in—

[''(I) a substantial increase in costs or prices for wage earners, consumers, individual industries, nonprofit organizations, Federal, State, local, or tribal government agencies, or geographic regions;

[''(II) significant adverse effects on wages, economic growth, investment, productivity, innovation, the environment, public health or safety, or the ability of enterprises whose principal places of business are in the United States to compete in domestic or export markets;

[''(III) a serious inconsistency or interference with an action taken or planned by another agency;

[''(IV) the material alteration of the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

[''(V) a significant impact on a sector of the economy, or disproportionate costs to a class of persons and relatively severe economic, social, and environmental consequences for the class; and

[''(B) the term 'major rule' shall not include—

[''(i) a rule that involves the internal revenue laws of the United States;

[''(ii) a rule or agency action that authorizes the introduction into, or removal from, commerce, or recognizes the marketable status, of a product; or

[''(iii) a rule exempt from notice and public comment procedure under section 553 of this title;

[''(5) the term 'market-based mechanism' means a regulatory program that—

[''(A) imposes legal accountability for the achievement of an explicit regulatory objective, including the reduction of environmental pollutants or of risks to human health, safety, or the environment, on each regulated person;

[''(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, and such flexibility shall, where feasible and appropriate, include the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

[''(C) permits regulated persons to respond at their own discretion in an automatic manner, consistent with subparagraph (B), to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates under subparagraph (A);

[''(6) the term 'performance standard' means a requirement that imposes legal accountability for the achievement of an explicit regulatory objective, such as the reduction of environmental pollutants or of risks to human health, safety, or the environment, on each regulated person;

[''(7) the term 'risk assessment' has the same meaning as such term is defined under section 632(5); and

[''(8) the term 'rule' has the same meaning as in section 551(4) of this title, and shall not include—

[''(A) a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

[''(B) a rule relating to monetary policy proposed or promulgated by the Board of Governors of the Federal Reserve System or by the Federal Open Market Committee;

[''(C) a rule relating to the safety or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)); credit unions; the Federal Home Loan Banks; government-sponsored housing enterprises; a Farm Credit System Institution; foreign banks, and their branches, agencies, commercial lending companies or representative offices that operate in the United States and any affiliate of such foreign banks (as those terms are defined in the International Banking Act of 1978 (12 U.S.C. 3101)); or a rule relating to the payments system or the protection of deposit insurance funds or Farm Credit Insurance Fund; or

[''(D) a rule issued by the Federal Election Commission or a rule issued by the Federal Communications Commission pursuant to sections 312(a)(7) and 315 of the Communications Act of 1934.

[''§ 622. Rulemaking cost-benefit analysis

[''(a) Before publishing notice of a proposed rulemaking for any rule (or, in the case of a notice of a proposed rulemaking that has been published on or before the effective date of this subchapter, no later than 30 days after such date), each agency shall determine whether the rule is or is not a major rule within the meaning of section 621(4)(A)(i) and, if it is not, determine whether it is a major rule under section 621(4)(A)(ii). For the purpose of any such determination, a group of closely related rules shall be considered as one rule.

[''(b)(1) If an agency has determined that a rule is not a major rule, the Director or a designee of the President may, as appropriate, determine that the rule is a major rule no later than 30 days after the publication of the notice of proposed rulemaking for the rule (or, in the case of a notice of proposed rulemaking that has been published on or before the effective date of this subchapter, no later than 60 days after such date).

[''(2) Such determination shall be published in the Federal Register, together with a succinct statement of the basis for the determination.

[''(c)(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking file an initial cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

[''(B)(i) When the Director or a designee of the President has published a determination that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and

place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

[''(ii) Following the issuance of an initial cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment pursuant to section 553 in the same manner as if the draft cost-benefit analysis had been issued with the notice of proposed rulemaking.

[''(2) Each initial cost-benefit analysis shall contain—

[''(A) an analysis of the benefits of the proposed rule, including any benefits that cannot be quantified, and an explanation of how the agency anticipates that such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

[''(B) an analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates that such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs;

[''(C) an identification (including an analysis of costs and benefits) of an appropriate number of reasonable alternatives allowed under the statute granting the rulemaking authority for achieving the identified benefits of the proposed rule, including alternatives that—

[''(i) require no government action;

[''(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; and

[''(iii) employ voluntary programs, performance standards, or market-based mechanisms that permit greater flexibility in achieving the identified benefits of the proposed rule and that comply with the requirements of subparagraph (D);

[''(D) an assessment of the feasibility of establishing a regulatory program that operates through the application of market-based mechanisms;

[''(E) an explanation of the extent to which the proposed rule—

[''(i) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; and

[''(ii) employs voluntary programs, performance standards, or market-based mechanisms that permit greater flexibility in achieving the identified benefits of the proposed rule;

[''(F) a description of the quality, reliability, and relevance of scientific or economic evaluations or information in accordance with the cost-benefit analysis and risk assessment requirements of this chapter;

[''(G) if not expressly or implicitly inconsistent with the statute under which the agency is proposing the rule, an explanation of the extent to which the identified benefits of the proposed rule justify the identified costs of the proposed rule, and an explanation of how the proposed rule is likely to substantially achieve the rulemaking objectives in a more cost-effective manner than the alternatives to the proposed rule, including alternatives identified in accordance with subparagraph (C); and

[''(H) if a major rule subject to subchapter III addresses risks to human health, safety, or the environment—

[''(i) a risk assessment in accordance with this chapter; and

[''(ii) for each such proposed or final rule, an assessment of incremental risk reduction or other benefits associated with each significant regulatory alternative considered by the agency in connection with the rule or proposed rule.

[''(d)(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking file a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

[''(2) Each final cost-benefit analysis shall contain—

[''(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking, including the market-based mechanisms identified under subsection (c)(2)(C)(iii); and

[''(B) if not expressly or implicitly inconsistent with the statute under which the agency is acting, a reasonable determination, based upon the rulemaking file considered as a whole, whether—

[''(i) the benefits of the rule justify the costs of the rule; and

[''(ii) the rule will achieve the rulemaking objectives in a more cost-effective manner than the alternatives described in the rulemaking, including the market-based mechanisms identified under subsection (c)(2)(C)(iii).

[''(e)(1) The analysis of the benefits and costs of a proposed and a final rule required under this section shall include, to the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs. Such quantification or numerical estimate shall be made in the most appropriate units of measurement, using comparable assumptions, including time periods, shall specify the ranges of predictions, and shall explain the margins of error involved in the quantification methods and in the estimates used. An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible. An agency shall not be required to make such evaluation primarily on a mathematical or numerical basis.

[''(2)(A) In evaluating and comparing costs and benefits and in evaluating the risk assessment information developed under subchapter III, the agency shall not rely on cost, benefit, or risk assessment information that is not accompanied by data, analysis, or other supporting materials that would enable the agency and other persons interested in the rulemaking to assess the accuracy, reliability, and uncertainty factors applicable to such information.

[''(B) The agency evaluations of the relationships of the benefits of a proposed and final rule to its costs shall be clearly articulated in accordance with this section.

[''(f) As part of the promulgation of each major rule that addresses risks to human health, safety, or the environment, the head of the agency or the President shall make a determination that—

[''(1) the risk assessment and the analysis under subsection (c)(2)(H) are based on a scientific evaluation of the risk addressed by the major rule and that the conclusions of such evaluation are supported by the available information; and

[''(2) the regulatory alternative chosen will reduce risk in a cost-effective and, to the extent feasible, flexible manner, taking into consideration any of the alternatives identified under subsection (c)(2) (C) and (D).

[''(g) The preparation of the initial or final cost-benefit analysis required by this section shall only be performed under the direction of an officer or employee of the agency. The preceding sentence shall not preclude a person outside the agency from gathering data or information to be used by the agency in preparing any such cost-benefit analysis or from providing an explanation sufficient to permit the agency to analyze such data or information. If any such data or information is gathered or explained by a person outside the agency, the agency shall specifically identify in the initial or final cost-benefit analysis the data or information gathered or explained and the person who gathered or explained it, and shall describe the arrangement by which the information was procured by the agency, including the total amount of funds expended for such procurement.

[''(h) The requirements of this subchapter shall not alter the criteria for rulemaking otherwise applicable under other statutes.

[''§ 623. Judicial review

[''(a) Compliance or noncompliance by an agency with the provisions of this subchapter and subchapter III shall not be subject to judicial review except in connection with review of a final agency rule and according to the provisions of this section.

[''(b) Any determination by a designee of the President or the Director that a rule is, or is not, a major rule shall not be subject to judicial review in any manner.

[''(c) The determination by an agency that a rule is, or is not, a major rule under section 621(4)(A)(i) shall be set aside by a reviewing court only upon a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time the agency made the determination. Any determination by an agency that a rule is, or is not, a major rule under section 621(4)(A)(ii) shall not be subject to judicial review in any manner.

[''(d) If the cost-benefit analysis or risk assessment required under this chapter has been wholly omitted for any major rule, a court shall vacate the rule and remand the case for further consideration. If an analysis or assessment has been performed, the court shall not review to determine whether the analysis or assessment conformed to the particular requirements of this chapter.

[''(e) Any cost-benefit analysis or risk assessment prepared under this chapter shall not be subject to judicial consideration separate or apart from review of the agency action to which it relates. When an action for judicial review of an agency action is instituted, any regulatory analysis for such agency action shall constitute part of the whole administrative record of agency action for the purpose of judicial review of the agency action, and shall, to the extent relevant, be considered by a court in determining the legality of the agency action.

[''§ 624. Deadlines for rulemaking

[''(a) All deadlines in statutes that require agencies to propose or promulgate any rule subject to section 622 or subchapter III during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

[''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

[''(2) the date occurring 6 months after the date of the applicable deadline.

[''(b) All deadlines imposed by any court of the United States that would require an agency to propose or promulgate a rule subject to section 622 or subchapter III during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

[''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

[''(2) the date occurring 6 months after the date of the applicable deadline.

[''(c) In any case in which the failure to promulgate a rule by a deadline occurring during the 2-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

[''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

[''(2) the date occurring 6 months after the date of the applicable deadline.

[''§ 625. Agency review of rules

[''(a)(1)(A) No later than 9 months after the effective date of this section, each agency shall prepare and publish in the Federal Register a proposed schedule for the review, in accordance with this section, of—

[''(i) each rule of the agency that is in effect on such effective date and which, if adopted on such effective date, would be a major rule; and

[''(ii) each rule of the agency in effect on the effective date of this section (in addition to the rules described in clause (i)) that the agency has selected for review.

[''(B) Each proposed schedule required under subparagraph (A) shall be developed in consultation with—

[''(i) the Administrator of the Office of Information and Regulatory Affairs; and

[''(ii) the classes of persons affected by the rules, including members from the regulated industries, small businesses, State and local governments, and organizations representing the interested public.

[''(C) Each proposed schedule required under subparagraph (A) shall establish priorities for the review of rules that, in the joint determination of the Administrator of the Office of Information and Regulatory Affairs and the agency, most likely can be amended or eliminated to—

[''(i) provide the same or greater benefits at substantially lower costs;

[''(ii) achieve substantially greater benefits at the same or lower costs; or

[''(iii) replace command-and-control regulatory requirements with market mechanisms or performance standards that achieve substantially equivalent benefits at lower costs or with greater flexibility.

[''(D) Each proposed schedule required by subparagraph (A) shall include—

[''(i) a brief explanation of the reasons the agency considers each rule on the schedule to be a major rule, or the reasons why the agency selected the rule for review;

[''(ii) a date set by the agency, in accordance with subsection (b), for the completion of the review of each such rule; and

[''(iii) a statement that the agency requests comments from the public on the proposed schedule.

[''(E) The agency shall set a date to initiate review of each rule on the schedule in a manner that will ensure the simultaneous review of related items and that will achieve a reasonable distribution of reviews over the period of time covered by the schedule.

[''(2) No later than 90 days before publishing in the Federal Register the proposed schedule required under paragraph (1), each agency shall make the proposed schedule available to the Director or a designee of the President. The President or that officer may select for review in accordance with this section any additional rule.

[''(3) No later than 1 year after the effective date of this section, each agency shall publish in the Federal Register a final schedule for the review of the rules referred to in paragraphs (1) and (2). Each agency shall publish with the final schedule the response of the agency to comments received concerning the proposed schedule.

[''(b)(1) Except as explicitly provided otherwise by statute, the agency shall, pursuant to subsections (c) through (e), review—

[''(A) each rule on the schedule promulgated pursuant to subsection (a);

[''(B) each major rule promulgated, amended, or otherwise continued by an agency after the effective date of this section; and

[''(C) each rule promulgated after the effective date of this section that the President or the officer designated by the President selects for review pursuant to subsection (a)(2).

[''(2) Except as provided pursuant to subsection (f), the review of a rule required by this section shall be completed no later than the later of—

[''(A) 10 years after the effective date of this section; or

[''(B) 10 years after the date on which the rule is—

[''(i) promulgated; or

[''(ii) amended or continued under this section.

[''(c) An agency shall publish in the Federal Register a notice of its proposed action under this section with respect to a rule being reviewed. The notice shall include—

[''(1) an identification of the specific statutory authority under which the rule was promulgated and an explanation of whether the agency's interpretation of the statute is expressly required by the current text of that statute or, if not, whether it is within the range of permissible interpretations of the statute;

[''(2) an analysis of the benefits and costs of the rule during the period in which it has been in effect;

[''(3) an explanation of the proposed agency action with respect to the rule, including action to repeal or amend the rule to resolve inconsistencies or conflicts with any other obligation or requirement established by any Federal statute, rule, or other agency statement, interpretation, or action that has the force of law; and

[''(4) a statement that the agency seeks proposals from the public for modifications or alternatives to the rule which may accomplish the objectives of the rule in a more effective or less burdensome manner.

[''(d) If an agency proposes to repeal or amend a rule under review pursuant to this section, the agency shall, after issuing the notice required by subsection (c), comply with the provisions of this chapter, chapter 5, and any other applicable law. The requirements of such provisions and related requirements shall apply to the same extent and in the same manner as in the case of a proposed agency action to repeal or amend a rule that is not taken pursuant to the review required by this section.

[''(e) If an agency proposes to continue without amendment a rule under review pursuant to this section, the agency shall—

[''(1) give interested persons no less than 60 days after the publication of the notice required by subsection (c) to comment on the proposed continuation; and

[''(2) publish in the Federal Register notice of the continuation of such rule.

[''(f) Any agency, which for good cause finds that compliance with this section with respect to a particular rule during the period provided in subsection (b) of this section is contrary to an important public interest may request the President, or the officer designated by the President pursuant to subsection (a)(2), to establish a period longer than 10 years for the completion of the review of such rule. The President or that officer may extend the period for review of a rule to a total period of no more than 15 years. Such extension shall be published in the Federal Register with an explanation of the reasons therefor.

[''(g) If the agency fails to comply with the requirements of subsection (b)(2), the rule for which rulemaking proceedings have not been completed shall cease to be enforceable against any person.

[''(h) Nothing in this section shall relieve any agency from its obligation to respond to a petition to issue, amend, or repeal a rule, for an interpretation regarding the meaning of a rule, or for a variance or exemption from the terms of a rule, submitted pursuant to any other provision of law.

[''§ 626. Public participation and accountability

[''In order to maximize accountability for, and public participation in, the development and review of regulatory actions each agency shall, consistent with chapter 5 and other applicable law, provide the public with opportunities for meaningful participation in the development of regulatory actions, including—

[''(1) seeking the involvement, where practicable and appropriate, of those who are intended to benefit from and those who are expected to be burdened by any regulatory action;

[''(2) providing in any proposed or final rulemaking notice published in the Federal Register—

[''(A) a certification of compliance with the requirements of this chapter, or an explanation why such certification cannot be made;

[''(B) a summary of any regulatory analysis required under this chapter, or under any other legal requirement, and notice of the availability of the regulatory analysis;

[''(C) a certification that the rule will produce benefits that will justify the cost to the Government and to the public of implementation of, and compliance with, the rule, or an explanation why such certification cannot be made; and

[''(D) a summary of the results of any regulatory review and the agency's response to such review, including an explanation of any significant changes made to such regulatory action as a consequence of regulatory review;

[''(3) identifying, upon request, a regulatory action and the date upon which such action was submitted to the designated officer to whom authority was delegated under section 644 for review;

[''(4) disclosure to the public, consistent with section 634(3), of any information created or collected in performing a regulatory analysis required under this chapter, or under any other legal requirement; and

[''(5) placing in the appropriate rulemaking record all written communications received from the Director, other designated officer, or other individual or entity relating to regulatory review.

[''SUBCHAPTER III—RISK ASSESSMENTS

[''§ 631. Findings and purposes

[''(a) The Congress finds that:

[''(1) Environmental, health, and safety regulations have lead to dramatic improvements in the environment and have significantly reduced risks to human health; except—

[''(A) many regulations have been more costly and less effective than necessary; and

[''(B) too often, regulatory priorities have not been based upon a realistic consideration of risk, risk reduction opportunities, and costs.

[''(2) The public and private resources available to address health, safety, and environmental risks are not unlimited. Those resources should be allocated to address the greatest needs in the most cost-effective manner and to ensure that the incremental costs of regulatory options are reasonably related to the incremental benefits.

[''(3) To provide more cost-effective protection to human health, safety, and the environment, regulatory priorities should be supported by realistic and plausible scientific risk assessments and risk management choices that are grounded in cost-benefit principles.

[''(4) Risk assessment has proved to be a useful decisionmaking tool, except—

[''(A) improvements are needed in both the quality of assessments and the characterization and communication of findings;

[''(B) scientific and other data must be better collected, organized, and evaluated; and

[''(C) the critical information resulting from a risk assessment must be effectively communicated in an objective and unbiased manner to decision makers, and from decision makers to the public.

[''(5) The public stakeholders should be involved in the decisionmaking process for regulating risks. The public has the right to know about the risks addressed by regulation, the amount of risk reduced, the quality of the science used to support decisions, and the cost of implementing and complying with regulations. Such knowledge will allow for public scrutiny and will promote the quality, integrity, and responsiveness of agency decisions.

[''(b) The purposes of this subchapter are to—

[''(1) present the public and executive branch with the most realistic and plausible information concerning the nature and magnitude of health, safety, and environmental risks to promote sound regulatory decisions and public education;

[''(2) provide for full consideration and discussion of relevant data and potential methodologies;

[''(3) require explanation of significant choices in the risk assessment process that will allow for better public understanding; and

[''(4) improve consistency within the executive branch in preparing risk assessments and risk characterizations.

['§ 632. Definitions

[''For purposes of this subchapter, the definitions under sections 551 and 621 shall apply and:

[''(1) The term 'covered agency' means each of the following:

[''(A) The Environmental Protection Agency.

[''(B) The Department of Labor.

[''(C) The Department of Transportation.

[''(D) The Food and Drug Administration.

[''(E) The Department of Energy.

[''(F) The Department of the Interior.

[''(G) The Department of Agriculture.

[''(H) The Consumer Product Safety Commission.

[''(I) The National Oceanic and Atmospheric Administration.

[''(J) The United States Army Corps of Engineers.

[''(K) The Nuclear Regulatory Commission.

[''(L) Any other Federal agency considered a covered agency under section 633(b).

[''(2) The term 'emergency' means a situation that is immediately impending and extraordinary in nature, demanding attention due to a condition, circumstance or practice reasonably expected to cause death, serious illness or severe injury to humans, or substantial endangerment to private property or the environment if no action is taken.

[''(3) The term 'estimates of risk' means numerical representations of the potential magnitude of harm to populations or the probability of harm to individuals, including, as appropriate, those derived by considering the range and distribution of estimates of dose-response (potency) and exposure, including appropriate statistical representation of the range and most likely exposure levels, and the identification of the populations or subpopulations addressed. When appropriate and practicable, a description of any populations or subpopulations that are likely to experience exposures at the upper end of the distribution should be included.

[''(4) The term 'hazard identification' means identification of a substance, activity, or condition as potentially causing harm to human health, safety, or the environment.

[''(5) The term 'risk assessment' means—

[''(A) identifying, quantifying to the extent feasible and appropriate, and characterizing hazards and exposures to those hazards in order to provide structured information on the nature of threats to human health, safety, or the environment; and

[''(B) the document containing the explanation of how the assessment process has been applied to an individual substance, activity, or condition.

[''(6) The term 'risk characterization' means the integration, synthesis, and organization of hazard identification, dose-response and exposure information that addresses the needs of decision makers and interested parties. The term includes both the process and specific outputs, including—

[''(A) the element of a risk assessment that involves presentation of the degree of risk in any regulatory proposal or decision, report to Congress, or other document that is made available to the public; and

[''(B) discussions of uncertainties, conflicting data, estimates of risk, extrapolations, inferences, and opinions.

[''(7) The term 'screening analysis' means an analysis that arrives at a qualitative estimate or a bounding estimate of risk that permits the risk manager to accept or reject some management options, or permits establishing priorities for agency action. Such term includes an assessment performed by a regulated party and submitted to an agency under a regulatory requirement.

[''(8) The term 'substitution risk' means a reasonably likely increased risk to human health, safety, or the environment from a regulatory option designed to decrease other risks.

['§ 633. Applicability

[''(a) Except as provided in subsection (c), this subchapter shall apply to all risk assessments and risk characterizations prepared by, or on behalf of, or prepared by others and adopted by any covered agency in connection with a major rule addressing health, safety, and environmental risks.

[''(b)(1) No later than 18 months after the effective date of this section, the President, acting through the Director of the Office of Management and Budget, shall determine whether other Federal agencies should be considered covered agencies for the purposes of this subchapter. Such determination, with respect to a particular Federal agency, shall be based on the impact of risk assessment documents and risk characterization documents on—

[''(A) regulatory programs administered by that agency; and

[''(B) the communication of risk information by that agency to the public.

[''(2) If the President makes a determination under paragraph (1), the provisions of this subchapter shall apply to any affected agency beginning on a date set by the President. Such date may be no later than 6 months after the date of such determination.

[''(c)(1) This subchapter shall not apply to risk assessments or risk characterizations performed with respect to—

[''(A) an emergency determined by the head of an agency;

[''(B) a health, safety, or environmental inspection or individual facility permitting action; or

[''(C) a screening analysis.

[''(2) This subchapter shall not apply to any food, drug, or other product label, or to any risk characterization appearing on any such label.

['§ 634. Savings provisions

[''Nothing in this subchapter shall be construed to—

[''(1) modify any statutory standard or requirement designed to protect human health, safety, or the environment;

[''(2) preclude the consideration of any data or the calculation of any estimate to more fully describe risk or provide examples of scientific uncertainty or variability; or

[''(3) require the disclosure of any trade secret or other confidential information.

['§ 635. Principles for risk assessment

[''(a) The head of each covered agency shall ensure that risk assessments and all of the components of such assessments—

[''(1) provide for a systematic means to structure information useful to decision makers;

[''(2) provide, to the maximum extent practicable, that policy-driven default assumptions be used only in the absence of relevant available information;

[''(3) promote involvement from all stakeholders;

[''(4) provide an opportunity for public input throughout the regulatory process; and

[''(5) are designed so that the degree of specificity and rigor employed is commensurate with the consequences of the decision to be made.

[''(b) A risk assessment shall, to the maximum extent practicable, clearly delineate hazard identification from dose-response and exposure assessment and make clear the relationship between the level of risk and the level of exposure to a hazard.

['§ 636. Principles for risk characterization

[''In characterizing risk in any risk assessment document, regulatory proposal, or decision, each covered agency shall include in the risk characterization, as appropriate, each of the following:

[''(1)(A) A description of the exposure scenarios used, the natural resources or subpopulations being exposed, and the likelihood of those exposure scenarios.

[''(B) When a risk assessment involves a choice of any significant assumption, inference, or model, the covered agency or instrumentality preparing the risk assessment shall—

[''(i) identify the assumptions, inferences, and models that materially affect the outcome;

[''(ii) explain the basis for any choices;

[''(iii) identify any policy decisions or policy-based default assumptions;

[''(iv) indicate the extent to which any significant model has been validated by, or conflicts with, empirical data; and

[''(v) describe the impact of alternative choices of assumptions, default options or mathematical models.

[''(C) The major sources of uncertainties in the hazard identification, dose-response and exposure assessment phases of the risk assessment.

[''(D) To the extent feasible, the range and distribution of exposures and risks derived from the risk assessment should be included as a component of the risk characterization.

[''(2) When a covered agency provides a risk assessment or risk characterization for a proposed or final regulatory action, such assessment or characterization shall include a statement of any significant substitution risks, when information on such risks has been made available to the agency.

['§ 637. Peer review

[''(a) The head of each covered agency shall develop a systematic program for independent and external peer review required under subsection (b). Such program shall be applicable throughout each covered agency and—

[''(1) shall provide for the creation of peer review panels that—

[''(A) consist of members with expertise relevant to the sciences involved in regulatory decisions and who are independent of the covered agency; and

[''(B) are broadly representative and balanced and, to the extent relevant and appropriate, may include persons affiliated with Federal, State, local, or tribal governments, small businesses, other representatives of industry, universities, agriculture, labor consumers, conservation organizations, or other public interest groups and organizations;

[''(2) shall not exclude any person with substantial and relevant expertise as a panel member on the basis that such person represents an entity that may have a potential interest in the outcome, if such interest is fully disclosed to the agency, and in the case of a regulatory decision affecting a single entity, no peer reviewer representing such entity may be included on the panel;

[''(3) shall provide for a timely completed peer review, meeting agency deadlines, that contains a balanced presentation of all considerations, including minority reports and an agency response to all significant peer review comments; and

[''(4) shall provide adequate protections for confidential business information and trade secrets, including requiring panel members to enter into confidentiality agreements.

[''(b)(1)(A) Except as provided under subparagraph (B), each covered agency shall provide for peer review in accordance with this section of any risk assessment or cost-benefit analysis that forms the basis of any major rule that addresses risks to the environment, health, or safety.

[''(B) Subparagraph (A) shall not apply to a rule or other action taken by an agency to authorize or approve any individual substance or product.

[''(2) The Director of the Office of Management and Budget may order that peer review be provided for any risk assessment or cost-benefit analysis that is likely to have a significant impact on public policy decisions or would establish an important precedent.

[''(c) Each peer review under this section shall include a report to the Federal agency concerned with respect to the scientific and technical merit of data and methods used for the risk assessments or cost-benefit analyses.

[''(d) The head of the covered agency shall provide a written response to all significant peer review comments.

[''(e) All peer review comments or conclusions and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

[''(f) No peer review shall be required under this section for any data, method, document, or assessment, or any component thereof, which has been previously subjected to peer review.

['' § 638. Guidelines, plan for assessing new information, and report

[''(a)(1)(A) As soon as practicable and scientifically feasible, each covered agency shall adopt, after notification and opportunity for public comment, guidelines to implement the risk assessment and risk characterization principles under sections 635 and 636, as well as the cost-benefit analysis requirements under section 622, and shall provide a format for summarizing risk assessment results.

[''(B) No later than 12 months after the effective date of this section, the head of each covered agency shall issue a report on the status of such guidelines to the Congress.

[''(2) The guidelines under paragraph (1) shall—

[''(A) include guidance on use of specific technical methodologies and standards for acceptable quality of specific kinds of data;

[''(B) address important decisional factors for the risk assessment, risk characterization, and cost-benefit analysis at issue; and

[''(C) provide procedures for the refinement and replacement of policy-based default assumptions.

[''(b) The guidelines, plan and report under this section shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State agencies and local governments, and such other departments and agencies, organizations, or persons as may be advisable.

[''(c) The President shall review the guidelines published under this section at least every 4 years.

[''(d) The development, issuance, and publication of risk assessment and risk characterization guidelines under this section shall not be subject to judicial review.

['' § 639. Research and training in risk assessment

[''(a) The head of each covered agency shall regularly and systematically evaluate risk assessment research and training needs of the agency, including, where relevant and appropriate, the following:

[''(1) Research to reduce generic data gaps, to address modelling needs (including improved model sensitivity), and to validate default options, particularly those common to multiple risk assessments.

[''(2) Research leading to improvement of methods to quantify and communicate uncertainty and variability among individuals, species, populations, and, in the case of ecological risk assessment, ecological communities.

[''(3) Emerging and future areas of research, including research on comparative risk analysis, exposure to multiple chemicals and other stressors, noncancer endpoints, biological markers of exposure and effect, mechanisms of action in both mammalian and nonmammalian species, dynamics and probabilities of physiological and ecosystem exposures, and prediction of ecosystem-level responses.

[''(4) Long-term needs to adequately train individuals in risk assessment and risk assessment application. Evaluations under this paragraph shall include an estimate of the resources needed to provide necessary training.

[''(b) The head of each covered agency shall develop a strategy and schedule for carrying out research and training to meet the needs identified in subsection (a).

['' § 640. Interagency coordination

[''(a) To promote the conduct, application, and practice of risk assessment in a consistent manner and to identify risk assessment data and research needs common to more than 1 Federal agency, the Director of the Office of Management and Budget, in consultation with the Office of Science and Technology Policy, shall—

[''(1) periodically survey the manner in which each Federal agency involved in risk assessment is conducting such risk assessment to determine the scope and adequacy of risk assessment practices in use by the Federal Government;

[''(2) provide advice and recommendations to the President and Congress based on the surveys conducted and determinations made under paragraph (1);

[''(3) establish appropriate interagency mechanisms to promote—

[''(A) coordination among Federal agencies conducting risk assessment with respect to the conduct, application, and practice of risk assessment; and

[''(B) the use of state-of-the-art risk assessment practices throughout the Federal Government;

[''(4) establish appropriate mechanisms between Federal and State agencies to communicate state-of-the-art risk assessment practices; and

[''(5) periodically convene meetings with State government representatives and Federal and other leaders to assess the effectiveness of Federal and State cooperation in the development and application of risk assessment.

[''(b) The President shall appoint National Peer Review Panels to review every 3 years the risk assessment practices of each covered agency for programs designed to protect human health, safety, or the environment. The Panels shall submit a report to the President and the Congress at least every 3 years containing the results of such review.

['' § 640a. Plan for review of risk assessments

[''(a) No later than 18 months after the effective date of this section, the head of each covered agency shall publish a plan to review and revise any risk assessment published before the expiration of such 18-month period if the covered agency determines that significant new information or methodologies are available that could significantly alter the results of the prior risk assessment.

[''(b) A plan under subsection (a) shall—

[''(1) provide procedures for receiving and considering new information and risk assessments from the public; and

[''(2) set priorities and criteria for review and revision of risk assessments based on such factors as the agency head considers appropriate.

['' § 640b. Judicial review

[''The provisions of section 623 relating to judicial review shall apply to this subchapter.

['' § 640c. Deadlines for rulemaking

[''The provisions of section 624 relating to deadlines for rulemaking shall apply to this subchapter.

['' SUBCHAPTER IV—EXECUTIVE OVERSIGHT

['' § 641. Definition

[''For purposes of this subchapter, the definitions under sections 551 and 621 shall apply.

['' § 642. Procedures

[''The Director or other designated officer to whom authority is delegated under section 644 shall—

[''(1) establish procedures for agency compliance with this chapter; and

[''(2) monitor, review, and ensure agency implementation of such procedures.

['' § 643. Promulgation and adoption

[''(a) Procedures established pursuant to section 642 shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

[''(b)(1) If procedures established pursuant to section 642 include review of any initial or final analyses of a rule required under this chapter, the time for any such review of any initial analysis shall not exceed 60 days following the receipt of the analysis by the Director, a designee of the President, or by an officer to whom the authority granted under section 642 has been delegated pursuant to section 644.

[''(2) The time for review of any final analysis required under this chapter shall not exceed 60 days following the receipt of the analysis by the Director, a designee of the President, or such officer.

[''(3)(A) The times for each such review may be extended for good cause by the President or such officer for an additional 30 days.

[''(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

[''§ 644. Delegation of authority

[''(a) The President shall delegate the authority granted by this subchapter to the Director or to another officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

[''(b) Notice of any delegation, or any revocation or modification thereof shall be published in the Federal Register.

[''§ 645. Public disclosure of information

[''The Director or other designated officer to whom authority is delegated under section 644, in carrying out the provisions of section 642, shall establish procedures (covering all employees of the Director or other designated officer) to provide public and agency access to information concerning regulatory review actions, including—

[''(1) disclosure to the public on an ongoing basis of information regarding the status of regulatory actions undergoing review;

[''(2) disclosure to the public, no later than publication of, or other substantive notice to the public concerning a regulatory action, of—

[''(A) all written communications, regardless of form or format, including drafts of all proposals and associated analyses, between the Director or other designated officer and the regulatory agency;

[''(B) all written communications, regardless of form or format, between the Director or other designated officer and any person not employed by the executive branch of the Federal Government relating to the substance of a regulatory action;

[''(C) a record of all oral communications relating to the substance of a regulatory action between the Director or other designated officer and any person not employed by the executive branch of the Federal Government; and

[''(D) a written explanation of any review action and the date of such action; and

[''(3) disclosure to the regulatory agency, on a timely basis, of—

[''(A) all written communications between the Director or other designated officer and any person who is not employed by the executive branch of the Federal Government;

[''(B) a record of all oral communications, and an invitation to participate in meetings, relating to the substance of a regulatory action between the Director or other designated officer and any person not employed by the executive branch of the Federal Government; and

[''(C) a written explanation of any review action taken concerning an agency regulatory action.

[''§ 646. Judicial review

[''The exercise of the authority granted under this subchapter by the Director, the President, or by an officer to whom such authority has been delegated under section 644 shall not be subject to judicial review in any manner.''.

[(b) REGULATORY FLEXIBILITY ANALYSIS.—

[(1) IN GENERAL.—Section 611 of title 5, United States Code, is amended to read as follows:

[''§ 611. Judicial review

[''(a)(1) Except as provided in paragraph (2), no later than 1 year after the effective date of a final rule with respect to which an agency—

[''(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities; or

[''(B) prepared a final regulatory flexibility analysis pursuant to section 604,

an affected small entity may petition for the judicial review of such certification or analysis in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 of this title or under any other provision of law shall have jurisdiction to review such certification or analysis.

[''(2)(A) Except as provided in subparagraph (B), in the case of a provision of law that requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), such lesser period shall apply to a petition for the judicial review under this subsection.

[''(B) In a case in which an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection shall be filed no later than—

[''(i) 1 year; or

[''(ii) in a case in which a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), the number of days specified in such provision of law,

after the date the analysis is made available to the public.

[''(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be adversely affected by the final rule.

[''(4) Nothing in this subsection shall be construed to affect the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

[''(5)(A) In a case in which an agency certifies that such rule would not have a significant economic impact on a substantial number of small entities, the court may order the agency to prepare a final regulatory flexibility analysis pursuant to section 604 if the court determines, on the basis of the rulemaking record, that the certification was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

[''(B) In a case in which the agency prepared a final regulatory flexibility analysis, the court may order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the rulemaking record, that the final regulatory flexibility analysis was prepared by the agency without complying with section 604.

[''(6) If, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5) (or such longer period as the court may provide), the agency fails, as appropriate—

[''(A) to prepare the analysis required by section 604; or

[''(B) to take corrective action consistent with section 604 of this title,

the court may stay the rule or grant such other relief as it deems appropriate.

[''(7) In making any determination or granting any relief authorized by this subsection, the court shall take due account of the rule of prejudicial error.

[''(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

[''(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.''.

[(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the effective date of this Act, except that the judicial review authorized by section 611(a) of title 5, United States Code (as added by subsection (a)), shall apply only to final agency rules issued after such effective date.

[(c) PRESIDENTIAL AUTHORITY.—Nothing in this Act shall limit the exercise by the President of the authority and responsibility that the President otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices.

[(d) TECHNICAL AND CONFORMING AMENDMENTS.—

[(1) Part I of title 5, United States Code, is amended by striking out the chapter heading and table of sections for chapter 6 and inserting in lieu thereof the following:

[''CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

[''SUBCHAPTER I—REGULATORY ANALYSIS

[''Sec.
[''601. Definitions.
[''602. Regulatory agenda.
[''603. Initial regulatory flexibility analysis.
[''604. Final regulatory flexibility analysis.
[''605. Avoidance of duplicative or unnecessary analyses.
[''606. Effect on other law.
[''607. Preparation of analysis.
[''608. Procedure for waiver or delay of completion.
[''609. Procedures for gathering comments.
[''610. Periodic review of rules.
[''611. Judicial review.
[''612. Reports and intervention rights.

[''SUBCHAPTER II—ANALYSIS OF AGENCY RULES

[''621. Definitions.
[''622. Rulemaking cost-benefit analysis.
[''623. Judicial review.
[''624. Deadlines for rulemaking.
[''625. Agency review of rules.
[''626. Public participation and accountability.

[''SUBCHAPTER III—RISK ASSESSMENTS

[''631. Findings and purposes.
[''632. Definitions.
[''633. Applicability.
[''634. Savings provisions.
[''635. Principles for risk assessment.
[''636. Principles for risk characterization.
[''637. Peer review.
[''638. Guidelines, plan for assessing new information, and report.
[''639. Research and training in risk assessment.
[''640. Interagency coordination.
[''640a. Plan for review of risk assessments.
[''640b. Judicial review.
[''640c. Deadlines for rulemaking.

[''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

[''641. Definition.
[''642. Procedures.
[''643. Promulgation and adoption.
[''644. Delegation of authority.
[''645. Public disclosure of information.
[''646. Judicial review.''.

[(2) Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

[''SUBCHAPTER I—REGULATORY ANALYSIS''.

[SEC. 4. CONGRESSIONAL REVIEW.

[(a) IN GENERAL.—Part I of title 5, United States Code, is amended by inserting after chapter 7 the following new chapter:

[''CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

[''§ 801. Congressional review of agency rulemaking

[''(a) For purposes of this chapter, the term—

[''(1) 'major rule' means a major rule as defined under section 621(4) of this title and as determined under section 622 of this title; and

[''(2) 'rule' (except in reference to a rule of the Senate or House of Representatives) is a reference to a major rule.

[''(b)(1) Upon the promulgation of a final major rule, the agency promulgating such rule shall submit to the Congress a copy of the rule, the statement of basis and purpose for the rule, and the proposed effective date of the rule.

[''(2) A rule submitted under paragraph (1) shall not take effect as a final rule before the latest of the following:

[''(A) The later of the date occurring 45 days after the date on which—

[''(i) the Congress receives the rule submitted under paragraph (1); or

[''(ii) the rule is published in the Federal Register.

[''(B) If the Congress passes a joint resolution of disapproval described under subsection (i) relating to the rule, and the President signs a veto of such resolution, the earlier date—

[''(i) on which either House of Congress votes and fails to override the veto of the President; or

[''(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President.

[''(C) The date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under subsection (i) is approved).

[''(c) A major rule shall not take effect as a final rule if the Congress passes a joint resolution of disapproval described under subsection (i), which is signed by the President or is vetoed and overridden by the Congress.

[''(d)(1) Notwithstanding any other provision of this section (except subject to paragraph (2)), a major rule that would not take effect by reason of this section may take effect if the President makes a determination and submits written notice of such determination to the Congress that the major rule should take effect because such major rule is—

[''(A) necessary because of an imminent threat to health or safety, or other emergency;

[''(B) necessary for the enforcement of criminal laws; or

[''(C) necessary for national security.

[''(2) An exercise by the President of the authority under this subsection shall have no effect on the procedures under subsection (i) or the effect of a joint resolution of disapproval under this section.

[''(e)(1) Subsection (i) shall apply to any major rule that is promulgated as a final rule during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes.

[''(2) For purposes of subsection (i), a major rule described under paragraph (1) shall be treated as though such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date the succeeding Congress first convenes.

[''(3) During the period between the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, a rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law.

[''(f) Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under subsection (i) shall be treated as though such rule had never taken effect.

[''(g) If the Congress does not enact a joint resolution of disapproval under subsection (i), no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such major rule, related statute, or joint resolution of disapproval.

[''(h) If the agency fails to comply with the requirements of subsection (b) for any rule, the rule shall cease to be enforceable against any person.

[''(i)(1) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced after the date on which the rule referred to in subsection (b) is received by Congress the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the _____ relating to _____, and such rule shall have no force or effect.' (The blank spaces being appropriately filled in.)

[''(2)(A) In the Senate, a resolution described in paragraph (1) shall be referred to the committees with jurisdiction. Such a resolution shall not be reported before the eighth day after its submission or publication date.

[''(B) For purposes of this subsection, the term 'submission or publication date' means the later of the date on which—

[''(i) the Congress receives the rule submitted under subsection (b)(1); or

[''(ii) the rule is published in the Federal Register.

[''(3) In the Senate, if the committee to which a resolution described in paragraph (1) is referred has not reported such resolution (or an identical resolution) at the end of 20 calendar days after its submission or publication date, such committee may be discharged on a petition approved by 30 Senators from further consideration of such resolution and such resolution shall be placed on the Senate calendar.

[''(4)(A) In the Senate, when the committee to which a resolution is referred has reported, or when a committee is discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Senator to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) shall be waived. The motion shall be privileged in the Senate and shall not be debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the Senate until disposed of.

[''(B) In the Senate, debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall be in order and shall not be debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution shall not be in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order.

[''(C) In the Senate, immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the Senate rules, the vote on final passage of the resolution shall occur.

[''(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

[''(5) If, before the passage in the Senate of a resolution described in paragraph (1), the Senate receives from the House of Representatives a resolution described in paragraph (1), then the following procedures shall apply:

[''(A) The resolution of the House of Representatives shall not be referred to a committee.

[''(B) With respect to a resolution described in paragraph (1) of the Senate—

[''(i) the procedure in the Senate shall be the same as if no resolution had been received from the other House; but

[''(ii) the vote on final passage shall be on the resolution of the other House.

[''(6) This subsection is enacted by Congress—

[''(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed to be a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

[''(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

[''(j) No requirements under this chapter shall be subject to judicial review in any manner.''.

[(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part I of title 5, United States Code, is amended by inserting after the item relating to chapter 7 the following:

[''8. Congressional Review of Agency Rulemaking ..... 801''.

[SEC. 5. STUDIES AND REPORTS.

[(a) RISK ASSESSMENTS.—The Administrative Conference of the United States shall—

[(1) develop and carry out an ongoing study of the operation of the risk assessment requirements of subchapter III of chapter 6 of title 5, United States Code (as added by section 3 of this Act); and

[(2) submit an annual report to the Congress on the findings of the study.

[(b) ADMINISTRATIVE PROCEDURE ACT.—No later than December 31, 1996, the Administrative Conference of the United States shall—

[(1) carry out a study of the operation of chapters 5 and 6 of title 5, United States Code (commonly referred to as the Administrative Procedure Act), as amended by section 3 of this Act; and

[(2) submit a report to the Congress on the findings of the study, including proposals for revision, if any.

[SEC. 6. RISK-BASED PRIORITIES.

[(a) PURPOSES.—The purposes of this section are to—

[(1) encourage Federal agencies engaged in regulating risks to human health, safety, and the environment to achieve the greatest risk reduction at the least cost practical;

[(2) promote the coordination of policies and programs to reduce risks to human health, safety, and the environment; and

[(3) promote open communication among Federal agencies, the public, the President, and Congress regarding environmental, health, and safety risks, and the prevention and management of those risks.

[(b) DEFINITIONS.—For the purposes of this section:

[(1) COMPARATIVE RISK ANALYSIS.—The term ''comparative risk analysis'' means a

process to systematically estimate, compare, and rank the size and severity of risks to provide a common basis for evaluating strategies for reducing or preventing those risks.

[(2) COVERED AGENCY.—The term ''covered agency'' means each of the following:

[(A) The Environmental Protection Agency.

[(B) The Department of Labor.

[(C) The Department of Transportation.

[(D) The Food and Drug Administration.

[(E) The Department of Energy.

[(F) The Department of the Interior.

[(G) The Department of Agriculture.

[(H) The Consumer Product Safety Commission.

[(I) The National Oceanic and Atmospheric Administration.

[(J) The United States Army Corps of Engineers.

[(K) The Nuclear Regulatory Commission.

[(3) EFFECT.—The term ''effect'' means a deleterious change in the condition of—

[(A) a human or other living thing (including death, cancer, or other chronic illness, decreased reproductive capacity, or disfigurement); or

[(B) an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

[(4) IRREVERSIBILITY.—The term ''irreversibility'' means the extent to which a return to conditions before the occurrence of an effect are either very slow or will never occur.

[(5) LIKELIHOOD.—The term ''likelihood'' means the estimated probability that an effect will occur.

[(6) MAGNITUDE.—The term ''magnitude'' means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

[(7) SERIOUSNESS.—The term ''seriousness'' means the intensity of effect, the likelihood, the irreversibility, and the magnitude.

[(c) DEPARTMENT AND AGENCY PROGRAM GOALS.—

[(1) SETTING PRIORITIES.—In exercising authority under applicable laws protecting human health, safety, or the environment, the head of each covered agency should set priorities and use the resources available under those laws to address those risks to human health, safety, and the environment that—

[(A) the covered agency determines to be the most serious; and

[(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

[(2) DETERMINING THE MOST SERIOUS RISKS.—In identifying the greatest risks under paragraph (1) of this subsection, each covered agency shall consider, at a minimum—

[(A) the likelihood, irreversibility, and severity of the effect; and

[(B) the number and classes of individuals potentially affected, and shall explicitly take into account the results of the comparative risk analysis conducted under subsection (d) of this section.

[(3) OMB REVIEW.—The covered agency's determinations of the most serious risks for purposes of setting priorities shall be reviewed and approved by the Director of the Office of Management and Budget before submission of the covered agency's annual budget requests to Congress.

[(4) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each covered agency shall incorporate the priorities identified under paragraph (1) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), the basis for that determination, and explicitly identify how the covered agency's requested budget and regulatory agenda reflect those priorities.

[(5) EFFECTIVE DATE.—This subsection shall take effect 12 months after the date of enactment of this Act.

[(d) COMPARATIVE RISK ANALYSIS.—

[(1) REQUIREMENT.—(A)(i) No later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall enter into appropriate arrangements with an accredited scientific body—

[(I) to conduct a study of the methodologies for using comparative risk to rank dissimilar human health, safety, and environmental risks; and

[(II) to conduct a comparative risk analysis.

[(ii) The comparative risk analysis shall compare and rank, to the extent feasible, human health, safety, and environmental risks potentially regulated across the spectrum of programs administered by all covered agencies.

[(B) The Director shall consult with the Office of Science and Technology Policy regarding the scope of the study and the conduct of the comparative risk analysis.

[(2) CRITERIA.—In arranging for the comparative risk analysis referred to in paragraph (1) of this subsection, the Director shall ensure that—

[(A) the scope and specificity of the analysis are sufficient to provide the President and agency heads guidance in allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

[(B) the analysis is conducted through an open process, by individuals with relevant expertise, including toxicologists, biologists, engineers and experts in medicine, industrial hygiene and environmental effects;

[(C) the analysis is conducted, to the extent feasible, consistent with the risk assessment and risk characterization principles in sections 635 and 636 of this title;

[(D) the methodologies and principal scientific determinations made in the analysis are subjected to independent and external peer review consistent with section 637, and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e);

[(E) there is an opportunity for public comment on the results before making them final; and

[(F) the results are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

[(3) COMPLETION AND REVIEW.—No later than 3 years after the effective date of this Act, the comparative risk analysis required under paragraph (1) shall be completed. The comparative risk analysis shall be reviewed and revised at least every 5 years thereafter for a minimum of 15 years following the release of the first analysis. The Director shall arrange for such review and revision with an accredited scientific body in the same manner as provided under paragraphs (1) and (2).

[(4) STUDY.—The study of methodologies provided under paragraph (1) shall be conducted as part of the first comparative risk analysis and shall be completed no later than 180 days after the completion of that analysis. The goal of the study shall be to develop and rigorously test methods of comparative risk analysis. The study shall have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for human health, safety, and environmental risk prevention and reduction.

[(5) TECHNICAL GUIDANCE.—No later than 180 days after the effective date of this Act, the Director, in collaboration with other heads of covered agencies shall enter into a contract with the National Research Council to provide technical guidance to agencies on approaches to using comparative risk analysis in setting human health, safety, and environmental priorities to assist agencies in complying with subsection (c) of this section.

[(e) REPORTS AND RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—No later than 24 months after the effective date of this Act, each covered agency shall submit a report to Congress and the President—

[(1) detailing how the agency has complied with subsection (c) and describing the reasons for any departure from the requirement to establish priorities to achieve the greatest overall net reduction in risk;

[(2) recommending—

[(A) modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

[(B) modification or elimination of statutorily or judicially mandated deadlines,

that would assist the covered agency to set priorities in activities to address the risks to human health, safety, or the environment in a manner consistent with the requirements of subsection (c)(1);

[(3) evaluating the categories of policy and value judgments used in risk assessment, risk characterization, or cost-benefit analysis; and

[(4) discussing risk assessment research and training needs, and the agency's strategy and schedule for meeting those needs.

[(f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

[(1) IN GENERAL.—Nothing in this section shall be construed to modify any statutory standard or requirement designed to protect human health, safety, or the environment.

[(2) JUDICIAL REVIEW.—Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review.

[(3) AGENCY ANALYSIS.—Any analysis prepared under this section shall not be subject to judicial consideration separate or apart from the requirement, rule, program, or law to which it relates. When an action for judicial review of a covered agency action is instituted, any analysis for, or relating to, the action shall constitute part of the whole record of agency action for the purpose of judicial review of the action and shall, to the extent relevant, be considered by a court in determining the legality of the covered agency action.

[SEC. 7. REGULATORY ACCOUNTING.

[(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

[(1) AGENCY.—The term ''agency'' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

[(A) the General Accounting Office;

[(B) the Federal Election Commission;

[(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

[(D) government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

[(2) REGULATION.—The term ''regulation'' means an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedures or practice requirements of an agency. The term shall not include—

[(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

[(B) regulations issued with respect to a military or foreign affairs function of the United States; or

[(C) regulations related to agency organization, management, or personnel.

[(b) ACCOUNTING STATEMENT.—

[(1) IN GENERAL.—(A) The President shall be responsible for implementing and administering the requirements of this section.

[(B) Every 2 years, no later than June of the second year, the President shall prepare and submit to Congress an accounting statement that estimates the annual costs of Federal regulatory programs and corresponding benefits in accordance with this subsection.

[(2) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement shall cover, at a minimum, the 5 fiscal years beginning on October 1 of the year in which the report is submitted and may cover any fiscal year preceding such fiscal years for purpose of revising previous estimates.

[(3) TIMING AND PROCEDURES.—(A) The President shall provide notice and opportunity for comment for each accounting statement. The President may delegate to an agency the requirement to provide notice and opportunity to comment for the portion of the accounting statement relating to that agency.

[(B) The President shall propose the first accounting statement under this subsection no later than 2 years after the effective date of this Act and shall issue the first accounting statement in final form no later than 3 years after such effective date. Such statement shall cover, at a minimum, each of the fiscal years beginning after the effective date of this Act.

[(4) CONTENT OF ACCOUNTING STATEMENT.—(A) Each accounting statement shall contain estimates of costs and benefits with respect to each fiscal year covered by the statement in accordance with this paragraph. For each such fiscal year for which estimates were made in a previous accounting statement, the statement shall revise those estimates and state the reasons for the revisions.

[(B)(i) An accounting statement shall estimate the costs of Federal regulatory programs by setting forth, for each year covered by the statement—

[(I) the annual expenditure of national economic resources for each regulatory program; and

[(II) such other quantitative and qualitative measures of costs as the President considers appropriate.

[(ii) For purposes of the estimate of costs in the accounting statement, national economic resources shall include, and shall be listed under, at least the following categories:

[(I) Private sector costs.

[(II) Federal sector costs.

[(III) State and local government costs.

[(C) An accounting statement shall estimate the benefits of Federal regulatory programs by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in human health, safety, or environmental risks shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

[(c) ASSOCIATED REPORT TO CONGRESS.—

[(1) IN GENERAL.—At the same time as the President submits an accounting statement under subsection (b), the President, acting through the Director of the Office of Management and Budget, shall submit to Congress a report associated with the accounting statement (hereinafter referred to as an ''associated report''). The associated report shall contain, in accordance with this subsection—

[(A) analyses of impacts; and

[(B) recommendations for reform.

[(2) ANALYSES OF IMPACTS.—The President shall include in the associated report the following:

[(A) The cumulative impact on the economy of Federal regulatory programs covered in the accounting statement. Factors to be considered in such report shall include impacts on the following:

[(i) The ability of State and local governments to provide essential services, including police, fire protection, and education.

[(ii) Small business.

[(iii) Productivity.

[(iv) Wages.

[(v) Economic growth.

[(vi) Technological innovation.

[(vii) Consumer prices for goods and services.

[(viii) Such other factors considered appropriate by the President.

[(B) A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

[(3) RECOMMENDATIONS FOR REFORM.—The President shall include in the associated report the following:

[(A) A summary of recommendations of the President for reform or elimination of any Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

[(B) A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

[(d) GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall, in consultation with the Council of Economic Advisers and the agencies, develop guidance for the agencies—

[(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to this section and section 3 of this Act, including—

[(A) detailed guidance on estimating the costs and benefits of major rules; and

[(B) general guidance on estimating the costs and benefits of all other rules that do not meet the thresholds for major rules; and

[(2) to standardize the format of the accounting statements.

[(e) RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.—After each accounting statement and associated report submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

[(1) for improving accounting statements prepared pursuant to this section, including recommendations on level of detail and accuracy; and

[(2) for improving associated reports prepared pursuant to this section, including recommendations on the quality of analysis.

[(f) JUDICIAL REVIEW.—No requirements under this section shall be subject to judicial review in any manner.

[SEC. 8. EFFECTIVE DATE.

[Except as otherwise provided in this Act, this Act shall take effect 180 days after the date of the enactment of this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Comprehensive Regulatory Reform Act of 1995''.

SEC. 2. DEFINITIONS.

Section 551 of title 5, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ''this subchapter'' and inserting ''this chapter and chapters 6, 7, and 8'';

(2) in paragraph (13), by striking ''and'';

(3) in paragraph (14), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following new paragraph:

''(15) 'Director' means the Director of the Office of Management and Budget.''.

SEC. 3. RULEMAKING.

Section 553 of title 5, United States Code, is amended to read as follows:

''§ 553. Rulemaking

''(a) This section applies to every rulemaking, according to the provisions thereof, except to the extent that there is involved—

''(1) a matter pertaining to a military or foreign affairs function of the United States;

''(2) a matter relating to the management and personnel practices of an agency;

''(3) an interpretive rule, general statement of policy, guidance, or rule of agency organization, procedure, or practice that is not generally applicable and does not alter or create rights or obligations of persons outside the agency; or

''(4) a rule relating to the acquisition, management, or disposal by an agency of real or personal property, or of services, that is promulgated in compliance with criteria and procedures established by the Administrator of General Services.

''(b)(1) General notice of proposed rulemaking shall be published in the Federal Register, unless all persons subject thereto are named and either personally served or otherwise have actual notice of the proposed rulemaking in accordance with law. Each notice of proposed rulemaking shall include—

''(A) a statement of the time, place, and nature of public rulemaking proceedings;

''(B) a succinct explanation of the need for and specific objectives of the proposed rule, including an explanation of the agency's determination of whether or not the rule is a major rule within the meaning of section 621(4);

''(C) an explanation of the specific statutory interpretation under which a rule is proposed, including an explanation of—

''(i) whether the interpretation is expressly required by the text of the statute; or

''(ii) if the interpretation is not expressly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and an explanation why the interpretation selected by the agency is the agency's preferred interpretation;

''(D) the proposed provisions of the rule;

''(E) a summary of any initial analysis of the proposed rule required to be prepared or issued pursuant to chapter 6;

''(F) a statement that the agency seeks proposals from the public and from State and local governments for alternative methods to accomplish the objectives of the rulemaking that are more effective or less burdensome than the approach used in the proposed rule;

''(G) a description of any data, methodologies, reports, studies, scientific evaluations, or other similar information available to the agency for the rulemaking, including an identification of each author or source of such information and the purposes for which the agency plans to rely on such information; and

''(H) a statement specifying where the file of the rulemaking proceeding maintained pursuant

to subsection (f) may be inspected and how copies of the items in the file may be obtained.

''(2) Except when notice or hearing is required by statute, a final rule may be adopted and may become effective without prior compliance with this subsection and subsections (c) and (f) if—

''(A) the agency for good cause finds that providing notice and public procedure thereon before the rule becomes effective is contrary to an important public interest or is unnecessary due to the insignificant impact of the rule;

''(B) the agency publishes the rule in the Federal Register with such finding and a succinct explanation of the reasons therefor; and

''(C) the agency complies with this subsection and subsections (c) and (f) to the maximum extent feasible prior to the promulgation of the final rule, and fully complies with such provisions as soon as reasonably practicable after the promulgation of the rule.

''(3) Whenever the provisions of a final rule that an agency plans to adopt are so different from the provisions of the proposed rule that the original notice of proposed rulemaking did not fairly apprise the public of the issues ultimately to be resolved in the rulemaking or of the substance of the rule, the agency shall publish in the Federal Register a notice of the final rule the agency plans to adopt, together with the information relevant to such rule that is required by the applicable provisions of this section and that has not previously been published in the Federal Register. The agency shall allow a reasonable period for comment on such final rule.

''(c)(1) After providing the notice required by this section, the agency shall give interested persons not less than 60 days to participate in the rulemaking through the submission of written data, views, or arguments.

''(2)(A) To collect relevant information, and to identify and elicit full and representative public comment on the significant issues of a particular rulemaking, the agency may use such other procedures as the agency determines are appropriate, including—

''(i) the publication of an advance notice of proposed rulemaking;

''(ii) the provision of notice, in forms which are more direct than notice published in the Federal Register, to persons who would be substantially affected by the proposed rule, but who are unlikely to receive notice of the proposed rulemaking through the Federal Register;

''(iii) the provision of opportunities for oral presentation of data, views, information, or rebuttal arguments at informal public hearings, which may be held in the District of Columbia and other locations;

''(iv) the provision of summaries, explanatory materials, or other technical information in response to public inquiries concerning the issues involved in the rulemaking; and

''(v) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in a rulemaking.

''(B) The decision of an agency to use or not to use such other procedures in a rulemaking pursuant to this paragraph shall not be subject to judicial review.

''(3) To ensure an orderly and expeditious proceeding, an agency may establish reasonable procedures to regulate the course of informal public hearings under paragraphs (1) and (2), including the designation of representatives to make oral presentations or engage in direct or cross-examination on behalf of several parties with a common interest in a rulemaking. Transcripts shall be made of all such public hearings.

''(4) An agency shall publish any final rule it adopts in the Federal Register, together with a concise statement of the basis and purpose of the rule and a statement of when the rule may become effective. The statement of basis and purpose shall include—

''(A) an explanation of the need for, objectives of, and specific statutory authority for, the rule;

''(B) a discussion of, and response to, any significant factual or legal issues raised by the comments on the proposed rule prior to its promulgation, including a description of the reasonable alternatives to the rule proposed by the agency and by interested persons, and the reasons why each such alternative was rejected;

''(C)(i) an explanation of whether the specific statutory interpretation upon which the rule is based is expressly required by the text of the statute; or

''(ii) if the specific statutory interpretation upon which the rule is based is not expressly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and why the agency has rejected other interpretations proposed in comments to the agency;

''(D) an explanation of how the factual conclusions upon which the rule is based are substantially supported in the rulemaking file maintained pursuant to subsection (f); and

''(E) a summary of any final analysis of the rule required to be prepared or issued pursuant to chapter 6.

''(5) The provisions of sections 556 and 557 shall apply in lieu of this subsection in the case of rules that are required by statute to be made on the record after opportunity for an agency hearing.

''(d) An agency shall publish the final rule in the Federal Register not less than 60 days before the effective date of such rule. An agency may make a rule effective in less than 60 days after publication in the Federal Register if the rule grants or recognizes an exemption, relieves a restriction, or if the agency for good cause finds that such a delay in the effective date would be contrary to an important public interest and publishes such finding and an explanation of the reasons therefor, with the final rule.

''(e)(1) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.

''(2) Each person subject to a major rule may petition—

''(A) for the issuance, amendment, or repeal of such rule;

''(B) for the amendment or repeal of an interpretive rule or general statement of policy or guidance;

''(C) for an interpretation regarding the meaning of the rule, interpretive rule, general statement of policy, or guidance; and

''(D) for a variance or exemption from the terms of the rule.

''(3)(A) Any person subject to a rule, interpretive rule, general statement of policy, or guidance may petition an agency for the amendment or repeal of any rule, interpretive rule, general statement of policy, or guidance.

''(B) If such petition presents a reasonable likelihood that, considering its future impact, the rule, interpretive rule, general statement of policy, or guidance is, or has the effect of, a major rule within the meaning of section 621(4), and its amendment or repeal is required to satisfy the decisional criteria of section 624, the agency shall grant the petition and shall, within one year, conduct a cost-benefit analysis under chapter 6.

''(C) If, considering its future impact, the rule, interpretive rule, general statement of policy, or guidance does not satisfy the requirements of chapter 6, including the decisional criteria set forth in section 624, the agency shall take immediate action either to revoke or to amend the rule, interpretive rule, general statement of policy, or guidance to conform it to the requirements of chapter 6, including the decisional criteria in section 624.

''(4) The agency shall grant or deny a petition made pursuant to this subsection, and give written notice of its determination to the petitioner, with reasonable promptness, but in no event later than 180 days after the petition was received by the agency. The written notice of the agency's determination shall include an explanation of the determination and a response to each factual and legal claim that forms the basis of the petition. A decision to deny a petition shall be subject to judicial review immediately upon denial, as final agency action under the statute granting the agency authority to carry out its action.

''(5) Following a decision to grant or deny a petition to conduct a cost-benefit analysis for a rule, interpretive rule, general statement of policy, or guidance under this subsection, no further petition for such rule, interpretive rule, general statement of policy, or guidance, submitted by the same person, shall be considered by any agency unless such petition is based on a change in a fact, circumstance, or provision of law underlying or otherwise related to the rule, interpretive rule, general statement of policy, or guidance occurring since the initial petition was granted or denied, that warrants the amendment or repeal of the rule, interpretive rule, general statement of policy, or guidance.

''(f)(1) The agency shall maintain a file for each rulemaking proceeding conducted pursuant to this section and shall maintain a current index to such file. The file and the material excluded from the file pursuant to paragraph (4) shall constitute the rulemaking record for purposes of judicial review. Except as provided in paragraph (4), the file shall be made available to the public beginning on the date on which the agency makes an initial publication concerning the rule.

''(2) The rulemaking file shall include—

''(A) the notice of proposed rulemaking, any supplement to, or modification or revision of, such notice, and any advance notice of proposed rulemaking;

''(B) copies of all written comments received on the proposed rule;

''(C) a transcript of any public hearing conducted on the rulemaking;

''(D) copies, or an identification of the place at which copies may be obtained, of all material described by the agency pursuant to subsection (b)(1)(G) and of other factual and methodological material not described by the agency pursuant to such subsection that pertains directly to the rulemaking and that was available to the agency in connection with the rulemaking, or that was submitted to or prepared by or for the agency in connection with the rulemaking; and

''(E) any statement, description, analysis, or any other material that the agency is required to prepare or issue in connection with the rulemaking, including any analysis prepared or issued pursuant to chapter 6.

''(3) The agency shall place the materials described in paragraph (2) in the file as soon as practicable after such materials become available to the agency.

''(4) The file required by paragraph (1) need not include any material that need not be made available to the public under section 552(b)(4) if the agency includes in such file a statement that notes the existence of such material and the basis upon which the material is exempt from public disclosure under such section. The agency may not substantially rely on any such material in formulating a rule unless it makes the substance of such material available for adequate comment by interested persons. The agency may use summaries, aggregations of data, or other appropriate mechanisms to protect the confidentiality of such material to the maximum extent possible.

''(5) No court shall hold unlawful or set aside an agency rule because of a violation of this subsection unless the court finds that such violation has precluded fair public consideration of a material issue of the rulemaking taken as a whole. Judicial review of compliance or noncompliance with this subsection shall be limited to review of action or inaction on the part of an agency.

''(g) Notwithstanding any other provision of law, this section shall apply to and supplement the procedures governing rulemaking under statutes that are not generally subject to this section.

''(h) Nothing in this section authorizes the use of appropriated funds available to any agency to pay the attorney's fees or other expenses of persons participating or intervening in agency proceedings.''.

SEC. 4. ANALYSIS OF AGENCY RULES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER II—ANALYSIS OF AGENCY RULES

''§ 621. Definitions

''For purposes of this subchapter—

''(1) the term 'benefit' means the reasonably identifiable significant incremental benefits, including social and economic benefits, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule;

''(2) the term 'cost' means the reasonably identifiable significant incremental costs and adverse effects, including social and economic costs, reduced consumer choice, substitution effects, and impeded technological advancement, that are expected to result directly or indirectly from implementation of, or compliance with, a rule or an alternative to a rule;

''(3) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition;

''(4)(A) the term 'major rule' means—

''(i) a rule or a group of closely related rules that the agency proposing the rule, the Director, or a designee of the President reasonably determines is likely to have a gross annual effect on the economy of $50,000,000 or more in reasonably quantifiable increased direct and indirect costs, or has a significant impact on a sector of the economy; or

''(ii) a rule or a group of closely related rules that is otherwise designated a major rule by the agency proposing the rule, the Director, or a designee of the President on the ground that the rule is likely to result in—

''(I) a substantial increase in costs or prices for wage earners, consumers, individual industries, nonprofit organizations, Federal, State, or local government agencies, or geographic regions;

''(II) significant adverse effects on competition, employment, investment, productivity, innovation, health, safety, or the environment, or the ability of enterprises whose principal places of business are in the United States to compete in domestic or export markets;

''(III) a serious inconsistency or interference with an action taken or planned by another agency;

''(IV) the material alteration of the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

''(V) disproportionate costs to a class of persons within the regulated sector, and relatively severe economic consequences for the class;

''(B) the term 'major rule' does not include—

''(i) a rule that involves the internal revenue laws of the United States; or

''(ii) a rule or agency action that authorizes the introduction into, or removal from, commerce, or recognizes the marketable status, of a product;

''(5) the term 'market-based mechanism' means a regulatory program that—

''(A) imposes legal accountability for the achievement of an explicit regulatory objective on each regulated person;

''(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, which flexibility shall, where feasible and appropriate, include, but not be limited to, the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

''(C) permits regulated persons to respond freely to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates;

''(6) the term 'performance-based standards' means requirements, expressed in terms of outcomes or goals rather than mandatory means of achieving outcomes or goals, that permit the regulated entity discretion to determine how best to meet specific requirements in particular circumstances;

''(7) the term 'reasonable alternatives' means the range of regulatory options that the agency has discretion to consider under the text of the statute granting rulemaking authority, interpreted, to the maximum extent possible, to embrace the broadest range of options that satisfy the decisional criteria of section 624(b); and

''(8) the term 'rule' has the same meaning as in section 551(4), and—

''(A) includes any statement of general applicability that alters or creates rights or obligations of persons outside the agency; and

''(B) does not include—

''(i) a rule of particular applicability that approves or prescribes the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

''(ii) a rule relating to monetary policy or to the safety or soundness of Federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956), credit unions, Federal Home Loan Banks, government sponsored housing enterprises, farm credit institutions, foreign banks that operate in the United States and their affiliates, branches, agencies, commercial lending companies, or representative offices, (as those terms are defined in section 1 of the International Banking Act of 1978); or

''(iii) a rule relating to the payment system or the protection of deposit insurance funds or the farm credit insurance fund.

''§ 622. Rulemaking cost-benefit analysis

''(a) Prior to publishing notice of a proposed rulemaking for any rule (or, in the case of a notice of a proposed rulemaking that has been published on or before the date of enactment of this subchapter, not later than 30 days after such date of enactment), each agency shall determine whether the rule is or is not a major rule within the meaning of section 621(4)(A)(i) and, if it is not, whether it should be designated a major rule under section 621(4)(A)(ii). For the purpose of any such determination or designation, a group of closely related rules shall be considered as one rule.

''(b)(1) If an agency has determined that a rule is not a major rule within the meaning of section 621(4)(A)(i) and has not designated the rule a major rule within the meaning of section 621(4)(A)(ii), the Director or a designee of the President may, as appropriate, determine that the rule is a major rule or designate the rule a major rule not later than 30 days after the publication of the notice of proposed rulemaking for the rule (or, in the case of a notice of proposed rulemaking that has been published on or before the date of enactment of this subchapter, not later than 60 days after such date of enactment).

''(2) Such determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation.

''(c)(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking file an initial cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

''(B)(i) When the Director or a designee of the President has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

''(ii) Following the issuance of an initial cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment in the same manner as if the initial cost-benefit analysis had been issued with the notice of proposed rulemaking.

''(2) Each initial cost-benefit analysis shall contain—

''(A) an analysis of the benefits of the proposed rule, and an explanation of how the agency anticipates each benefit will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

''(B) an analysis of the costs of the proposed rule, and an explanation of how the agency anticipates each such cost will result from the proposed rule, including a description of the persons or groups of persons likely to bear such costs;

''(C) an identification (including an analysis of the costs and benefits) of reasonable alternatives that the agency has discretion to adopt under the decisional criteria of the statute granting the rulemaking authority, as supplemented by the decisional criteria in section 624, for achieving identified benefits, including, where appropriate, alternatives that—

''(i) require no government action;

''(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; and

''(iii) employ voluntary or performance-based standards, market-based mechanisms, or other flexible regulatory alternatives that permit the greatest flexibility in achieving the identified benefits of the proposed rule;

''(D) an assessment of the feasibility of establishing a regulatory program that operates through the application of voluntary programs, voluntary consensus standards, performance-based standards, market-based mechanisms, or other flexible regulatory alternatives;

''(E) in any case in which the proposed rule is based on one or more scientific evaluations, scientific information, or a risk assessment, or is subject to the risk assessment requirements of subchapter III, a description of the actions undertaken by the agency to verify the quality, reliability, and relevance of such scientific evaluations or scientific information in accordance with the requirements of subchapter III;

''(F) an analysis, to the extent practicable, of the effect of the rule on—

''(i) the cumulative burden of compliance with the rule and other existing regulations on persons complying with it; and

''(ii) the net effect on small businesses with fewer than 100 employees, including employment in such businesses;

''(G) an analysis of whether the identified benefits of the proposed rule justify the identified costs of the proposed rule, and an analysis of whether the proposed rule will achieve greater net benefits or, where applicable, lower net costs, than any of the alternatives to the proposed rule, including alternatives identified in accordance with subparagraphs (C) and (D).

''(d)(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking file a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

''(2) Each final cost-benefit analysis shall contain—

''(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking, including the flexible regulatory alternatives identified pursuant to subsection (c)(2)(C) and (D); and

''(B) an analysis, based upon the rulemaking record considered as a whole, of—

''(i) whether the benefits of the rule justify the costs of the rule; and

''(ii) whether the rule will achieve greater net benefits or, where section 624(c) applies, lower net costs, than any of the reasonable alternatives that the agency has discretion to adopt under the decisional criteria of the statute granting the rulemaking authority, as supplemented by the decisional criteria in section 624, for achieving identified benefits, including, where appropriate, alternatives referred to in subsection (c)(2)(C) and (D).

''(e)(1)(A) The analysis of the benefits and costs of a proposed and a final rule required under this section shall include, to the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs. Such quantification or numerical estimate shall be made in the most appropriate unit of measurement, using comparable assumptions, including time periods, shall specify the ranges of predictions, and shall explain the margins of error involved in the quantification methods and in the estimates used. An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible. An agency shall not be required to make such evaluation primarily on a mathematical or numerical basis.

''(B) Where practicable and appropriate, the description of the benefits and costs of a proposed and final rule required under this section shall describe such benefits and costs on an industry by industry basis.

''(2)(A) In evaluating and comparing costs and benefits and in evaluating the risk assessment information developed pursuant to subchapter III, the agency shall not rely on cost, benefit, or risk assessment information that is not accompanied by relevant information that would enable the agency and other persons interested in the rulemaking to assess the accuracy, reliability, and uncertainty factors applicable to such information.

''(B) The agency evaluations of the relationships of the benefits of a proposed and final rule to its costs shall be clearly articulated in accordance with this section.

''(f) The preparation of the initial or final cost-benefit analysis required by this section shall only be performed by an officer or employee of the agency. The preceding sentence shall not preclude a person outside the agency from gathering data or information to be used by the agency in preparing any such cost-benefit analysis or from providing an explanation sufficient to permit the agency to analyze such data or information. If any such data or information is gathered or explained by a person outside the agency, the agency shall specifically identify in the initial or final cost-benefit analysis the data or information gathered or explained and the person who gathered or explained it, and shall describe the arrangement by which the information was procured by the agency, including the total amount of funds expended for such procurement.

''§ 623. Petition for cost-benefit analysis

''(a)(1) Any person subject to a major rule may petition the relevant agency, the Director, or a designee of the President to perform a cost-benefit analysis under this subchapter for the major rule, including a major rule in effect on the date of enactment of this subchapter for which a cost-benefit analysis pursuant to such subchapter has not been performed, regardless of whether a cost-benefit analysis was previously performed to meet requirements imposed before the date of enactment of this subchapter.

''(2) The petition shall identify with reasonable specificity the major rule to be reviewed and the amendment or repeal requested.

''(3) The agency, the Director, or a designee of the President shall grant the petition if the petition shows that there is a reasonable likelihood that, considering the future impact of the rule—

''(A) the rule is a major rule; and

''(B) the proposed amendment or repeal of the rule is required to satisfy the decisional criteria of section 624.

''(4) A decision to grant, or final agency action to deny, a petition under this subsection shall be made not later than 180 days after submittal.

''(5) Following a decision to grant or deny a petition to conduct a cost-benefit analysis for a rule under this subsection, no further petition for such rule, submitted by the same person, shall be considered by any agency, the Director, or a designee of the President, unless such petition is based on a change in a fact, circumstance, or provision of law underlying or otherwise related to the rule occurring since the initial petition was granted or denied, that warrants the amendment or repeal of the rule.

''(b) Not later than 1 year after the date on which a petition has been granted for a major rule under subsection (a), the agency shall conduct a cost-benefit analysis in accordance with this subchapter, and shall propose amendments to, or repeal of, the rule if required by the decisional criteria set forth in section 624.

''(c) For purposes of this section, the term 'major rule' means any major rule or portion thereof.

''(d)(1) Any person may petition the relevant agency to withdraw, as contrary to this subchapter, any agency interpretive rule, guidance, or general statement of policy that would have the effect of a major rule if the interpretive rule, guidance, or general statement of policy had been adopted as a rule.

''(2) The petition shall identify with reasonable specificity why the interpretive rule, guidance, or general statement of policy would have the effect of a major rule if adopted as a rule.

''(3) The agency shall grant the petition if the petition shows that there is a reasonable likelihood that the guidance or general statement of policy would have the effect of a major rule if adopted as a rule.

''(4) A decision to grant, or final agency action to deny, a petition under this subsection shall be made not later than 180 days after the petition is submitted.

''(e) For each interpretative rule, guidance, or general statement of policy for which a petition has been granted under subsection (d), the agency shall—

''(1) immediately withdraw the interpretive rule, guidance, or general statement of policy; or

''(2) within one year, propose a rule in compliance with this subchapter incorporating, with such modifications as the agency considers appropriate, the regulatory standards or criteria contained in such interpretive rule, general statement of policy, or guidance.

''(f) Upon withdrawing an interpretive rule, guidance, or general statement of policy, or where such interpretive rule, guidance, or general statement of policy is not withdrawn and a final rule is not promulgated within 2 years of granting a petition under subsection (d), the agency shall be prohibited from enforcing against any person the regulatory standards or criteria contained in such interpretive rule, guidance, or general statement of policy, unless and until they are included in a rule promulgated in accordance with this subchapter.

''(g)(1) Any person subject to a major rule may petition the relevant agency to modify or waive the specific requirements of the major rule and to authorize such person to demonstrate compliance through alternative means not otherwise permitted by the major rule. The petition shall identify with reasonable specificity the requirements for which the waiver is sought and the alternative means of compliance being proposed.

''(2) The agency shall grant the petition if the petition shows that there is a reasonable likelihood that the proposed alternative means of compliance would achieve the specific benefits of the major rule with an equivalent or greater level of protection of health, safety, and the environment than would be provided by the major rule, and would not impose an undue burden on the agency that would be responsible for enforcing such alternative means of compliance.

''(3) Following a decision to grant or deny a petition under this subsection, no further petition for such rule, submitted by the same person, shall be considered by any agency unless such petition is based on a change in a fact, circumstance, or provision of law underlying or otherwise related to the rule occurring since the initial petition was granted or denied, that warrants the granting of such further petition.

''§ 624. Decisional criteria

''(a) The requirements of this section shall supplement any other decisional criteria otherwise provided by law.

''(b) Subject to subsection (c), no final rule subject to this subchapter shall be promulgated unless the agency finds that—

''(1) the potential benefits from the rule justify the potential costs of the rule; and

''(2) the rule will produce the most cost-effective result of any of the reasonable alternatives that the agency has discretion to adopt under the decisional criteria of the statute granting the rulemaking authority.

''(c) If a statute requires or permits that a rule be promulgated and that rule cannot, applying the express decisional criteria in the statute, satisfy the criteria provided in subsection (b), the agency shall not promulgate the rule unless the rule imposes—

''(1) lower costs than any of the reasonable alternatives; or

''(2) the least costs taking into account benefits that the agency has discretion to adopt under the decisional criteria of the statute granting the rulemaking authority.

''(d) If an agency promulgates a rule that is subject to subsection (c), the agency shall prepare a written explanation of why the agency was required to promulgate a rule with potential costs that were not justified by the potential benefits and shall transmit that explanation along with the final cost-benefit analysis to Congress when the final rule is promulgated.

''§ 625. Judicial review

''(a) Each court with jurisdiction to review final agency action under the statute granting the agency authority to conduct the rulemaking shall have jurisdiction to review final agency action under this subchapter.

''(b)(1) Any cost-benefit analysis of, or risk assessment concerning, a rule shall constitute part of the whole rulemaking record of agency action for the purpose of judicial review and shall be considered by a court in determining the legality of the agency action, but only to the extent that it relates to the agency's decisional responsibilities under section 624 or the statute granting the agency authority to take the agency action.

''(2) No analysis required by this subchapter shall be subject to judicial review separate or apart from judicial review of the agency action to which it relates.

''(3) The court shall apply the same standards of judicial review that govern the review of agency findings under the statute granting the agency authority to take the action.

''(4) The court shall set aside agency action that fails to satisfy the decisional criteria of section 624, applying the applicable judicial review standards.

''§ 626. Deadlines for rulemaking

''(a) Beginning on the date of enactment of this section, all deadlines in statutes that require agencies to propose or promulgate any

rule subject to this subchapter shall be suspended until such time as the requirements of this subchapter are satisfied.

''(b) Beginning on the date of enactment of this section, the jurisdiction of any court of the United States to enforce any deadline that would require an agency to propose or promulgate a rule subject to this chapter shall be suspended until such time as the requirements of this subchapter are satisfied.

''(c) In any case in which the failure to promulgate a rule by a deadline would create an obligation to regulate through individual adjudications by another deadline, the deadline for such regulation shall be suspended to allow the requirements of this subchapter to be satisfied.

''§ 627. Agency review of rules

''(a)(1)(A) Not later than 9 months after the date of enactment of this section, each agency shall prepare and publish in the Federal Register a proposed schedule for the review, in accordance with this section, of—

''(i) each rule of the agency that is in effect on such effective date and which, considering its future impact, would be a major rule under this subchapter;

''(ii) each rule of the agency that is inconsistent or incompatible with, or duplicative of, any other obligation or requirement established by any Federal statute, rule, or other agency statement, interpretation, or action that has the force of law; and

''(iii) each rule of the agency in effect on the date of enactment of this section (in addition to the rules described in clauses (i) and (ii)) that the agency has selected for review.

''(B) Each proposed schedule required by subparagraph (A) shall include—

''(i) a brief explanation of the reasons the agency considers each rule on the schedule to be a major rule under section 621(4)(A), or the reasons why the agency selected the rule for review;

''(ii) a date set by the agency, in accordance with subsection (b)(1), for the completion of the review of each such rule; and

''(iii) a statement that the agency requests comments from the public on the proposed schedule.

''(C) The agency shall set a date to initiate review of each rule on the schedule in a manner that will ensure the simultaneous review of related items and that will achieve a reasonable distribution of reviews over the period of time covered by the schedule.

''(2) Not later than 90 days before publishing in the Federal Register the proposed schedule required under paragraph (1), each agency shall make the proposed schedule available to the Director or a designee of the President, or to the Vice President or other officer to whom oversight authority has been delegated under section 643. The President or that officer may select for review in accordance with this section any additional rule.

''(3) Not later than 1 year after the date of enactment of this section, each agency shall publish in the Federal Register a final schedule for the review of the rules referred to in paragraphs (1) and (2). Each agency shall publish with the final schedule the response of the agency to comments received concerning the proposed schedule.

''(b)(1) Except as explicitly provided otherwise by statute, the agency shall, pursuant to subsections (c) through (e), review—

''(A) each rule on the schedule promulgated pursuant to subsection (a);

''(B) each major rule under section 621(4) promulgated, amended, or otherwise renewed by an agency after the date of the enactment of this section; and

''(C) each rule promulgated after the date of enactment of this section that the President or the officer designated by the President selects for review pursuant to subsection (a)(2).

''(2) Except as provided in subsection (f)—

''(A) in the case of a regulation that takes effect after the date of enactment of this section, the regulation shall terminate on the date that is 5 years after the date on which the regulation takes effect, unless the review required by this section has been completed by the date that is 5 years after the date on which the regulation takes effect; and

''(B) in the case of a regulation in effect on the date of enactment of this section, the regulation shall terminate on the date that is 7 years after the date of enactment of the Regulatory Reform Act of 1995, unless the review required by this section has been completed by the date that is 7 years after the date of enactment of the Regulatory Reform Act of 1995.

''(c) An agency shall publish in the Federal Register a notice of its proposed action under this section with respect to a rule being reviewed. The notice shall include—

''(1) an identification of the specific statutory authority under which the rule was promulgated and an explanation of whether the agency's interpretation of the statute is expressly required by the current text of that statute or, if not, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and an explanation why the interpretation selected by the agency is the agency's preferred interpretation;

''(2) an analysis of the benefits and costs of the rule during the period in which it has been in effect;

''(3) an explanation of the proposed agency action with respect to the rule, including action to repeal or amend the rule to resolve inconsistencies or conflicts with any other obligation or requirement established by any Federal statute, rule, or other agency statement, interpretation, or action that has the force of law; and

''(4) a statement that the agency seeks proposals from the public for modifications or alternatives to the rule which may accomplish the objectives of the rule in a more effective or less burdensome manner.

''(d) If an agency proposes to repeal or amend a rule under review pursuant to this section, the agency shall, after issuing the notice required by subsection (c), comply with the provisions of this chapter, chapter 5, and any other applicable law. The requirements of such provisions and related requirements shall apply to the same extent and in the same manner as in the case of a proposed agency action to repeal or amend a rule that is not taken pursuant to the review required by this section.

''(e) If an agency proposes to renew without amendment a rule under review pursuant to this section, the agency shall—

''(1) give interested persons not less than 60 days after the publication of the notice required by subsection (c) to comment on the proposed renewal; and

''(2) publish in the Federal Register notice of the renewal of such rule, an explanation of the continued need for the rule, and, if the renewed rule is a major rule under section 621(4), an explanation of how the rule complies with section 624.

''(f) Any agency, which for good cause finds that compliance with this section with respect to a particular rule during the period provided in subsection (b) is contrary to an important public interest, may request the President, or an officer designated by the President, to establish a period longer than 5 years, in the case of a regulation that takes effect after the date of enactment of this section, or 7 years, in the case of a regulation in effect on the date of enactment of this section, for the completion of the review of such rule. The President or that officer may extend the period for review of a rule to a total period of not more than 10 years. Such extension shall be published in the Federal Register with an explanation of the reasons therefor.

''(g) In any case in which an agency has not completed the review of a rule within the period prescribed by subsection (b) or (f) of this section, the agency shall immediately publish in the Federal Register a notice proposing to issue the rule under subsection (c), and shall complete proceedings pursuant to subsection (d) or (e) not later than 180 days after the date on which the review was required to be completed under subsection (b) or (f).

''(h) Nothing in this section shall relieve any agency from its obligation to respond to a petition to issue, amend, or repeal a rule, for an interpretation regarding the meaning of a rule, or for a variance or exemption from the terms of a rule, submitted pursuant to any other provision of law.

''§ 628. Special rule

''Notwithstanding any other provision of the Comprehensive Regulatory Reform Act of 1995, or the amendments made by such Act, for purposes of this subchapter and subchapter IV, the head of each appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act), the National Credit Union Administration, the Federal Housing Finance Board, the Office of Federal Housing Enterprise Oversight, and the Farm Credit Administration, shall have authority with respect to such agency that otherwise would be provided under such subchapters to the Director, a designee of the President, Vice President, or any officer designated or delegated with authority under such subchapters.

''SUBCHAPTER III—RISK ASSESSMENTS

''§ 631. Definitions

''For purposes of this subchapter—

''(1) the term 'benefit' has the meaning given such term in section 621(1);

''(2) the term 'best estimate' means an estimate that, to the extent feasible and scientifically appropriate, is based on—

''(A) central estimates of risk using the most plausible and realistic assumptions;

''(B) an approach that combines multiple estimates based on different scenarios and weighs the probability of each scenario; and

''(C) any other methodology designed to provide the most plausible and realistic level of risk, given the current scientific information available to the agency concerned;

''(3) the term 'cost' has the meaning given such term in section 621(2);

''(4) the term 'cost-benefit analysis' has the meaning given such term in section 621(3);

''(5) the term 'emergency' means an actual, immediate, and substantial endangerment to health, safety, or the human environment;

''(6) the term 'hazard identification' means identification of a substance, activity, or condition that may cause to health, safety, or the environment based on empirical data, measurements, or testing showing that it has caused significant adverse effects at some levels of dose or exposure combined degree of toxicity and actual exposure, or other risk the hazards pose for individuals, populations, or natural resources; and

''(7) the term 'major cleanup plan' means any proposed or final environmental cleanup plan for a facility, or Federal guidelines for the issuance of any such plan, the expected costs, expenses, and damages of which are likely to exceed, in the aggregate, $10,000,000, including a corrective action requirement under the Solid Waste Disposal Act (notwithstanding section 4(b)(1)(C) of such Act, but only to the extent of such requirement), a removal or remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and any other environmental restoration or damage assessment carried out by, on behalf of, or as required or ordered by, an agency or Federal court, or pursuant to the authority of a Federal statute with respect to any substance;

''(8) the term 'major rule' has the meaning given such term in section 621(4);

''(9) the term 'negative data' means data that fail to show that a given substance or activity

induces an adverse effect under certain conditions;

''(10) the term 'risk assessment' means—

''(A) the process of identifying hazards, and of quantifying (to the maximum extent practicable) or describing the combined degree of toxicity and actual exposure, or other risk the hazards pose for individuals, populations, or natural resources; and

''(B) the document containing the explanation of how the assessment process has been applied to an individual substance, activity, or condition;

''(11) the term 'risk characterization'—

''(A) means the element of a risk assessment that involves presentation of the degree of risk to individuals and populations expected to be protected, as presented in any regulatory proposal or decision, report to Congress, or other document that is made available to the public; and

''(B) may include discussions of uncertainties, conflicting data, estimates, extrapolations, inferences, and opinions, as appropriate;

''(12) the term 'rule' has the meaning given such term in section 621(7); and

''(13) the term 'substitution risk' means a potential increased risk to health, safety, or the environment resulting from market substitutions, a reduced standard of living, or a regulatory alternative designed to decrease other risks.

''§ 632. Applicability

''(a) Except as provided in subsection (b), this subchapter shall apply to all risk assessments and risk characterizations prepared by, or on behalf of, or prepared by others and adopted by, any agency in connection with health, safety, and environmental risks.

''(b)(1) This subchapter shall not apply to risk assessments or risk characterizations performed with respect to—

''(A) a situation that the head of the agency finds to be an emergency;

''(B) a rule or agency action that authorizes the introduction into or removal from commerce, or initiation of manufacture, of a substance, mixture, or product, or recognizes the marketable status of a product;

''(C) a health, safety, or environmental inspection, compliance or enforcement action, or individual facility permitting action; or

''(D) a screening analysis clearly identified as such.

''(2)(A) An analysis shall not be treated as a screening analysis for the purposes of paragraph (1)(D) if the result of the analysis is used—

''(i) as the basis for imposing a restriction on a previously authorized substance, product, or activity after its initial introduction into manufacture or commerce; or

''(ii) to characterize a finding of risk from a substance or activity in any agency document or other communication made available to the public, the media, or Congress.

''(B) Among the analyses that may be treated as a screening analyses for the purposes of paragraph (1)(D) are product registrations, reregistrations, tolerance settings, and reviews of premanufacture notices under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) and the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

''(3) This subchapter shall not apply to any food, drug, or other product label or to any risk characterization appearing on any such label.

''§ 633. Principles for risk assessment

''(a)(1) The head of each agency shall apply the principles set forth in subsection (b) when preparing any risk assessment for a major rule to ensure that the risk assessment and all of its components—

''(A) distinguish scientific findings and best estimates of risk from other considerations;

''(B) are, to the maximum extent practicable, scientifically objective, plausible, and realistic, and inclusive of all relevant data;

''(C) rely, to the extent available and practicable, on scientific findings; and

''(D) use situation- or decision-specific information to the maximum extent practicable.

''(2) An agency shall not be required to repeat discussions or explanations required under this section in each risk assessment document if there is an unambiguous reference to the relevant discussion or explanation in another reasonably available agency document that was prepared in accordance with this subchapter.

''(b) The principles to be applied when preparing risk assessments are as follows:

''(1)(A) When assessing human health risks, a risk assessment shall consider and discuss both the most important laboratory and epidemiological data, including negative data, and summarize the remaining data that finds, or fails to find, a correlation between a health risk and a substance or activity.

''(B) When conflicts among such data appear to exist, or when animal data are used as a basis to assess human health, the assessment shall include a discussion of possible reconciliation of conflicting information. Greatest emphasis shall be placed on data that indicates the biological basis of the resulting harm in humans. Animal data shall be reviewed with regard to relevancy to humans.

''(2) When a risk assessment involves a choice of any significant assumption (including the use of safety factors and default assumptions), inference, or model, the agencies or instrumentality preparing the assessment shall—

''(A) present a representative description and explicit explanation of plausible and alternative similar assumptions, inferences, or models (including the assumptions incorporated into the model) and the sensitivity of the conclusions to them;

''(B) give preference to the model, assumption, input parameter that represents the most plausible or realistic inference from supporting scientific information;

''(C) identify any science policy or value judgments and employ those judgments only where the policy determination has been approved by the head of the agency, after notice and opportunity for public involvement, as appropriate for the circumstance under consideration;

''(D) describe any model used in the risk-assessment and make explicit the assumptions incorporated into the model; and

''(E) indicate the extent to which any significant model has been validated by, or conflicts with, empirical data.

''(3) Risk assessments that provide a quantification or numerical output shall be calculated using the best estimate for each input parameter and shall use, as available, probabilistic descriptions of the uncertainty and variability associated with each input parameter.

''(4) A risk assessment shall clearly separate hazard identification from risk characterization and make clear the relationship between the level of risk and the level of exposure to a potential hazard.

''(5) A risk assessment shall be prepared at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition.

''(6) Where relevant, practicable, and appropriate, data shall be developed consistent with standards for the development of test data promulgated pursuant to section 4 of the Toxic Substances Control Act, and standards for data requirements promulgated pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act.

''(c)(1) The head of each agency shall promote early involvement by all stakeholders in the development of risk assessments that may support or affect agency rules, guidance, and other significant actions, by publishing as part of its semiannual regulatory agenda, required under section 602—

''(A) a list of risk assessments and supporting assessments, including hazard, dose or exposure assessments, under preparation or planned by the agency;

''(B) a brief summary of relevant issues addressed or to be addressed by each listed risk assessment or supporting assessment;

''(C) an approximate schedule for completing each listed risk assessment and supporting assessment;

''(D) an identification of potential rules, guidance, or other agency actions supported or affected by each listed risk assessment and supporting assessment; and

''(E) the name, address, and telephone number of an agency official knowledgeable about each listed risk assessment and supporting assessment.

''(2)(A) The head of each agency shall provide an opportunity for meaningful public participation and comment on any risk assessment throughout the regulatory process commensurate with the consequences of the decision to be made.

''(B) In cases where the risk assessment will support a major rule, the agency shall publish, at the earliest opportunity in the process, an advanced notice of relevant risk assessment related information that includes, at a minimum, an identification of—

''(i) all relevant hazard, dose, exposure, and other risk related documents that the agency plans to consider;

''(ii) all risk related guidance that the agency considers relevant;

''(iii) all hazard, dose, exposure, and other risk assumptions on which the agency plans to relay and the bases therefor; and

''(iv) all data and information deficiencies that could affect agency decisionmaking.

''(d)(1) No agency shall automatically incorporate or adopt any recommendation or classification made by an entity described in paragraph (2) concerning the health effects or value of a substance without an opportunity for notice and comment. Any risk assessment or risk characterization document adopted by an agency on the basis of such a recommendation or classification shall comply with this title.

''(2) An entity referred to in paragraph (1) includes—

''(A) any foreign government and its agencies;

''(B) the United Nations or any of its subsidiary organizations;

''(C) any international governmental body or standards-making organization; and

''(D) any other organization or private entity without that does not have a place of business located in the United States or its territories.

''§ 634. Principles for risk characterization and communication

''In characterizing risk in any risk assessment document, regulatory proposal or decision, report to Congress, or other document relating in each case to a major rule that is made available to the public, each agency characterizing the risk shall comply with each of the following:

''(1) The head of the agency shall describe the exposure scenarios used in any risk assessment, and, to the extent feasible, provide an estimate of the size of the corresponding population or natural resource at risk and the likelihood of such exposure scenarios.

''(2) If a numerical estimate of risk is provided, the head of the agency, to the extent feasible and scientifically appropriate, shall provide—

''(A) the range and distribution of exposures derived from exposure scenarios used in a risk assessment, including, where appropriate, central and high-end estimates, but always including a best estimate of the risk to the general population;

''(B) the range and distribution of risk estimates, including best estimates and, where quantitative estimates of the range of distribution of risk estimates are not possible, a list of

qualitative factors influencing the range of possible risks; and

''(C) a statement of the major sources of uncertainties in the hazard identification, dose-response, and exposure assessment phases of risk assessment and their influence on the results of the assessment.

''(3) To the extent feasible, the head of the agency shall provide a statement that places the nature and magnitude of individual and population risks to human health in context.

''(4) When a Federal agency provides a risk assessment or risk characterization for a proposed or final regulatory action, such assessment or characterization shall include a statement of any significant substitution risks to human health identified by the agency or contained in information provided to the agency by a commentator.

''(5) An agency shall present a summary in connection with the presentation of the agency's risk assessment or the regulation if—

''(A) the agency provides a public comment period with respect to a risk assessment or regulation;

''(B) a commentator provides a risk assessment, and a summary of results of such risk assessment; and

''(C) such risk assessment is reasonably consistent with the principles and the guidance provided under this subtitle.

''§ 635. Requirement to prepare assessment

''(a) Except as provided in section 632 and in addition to any requirements applicable under subchapter II, the head of each agency shall prepare—

''(1) for each major rule relating to health, safety, or the environment, and for each major cleanup plan, that is proposed by the agency after the date of enactment of this subchapter, is pending on the date of enactment of this subchapter, or is subject to a granted petition for review pursuant to section 553(e) or 623, a risk assessment in accordance with this subchapter;

''(2) for each such proposed or final plan, and each reasonable alternative within the statutory authority of the agency taking action, a cost-benefit analysis equivalent to that which would be required under subchapter II if subchapter II were applicable; and

''(3) for each such proposed or final plan, quantified to the extent feasible, a comparison of any health, safety, or environmental risks addressed by the regulatory alternatives to other relevant risks chosen by the head of the agency, including at least 3 other risks regulated by the agency and to at least 3 other risks with which the public is familiar.

''(b) A major cleanup plan is subject to this subchapter if—

''(1) construction has not commenced on a significant portion of the work required by the plan; or

''(2) if construction has commenced on a significant portion of the work required by the plan, unless—

''(A) it is more cost-effective to complete construction of the work than to apply the provisions of this subchapter; or

''(B) the application of the provisions of this subchapter, including any delays caused thereby, will result in an actual and immediate risk to human health or welfare.

''(c) A risk assessment prepared pursuant to this subchapter shall be a component of and used to develop any cost-benefit analysis required by this subchapter or subchapter II, and shall, along with any cost-benefit analysis required by this subchapter, be made part of the administrative record for judicial review of any final agency action.

''§ 636. Requirements for assessments

''(a) The head of the agency, subject to review by the Director or a designee of the President, shall make a determination that, notwithstanding any other provision of law—

''(1) for each major rule and major cleanup plan subject to this subchapter, the risk assessment required under section 635 is based on a scientific, plausible, and realistic evaluation, reflecting reasonable exposure scenarios, of the risk addressed by the major rule and is supported by the best available scientific data, as determined by a peer review panel in accordance with section 640; and

''(2) for each major cleanup plan subject to this subchapter, the plan has benefits that justify its costs and that there is no alternative that is allowed by the statute under which the plan is promulgated that would provide greater net benefits or that would achieve an equivalent reduction in risk in a more cost-effective and flexible manner.

''(b) Notwithstanding any other provision of law, no agency shall prohibit or refuse to approve a substance or product on the basis of safety where the substance or product presents a negligible or insignificant human risk under the intended conditions of use.

''(c) Notwithstanding any other provision of law, issuance of a record of decision or a final permit condition or administrative order containing a major cleanup plan, or denial of, or completion of agency review pursuant to, a petition for review of a major cleanup plan under section 637(c), shall constitute final agency action subject to judicial review at the time this action is taken.

''§ 637. Regulations; plan for assessing new information

''(a)(1) Not later than 1 year after the date of enactment of this subchapter, the Director or a designee of the President shall—

''(A) issue a final regulation that has been subject to notice and comment under section 553 that directs agencies to implement the risk assessment and risk characterization principles set forth in sections 633 and 634; and

''(B) provide a format for summarizing risk assessment results.

''(2) The regulation under paragraph (1) shall be sufficiently specific to ensure that risk assessments are conducted consistently by the various agencies.

''(b) Review of a risk assessment or any entry (or the evaluation underlying the entry) on an agency-developed database (including, but not limited to, the Integrated Risk Information System), shall be conducted by the head of the agency on the written petition of a person showing a reasonable likelihood that—

''(1) the risk assessment or entry is inconsistent with the principles set forth in sections 633 and 634;

''(2) the risk assessment or entry contains different results than if it had been properly conducted under sections 633 and 634;

''(3) the risk assessment or entry is inconsistent with a rule issued under subsection (a); or

''(4) the risk assessment or entry does not take into account material significant new scientific data or scientific understanding.

''(c) Review of a risk assessment, a cost-benefit analysis, or both, for a major cleanup plan shall be conducted by the head of the agency on the written petition of a person showing a reasonable likelihood that—

''(1) the risk assessment warrants revision under any of the criteria set forth in subsection (b); or

''(2) the cost-benefit analysis warrants revision under any of the criteria set forth in section 624.

''(d)(1) Not later than 90 days after receiving a petition under subsection (b), the head of the agency shall respond to the petition by agreeing or declining to review the risk entry, the cost-benefit analysis, or both, referred to in the petition, and shall state the basis for the decision.

''(2) If the head of the agency agrees to review the petition, the agency shall complete its review not later than 180 days after the decision made under paragraph (1), unless the Director agrees in writing with an agency determination that an extension is necessary in view of limitations on agency resources. Prior to completion of the agency review, the agency's written conclusions concerning the review shall be subjected to peer review pursuant to section 640.

''(3) A risk assessment review completed pursuant to a petition may be the basis for initiating a petition pursuant to any other provision of law.

''(4) Following a decision to grant or deny a petition under subsection (b) or (c), no further petition for such risk assessment, entry, or cost-benefit analysis, submitted by the same person, shall be considered by any agency unless such petition is based on a change in a fact, circumstance, or provision of law underlying or otherwise related to the matters covered by the initial petition, occurring since the initial petition was granted or denied, that warrants the granting of such further petition.

''(e) The regulations under this section shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State agencies and local governments, and such other departments, agencies, offices, organizations, or persons as may be advisable.

''(f) At least every 4 years, the Director or a designee of the President shall review, and when appropriate, revise, the regulations published under this section.

''§ 638. Rule of construction

''Nothing in this subchapter shall be construed to—

''(1) preclude the consideration of any data or the calculation of any estimate to more fully describe risk or provide examples of scientific uncertainty or variability; or

''(2) require the disclosure of any trade secret or other confidential information.

''§ 639. Regulatory priorities

''(a)(1) Not later than 180 days after the date of enactment of this section, the Director of the Office of Management and Budget, in consultation with the Office of Science and Technology Policy, shall enter into appropriate arrangements with an accredited scientific body to—

''(A) conduct a study of the methodologies for using comparative risk to rank dissimilar health, safety, and environmental risks; and

''(B) to conduct a comparative risk analysis in accordance with paragraph (2).

''(2) The study of the methodologies under paragraph (1)(A) shall be conducted as part of the first comparative risk analysis under paragraph (1)(B). The study shall—

''(A) seek to develop and rigorously test methods of comparative risk analysis;

''(B) have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for health, safety, and environmental risk prevention and reduction; and

''(C) review and evaluate the experience of States that have conducted comparative risk analyses.

''(3)(A) The comparative risk analysis under paragraph (1)(B) shall compare and rank, to the extent feasible, health, safety, and environmental risks potentially regulated across the spectrum of programs relating to health, safety, and the environment administered by the departments, agencies, and instrumentalities of the Federal Government.

''(B) In carrying out the comparative risk analysis under this paragraph, the Director shall ensure that—

''(i) the scope and specificity of the analysis are sufficient to provide the President and the heads of agencies guidance in allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

''(ii) the analysis is conducted through an open process, by individuals with relevant expertise, including, as appropriate—

''(I) toxicologists;

''(II) biologists;

''(III) engineers; and

''(IV) experts in the fields of medicine, industrial hygiene, and environmental effects;

''(iii) the analysis is conducted, to the extent feasible, consistent with the risk assessment and risk characterization principles described in sections 633 and 634;

''(iv) the methodologies and principal scientific determinations made in the analysis are subjected to peer review under section 640 and the conclusions of the peer review are made publicly available as part of the final report;

''(v) there is an opportunity for public comments on the results of the analysis prior to making them final; and

''(vi) the results of the analysis are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

''(4) The comparative risk analysis shall be completed, and a report submitted to Congress not later than 3 years after the date of enactment of this section. The analysis shall be reviewed and revised not less often than every 5 years thereafter for a minimum of 15 years following the release of the initial analysis.

''(b) Not later than 180 days after the date of enactment of this section, the Director of the Office of Management and Budget, in collaboration with the head of each Federal agency, shall enter into a contract with the National Research Council to provide technical guidance to the agencies on approaches to using comparative risk analysis in setting health, safety, and environmental priorities to assist the agencies in complying with subsection (c).

''(c)(1) In exercising authority under any laws protecting health, safety, or the environment, the head of an agency shall prioritize the use of the resources available under such laws to address the risks to health, safety, and the environment that—

''(A) the agency determines are the most serious; and

''(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources to be expended.

''(2) In identifying the sources of the most serious risks under paragraph (1), the head of the agency shall consider, at a minimum—

''(A) the plausible likelihood and severity of the effect; and

''(B) the plausible number and groups of individuals potentially affected.

''(3) The head of the agency shall incorporate the priorities identified in paragraph (1) into the budget, strategic planning, and research activities of the agency by, in the agency's annual budget request to Congress—

''(A) identifying which risks the agency has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), and the basis for that determination;

''(B) explicitly identifying how the agency's requested funds will be used to address those risks;

''(C) identifying any statutory, regulatory, or administrative obstacles to allocating agency resources in accordance with the priorities established under paragraph (1); and

''(D) explicitly considering the requirements of paragraph (1) when preparing the agency's regulatory agenda or other strategic plan, and providing an explanation of how the agenda or plan reflects those requirements and the comparative risk analysis when publishing any such agenda or strategic plan.

''(4) In March of each year, the head of each agency shall submit to Congress specific recommendations for repealing or modifying laws that would better enable the agency to prioritize its activities to address the risks to health, safety, and the environment that are the most serious and can be addressed in a cost-effective manner consistent with the requirements of paragraph (1).

''§ 640. Establishment of program

''(a) The Director of the Office of Science and Technology or the Director, as appropriate, shall develop a systematic program for the peer review of work products covered by subsection (c), which program shall be used, in as uniform a manner as is practicable, across the agencies.

''(b) The program under subsection (a)—

''(1) shall provide for the creation of peer review panels consisting of independent and external experts who are broadly representative and balanced to the extent feasible;

''(2) shall not exclude peer reviewers merely because they represent entities that may have a potential interest in the outcome, if that interest is fully disclosed;

''(3) shall exclude experts who were associated with the generation of the specific work product either directly by substantial contribution to its development, or indirectly by consultation and development of the specific product;

''(4) shall provide for differing levels of peer review depending on the significance or complexity of the issue or the need for expedition;

''(5) shall contain balanced presentations of all considerations, including minority reports and an agency response to all significant peer review comments; and

''(6) shall provide an opportunity for interested parties to submit issues for consideration by peer review panels.

''(c) Matters requiring peer review shall include—

''(1) risk assessments and cost-benefit analyses for major rules;

''(2) quantitative estimates of risk or hazard that are used in making regulatory determinations, including all entries into the Integrated Risk Information System;

''(3) risk assessment and risk characterization regulations and cost-benefit guidelines; and

''(4) any other significant or technical work product, as designated by the head of each agency, the Director of the Office of Science and Technology, or the Director.

''(d) All underlying data shall be submitted to peer reviewers, except to the extent necessary to protect confidential business information and trade secrets. To ensure such protections, the head of the agency may require that peer reviewers enter into confidentiality agreements.

''(e) The peer review and the agency's responses shall be made available to the public for comment and the final peer review and the agency's responses shall be made part of the administrative record for purposes of judicial review.

''(f) The proceedings of peer review panels under this section shall be subject to the applicable provisions of the Federal Advisory Committee Act.

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

''§ 641. Procedures

''(a) The Director or a designee of the President shall—

''(1) establish procedures for agency compliance with this chapter; and

''(2) monitor, review, and ensure agency implementation of such procedures.

''(b) Not later than 12 months after the date of enactment of this subchapter the Office of Management and Budget shall issue regulations to assist agencies in preparing the cost-benefit analyses required by this subchapter. The regulations shall—

''(1) ensure that cost and benefit evaluations are consistent with this subchapter and, to the extent feasible, represent realistic and plausible estimates;

''(2) be adopted following public notice and adequate opportunity for comment; and

''(3) be used consistently by all agencies covered by this subchapter.

''§ 642. Promulgation and adoption

''(a) Procedures established pursuant to section 641 shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

''(b)(1) If procedures established pursuant to section 641 include review of any initial or final analyses of a rule required under chapter 6, the time for any such review of any initial analysis shall not exceed 30 days following the receipt of the analysis by the Director, a designee of the President, or by an officer to whom the authority granted under section 641 has been delegated pursuant to section 643.

''(2) The time for review of any final analysis required under chapter 6 shall not exceed 30 days following the receipt of the analysis by the Director, a designee of the President, or such officer.

''(3)(A) The times for each such review may be extended for good cause by the President or such officer for an additional 30 days.

''(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

''§ 643. Delegation of authority

''(a) The President may delegate the authority granted by this subchapter to the Vice President or to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

''(b)(1) Notice of any delegation, or any revocation or modification thereof shall be published in the Federal Register.

''(2) Any notice with respect to a delegation to the Vice President shall contain a statement by the Vice President that the Vice President will make every reasonable effort to respond to congressional inquiries concerning the exercise of the authority delegated under this section.

''§ 644. Judicial review

''The exercise of the authority granted under this subchapter by the Director, the President, or by an officer to whom such authority has been delegated under section 643 shall not be subject to judicial review in any manner under this chapter.''.

(b) REGULATORY FLEXIBILITY ANALYSIS.—

(1) JUDICIAL REVIEW.—Section 611 of title 5, United States Code, is amended to read as follows:

''§ 611. Judicial review

''(a)(1) Except as provided in paragraph (2), not later than 2 years after the effective date of a final rule with respect to which an agency—

''(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities;

''(B) prepared a final regulatory flexibility analysis pursuant to section 604; or

''(C) did not prepare an initial regulatory flexibility analysis pursuant to section 603 or a final regulatory flexibility analysis pursuant to section 604 except as permitted by sections 605 and 608,

an affected small entity may petition for the judicial review of such certification, analysis, or lack of analysis, in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 or under any other provision of law shall have jurisdiction to review such certification or analysis.

''(2)(A) Notwithstanding any other provision of law, an affected small entity shall have 2 years to challenge such certification, analysis or lack of analysis.

''(B) If an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection shall be filed not later than 2 years after the date the analysis is made available to the public.

''(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be adversely affected by the final rule.

''(4) Nothing in this subsection shall be construed to affect the authority of any court to

stay the effective date of any rule or provision thereof under any other provision of law.

''(5)(A) Notwithstanding section 605, if the court determines, on the basis of the rulemaking record, that there is substantial evidence to conclude that the rule would have a significant economic impact on a substantial number of small entities, the court shall order the agency to prepare a final regulatory flexibility analysis pursuant to section 604.

''(B) If the agency prepared a final regulatory flexibility analysis, the court may order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the rulemaking record, that the final regulatory flexibility analysis was prepared by the agency without complying with section 604.

''(6) The court may stay the rule or grant such other relief as it deems appropriate if, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5) (or such longer period as the court may provide), the agency fails, as appropriate—

''(A) to prepare the analysis required by section 604; or

''(B) to take corrective action consistent with section 604.

''(7) In making any determination or granting any relief authorized by this subsection, the court shall take due account of the rule of prejudicial error.

''(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

''(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act, except that the judicial review authorized by section 611(a) of title 5, United States Code (as added by subsection (a)), shall apply only to final agency rules issued after the date of enactment of this Act.

(c) PRESIDENTIAL AUTHORITY.—Nothing in this Act shall limit the exercise by the President of the authority and responsibility that the President otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—Part I of title 5, United States Code, is amended by striking out the chapter heading and table of sections for chapter 6 and inserting in lieu thereof the following:

''CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

''SUBCHAPTER I—REGULATORY ANALYSIS

''Sec.
''601. Definitions.
''602. Regulatory agenda.
''603. Initial regulatory flexibility analysis.
''604. Final regulatory flexibility analysis.
''605. Avoidance of duplicative or unnecessary analyses.
''606. Effect on other law.
''607. Preparation of analysis.
''608. Procedure for waiver or delay of completion.
''609. Procedures for gathering comments.
''610. Periodic review of rules.
''611. Judicial review.
''612. Reports and intervention rights.

''SUBCHAPTER II—ANALYSIS OF AGENCY RULES

''621. Definitions.
''622. Rulemaking cost-benefit analysis.
''623. Petition for cost-benefit analysis.
''624. Decisional criteria.
''625. Judicial review.
''626. Deadlines for rulemaking.
''627. Agency review of rules.
''628. Special rule.

''SUBCHAPTER III—RISK ASSESSMENTS

''631. Definitions.
''632. Applicability.
''633. Principles for risk assessment.
''634. Principles for risk characterization and communication.
''635. Requirement to prepare risk assessment.
''636. Requirements for assessments.
''637. Regulations; plan for assessing new information.
''638. Rule of construction.
''639. Regulatory priorities.
''640. Establishment of program.

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

''641. Procedures.
''642. Promulgation and adoption.
''643. Delegation of authority.
''644. Judicial review.''.

(2) SUBCHAPTER HEADING.—Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

''SUBCHAPTER I—REGULATORY ANALYSIS''.

SEC. 5. JUDICIAL REVIEW.

(a) SCOPE OF REVIEW.—Section 706 of title 5, United States Code, is amended to read as follows:

''§ 706. Scope of review

''(a) To the extent necessary to reach a decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

''(1) compel agency action unlawfully withheld or unreasonably delayed; and

''(2) hold unlawful and set aside agency action, findings and conclusions found to be—

''(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

''(B) contrary to constitutional right, power, privilege, or immunity;

''(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

''(D) without observance of procedure required by law;

''(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 or otherwise reviewed on the record of an agency hearing provided by statute;

''(F) without substantial support in the rulemaking file, viewed as a whole, for the asserted or necessary factual basis, as distinguished from the policy or legal basis, of a rule adopted in a proceeding subject to section 553; or

''(G) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

''(b) In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

''(c) In reviewing an agency interpretation of a statute governing the authority for an agency action, including agency action taken pursuant to a statute that provides for review of final agency action, the reviewing court shall—

''(1) hold erroneous and unlawful—

''(A) an agency interpretation that is other than the interpretation of the statute clearly intended by Congress; or

''(B) an agency interpretation that is outside the range of permissible interpretations of the statute; and

''(2) hold arbitrary, capricious, or an abuse of discretion—

''(A) an agency action as to which the agency—

''(i) has improperly classified an interpretation as being within or outside the range of permissible interpretations; or

''(ii) has not explained in a reasoned analysis why it selected the interpretation and why it rejected other permissible interpretations of the statute; or

''(B) in the case of agency action subject to chapter 6, an interpretation that does not give the agency the broadest discretion to develop rules that will satisfy the decisional criteria of section 624.

''(d) Notwithstanding any other provision of law, the provisions of this subsection shall apply to, and supplement, the requirements contained in any statute for the review of final agency action which is not otherwise subject to this subsection.''.

(b) COURT OF FEDERAL CLAIMS.—

(1) IN GENERAL.—Section 1491(a) of title 28, United States Code, is amended—

(A) in paragraph (1), by amending the first sentence to read as follows: ''The United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the United States for monetary relief founded either upon the Constitution or any Act of Congress or any regulation or action of an agency, or upon any expressed or implied contract with the United States, in cases not sounding in tort, or for invalidation of any Act of Congress or any regulation of an executive department that adversely affects private property rights in violation of the fifth amendment of the United States Constitution.'';

(B) in paragraph (2), by inserting before the first sentence the following: ''In any case within its jurisdiction, the Court of Federal Claims shall have the power to grant injunctive and declaratory relief when appropriate.''; and

(C) by adding at the end the following new paragraphs:

''(4) In cases otherwise within its jurisdiction, the Court of Federal Claims shall also have ancillary jurisdiction, concurrent with the courts designated in section 1346(b), to render judgment upon any related tort claim authorized under section 2674.

''(5) In proceedings within the jurisdiction of the Court of Federal Claims which constitute judicial review of agency action (rather than de novo proceedings), the provisions of section 706 of title 5 shall apply.''.

(2) PENDENCY OF CLAIMS IN OTHER COURTS.—Section 1500 of title 28, United States Code, is repealed.

(c) JUDICIAL PROCEEDINGS.—

(1) CONSENT DECREES.—Chapter 7 of title 5, United States Code, is amended by adding at the end the following new section:

''§ 707. Consent decrees

''In interpreting any consent decree in effect on or after the date of enactment of this section that imposes on an agency an obligation to initiate, continue, or complete rulemaking proceedings, the court shall not enforce the decree in a way that divests the agency of discretion granted to it by the Congress or the Constitution to respond to changing circumstances, make policy or managerial choices, or protect the rights of third parties.''.

(2) AFFIRMATIVE DEFENSE.—Chapter 7 of title 5, United States Code, is further amended by adding at the end the following new section:

''§ 708. Affirmative defense

''Notwithstanding any other provision of law, it shall be an affirmative defense in any enforcement action brought by an agency that the regulated person or entity is complying with a rule, regulation, adjudication, directive, or order of such agency or any other agency that is inconsistent, incompatible, contradictory, or otherwise cannot be reconciled with the agency rule, regulation, adjudication, directive, or order being enforced.''.

(3) AGENCY INTERPRETATIONS IN CIVIL AND CRIMINAL ACTIONS.—

(A) IN GENERAL.—Chapter 7 of title 5, United States Code, is further amended by adding at the end the following new section:

"§ 709. Agency interpretations in civil and criminal actions

"(a)(1) No civil or criminal penalty shall be imposed in any action brought in a Federal court, including an action pending on the date of enactment of this section, for the alleged violation of a rule, if the defendant, prior to the alleged violation—

"(A) reasonably determined, based upon a description, explanation, or interpretation of the rule contained in the rule's statement of basis and purpose, that the defendant was in compliance with, exempt from, or otherwise not subject to, the requirements of the rule; or

"(B) was informed by the agency that promulgated the rule, or by a State authority to which had been delegated the responsibility for ensuring compliance with the rule, that the defendant was in compliance with, exempt from, or otherwise not subject to, the requirements of the rule.

"(2) In determining, for purposes of paragraph (1)(A), whether a defendant reasonably relied upon a description, explanation, or interpretation of the rule contained in the rule's statement of basis and purpose, the court shall not give deference to any subsequent agency description, explanation, or interpretation of the rule relied on by the agency in the action that had not been published in the Federal Register or otherwise directly and specifically communicated to the defendant by the agency, or by a State authority to which had been delegated the responsibility for ensuring compliance with the rule, prior to the alleged violation.

"(b)(1) In a civil or criminal action in Federal court to redress an alleged violation of a rule, including an action pending on the date of enactment of this section, if the court determines that the rule in question is ambiguous, the court shall not give deference to an agency interpretation of the rule if the defendant relied upon an interpretation of the rule to the effect that the defendant was in compliance with or was exempt or otherwise not subject to the requirement of the rule, and the court determines that such determination is reasonable.

"(2) Without regard to whether the defendant relied upon an interpretation that the court determines is reasonable under paragraph (1), if the court determines that the rule failed to give the defendant fair warning of the conduct that the rule prohibits or requires, no civil or criminal penalty shall be imposed.

"(c)(1) No agency action shall be taken, or any action or other proceeding maintained, seeking the retroactive application of a requirement against any person that is based upon—

"(A) an interpretation of a statute, rule, guidance, agency statement of policy, or license requirement or condition; or

"(B) a determination of fact,

if such interpretation or determination is different from a prior interpretation or determination by the agency or by a State or local government exercising authority delegated or approved by the agency, and if such person relied upon the prior interpretation or determination.

"(2) This subsection shall take effect on the date of enactment of the Comprehensive Regulatory Reform Act of 1995 and shall apply to any matter for which a final unappealable judicial order has not been issued.

"(d) This section shall apply to the review by a Federal court of any order of an agency assessing civil administrative penalties.".

(B) UNPUBLISHED AGENCY GUIDANCE.—Section 552(a)(1) of title 5, United States Code, is amended by inserting at the end the following new sentence: "In an action brought in a Federal court seeking a civil or criminal penalty for the alleged violation of a rule, including actions pending on the date of enactment of this sentence, no consideration shall be given to any interpretive rule, general statement of policy, or other agency guidance of general or specific applicability, relied upon by the agency in the action, that had not been published in the Federal Register or otherwise directly and specifically communicated to the defendant by the agency, or by a State authority to which had been delegated the responsibility for ensuring compliance with the rule, prior to the alleged violation.".

(4) TECHNICAL AMENDMENT.—The analysis for chapter 7 of title 5, United States Code, is amended by adding at the end the following new items:

"707. Consent decrees.
"708. Affirmative defense.
"709. Agency interpretations in civil and criminal actions.".

SEC. 6. CONGRESSIONAL REVIEW.

(a) IN GENERAL.—Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"§ 801. Congressional review of agency rulemaking

"(a)(1) Before a rule takes effect as a final rule, the agency promulgating such rule shall submit to the Congress a report containing a copy of the rule, the notice of proposed rulemaking, and the statement of basis and purpose for the rule, including a complete copy of any analysis required under chapter 6, and the proposed effective date of the rule. In the case of a rule that is not a major rule within the meaning of section 621(4), summary of the rulemaking proceedings shall be submitted.

"(2) A rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of the following:

"(A) The later of the date occurring 45 days after the date on which—

"(i) the Congress receives the report submitted under paragraph (1); or

"(ii) the rule is published in the Federal Register.

"(B) If the Congress passes a joint resolution of disapproval described under subsection (g) relating to the rule, and the President signs a veto of such resolution, the earlier date—

"(i) on which either House of Congress votes and fails to override the veto of the President; or

"(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President.

"(C) The date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under subsection (g) is approved).

"(b) A rule shall not take effect as a final rule if the Congress passes a joint resolution of disapproval described under subsection (g), which is signed by the President or is vetoed and overridden by the Congress.

"(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this section may take effect if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

"(2) Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

"(A) necessary because of an imminent threat to health or safety or other emergency;

"(B) necessary for the enforcement of criminal laws; or

"(C) necessary for national security.

"(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under subsection (g) or the effect of a joint resolution of disapproval under this section.

"(4) This subsection and an Executive order issued by the President under paragraph (2) shall not be subject to judicial review by a court of the United States.

"(d)(1) Subsection (g) shall apply to any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes.

"(2) For purposes of subsection (g), a rule described under paragraph (1) shall be treated as though such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date the succeeding Congress first convenes.

"(3) During the period between the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, a rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law.

"(e) Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under subsection (g) shall be treated as though such rule had never taken effect.

"(f) If the Congress does not enact a joint resolution of disapproval under subsection (g), no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

"(g)(1) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced after the date on which the report referred to in subsection (a) is received by Congress the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the _____ relating to _____, and such rule shall have no force or effect.' (The blank spaces being appropriately filled in.)

"(2)(A) A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution shall not be reported before the eighth day after its submission or publication date.

"(B) For purposes of this subsection the term 'submission or publication date' means the later of the date on which—

"(i) the Congress receives the report submitted under subsection (a)(1); or

"(ii) the rule is published in the Federal Register.

"(3) If the committee to which a resolution described in paragraph (1) is referred has not reported such resolution (or an identical resolution) at the end of 20 calendar days after its submission or publication date, such committee may be discharged by the Majority Leader of the Senate or the Majority Leader of the House of Representatives, as the case may be, from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

"(4)(A) When the committee to which a resolution is referred has reported, or when a committee is discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) shall be waived. The motion shall be highly privileged in the House of Representatives and shall be privileged in the Senate and shall not be debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

''(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall be in order and shall not be debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution shall not be in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order.

''(C) Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

''(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

''(5) If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

''(A) The resolution of the other House shall not be referred to a committee.

''(B) With respect to a resolution described in paragraph (1) of the House receiving the resolution—

''(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

''(ii) the vote on final passage shall be on the resolution of the other House.

''(6) This subsection is enacted by Congress—

''(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed to be a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

''(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

''(h) This section shall not apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.''.

(b) TECHNICAL AMENDMENT.—The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

''8. Congressional Review of Agency Rulemaking ..... 801''.

SEC. 7. ACCOUNTING.

(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) REGULATION.—The term ''regulation'' means an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedures or practice requirements of an agency. The term shall not include—

(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

(B) regulations issued with respect to a military or foreign affairs function of the United States; or

(C) regulations related to agency organization, management, or personnel.

(2) AGENCY.—The term ''agency'' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

(A) the General Accounting Office;

(B) the Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

(b) ACCOUNTING STATEMENT.—

(1) IN GENERAL.—(A) The President shall be responsible for implementing and administering the requirements of this section.

(B) Every 2 years, not later than June of the second year, the President shall prepare and submit to Congress an accounting statement that estimates the costs of Federal regulatory programs and corresponding benefits in accordance with this subsection.

(2) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement shall cover, at a minimum, the 5 fiscal years beginning on October 1 of the year in which the report is submitted and may cover any fiscal year preceding such fiscal years for purpose of revising previous estimates.

(3) TIMING AND PROCEDURES.—(A) The President shall provide notice and opportunity for comment for each accounting statement. The President may delegate to an agency the requirement to provide notice and opportunity to comment for the portion of the accounting statement relating to that agency.

(B) The President shall propose the first accounting statement under this subsection not later than 2 years after the date of the enactment of this Act and shall issue the first accounting statement in final form not later than 3 years after the date of the enactment of this Act. Such statement shall cover, at a minimum, each of the 8 fiscal years beginning after the date of the enactment of this Act.

(4) CONTENT OF ACCOUNTING STATEMENT.—(A) Each accounting statement shall contain estimates of costs and benefits with respect to each fiscal year covered by the statement in accordance with this paragraph. For each such fiscal year for which estimates were made in a previous accounting statement, the statement shall revise those estimates and state the reasons for the revisions.

(B)(i) An accounting statement shall estimate the costs of Federal regulatory programs by setting forth, for each year covered by the statement—

(I) the annual expenditure of national economic resources for the regulatory program; and

(II) such other quantitative and qualitative measures of costs as the President considers appropriate.

(ii) For purposes of the estimate of costs in the accounting statement, national economic resources shall include, and shall be listed under, at least the following categories:

(I) Private sector costs.

(II) Federal sector administrative costs.

(III) Federal sector compliance costs.

(IV) State and local government administrative costs.

(V) State and local government compliance costs.

(VI) Indirect costs, including opportunity costs.

(C) An accounting statement shall estimate the benefits of Federal regulatory programs by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in health, safety, or environmental risks shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

(c) ASSOCIATED REPORT TO CONGRESS.—

(1) IN GENERAL.—At the same time as the President submits an accounting statement under subsection (b), the President, acting through the Director of the Office of Management and Budget, shall submit to Congress a report associated with the accounting statement (hereinafter referred to as an ''associated report''). The associated report shall contain, in accordance with this subsection—

(A) analyses of impacts; and

(B) recommendations for reform.

(2) ANALYSES OF IMPACTS.—The President shall include in the associated report the following:

(A) Analyses prepared by the President of the cumulative impact of Federal regulatory programs covered in the accounting statement on the following:

(i) The ability of State and local governments to provide essential services, including police, fire protection, and education.

(ii) Small business.

(iii) Productivity.

(iv) Wages.

(v) Economic growth.

(vi) Technological innovation.

(vii) Consumer prices for goods and services.

(viii) Such other factors considered appropriate by the President.

(B) A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

(3) RECOMMENDATIONS FOR REFORM.—The President shall include in the associated report the following:

(A) A summary of recommendations of the President for reform or elimination of any Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

(B) A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

(d) GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall, in consultation with the Council of Economic Advisers, provide guidance to agencies—

(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to sections 3 and 7 of this Act, including—

(A) detailed guidance on estimating the costs and benefits of major rules; and

(B) general guidance on estimating the costs and benefits of all other rules that do not meet the thresholds for major rules; and

(2) to standardize the format of the accounting statements.

(e) RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.—After each accounting statement and associated report submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

(1) for improving accounting statements prepared pursuant to this section, including recommendations on level of detail and accuracy; and

(2) for improving associated reports prepared pursuant to this section, including recommendations on the quality of analysis.

SEC. 8. STUDIES AND REPORTS.

(a) RISK ASSESSMENTS.—The Administrative Conference of the United States shall—

(1) develop and carry out an ongoing study of the operation of the risk assessment requirements of subchapter III of chapter 6 of title 5, United States Code (as added by section 4 of this Act); and

(2) submit an annual report to the Congress on the findings of the study.

(b) ADMINISTRATIVE PROCEDURE ACT.—Not later than December 31, 1996, the Administrative Conference of the United States shall—

(1) carry out a study of the operation of the Administrative Procedure Act (as amended by section 3 of this Act); and

(2) submit a report to the Congress on the findings of the study, including proposals for revision, if any.

Mr. DOLE. Mr. President, I again thank the Democratic leader, Senator DASCHLE.

Mr. President, today we begin consideration of regulatory reform, one of the most important and fundamental reforms that this Congress will address. No doubt about it, the American people are fed up with a regulatory state that is out of control. That was one of the messages the American people delivered last November.

The regulatory state has become so pervasive that it lies on our economy like a blanket, stifling innovation, and killing infant industries and small businesses before they get off the ground. Although the Federal Government has a department for just about everything else, it does not have a department of lost opportunities. And that is what this is all about—getting the Government off the backs of the American people; and letting them have an honest opportunity to succeed, for example, when they open a small business.

I want to note at the outset that the reforms before us are the product of over a decade of bipartisan work. The first major attempt at regulatory reform took place here in the Senate in 1982, when we passed S. 1080 unanimously. S. 1080 itself grew out of a bill I introduced in 1981, again with bipartisan support.

S. 1080 contained sweeping revisions of the Administrative Procedures Act. Most of those revisions are included in the bill before us.

S. 1080 imposed a requirement that major rules be subjected to cots-benefit analyses. The structure of the cost-benefit analyses in the bill we consider today closely follow those in S. 1080.

S. 1080 required judicial review of cost-benefit analyses in order to provide meaningful enforcement. The bill before us does the same.

I have provided this brief history for two reasons. First, there are many Senators still in this body on both sides of the aisle who supported S. 1080 in 1982. And, second, there has been a concerted attempt by those who defend the status quo to ignore that history and act as if the bill under consideration today was a radically new approach with little thought for the consequences. Nothing could be further from the truth.

Every President since President Nixon, including President Clinton, has issued an Executive order that imposed such requirements on agencies, though Executive orders are necessarily limited in scope and cannot provide for court enforcement, the bill we consider today draws on two decades of agency experience with those Executive orders.

This bill is also the product of four major committees. I want to especially commend the chairmen of those committees, Senators HATCH, ROTH, MURKOWSKI, and BOND, and their members for their hard work. This bill is the product of negotiations with the Clinton administration, and Democrat colleagues. From the beginning, it has had bipartisan support. I especially want to commend Senator HEFLIN for his leadership in working on the bill in the Judiciary Committee. And, finally, the text of the bill we consider today is the product of weeks of work with Senator JOHNSTON who has long championed reforms in risk assessment in this body.

Given this history and broad bipartisan support, it might be surprising that regulatory reform has been met with often strident opposition.

But this bill is about fundamental change—needed change—and those who defend the status quo will fight it tooth and nail. Apparently, they will do so without even pretending to read the legislation.

Let me be clear: These reforms will not place at risk human health or safety or protection of the environment.

I understand that Ralph Nader and Joan Claybrooke are out running ads in part of the country that Senator DOLE, the majority leader, is for dirty meat, for unhealthy meat. So we have a lot of these incredible statements being made, but they have nothing to do with this bill.

And the bill before us makes this explicit in any number of provisions. Those who argue otherwise should stop trying to scare people and take the time to actually read the bill.

What opponents of regulatory reform really mean, but are embarrassed to admit, is that they believe that strong laws must always mean the most costly laws. Now, they will not say that of course. No, they will pay lip service to common sense. But as soon as you actually propose a way to consider costs and benefits, they switch subjects and accuse reformers of endangering human health and safety. I doubt anyone outside Washington, DC, who has to deal with regulations in their daily lives really believes that line anymore.

Mr. President, I have enough faith in our ingenuity to believe that we can find better, smarter ways to achieve otherwise worthwhile goals.

Nor—as opponents of reform would phrase it—is this a debate about placing a value on human life. The bill makes clear that there are often nonquantifiable benefits, and that an agency decisionmaker may well have to make judgments that are not subject to quantification. What the bill demands is accountability, by insisting that the decisionmaker articulate the basis for these judgments on the record. The principles of judging risks and weighing costs and benefits are rational and widely used in our daily lives. What is unacceptable is to allow Government agencies to avoid these types of judgments when enacting regulations that impose huge costs on our economy.

These reforms are about limited government. For too long, decisionmakers in Washington, DC, have acted as though bigger government—taking more of our taxes and savings, and suppressing individual initiative—could exist without more coercion and more rules. But that is wrong. For 40 years, the number and scope of regulations have skyrocketed out of control. The costs and annoyances of regulations have grown unbearable. And what is worse: We have not even attempted to use common sense in order to determine whether the costs are worth it.

These reforms are about accountability. Open government. Forcing the Government to tell the rest of us why it chooses to regulate a certain way, and making it defend its choice. This aspect of regulatory reform is not often discussed, but I would argue that it may be the most important of all.

It has often been remarked by historians that the decline of great civilizations—such as ancient Rome—is typically marked by an overabundance of bureaucracy that relied on secret, often contradictory, rules. Eventually, the entire regulatory structure brings progress to a standstill and it collapses of its own weight. It is no accident that we described complex, inscrutable procedures as byzantine.

Mr. President, we are a long way from reaching that point certainly. But we should understand that this is a battle that we will fight again and again. I, for one, intend to win this battle. The reforms we take up today are a giant step forward for common sense and our great country.

So I am pleased that we are on the bill. I thank my colleagues on the other side for not objecting to moving to the bill. We will have a brief debate today. We will have a longer debate tomorrow and probably some debate on Friday of this week. Hopefully, when we return from the July 4 recess, we will be able to finish this bill in the week following the recess, because I think it is probably the most important legislation we will have considered so far this year.

Mr. President, I would ask the distinguished Senator from Utah to be in charge of the time on this side. I guess Senator JOHNSTON will be in charge of the time on that side.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. How much time does this side have?

The PRESIDING OFFICER. There are 20 minutes remaining.

Mr. HATCH. I yield myself 7 minutes.

Mr. President, today we begin the debate on one of the most important pieces of legislation this Congress will address this year: the Comprehensive Regulatory Reform Act of 1995. This is a bill that will change the way the Government does business.

It is high time that we respond to the American people's loud and clear demands that government become smaller and more streamlined—their demand

that government become more responsive. It is high time that we realize just who is working for whom.

The fact that government often takes forever to carry out its functions; spends a fortune in doing so; at best inconveniences citizens in the process; and yet still does not seem to get the job done properly, is reason enough for this legislation.

It is high time that Congress acted to require government to act in a timely, sensible, and rational manner.

If this bill becomes law, the Federal bureaucrats will, from now on, have to prove to America that their regulations do more good than harm to society.

I submit that nothing could be more basic to our democracy and to our federal system of government than the notion that the Federal Government should only act when it helps people and when its actions are justified. That is just plain common sense, and that is what this bill is about.

This bill forces the Federal bureaucracy to justify the costs of the rules and regulations that it places on hard-working Americans.

I. THE NEED FOR REFORM

I do not disagree that there is a need for some government regulation. Unfortunately, under the current system, there is little notion of restraint or balance in the way that government agencies operate. The Federal bureaucracy has become bloated, inefficient, and wasteful. Excessive, needless government regulation is running rampant. It has done tremendous damage to our economy, and it continues to do so every year.

A. STATISTICS

The bottom line is that American people pay for this bureaucracy several times over.

First, of course, they have to pay for the salaries and other expenses for the Federal agencies to operate. These direct expenditures, of course, figure in to our budget. To the extent that such expenditures are not offset by cuts elsewhere, the cost of maintaining the Federal bureaucracy adds to the national deficit and to the national debt, which is already at about $18,500 for every man, woman, and child in America.

Second, there are the hidden costs of complying with all this regulation. The American people have to pay to comply with the regulations the bureaucracy churns out. It has been estimated that complying with Federal regulation costs the average American family $4,000 a year. [The Heritage Foundation, citing Jonathan Adler, ''Regulated . . . out of this world'', the Washington Times, June 3, 1992].

And that is the low estimate. If you include indirect costs—such as increased prices for goods and services because sellers are passing on some of their regulatory burden to buyers—some estimates run as high as $8,000 to $17,000 a year. [William Laffer, the Heritage Foundation].

That is staggering, particularly when compared with the average annual income tax of $5,491 [IRS, 1992]. The costs of regulation are operating as a hidden tax on the system. Not only should that tax be cut, but the agencies should be made accountable so that the American people know what they are paying and what they are getting.

Third, these costs have indirect consequences and impose opportunity costs. It has been estimated that the costs of Federal regulation have reduced the total output of the Nation, the GDP, by nearly 6 percent. [Thomas Hopkins, ''Costs of Regulation: Filling the Gaps,'' citing a study by Hazilla and Kopp]. How does this happen?

It is simple enough. When businesses have to devote resources to meeting a Federal directive, alternative—and more productive—uses of those resources cannot be made. That means that the economy is slower, and jobs are lost because of regulatory excesses.

Mr. President, the status quo is simply unacceptable. Federal regulation is stifling the American Dream. It used to be said that America was the land of opportunity, where the streets were paved with gold. Today, the streets are paved with redtape.

B. EXAMPLES

Where regulation is doing its jobs and is helping society, there is no problem. The supporters of beneficial regulations have nothing to fear from this bill. But, too often regulations not only fail to do the job, but also they are downright dumb. Those are the regulations that this bill seeks to eliminate.

For example, there is a regulatory requirement that drive-through cash machines must be equipped with Braille pads. Now, how many blind Americans are driving cars to drive-through ATMs? [The Heritge Foundation, citing Insight which was quoting TCF Bank Savings of Minneapolis Chairman William Cooper]. That type of regulation is simply ridiculous on its face.

In another instance, a rancher was fined $4,000 for killing a grizzly bear that had eaten his sheep previously and was attacking him. [The Heritage Foundation, citing a Wall Street Journal article by Ike Scrugg, dated June 23, 1993].

What is worse is that excessive regulations have often thwarted the very ends those regulations seek to further. Take the case of the Abyssinian Baptist Church in Harlem. That church struggled for 4 years to get approval for a Head Start Program in a newly renovated building. Most of those 4 long years was spent arguing with Federal bureaucrats concerning the dimensions of rooms.

Now, we do not want Head Start Programs in unsafe facilities. I agree with that. But, where is the common sense here? What exactly are we trying to do? Provide early childhood educational opportunities for low-income children? Or, keep regulators busy with their tape measures? Clearly, we failed at the former and were a great success in the latter. An entire generation of head starters were unable to participate in that valuable program.

This is really a shameful waste of resources that could have been provided by this church in Harlem for the benefit of neighborhood children.

A representative from the church complained about the unresponsiveness of the people in Washington.

All the bureaucrats wanted to tell her, she said, was what could not be done rather than what could be done. She said that when she told them that they were talking about pieces of paper, and she was talking about children, they did not seem to care. [''The Death of Common Sense.'']

Mr. President, I believe this particular example is an excellent illustration of how our regulatory system has gone haywire. It is hard to believe that regulators do not care about children and their access to Head Start or any other kind of service.

But, this example clearly shows that our regulatory policy has become more concerned with process than with outcomes. It has become so obessed with the objective that room size not deviate an inch from the Federal standard that it has completely lost sight of what Head Start is supposed to accomplish.

I have to believe that similar examples of form over substance exist at the Department of Labor, the EPA, the Interior Department, and just about every other Federal agency.

Regulation has also reached deep into our smallest businesses. Take the case of Dutch Noteboom. Mr. Noteboom is 72 years old and has owned a small meat-packing plant in Springfield, OR, for 33 years.

Despite the fact that Mr. Noteboom employs only four people, the U.S. Department of Agriculture has one full-time inspector on his premises. Another inspector spends over half his time there. This level of attention is astonishing and must be extremely costly.

Mr. Noteboom says that he is swimming in paperwork, and that he does not even know a tenth of the rules. He says, ''You should see all these USDA manuals.'' [''The Death of Common Sense''].

Well, I have seen some of the Government's manuals and regulations and they are shocking in their length and complexity.

Consider, for example, the Federal regulations on the sale of cabbage. Now, the Gettysburg Address is 286 words in length, and the Declaration of Independence contain 1,322 words. But Government regulations on the sale of cabbage total an eye-popping 26,911 words. [Heritage, citing a letter from Congressman McIntosh to Grover Norquist].

I am frankly wondering just how much there is to restrict about the sale of cabbage that would justify nearly 27,000 words. I had my staff do a quick

calculation: 27,000 words is approximately the same length as the Federalist Papers Nos. 1 through 15. We have transformed regulatory compliance into an industry all by itself. We have gone from simple rules that reasonable people could understand and comply with to a Code of Federal Regulations that by itself takes up a whole wall of shelf space—not counting other agency guidance and field memos. We forget how fast is mount up.

Could I ask how much time I have left?

The PRESIDING OFFICER. The Senator has 11 minutes remaining.

Mr. HATCH. I will yield 1 more minute to me, and the rest of my time to Senator ROTH, after Senator JOHNSTON finishes.

Since 27,000 words is approximately the same length as the Federalist papers Nos. 1 through 15, how can there be any question that we have gone too far?

Mr. President, Mr. Noteboom's story highlights another major mutation of U.S. regulatory policy.

I can go on and on, but the point I am making is this: They are taking away our properties, our private properties, and interfering with small business. They are hurting people and stopping kids from getting the care they need. And, frankly, it is all because of ridiculous regulations in large part written by people who are not thinking about what is best for the American people and what is cost efficient in doing so. This bill will make a terrific difference. It will make our bureaucrats better and make us better. And, frankly, it is high time we did it.

I want to compliment the distinguished Senator from Kansas, our majority leader, and also my good friend and colleague from Louisiana, who both worked long and hard to get together, and a whole raft of others. I will put their names in the RECORD by unanimous consent.

Mr. President, I reserve the balance of our time.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

PRIVILEGE OF THE FLOOR

Mr. JOHNSTON. I ask unanimous consent that Dr. Robert Simon be given the privilege of the floor for the pendency of S. 343 and any votes thereon.

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

Mr. JOHNSTON. Mr. President, I want to thank my colleague, Mr. HATCH, as well as Senator DOLE, and their staffs, and Senator ROTH, and others on the other side of the aisle, for making this bill and the negotiation on it thus far a true bipartisan effort.

The Judiciary Committee bill was, indeed, the product of last Congress' risk assessment legislation, which I sponsored, as well as S. 1020, which dealt with regulatory reform from earlier in the 1980's. Since that time, Mr. President, the distinguished Senator from Kansas, Senator DOLE, and I, worked together over a period of some 10 hours—excuse me—12 hours of direct negotiation in working out what we called the Dole-Johnston draft, discussion draft. Since that was filed in the RECORD, we have spent an additional—or at least I have spent 20 hours in negotiation with both Republicans and Democrats, seeking to work out the problems in that draft.

All of our problems have not yet been worked out. But if I may give my colleagues and others the state of play on it, I think the mood is there, the will is there, and I think eventually substantial agreement can be arrived at, dealing with nine major points:

First, judicial review. The argument about judicial review is now not about the principle, it is about the language. I believe our language achieves the result. We will continue to listen, but I believe it achieves the result that everyone wishes.

Supermandate has been eliminated from the bill. I believe that is also clear. And both sides agree that underlying statutes are not superseded. Whatever the requirements of the Clean Air Act are, for example, are still in place. And we believe that the language of the draft now reflects that. We are willing to work further to clarify that—not to clarify, but to reassure Senators that that is so.

With respect to decisional criteria, Mr. President, I believe that from our side of the aisle the language now in the draft fully gives the discretion to the agencies that we wish.

I call attention of my colleagues to the language of section 624, which states certain requirements, such as the benefits rule to justify the cost. But it goes on to say that if scientific, technical, or economic uncertainties or nonquantifiable benefits to the health or safety of the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objective of the statute appropriate and in the public interest, and the agency head provides an explanation of that, that they may chose the more costly alternative.

Mr. President, we will listen to further elucidation on this.

But it seems to me that this is a complete victory for those on our side of the aisle who have always said the difficulty with risk assessment is sometimes scientific uncertainty, where scientists do not agree in some areas, where the data is uncertain or where you have values that are nonquantifiable by their nature, such as the value of life, the value of good health, the value of environment, the value of clean air which are, by their nature, nonquantifiable.

As I say, the theme, the idea is there, and I believe is clear. But to the extent it is not, we are certainly willing to negotiate, I believe, on both sides of the aisle. The question, again, is not whether to grant discretion for these things, but rather the question is how best to phrase the language.

With respect to petition, appeal on that petition, sunset, consolidation, we believe, Mr. President, that we now have complete agreement on that. It covers the issue of agency overload, and we will soon be filing in the RECORD language that will reflect that agreement. Anything, of course, is subject to further wordsmithing, but we believe both Democrats and Republicans have arrived at a decision in that very difficult area.

With respect to effective date, I hope we can come to agreement on that. On the Democratic side, we do not want to have to go back and redo regulations which have, in some cases, been 2 or 3 years in the making. On the Republican side, the concern has been that they do not want to have a flood of new regulations come in at the last minute to escape the requirements of this bill. I believe effective date can be appropriately worked out and pick some date such as July 1 of this year.

With respect to threshold, I believe the threshold should be 100 million, and 50 million is now in the bill. I believe also that is a doable thing. My prediction is that we will end up agreeing on 100 million with some language with respect to small business because small business has really been a concern here. At least I am in good hopes we can agree on that.

I hope we can agree to drop Superfund at some point. Not that anybody thinks a process of risk assessment should not be applicable to Superfund, it should definitely be applicable to Superfund, but we believe that is best done by the Environment and Public Works Committee, working their will against special requirements of the Superfund site. To put it in this bill, I believe, would be very difficult.

With respect to toxic release inventory, the language now in the Dole-Johnston draft, I believe, can be much improved. It, in turn, was an improvement over the Judiciary Committee draft. Frankly, we are waiting for some kind of improvement language that we hope will solve this problem.

Toxic release inventory is a high-profile issue, but I believe, in terms of importance of the issue, it is clearly one of the lesser issues in this bill and should not stand in our way of getting a bill.

The final point I have has to do with the Delaney rule. We greatly improve the Judiciary Committee draft on the Delaney rule. The language now in the Dole-Johnston draft says that an administrator or an agency head cannot fail to license a chemical if it has negligible or insignificant foreseeable risk to human health resulting from its intended use. It seems to me that this ought to be the standard. It is a good standard. I have heard no defense of keeping the Delaney rule as it is, and I submit that the votes will be on the floor to change the Delaney rule.

Our request is that those who think the standard we have in this draft is not appropriate should come up with

alternative language which we are happy to consider. We have given notice of consideration of alternative language now for a week or two, and I have not yet received it. So I urge people who want that to be reconsidered to please submit language.

The point I am making, Mr. President, is that the most difficult things about this bill—things like decisional criteria, judicial review, supermandate—have been agreed upon in principle, and the problem now is to determine language that carries out the principle.

We all understand that language and wordsmithing in this area is very important, is crucial, is critical, and we will continue to negotiate to seek very precise language that carries this out, and we solicit that from both sides of the aisle.

But, Mr. President, frankly, given the attitudes on both sides of the aisle, I believe it is going to be possible to come to those agreements, not with all Senators. We are not going to get 100 votes, but I believe that there is a real possibility for a broad consensus, and I am happy to be part of the group that is putting together what I consider to be the most important bill in this field that has ever been enacted by the Congress.

Mr. President, I reserve the remainder of my time.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. Who yields time? The Senator from Delaware.

Mr. HATCH. I yield the remainder of our time to the Senator from Delaware.

The PRESIDING OFFICER. There are 9 minutes 51 seconds remaining.

Mr. ROTH. Mr. President, first of all, I would like to thank the distinguished Senator from Louisiana for the constructive role he has played in the effort to bring the two sides together. Like him, I am optimistic that we are going to be able to fashion legislation that will satisfy the large majority on both sides of the aisle.

I, frankly, can think of no legislation of more critical importance, both from the standpoint of enforcement of the legislation or statutes on the books, but also from getting a better bang for the taxpayers' buck. So, again, I congratulate and thank the distinguished Senator for his contribution.

Mr. President, today marks a milestone in the effort to build a smarter, more effective regulatory process. From all quarters, Americans are calling for change from the often overbearing and counterproductive regulatory monolithic that has grown out of control these past couple of decades. President Clinton has admitted that many regulations, regulations that are costing our Nation billions of dollars, are bad regulations.

George McGovern has described in brilliant detail how overbearing regulations put him out of business when all he was trying to fulfill was the dream of being an entrepreneur of owning his own New England inn.

Economists are telling us that Federal regulations are costing our households some $6,000 annually, costing our country about $600 billion a year, and this at a time when our policies must be those that make our Nation competitive abroad, economically secure at home and confident within our families.

Financial costs are not the only burden. As we move further into the information age, the old adage, ''Time is money,'' rings truer than ever before. Time alone is becoming one of America's most vital economic resources. In a competitive world of instant information, a world where time is measured in cyberseconds, businesses, entrepreneurs, service providers, researchers, scientists, farmers, and others must be able to accelerate their response time in providing their services and bringing new products to market.

In our age of information, time is often the difference between profit and loss. But today, Federal regulations, like cholesterol clogging a vital artery, not only slow down the process but often disrupts it. Well over 5 billion hours—I repeat—well over 5 billion hours a year are spent by our private sector just trying to meet government paperwork demands.

The legislation we are considering today, S. 343, the comprehensive regulatory reform act of 1995, is a real and workable solution to the problems being expressed on both sides of the aisle. That is why I am supporting this legislation. It is the most comprehensive reform of the regulatory process since the enactment of the Administrative Procedure Act of 1946. Since then, efforts to reform Federal regulations have been like a man trying to save himself by running up the aisle in the opposite direction on a runaway train. What this legislation does, Mr. President, is get that runaway train under control and places it back on the right track.

This legislation substantially changes the requirements for the issuance of Federal regulations. It requires regulators to directly consider whether the benefits of a new regulation would justify its cost. Regulators who want to issue environmental and health and safety regulation regulations under this legislation have to make realistic estimates of the risks to be addressed. They have to disclose to the public any assumptions they make to measure the risk.

The bill encourages agencies to set priorities to achieve the greatest overall risk reduction at the least cost. More generally, this bill requires agencies to review existing regulations, to be sensitive to the cumulative regulatory burden, and to select the most cost effective, market-driven method feasible.

This, Mr. President, is smarter regulation. Smarter regulation benefits us all—our farmers, our businesses of all sizes; it benefits State and local government, and, most important, it benefits the consumer, the wage earner, the taxpayer, and the family.

I support this legislation because it is a reform of Federal regulations, not a rollback. And the distinction is extremely important. I am an environmentalist and honored to be called an environmentalist. On this floor, I have fought many battles to stop ocean dumping and incineration, to preserve the northern coastal plain of Alaska, to protect forests and precious wildlife. I can say with pride that Federal regulations have made our air cleaner. They have made our water purer, and they have improved conditions in our cities, lakes, and along our shores.

Regulation in itself is not bad. The problem is that the huge regulatory enterprise, like that runaway train, has gained so much inertia these past few decades that it is posing a real and dangerous threat to our future. What we are looking for is balance, and this legislation provides that balance. It will restore common sense to the regulatory process.

This legislation helps us achieve necessary regulation in the most flexible and cost-effective way possible. We have learned with experience that regulations often have been more costly and less effective than they could have been. This legislation addresses that problem by making Government more efficient, more effective. I believe, as best they can, regulators should issue regulations whose benefits justify their cost. I believe that a fair, commonsense test requiring that the benefits of a regulation justify its cost should be consistent with environmentalism, not contrary to it.

Environmentalists and conservationists have long recognized that we live in a world of limited resources. In this vein, we must use those limited resources to achieve the greatest benefit at the least cost. This is absolutely consistent with our objectives.

Throughout my career, Mr. President, I have advocated reducing Government waste and inefficiency. I have led efforts to reduce waste in Government procurement practices, particularly in defense contracts. At the time, some critics suggested that I was undermining support for a strong military. How could I support a strong military, they asked, if I challenged the practices of the Department of Defense? The answer was simple. I pushed for reform to make the Department of Defense work better, reform to make it more efficient and effective in carrying out its mission. And toward this end, we have been successful. Our reform of the procurement process improved the department. DOD was strengthened as precious resources were spared to be used much more efficiently and effectively.

In the same way, as a committed environmentalist, I want to reduce the inefficiency of the Environmental Protection Agency as well as other Federal

agencies that serve the public interest. Some critics suggest that we cannot support strong cost benefit analysis, and the Dole-Johnston compromise bill requires and still favors protecting the environment, health and safety, but these critics are wrong. Without effective regulatory reform, the EPA and other agencies will not carry out their mission in an efficient and effective manner.

Mr. President, this legislation simply requires commonsense in the regulatory process. We should require no less. I urge my colleagues to support this commonsense legislation. Thank you, Mr. President.

Mr. JOHNSTON. Mr. President, I yield 10 minutes to the Senator from Ohio, with the understanding that he will yield some time to Senator LEVIN.

The PRESIDING OFFICER. The Senator from Louisiana has 13 minutes total remaining.

The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I hope that when the press writes about what happened on the floor today, they get away from the idea that this is the ultimate in confrontation, which seems to be what the questions lead to when we go out of the Chamber—talking about regulatory reform—because, today, I would hope the message would go out that we are united in the Senate of the United States, Democrat and Republican, on one thing: we need regulatory reform.

Sometimes we get strident here and give people the wrong impression. But we have a need for regulatory reform, and that is felt by those who have been negotiating on the particulars of this legislation over the past several days. So the importance of regulatory reform is well understood, and we all share in a devotion to what we are trying to do here.

I think a lot of people wonder why we have regulations and rules. We need to remember that we pass laws here on the Senate floor, in the Congress, that are signed by the President requiring agencies to issue rules. After we pass laws, rules and regulations written by the agencies become applicable in every community across this country.

I say to those listening that your children today, your family today, can have milk that is safe because of rules and regulations. You can eat food that is safe. You do not have to worry about it, because of rules and regulations to ensure safety to public health. Transportation, whether by air, bus, or plane, comes under certain rules and regulations that let your family travel safely.

The problem is that we have gone too far in some of these matters with some rules, and some regulation writers have been overzealous.

So we have come full circle in needing to put a rein on some of the rules and regulations. We need to set up new processes for making sure that we do not get into the quagmires of where we do not use common sense. Some of them are ridiculous. We can all cite anecdotal evidence.

On the Governmental Affairs Committee, we started working on what was landmark regulatory reform, doing a study back in 1977. This issue is not something that is brand new. Through the years, we dealt with OMB and OIRA, and it has been an open process.

While I was chair of the committee, we had a number of hearings, and this year, Senator ROTH, our chairman this year, has had four hearings on our bill, S. 291. We took a bipartisan and deliberative approach to it and voted that bill out of committee, unanimously, 15–0. Republicans and Democrats united together.

Any bill must have a balance. On the Governmental Affairs Committee, I believe we achieved that balance. I would like to run through very briefly some of the central issues for regulatory reform in the limited time I have here today.

My approach, and the approach taken by our committee, on regulatory reform is the following: First, agencies should be required to perform risk assessment and cost-benefit analysis for all major rules; second, cost-benefit analysis should inform agency decisionmaking, but it should not override other statutory rulemaking criteria; third, risk assessment requirements should apply only to major risk assessments, and these requirements must not be overly prescriptive; fourth, agencies should review existing rules, but the reviews should not be dictated by special interests; fifth, Government accountability requires sunshine in the regulatory review process; sixth, judicial review should be available to ensure the final agency rules are based on adequate analysis; it should not be a lawyer's dream with unending ways for special interest to bog down agencies with litigation; seventh, regulatory reform should not be the fix for every special interest.

Now, Mr. President, the Senator from Louisiana mentioned a number of the areas that are still in contention with this legislation. While we will have to work these issues out, we are all united in the need for regulatory reform.

The decision criteria: Will it be least cost, or will it be the cost effectiveness? Judicial reform has yet to be ironed out completely. Can we get a threshold of $100 million? How about the petition process, the sunset, special interest additions? These are issues we still need to work together on. We have yet to iron out exactly how we do these things.

Mr. President, any bill on the subject of regulatory reform to be deserving of support must pass a test. This test is twofold. I close with this: No. 1, does the bill provide for reasonable, logical, appropriate changes to regulatory procedures that eliminate unnecessary burdens on businesses and individuals? No. 2, at the same time, does the bill maintain the ability to protect the health, the safety, and the environment of the American people?

Now, that is a dual test that is very simple, and one we need to keep in mind as we debate this legislation. If the answer is ''yes,'' to both questions, the bill should be supported. Any bill that relieves regulatory burdens but threatens the protections for the American people in health or safety or environment should be opposed.

I will come back to this test many times when we debate regulatory reform the rest of this week and after the Fourth of July break.

I thank my colleague from Louisiana for yielding time. I yield the balance of my time to Senator LEVIN.

The PRESIDING OFFICER. The Senator from Michigan has 6 minutes remaining.

Mr. LEVIN. Let me commend all those involved in this effort. It is a very complicated effort, and most importantly perhaps, an essential and bipartisan effort. It has been that way from the beginning. I hope it stays that way throughout this process.

The original bill which was introduced was flawed. It did not achieve both goals we need to achieve, which is regulatory reform, to make this process more responsive to cost, to allow Members to review rules. We all, I hope, want to do that.

We all, I hope, want cost effective rules. We all, I hope, want to try to protect some basic health, safety, and environmental concerns. And I think we all believe that we can achieve all of that.

The original bill which was introduced in the bill that is now pending had some real limitations in those regards. The Senator from Louisiana and the Senator leader, the majority leader, and people on both sides of the aisle worked to come up with a substitute. I think they made some significant progress. They should be commended for it.

After that happened, there were a number of deficiencies that were pointed out by various people—the Senator from Louisiana and others who were open to the process of considering suggestions to improve their product—and we have made some significant progress in our private discussions to improve the so-called Dole-Johnston substitute.

Right now, assuming that the language is agreed upon, even though we have only reached two or three of the key nine issues, there has been some significant changes in that draft, which I think most of the people that have been involved in these negotiations, say represent improvements.

Now, there are still some outstanding issues. For instance, the majority leader and others have said ''We don't want a supermandate.'' This bill is intended to supplement and not to supersede.

Some have raised the question, what happens if the material in this bill, which is intended to supplement, conflicts with what it is intended not to supersede. Then what?

We are assured that the underlying legislation governs. Some have said ''Why don't we just simply say that?'' The answer has been, ''There is no need to because there is no conflict,'' yet the concern remains, and we are trying to figure out language which will address the concern of those who want to be sure that what the Republican leader says is the intent, the majority leader says is the intent—that there not be a supermandate, in fact, implemented in this bill.

We made some real progress in the so-called petitions area. Before this progress was made, I am afraid we were going to substitute a judicial quagmire for what is already a complicated regulatory process.

Nobody is benefited if we throw to the drowning folks who are drowning in regulations another bucket of water. What they need is a lifeline, not another complicating superstructure of judicial consideration.

That is what I am afraid we were about to do in the so-called petition area, until we had some very fruitful discussions, which have now, I think, reached a point where we can hope to avoid adding a judicial superstructure of huge complication to a regulatory process.

Mr. President, I am glad that these discussions are going to continue. I want to commend, particularly, Senator GLENN, Senator ROTH, others on the Governmental Affairs Committee who have worked on the Governmental Affairs bill which contained so many elements of the bill which we are going to consider during the days that we do consider regulatory reform.

We need regulatory reform. We must have cost benefit analysis. We need risk assessment. But we also need to be sure that what we are achieving protects, in a sensible way, the environment and the health and the safety of the people of the United States.

Some people say, ''Why don't you just have the cheapest regulation automatically?'' Well, the answer is because the cheapest may not be the most cost effective. Just like the cheapest pair of shoes is not the sensible pair of shoes. The cheapest car is not the best car to buy, or else we would all be driving Yugos.

We need cost-benefit analysis, but that assumes that something which is slightly more costly might have huge benefits, and in that case we surely want to be able to consider the cost effectiveness of the regulation and not be required to always go with what is the cheapest, because that may not be the most cost effective.

I think there is kind of an understanding, almost a consensus that that is correct; that we do not want to be driven always to the cheapest, that a marginal increase might be sensible and might achieve some great benefits and that ought to be permitted under this process.

Let me close by again commending my colleagues on Governmental Affairs, Senators GLENN and ROTH and others; the majority leader and Senator DASCHLE have been critical in this, Senator JOHNSTON, Senator HATCH, and others—so many who have been involved in getting us where we are today. We are making progress. I hope that progress will be allowed to continue and will not be thwarted in any way that is inconsistent with what our common goal is.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized. All time has expired.

Mr. JOHNSTON. Mr. President, I ask unanimous consent I be able to proceed for 2 minutes.

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

Mr. JOHNSTON. Mr. President, I commend my colleagues on this side of the aisle who have been involved in this negotiation, particularly Senator LEVIN, Senator GLENN, Senator BIDEN, Senator BAUCUS, Senator KERREY, and Senator LAUTENBERG especially, who have contributed so much in bringing the draft up to where it is now.

As I say, it is not a done deal yet in terms of satisfying everyone's concerns, but it is much, much closer to that than when the Judiciary Committee bill started out.

Mr. President, I am advised it is the majority leader's intention Friday afternoon to withdraw the committee amendments to S. 343 and send the substitute to the desk. That substitute is, in effect, the Dole-Johnston discussion draft filed a few days ago, which is being supplemented by the agreement identified by myself and Senator LEVIN, and with other modifications which we have worked on during these hours.

So I ask unanimous consent that be printed in the RECORD tonight, when submitted to the Chair.

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

On page 33, beginning with line 5, strike all through the end of the bill and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Comprehensive Regulatory Reform Act of 1995''.

SEC. 2. DEFINITIONS.

Section 551 of title 5, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ''this subchapter'' and inserting ''this chapter and chapters 7 and 8'';

(2) in paragraph (13), by striking ''and'';

(3) in paragraph (14), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following new paragraph:

''(15) 'Director' means the Director of the Office of Management and Budget.''.

SEC. 3. RULEMAKING.

Section 553 of title 5, United States Code, is amended to read as follows:

''§ 553. Rulemaking

''(a) APPLICABILITY.—This section applies to every rulemaking, according to the provisions thereof, except to the extent that there is involved—

''(1) a matter pertaining to a military or foreign affairs function of the United States;

''(2) a matter relating to the management or personnel practices of an agency;

''(3) an interpretive rule, general statement of policy, guidance, or rule of agency organization, procedure, or practice, unless such rule, statement, or guidance has general applicability and substantially alters or creates rights or obligations of persons outside the agency; or

''(4) a rule relating to the acquisition, management, or disposal by an agency of real or personal property, or of services, that is promulgated in compliance with otherwise applicable criteria and procedures.

''(b) NOTICE OF PROPOSED RULEMAKING.—General notice of proposed rulemaking shall be published in the Federal Register, unless all persons subject thereto are named and either personally served or otherwise have actual notice of the proposed rulemaking in accordance with law. Each notice of proposed rulemaking shall include—

''(1) a statement of the time, place, and nature of public rulemaking proceedings;

''(2) a succinct explanation of the need for and specific objectives of the proposed rule, including an explanation of the agency's determination of whether or not the rule is a major rule within the meaning of section 621(5);

''(3) a succinct explanation of the specific statutory basis for the proposed rule, including an explanation of—

''(A) whether the interpretation is clearly required by the text of the statute; or

''(B) if the interpretation is not clearly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and an explanation why the interpretation selected by the agency is the agency's preferred interpretation;

''(4) the terms or substance of the proposed rule;

''(5) a summary of any initial analysis of the proposed rule required to be prepared or issued pursuant to chapter 6;

''(6) a statement that the agency seeks proposals from the public and from State and local governments for alternative methods to accomplish the objectives of the rulemaking that are more effective or less burdensome than the approach used in the proposed rule; and

''(7) a statement specifying where the file of the rulemaking proceeding maintained pursuant to subsection (j) may be inspected and how copies of the items in the file may be obtained.

''(c) PERIOD FOR COMMENT.—The agency shall give interested persons not less than 60 days after providing the notice required by subsection (b) to participate in the rulemaking through the submission of written data, views, or arguments.

''(d) GOOD CAUSE EXCEPTION.—Unless notice or hearing is required by statute, a final rule may be adopted and may become effective without prior compliance with subsections (b) and (c) and (e) through (g) if the agency for good cause finds that providing notice and public procedure thereon before the rule becomes effective is impracticable, unnecessary, or contrary to the public interest. If a rule is adopted under this subsection, the agency shall publish the rule in the Federal Register with the finding and a succinct explanation of the reasons therefor.

''(e) PROCEDURAL FLEXIBILITY.—To collect relevant information, and to identify and elicit full and representative public comment on the significant issues of a particular rulemaking, the agency may use such other procedures as the agency determines are appropriate, including—

''(1) the publication of an advance notice of proposed rulemaking;

''(2) the provision of notice, in forms which are more direct than notice published in the Federal Register, to persons who would be substantially affected by the proposed rule but who are unlikely to receive notice of the proposed rulemaking through the Federal Register;

''(3) the provision of opportunities for oral presentation of data, views, information, or rebuttal arguments at informal public hearings, meetings, and round table discussions, which may be held in the District of Columbia and other locations;

''(4) the establishment of reasonable procedures to regulate the course of informal public hearings, meetings and round table discussions, including the designation of representatives to make oral presentations or engage in direct or cross-examination on behalf of several parties with a common interest in a rulemaking, and the provision of transcripts, summaries, or other records of all such public hearings and summaries of meetings and round table discussions;

''(5) the provision of summaries, explanatory materials, or other technical information in response to public inquiries concerning the issues involved in the rulemaking; and

''(6) the adoption or modification of agency procedural rules to reduce the cost or complexity of the procedural rules.

''(f) PLANNED FINAL RULE.—If the provisions of a final rule that an agency plans to adopt are so different from the provisions of the original notice of proposed rulemaking that the original notice did not fairly apprise the public of the issues ultimately to be resolved in the rulemaking or of the substance of the rule, the agency shall publish in the Federal Register a notice of the final rule the agency plans to adopt, together with the information relevant to such rule that is required by the applicable provisions of this section and that has not previously been published in the Federal Register. The agency shall allow a reasonable period for comment on such planned final rule prior to its adoption.

''(g) STATEMENT OF BASIS AND PURPOSE.—An agency shall publish each final rule it adopts in the Federal Register, together with a concise statement of the basis and purpose of the rule and a statement of when the rule may become effective. The statement of basis and purpose shall include—

''(1) an explanation of the need for, objectives of, and specific statutory authority for, the rule;

''(2) a discussion of, and response to, any significant factual or legal issues presented by the rule, or raised by the comments on the proposed rule, including a description of the reasonable alternatives to the rule proposed by the agency and by interested persons, and the reasons why such alternatives were rejected;

''(3) a succinct explanation of whether the specific statutory basis for the rule is expressly required by the text of the statute, or if the specific statutory interpretation upon which the rule is based is not expressly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and why the agency has rejected other interpretations proposed in comments to the agency;

''(4) an explanation of how the factual conclusions upon which the rule is based are substantially supported in the rulemaking file; and

''(5) a summary of any final analysis of the rule required to be prepared or issued pursuant to chapter 6.

''(h) NONAPPLICABILITY.—In the case of a rule that is required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 shall apply in lieu of subsections (c), (e), (f), and (g).

''(i) EFFECTIVE DATE.—An agency shall publish the final rule in the Federal Register not later than 60 days before the effective date of such rule. An agency may make a rule effective in less than 60 days after publication in the Federal Register if the rule grants or recognizes an exemption, relieves a restriction, or if the agency for good cause finds that such a delay in the effective date would be contrary to the public interest and publishes such finding and an explanation of the reasons therefor, with the final rule.

''(j) RULEMAKING FILE.—(1) The agency shall maintain a file for each rulemaking proceeding conducted pursuant to this section and shall maintain a current index to such file.

''(2) Except as provided in subsection (k), the file shall be made available to the public not later than the date on which the agency makes an initial publication concerning the rule.

''(3) The rulemaking file shall include—

''(A) the notice of proposed rulemaking, any supplement to, or modification or revision of, such notice, and any advance notice of proposed rulemaking;

''(B) copies of all written comments received on the proposed rule;

''(C) a transcript, summary, or other record of any public hearing conducted on the rulemaking;

''(D) copies, or an identification of the place at which copies may be obtained, of factual and methodological material that pertains directly to the rulemaking and that was considered by the agency in connection with the rulemaking, or that was submitted to or prepared by or for the agency in connection with the rulemaking; and

''(E) any statement, description, analysis, or other material that the agency is required to prepare or issue in connection with the rulemaking, including any analysis prepared or issued pursuant to chapter 6.

The agency shall place each of the foregoing materials in the file as soon as practicable after each such material becomes available to the agency.

''(k) CONFIDENTIAL TREATMENT.—The file required by subsection (j) need not include any material described in section 552(b) if the agency includes in the file a statement that notes the existence of such material and the basis upon which the material is exempt from public disclosure under such section. The agency may not substantially rely on any such material in formulating a rule unless it makes the substance of such material available for adequate comment by interested persons. The agency may use summaries, aggregations of data, or other appropriate mechanisms to protect the confidentiality of such material to the maximum extent possible.

''(*l*) RULEMAKING PETITION.—(1) Each agency shall give an interested person the right to petition—

''(A) for the issuance, amendment, or repeal of a rule;

''(B) for the amendment or repeal of an interpretive rule or general statement of policy or guidance;

''(C) for an interpretation regarding the meaning of a rule, interpretive rule, general statement of policy, or guidance; and

''(D) for a variance or exemption from the terms of a rule to which the petitioner is otherwise subject, provided the statute authorizing the rule does not prohibit a variance or exemption.

''(2) The agency shall grant or deny a petition made pursuant to paragraph (1), and give written notice of its determination to the petitioner, with reasonable promptness, but in no event later than 18 months after the petition was received by the agency.

''(3) The written notice of the agency's determination shall include an explanation of the determination and a response to each significant factual and legal claim that forms the basis of the petition.

''(m) JUDICIAL REVIEW.—(1) The decision of an agency to use or not to use procedures in a rulemaking under subsection (e) shall not be subject to judicial review.

''(2) The rulemaking file required under subsection (j) shall constitute the rulemaking record for purposes of judicial review.

''(3) No court shall hold unlawful or set aside an agency rule based on a violation of subsection (j), unless the court finds that such violation has precluded fair public consideration of a material issue of the rulemaking taken as a whole.

''(4)(A) Judicial review of compliance or noncompliance with subsection (j) shall be limited to review of action or inaction on the part of an agency.

''(B) A decision by an agency to deny a petition under subsection (*l*) shall be subject to judicial review immediately upon denial, as final agency action under the statute granting the agency authority to carry out its action.

''(n) CONSTRUCTION.—(1) Notwithstanding any other provision of law, this section shall apply to and supplement the procedures governing informal rulemaking under statutes that are not generally subject to this section.

''(2) Nothing in this section authorizes the use of appropriated funds available to any agency to pay the attorney's fees or other expenses of persons intervening in agency proceedings.''.

SEC. 4. ANALYSIS OF AGENCY RULES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER II—ANALYSIS OF AGENCY RULES

''§ 621. Definitions

''For purposes of this subchapter—

''(1) except as otherwise provided, the definitions under section 551 shall apply to this subchapter;

''(2) the term 'benefit' means the reasonably identifiable significant favorable effects, including social, environmental, health, and economic effects, that are expected to result directly or indirectly from implementation of a rule or other agency action;

''(3) the term 'cost' means the reasonably identifiable significant adverse effects, including social, environmental, health, and economic effects that are expected to result directly or indirectly from implementation of a rule or other agency action;

''(4) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition;

''(5) the term 'major rule' means—

''(A) a rule or set of closely related rules that the agency proposing the rule, the Director, or a designee of the President determines is likely to have a gross annual effect on the economy of $50,000,000 or more in reasonably quantifiable increased costs; or

''(B) a rule that is otherwise designated a major rule by the agency proposing the rule, the Director, or a designee of the President

(and a designation or failure to designate under this clause shall not be subject to judicial review);

''(6) the term 'market-based mechanism' means a regulatory program that—

''(A) imposes legal accountability for the achievement of an explicit regulatory objective on each regulated person;

''(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, which flexibility shall, where feasible and appropriate, include, but not be limited to, the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

''(C) permits regulated persons to respond to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates;

''(7) the term 'performance-based standards' means requirements, expressed in terms of outcomes or goals rather than mandatory means of achieving outcomes or goals, that permit the regulated entity discretion to determine how best to meet specific requirements in particular circumstances;

''(8) the term 'reasonable alternatives' means the range of reasonable regulatory options that the agency has authority to consider under the statute granting rulemaking authority, including flexible regulatory options of the type described in section 622(c)(2)(C)(iii), unless precluded by the statute granting the rulemaking authority; and

''(9) the term 'rule' has the same meaning as in section 551(4), and—

''(A) includes any statement of general applicability that substantially alters or creates rights or obligations of persons outside the agency; and

''(B) does not include—

''(i) a rule that involves the internal revenue laws of the United States, or the assessment and collection of taxes, duties, or other revenues or receipts;

''(ii) subject to section 633(c)(6), a rule or agency action that implements a treaty or international trade agreement to which the United States is a party;

''(iii) a rule or agency action that authorizes the introduction into commerce, or recognizes the marketable status, of a product;

''(iv) a rule exempt from notice and public procedure under section 553(a);

''(v) a rule or agency action relating to the public debt;

''(vi) a rule required to be promulgated at least annually pursuant to statute, or that provides relief, in whole or in part, from a statutory prohibition, other than a rule promulgated pursuant to subtitle C of title II of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.);

''(vii) a rule of particular applicability that approves or prescribes the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

''(viii) a rule relating to monetary policy or to the safety or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k))), credit unions, Federal Home Loan Banks, government sponsored housing enterprises, farm credit institutions, foreign banks that operate in the United States and their affiliates, branches, agencies, commercial lending companies, or representative offices, (as those terms are defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101));

''(ix) a rule relating to the payment system or the protection of deposit insurance funds or the farm credit insurance fund;

''(x) any order issued in a rate or certificate proceeding by the Federal Energy Regulatory Commission, or a rule of general applicability that the Federal Energy Regulatory Commission certifies would increase reliance on competitive market forces or reduce regulatory burdens;

''(xi) a rule or order relating to the financial responsibility of brokers and dealers or futures commission merchants, the safeguarding of investor securities and funds or commodity future or options customer securities and funds, the clearance and settlement of securities, futures, or options transactions, or the suspension of trading under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or emergency action taken under the Commodity Exchange Act (7 U.S.C. 1 et seq.), or a rule relating to the protection of the Securities Investor Protection Corporation, that is promulgated under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.); or

''(xii) a rule that involves the international trade laws of the United States.

''§ 622. Rulemaking cost-benefit analysis

''(a) DETERMINATION OF MAJOR RULE.—Prior to publishing a notice of proposed rulemaking for any rule (or, in the case of a notice of proposed rulemaking that has been published but not issued on or before the date of enactment of this subchapter, not later than 30 days after such date of enactment), each agency shall determine whether the rule is or is not a major rule within the meaning of section 621(5)(A)(i) and, if it is not, whether it should be designated as a major rule under section 621(5)(A)(ii).

''(b) DESIGNATION.—(1) If an agency has determined that a rule is not a major rule within the meaning of section 621(5)(A)(i) and has not designated the rule as a major rule within the meaning of section 621(5)(A)(ii), the Director or a designee of the President may, as appropriate, determine that the rule is a major rule or designate the rule as a major rule not later than 30 days after the publication of the notice of proposed rulemaking for the rule (or, in the case of a notice of proposed rulemaking that has been published on or before the date of enactment of this subchapter, not later than 1 year after such date of enactment).

''(2) Such determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation.

''(c) INITIAL COST-BENEFIT ANALYSIS.—(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking file an initial cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

''(B)(i) When an agency, the Director, or a designee of the President has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

''(ii) Following the issuance of an initial cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment in the same manner as if the initial cost-benefit analysis had been issued with the notice of proposed rulemaking.

''(2) Each initial cost-benefit analysis shall contain—

''(A) a succinct analysis of the benefits of the proposed rule, including any beneficial effects that cannot be quantified, and an explanation of how the agency anticipates such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

''(B) a succinct analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs;

''(C) a succinct description (including an analysis of the costs and benefits) of reasonable alternatives for achieving the identified benefits of the proposed rule, including, where such alternatives exist, alternatives that—

''(i) require no government action, where the agency has discretion under the statute granting the rulemaking authority not to promulgate a rule;

''(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply;

''(iii) employ performance-based standards, market-based mechanisms, or other flexible regulatory options that permit the greatest flexibility in achieving the regulatory result that the statutory provision authorizing the rule is designed to produce; or

''(iv) employ voluntary standards;

''(D) in any case in which the proposed rule is based on one or more scientific evaluations, scientific information, or a risk assessment, or is subject to the risk assessment requirements of subchapter III, a description of the actions undertaken by the agency to verify the quality, reliability, and relevance of such scientific evaluation, scientific information, or risk assessment; and

''(E) an explanation of whether the proposed rule is likely to meet the decisional criteria of section 624.

''(d) FINAL COST-BENEFIT ANALYSIS.—(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking file a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

''(2) Each final cost-benefit analysis shall contain—

''(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking record, including flexible regulatory options of the type described in subsection (c)(2)(C)(iii), and a description of the persons likely to receive such benefits and bear such costs; and

''(B) an analysis, based upon the rulemaking record considered as a whole, of whether and how the rule meets the decisional criteria in section 624.

''(3) In considering the benefits and costs, the agency, when appropriate, shall consider the benefits and costs incurred by all of the affected persons or classes of persons (including specially affected subgroups).

''(e) REQUIREMENTS FOR COST-BENEFIT ANALYSES.—(1)(A) The description of the benefits and costs of a proposed and a final rule required under this section shall include, to the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs.

''(B) The quantification or numerical estimate shall—

''(i) be made in the most appropriate unit of measurement, using comparable assumptions, including time periods;

''(ii) specify the ranges of predictions; and

''(iii) explain the margins of error involved in the quantification methods and the uncertainties and variabilities in the estimates used.

''(C) An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible.

''(D) The agency evaluation of the relationship of benefits to costs shall be clearly articulated.

''(E) An agency shall not be required to make such evaluation primarily on a mathematical or numerical basis.

''(F) Nothing in this subsection shall be construed to expand agency authority beyond the delegated authority arising from the statute granting the rulemaking authority.

''(2) Where practicable and when understanding industry-by-industry effects is of central importance to a rulemaking, the description of the benefits and costs of a proposed and final rule required under this section shall describe such benefits and costs on an industry by industry basis.

''(f) HEALTH, SAFETY, OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) A major rule may be adopted and may become effective without prior compliance with this subchapter if—

''(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources; and

''(B) the agency publishes in the Federal Register, together with such finding, a succinct statement of the basis for the finding.

''(2) Not later than 180 days after the promulgation of a final major rule to which this section applies, the agency shall comply with the provisions of this subchapter and, if thereafter necessary, revise the rule.

''§ 623. Agency regulatory review

''(a) PRELIMINARY SCHEDULE FOR RULES.—(1) Not later than 1 year after the date of the enactment of this section, and every 5 years thereafter, the head of each agency shall publish in the Federal Register a notice of proposed rulemaking under section 553 that contains a preliminary schedule of rules selected for review under this section by the head of the agency and in the sole discretion of the head of the agency, and request public comment thereon, including suggestions for additional rules warranting review. The agency shall allow at least 180 days for public comment.

''(2) In selecting rules for the preliminary schedule, the head of the agency shall consider the extent to which, in the judgment of the head of the agency—

''(A) a rule is unnecessary, and the agency has discretion under the statute authorizing the rule to repeal the rule;

''(B) a rule would not meet the decisional criteria of section 624, and the agency has discretion under the statute authorizing the rule to repeal the rule; or

''(C) a rule could be revised in a manner allowed by the statute authorizing the rule so as to meet the decisional criteria of section 624 and to—

''(i) substantially decrease costs;

''(ii) substantially increase benefits; or

''(iii) provide greater flexibility for regulated entities, through mechanisms including, but not limited to, those listed in section 622(c)(2)(C)(iii).

''(3) The preliminary schedule under this subsection shall propose deadlines for review of each rule listed thereon, and such deadlines shall occur not later than 11 years from the date of publication of the preliminary schedule.

''(4) Any interpretive rule, general statement of policy, or guidance that has the force and effect of a rule under section 621(9) shall be treated as a rule for purposes of this section.

''(b) SCHEDULE.—(1) Not later than 1 year after publication of a preliminary schedule under subsection (a), and subject to subsection (c), the head of each agency shall publish a final rule that establishes a schedule of rules to be reviewed by the agency under this section.

''(2) The schedule shall establish a deadline for completion of the review of each rule listed on the schedule, taking into account the criteria in subsection (d) and comments received in the rulemaking under subsection (a). Each such deadline shall occur not later than 11 years from the date of publication of the preliminary schedule.

''(3) The schedule shall contain, at a minimum, all rules listed on the preliminary schedule.

''(4) The head of the agency shall modify the agency's schedule under this section to reflect any change ordered by the court under subsection (e) or subsection (g)(3) or contained in an appropriations Act under subsection (f).

''(c) PETITIONS AND COMMENTS PROPOSING ADDITION OF RULES TO THE SCHEDULE.—(1) Notwithstanding section 553(*l*), a petition to amend or repeal a major rule or an interpretative rule, general statement of policy, or guidance may only be filed during the 180-day comment period under subsection (a) and not at any other time. Such petition shall be reviewed only in accordance with this subsection.

''(2) The head of the agency shall, in response to petitions received during the rulemaking to establish the schedule, place on the final schedule for review within the first 3 years of the schedule any rule for which a petition, on its face, together with any relevant comments received in the rulemaking under subsection (a), establishes that there is a substantial likelihood that, considering the future impact of the rule—

''(A) the rule is a major rule under section 621(5)(A); and

(B) the head of the agency would not be able to make the findings required by section 624 with respect to the rule.

''(3) For the purposes of paragraph (2), the head of the agency may consolidate multiple petitions on the same rule into 1 determination with respect to review of the rule.

''(4) The head of the agency may, at the sole discretion of the head of the agency, add to the schedule any other rule suggested by a commentator during the rulemaking under subsection (a).

''(d) CRITERIA FOR ESTABLISHING DEADLINES FOR REVIEW.—The schedules in subsections (a) and (b) shall establish deadlines for review of each rule on the schedule that take into account—

''(1) the extent to which, for a particular rule, the preliminary views of the agency are that—

''(A) the rule is unnecessary, and the agency has discretion under the statute authorizing the rule to repeal the rule;

''(B) the rule would not meet the decisional criteria of section 624, and the agency has discretion under the statute authorizing the rule to repeal the rule; or

''(C) the rule could be revised in a manner allowed by the statute authorizing the rule so as to meet the decisional criteria under section 624 and to—

''(i) substantially decrease costs;

''(ii) substantially increase benefits; or

''(iii) provide greater flexibility for regulated entities, through mechanisms including, but not limited to, those listed in section 622(c)(2)(C)(iii);

''(2) the importance of each rule relative to other rules being reviewed under this section; and

''(3) the resources expected to be available to the agency under subsection (f) to carry out the reviews under this section.

''(e) JUDICIAL REVIEW.—(1) Notwithstanding section 625 and except as provided otherwise in this subsection, agency compliance or noncompliance with the requirements of this section shall be subject to judicial review in accordance with section 706 of this title.

''(2) The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to review agency action pursuant to subsection (b) and subsection (c).

''(3) A petition for review of final agency action under subsection (b) or subsection (c) shall be filed not later than 60 days after the agency publishes the final rule under subsection (b).

''(4) The court upon review, for good cause shown, may extend the 3-years deadline under subsection (c)(2) for a period not to exceed an additional year.

''(5) The court shall remand to the agency any schedule under subsection (b) only if final agency action under subsection (b) is arbitrary or capricious. Agency action under subsection (d) shall not be subject to judicial review.

''(f) ANNUAL BUDGET.—(1) The President's annual budget proposal submitted under section 1105(a) of title 31 for each agency subject to this section shall—

''(A) identify as a separate sum the amount requested to be appropriated for implementation of this section during the upcoming fiscal year; and

''(B) include a list of rules which may terminate during the year for which the budget proposal is made.

''(2) Amendments to the schedule under subsection (b) that change a deadline for review of a rule may be included in annual appropriations Acts for the relevant agencies. An authorizing committee with jurisdiction may submit, to the House of Representatives or Senate appropriations committee (as the case may be), amendments to the schedule published by an agency under subsection (b) that change a deadline for review of a rule. The appropriations committee to which such amendments have been submitted shall include or propose the amendments in the annual appropriations Act for the relevant agency. Each agency shall modify its schedule under subsection (b) to reflect such amendments.

''(g) REVIEW OF RULE.—(1) For each rule on the schedule under subsection (b), the agency shall—

''(A) not later than 2 years before the deadline in such schedule, publish in the Federal Register a notice that solicits public comment regarding whether the rule should be continued, amended, or repealed;

''(B) not later than 1 year before the deadline in such schedule, publish in the Federal Register a notice that—

''(i) addresses public comments generated by the notice in subparagraph (A);

''(ii) contains a preliminary analysis provided by the agency of whether the rule is a major rule, and if so, whether it satisfies the decisional criteria of section 624;

''(iii) contains a preliminary determination as to whether the rule should be continued, amended, or repealed; and

''(iv) solicits public comment on the preliminary determination for the rule; and

''(C) not later than 60 days before the deadline in such schedule, publish in the Federal Register a final notice on the rule that—

''(i) addresses public comments generated by the notice in subparagraph (B); and

''(ii) contains a final determination of whether to continue, amend, or repeal the rule; and

''(iii) if the agency determines to continue the rule and the rule is a major rule, contains findings necessary to satisfy the decisional criteria of section 624; and

''(iv) if the agency determines to amend the rule, contains a notice of proposed rulemaking under section 553.

''(2) If the final determination of the agency is to continue or repeal the rule, that determination shall take effect 60 days after the publication in the Federal Register of the notice in paragraph (1)(C).

''(3) An interested party may petition the U.S. Court of Appeals for the District of Columbia Circuit to extend the period for review of a rule on the schedule for up to two years and to grant such equitable relief as is appropriate, if such petition establishes that—

''(A) the rule is likely to terminate under subsection (i);

''(B) the agency needs additional time to complete the review under this subsection;

''(C) terminating the rule would not be in the public interest; and

''(D) the agency has not expeditiously completed its review.

''(h) DEADLINE FOR FINAL AGENCY ACTION ON MODIFIED RULE.—If an agency makes a determination to amend a major rule under subsection (g)(1)(C)(ii), the agency shall complete final agency action with regard to such rule not later than 2 years of the date of publication of the notice in subsection (g)(1)(C) containing such determination. Nothing in this subsection shall limit the discretion of an agency to decide, after having proposed to modify a major rule, not to promulgate such modification. Such decision shall constitute final agency action for the purposes of judicial review.

''(i) TERMINATION OF RULES.—If the head of an agency has not completed the review of a rule by the deadline established in the schedule published or modified pursuant to subsection (b) and subsection (c), the head of the agency shall not enforce the rule, and the rule shall terminate by operation of law as of such date.

''(j) FINAL AGENCY ACTION.—(1) The final determination of an agency to continue or repeal a major rule under subsection (g)(1)(C) shall be considered final agency action.

''(2) Failure to promulgate an amended major rule or to make other decisions required by subsection (h) by the date established under such subsection shall be considered final agency action.

''§ 624. Decisional criteria

''(a) CONSTRUCTION WITH OTHER LAWS.—The requirements of this section shall supplement, and not supersede, any other decisional criteria otherwise provided by law.

''(b) REQUIREMENTS.—Except as provided in subsection (c), no final major rule subject to this subchapter shall be promulgated unless the agency head publishes in the Federal Register a finding that—

''(1) the benefits from the rule justify the costs of the rule;

''(2) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii); and

''(3)(A) the rule adopts the least cost alternative of the reasonable alternatives that achieves the objectives of the statute; or

''(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest and the agency head provides an explanation of those considerations, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or benefits; and

''(4) if a risk assessment is required by section 632—

''(A) the rule is likely to significantly reduce the human health, safety, and environmental risks to be addressed; or

''(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, preclude making the finding under subparagraph (A), promulgating the final rule is nevertheless justified for reasons stated in writing accompanying the rule and consistent with subchapter III.

''(c) ALTERNATIVE REQUIREMENTS.—If, applying the statutory requirements upon which the rule is based, a rule cannot satisfy the criteria of subsection (b), the agency head may promulgate the rule if the agency head finds that—

''(1) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii);

''(2)(A) the rule adopts the least cost alternative of the reasonable alternatives that achieves the objectives of the statute; or

''(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest, and the agency head provides an explanation of those consideration, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or benefits; and

''(3) if a risk assessment is required by section 632—

''(A) the rule is likely to significantly reduce the human health, safety, and environmental risks to be addressed; or

''(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, preclude making the finding under subparagraph (A), promulgating the final rule is nevertheless justified for reasons stated in writing accompanying the rule and consistent with subchapter III.

''(d) PUBLICATION OF REASONS FOR NONCOMPLIANCE.—If an agency promulgates a rule to which subsection (c) applies, the agency head shall prepare a written explanation of why the agency was required to promulgate a rule that does not satisfy the criteria of subsection (b) and shall transmit the explanation with the final cost-benefit analysis to Congress when the final rule is promulgated.

''§ 625. Jurisdiction and judicial review

''(a) REVIEW.—Compliance or noncompliance by an agency with the provisions of this subchapter and subchapter III shall be subject to judicial review only in accordance with this section.

''(b) JURISDICTION.—(1) Subject to paragraph (2), each court with jurisdiction under a statute to review final agency action to which this title applies, has jurisdiction to review any claims of noncompliance with this subchapter and subchapter III.

''(2) No claims of noncompliance with this subchapter or subchapter III shall be reviewed separate or apart from judicial review of the final agency action to which they relate.

''(c) RECORD.—Any analysis or review required under this subchapter or subchapter III shall constitute part of the rulemaking record of the final agency action to which it pertains for the purposes of judicial review.

''(d) STANDARDS FOR REVIEW.—In any proceeding involving judicial review under section 706 or under the statute granting the rulemaking authority, failure to comply with this subchapter or subchapter III may be considered by the court solely for the purpose of determining whether the final agency action is arbitrary and capricious or an abuse of discretion (or unsupported by substantial evidence where that standard is otherwise provided by law).

''(e) INTERLOCUTORY REVIEW.—(1) The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review—

''(A) an agency determination that a rule is not a major rule pursuant to section 622(a); and

''(B) an agency determination that a risk assessment is not required pursuant to section 632(a).

''(2) A petition for review of agency action under paragraph (1) shall be filed within 60 days after the agency makes the determination or certification for which review is sought.

''(3) Except as provided in this subsection, no court shall have jurisdiction to review any agency determination or certification specified in paragraph (1).

''§ 626. Deadlines for rulemaking

''(a) STATUTORY.—All deadlines in statutes that require agencies to propose or promulgate any rule subject to section 622 or subchapter III during the 5-year period beginning on the effective date of this section shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 2 years after the date of the applicable deadline.

''(b) COURT-ORDERED.—All deadlines imposed by any court of the United States that would require an agency to propose or promulgate a rule subject to section 622 or subchapter III during the 5-year period beginning on the effective date of this section shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 2 years after the date of the applicable deadline.

''(c) OBLIGATION TO REGULATE.—In any case in which the failure to promulgate a rule by a deadline occurring during the 5-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 2 years after the date of the applicable deadline.

''§ 627. Special rule

''Notwithstanding any other provision of the Comprehensive Regulatory Reform Act of 1995, or the amendments made by such Act, for purposes of this subchapter and subchapter IV, the head of each appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act), the National Credit Union Administration, the Federal Housing Finance Board, the Office of Federal Housing Enterprise Oversight, and the Farm Credit Administration, shall have authority with respect to such agency that otherwise would be provided under such subchapters to the Director, a designee of the President, Vice President, or any officer designated or delegated with authority under such subchapters.

''§ 628. Requirements for major environmental management activities

''(a) DEFINITION.—For purposes of this section, the term 'major environmental management activity' means—

''(1) a corrective action requirement under the Solid Waste Disposal Act;

''(2) a response action or damage assessment under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

''(3) the treatment, storage, or disposal of radioactive or mixed waste in connection with site restoration activity; and

''(4) Federal guidelines for the conduct of such activity, including site-specific guidelines,

the expected costs, expenses, and damages of which are likely to exceed, in the aggregate, $10,000,000.

''(b) APPLICABILITY.—A major environmental management activity is subj ect to this section unless construction has commenced on a significant portion of the activity, and—

''(1) it is more cost-effective to complete construction of the work than to apply the provisions of this subchapter; or

''(2) the application of the provisions of this subchapter, including any delays caused thereby, will result in an actual and immediate risk to human health or welfare.

''(c) REQUIREMENT TO PREPARE RISK ASSESSMENT.—(1) For each major environmental management activity or significant unit thereof that is proposed by the agency after the date of enactment of this subchapter, is pending on the date of enactment of this subchapter, or is subject to a granted petition for review pursuant to section 623, the head of an agency shall prepare—

''(A) a risk assessment in accordance with subchapter III; and

''(B) a cost-benefit analysis equivalent to that which would be required under this subchapter, if such subchapter were applicable.

''(2) In conducting a risk assessment or cost-benefit analysis under this section, the head of the agency shall incorporate the reasonably anticipated probable future use of the land and its surroundings (and any associated media and resources of either) affected by the environmental management activity.

''(3) For actions pending on the date of enactment of this section or proposed during the year following the date of enactment of this section, in lieu of preparing a risk assessment in accordance with subchapter III or cost-benefit analysis under this subchapter, an agency may use other appropriately developed analyses that allow it to make the judgments required under subsection (d).

''(d) REQUIREMENT.—The requirements of this subsection shall supplement, and not supersede, any other requirement provided by any law. A major environmental management activity under this section shall meet the decisional criteria under section 624 as if it is a major rule under such section.

''SUBCHAPTER III—RISK ASSESSMENTS

''§ 631. Definitions

''For purposes of this subchapter—

''(1) except as otherwise provided, the definitions under section 551 shall apply to this subchapter;

''(2) the term 'exposure assessment' means the scientific determination of the intensity, frequency and duration of actual or potential exposures to the hazard in question;

''(3) the term 'hazard assessment' means the scientific determination of whether a hazard can cause an increased incidence of one or more significant adverse effects, and a scientific evaluation of the relationship between the degree of exposure to a perceived cause of an adverse effect and the incidence and severity of the effect;

''(4) the term 'major rule' has the meaning given such term in section 621(5);

''(5) the term 'risk assessment' means the systematic process of organizing and analyzing scientific knowledge and information on potential hazards, including as appropriate for the specific risk involved, hazard assessment, exposure assessment, and risk characterization;

''(6) the term 'risk characterization' means the integration and organization of hazard and exposure assessment to estimate the potential for specific harm to an exposed population or natural resource including, to the extent feasible, a characterization of the distribution of risk as well as an analysis of uncertainties, variabilities, conflicting information, and inferences and assumptions in the assessment;

''(7) the term 'screening analysis' means an analysis using simple conservative postulates to arrive at an estimate of upper and lower bounds as appropriate, that permits the manager to eliminate risks from further consideration and analysis, or to help establish priorities for agency action; and

''(8) the term 'substitution risk' means an increased risk to human health, safety, or the environment reasonably likely to result from a regulatory option.

''§ 632. Applicability

''(a) IN GENERAL.—Except as provided in subsection (c), for each proposed and final major rule, a primary purpose of which is to protect human health, safety, or the environment, or a consequence of which is a substantial substitution risk, that is proposed by an agency after the date of enactment of this subchapter, or is pending on the date of enactment of this subchapter, the head of each agency shall prepare a risk assessment in accordance with this subchapter.

''(b) APPLICATION OF PRINCIPLES.—(1) Except as provided in subsection (c), the head of each agency shall apply the principles in this subchapter to any risk assessment conducted to support a determination by the agency of risk to human health, safety, or the environment, if such determination would be likely to have an effect on the United States economy equivalent to that of a major rule.

''(2) In applying the principles of this subchapter to risk assessments other than those in subsections (a), (b)(1), and (c), the head of each agency shall publish, after notice and public comment, guidelines for the conduct of such other risk assessments that adopt the principles of this subchapter in a manner consistent with section 633(a)(4) and the risk assessment and risk management needs of the agency.

''(3) An agency shall not, as a condition for the issuance or modification of a permit, conduct, or require any person to conduct, a risk assessment, except if the agency finds that the risk assessment meets the requirements of section 633 (a) through (f).

''(c) EXCEPTIONS.—(1) This subchapter shall not apply to risk assessments performed with respect to—

''(A) a situation for which the agency finds good cause that conducting a risk assessment is impracticable due to an emergency or health and safety threat that is likely to result in significant harm to the public or natural resources;

''(B) a rule or agency action that authorizes the introduction into commerce, or initiation of manufacture, of a substance, mixture, or product, or recognizes the marketable status of a product;

''(C) a human health, safety, or environmental inspection, an action enforcing a statutory provision, rule, or permit, or an individual facility or site permitting action, except to the extent provided by subsection (b)(3);

''(D) a screening analysis clearly identified as such; or

''(E) product registrations, reregistrations, tolerance settings, and reviews of premanufacture notices under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) and the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

''(2) An analysis shall not be treated as a screening analysis for the purposes of paragraph (1)(D) if the result of the analysis is used—

''(A) as the basis for imposing a restriction on a previously authorized substance, product, or activity after its initial introduction into manufacture or commerce; or

''(B) as the basis for a formal determination by the agency of significant risk from a substance or activity.

''(3) This subchapter shall not apply to any food, drug, or other product label or labeling, or to any risk characterization appearing on any such label.

''§ 633. Principles for risk assessments

''(a) IN GENERAL.—(1) The head of each agency shall design and conduct risk assessments in a manner that promotes rational and informed risk management decisions and informed public input into the process of making agency decisions.

''(2) The head of each agency shall establish and maintain a distinction between risk assessment and risk management.

''(3) An agency may take into account priorities for managing risks, including the types of information that would be important in evaluating a full range of alternatives, in developing priorities for risk assessment activities.

''(4) In conducting a risk assessment, the head of each agency shall employ the level of detail and rigor considered by the agency as appropriate and practicable for reasoned decisionmaking in the matter involved, proportionate to the significance and complexity of the potential agency action and the need for expedition.

''(5) An agency shall not be required to repeat discussions or explanations in each risk assessment required under this subchapter if there is an unambiguous reference to a relevant discussion or explanation in another reasonably available agency document that was prepared consistent with this section.

''(b) ITERATIVE PROCESS.—(1) Each agency shall develop and use an iterative process for risk assessment, starting with relatively inexpensive screening analyses and progressing to more rigorous analyses, as circumstances or results warrant.

''(2) In determining whether or not to proceed to a more detailed analysis, the head of the agency shall take into consideration whether or not use of additional data or the analysis thereof would significantly change the estimate of risk and the resulting agency action.

''(c) DATA QUALITY.—(1) The head of each agency shall base each risk assessment only on the best reasonably available scientific data and scientific understanding, including scientific information that finds or fails to find a correlation between a potential hazard and an adverse effect, and data regarding exposure and other relevant physical conditions that are reasonably expected to be encountered.

''(2) The agency shall select data for use in a risk assessment based on a reasoned analysis of the quality and relevance of the data, and shall describe such analysis.

''(3) In making its selection of data, the agency shall consider whether the data were published in the peer-reviewed scientific literature, or developed in accordance with good laboratory practice or published or other appropriate protocols to ensure data quality, such as the standards for the development of test data promulgated pursuant to section 4 of the Toxic Substances Control Act (15 U.S.C. 2603), and the standards for

data requirements promulgated pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a), or other form of independent evaluation.

''(4) Subject to paragraph (3), relevant scientific data submitted by interested parties shall be reviewed and considered by the agency in the analysis under paragraph (2).

''(5) When conflicts among scientific data appear to exist, the risk assessment shall include a discussion of all relevant information including the likelihood of alternative interpretations of the data and emphasizing—

''(A) postulates that represent the most reasonable inferences from the supporting scientific data; and

''(B) when a risk assessment involves an extrapolation from toxicological studies, data with the greatest scientific basis of support for the resulting harm to affected individuals, populations, or resources.

''(6) The head of an agency shall not automatically incorporate or adopt any recommendation or classification made by any foreign government, the United Nations, any international governmental body or standards-making organization, concerning the health effects value of a substance except as provided in paragraph (2) of this subsection. Nothing in this paragraph shall be construed to affect the implementation or application of any treaty or international trade agreement to which the United States is a party.

''(d) USE OF POLICY JUDGMENTS.—(1) To the maximum extent practicable, each agency shall use policy judgments, including default assumptions, inferences, models or safety factors, only when relevant scientific data and scientific understanding, including site-specific data, are lacking. The agency shall modify or decrease the use of policy judgments to the extent that higher quality scientific data and understanding become available.

''(2) When a risk assessment involves choice of a postulate, the head of the agency shall—

''(A) identify the postulate and its scientific or policy basis, including the extent to which the policy judgment has been validated by, or conflicts with, empirical data;

''(B) explain the basis for any choices among policy judgments; and

''(C) describe reasonable alternative policy judgments that were not selected by the agency for use in the risk assessment, and the sensitivity of the conclusions of the risk assessment to the alternatives, and the rationale for not using such alternatives.

''(3) An agency shall not inappropriately combine or compound multiple policy judgments.

''(4) The agency shall, subject to notice and opportunity for public comment, develop and publish guidelines describing the agency's default policy judgments and how they were chosen, and guidelines for deciding when and how, in a specific risk assessment, to adopt alternative policy judgments or to use available scientific information in place of a policy judgment.

''(e) RISK CHARACTERIZATION.—In each risk assessment, the agency shall include in the risk characterization, as appropriate, each of the following:

''(1) A description of the hazard of concern.

''(2) A description of the populations or natural resources that are the subject of the risk assessment.

''(3) An explanation of the exposure scenarios used in the risk assessment, including an estimate of the corresponding population at risk and the likelihood of such exposure scenarios.

''(4) A description of the nature and severity of the harm that could plausibly occur.

''(5) A description of the major uncertainties in each component of the risk assessment and their influence on the results of the assessment.

''(f) PRESENTATION OF RISK ASSESSMENT CONCLUSIONS.—(1) To the extent feasible and scientifically appropriate, the head of an agency shall—

''(A) express the overall estimate of risk as a range or probability distribution that reflects variabilities, uncertainties and data gaps in the analysis;

''(B) provide the range and distribution of risks and the corresponding exposure scenarios, identifying the reasonably expected risk to the general population and, where appropriate, to more highly exposed or sensitive subpopulations; and

''(C) where quantitative estimates of the range and distribution of risk estimates are not available, describe the qualitative factors influencing the range of possible risks.

''(2) When scientific data and understanding that permits relevant comparisons of risk are reasonably available, the agency shall use such information to place the nature and magnitude of risks to human health, safety, and the environment being analyzed in context.

''(3) When scientifically appropriate information on significant substitution risks to human health, safety, or the environment is reasonably available to the agency, or is contained in information provided to the agency by a commentator, the agency shall describe such risks in the risk assessments.

''(g) PEER REVIEW.—(1) Each agency shall provide for peer review in accordance with this section of any risk assessment subject to the requirements of this subchapter that forms that basis of any major rule or a major environmental management activity.

''(2) Each agency shall develop a systematic program for balanced, independent, and external peer review that—

''(A) shall provide for the creation or utilization of peer review panels, expert bodies, or other formal or informal devices that are balanced and comprised of participants selected on the basis of their expertise relevant to the sciences involved in regulatory decisions and who are independent of the agency program that developed the risk assessment being reviewed;

''(B) shall not exclude any person with substantial and relevant expertise as a participant on the basis that such person has a potential interest in the outcome, if such interest is fully disclosed to the agency, and the agency includes such disclosure as part of the record, unless the result of the review would have a direct and predictable effect on a substantial financial interest of such person;

''(C) shall provide for a timely completed peer review, meeting agency deadlines, that contains a balanced presentation of all considerations, including minority reports and agency response to all significant peer review comments; and

''(D) shall provide adequate protections for confidential business information and trade secrets, including requiring panel members to enter into confidentiality agreements.

''(3) Each peer review shall include a report to the Federal agency concerned detailing the scientific and technical merit of data and the methods used for the risk assessment, and shall identify significant peer review comments. Each agency shall provide a written response to all significant peer review comments. All peer review comments, conclusions, composition of the panels, and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

''(4)(A) The Director of the Office of Science and Technology Policy shall develop a systematic program to oversee the use and quality of peer review of risk assessments.

''(B) The Director or the designee of the President may order an agency to conduct peer review for any risk assessment or cost-benefit analysis that is likely to have a significant impact on public policy decisions, or that would establish an important precedent.

''(5) The proceedings of peer review panels under this section shall not be subject to the Federal Advisory Committee Act.

''(h) PUBLIC PARTICIPATION.—The head of each agency shall provide appropriate opportunities for public participation and comment on risk assessments.

''§ 634. Rule of construction

''Nothing in this subchapter shall be construed to—

''(1) preclude the consideration of any data or the calculation of any estimate to more fully describe or analyze risk, scientific uncertainty, or variability; or

''(2) require the disclosure of any trade secret or other confidential information.

''§ 635. Comprehensive risk reduction

''(a) SETTING PRIORITIES.—The head of each agency with programs to protect human health, safety, or the environment shall set priorities for the use of resources available to address those risks to human health, safety, and the environment, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

''(b) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each agency in subsection (a) shall incorporate the priorities identified under subsection (a) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner using the priorities set under subsection (a), the basis for that determination, and explicitly identify how the agency's requested budget and regulatory agenda reflect those priorities.

''(c) REPORTS BY THE NATIONAL ACADEMY OF SCIENCES.—(1) Not later than 6 months after the date of enactment of this section, the Director of the Office of Science and Technology Policy shall enter into an arrangement with the National Academy of Sciences to investigate and report on comparative risk analysis. The arrangement shall provide, to the extent deemed appropriate and feasible by the Academy, for—

''(A) 1 or more reports evaluating methods of comparative risk analysis that would be appropriate for agency programs related to human health, safety, and the environment to use in setting priorities for activities; and

''(B) a report providing a comprehensive and comparative analysis of the risks to human health, safety, and the environment that are addressed by agency programs under subsection (a), along with companion activities to disseminate the conclusions of the report to the public.

''(2) The report or reports prepared under paragraph (1)(A) shall be completed not later than 3 years after the date of enactment of this section. The report under paragraph (1)(B) shall be completed not later than 4 years after the date of enactment of this section, and shall draw, as appropriate, upon the insights and conclusions of the report or reports made under paragraph (1)(A). The companion activities under paragraph (1)(B) shall be completed not later than 5 years after the date of enactment of this section.

''(3)(A) The head of an agency with programs to protect human health, safety, and

the environment shall incorporate the recommendations of reports under paragraph (1) in revising any priorities under subsection (a).

''(B) The head of the agency shall submit a report to the appropriate Congressional committees of jurisdiction responding to the recommendations from the National Academy of Sciences and describing plans for utilizing the results of comparative risk analysis in agency budget, strategic planning, regulatory agenda, enforcement, and research and development activities.

''(4) Following the submission of the report in paragraph (2), for the next 5 years, the head of the agency shall submit, with the budget request submitted to Congress under section 1105(a) of title 31, a description of how the requested budget of the agency and the strategic planning activities of the agency reflect priorities determined using the recommendations of reports issued under subsection (a). The head of the agency shall include in such description—

''(A) recommendations on the modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

''(B) recommendation on the modification or elimination of statutory or judicially mandated deadlines,

that would assist the head of the agency to set priorities in activities to address the risks to human health, safety, or the environment that incorporate the priorities developed using the recommendations of the reports under subsection (a), resulting in more cost-effective programs to address risk.

''(5) For each budget request submitted in accordance with paragraph (4), the Director shall submit an analysis of ways in which resources could be reallocated among Federal agencies to achieve the greatest overall net reduction in risk.

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

''§ 641. Procedures

''(a) IN GENERAL.—The Director or a designee of the President shall—

''(1) establish and, as appropriate, revise procedures for agency compliance with this chapter; and

''(2) monitor, review, and ensure agency implementation of such procedures.

''(b) PUBLIC COMMENT.—Procedures established pursuant to subsection (a) shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

''(c) TIME FOR REVIEW.—(1) If procedures established pursuant to subsection (a) include review of any initial or final analyses of a rule required under chapter 6, the time for any such review of any initial analysis shall not exceed 90 days following the receipt of the analysis by the Director, or a designee of the President.

''(2) The time for review of any final analysis required under chapter 6 shall not exceed 90 days following the receipt of the analysis by the Director, a designee of the President.

''(3)(A) The times for each such review may be extended for good cause by the President or by an officer to whom the President has delegated his authority pursuant to section 642 for an additional 45 days. At the request of the head of an agency, the President or such an officer may grant an additional extension of 45 days.

''(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

''§ 642. Delegation of authority

''(a) IN GENERAL.—The President may delegate the authority granted by this subchapter to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

''(b) NOTICE.—Notice of any delegation, or any revocation or modification thereof shall be published in the Federal Register.

''§ 643. Judicial review

''The exercise of the authority granted under this subchapter by the Director, the President, or by an officer to whom such authority has been delegated under section 642 and agency compliance or noncompliance with the procedure under section 641 shall not be subject to judicial review.

''§ 644. Regulatory agenda

''The head of each agency shall provide, as part of the semiannual regulatory agenda published under section 602—

''(1) a list of risk assessments subject to subsection 632 (a) or (b)(1) under preparation or planned by the agency;

''(2) a brief summary of relevant issues addressed or to be addressed by each listed risk assessment;

''(3) an approximate schedule for completing each listed risk assessment;

''(4) an identification of potential rules, guidance, or other agency actions supported or affected by each listed risk assessment; and

''(5) the name, address, and telephone number of an agency official knowledgeable about each listed risk assessment.''.

(b) REGULATORY FLEXIBILITY ANALYSIS.—

(1) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

''(c)(1) Except as provided in paragraph (2), no final rule for which a final regulatory flexibility analysis is required under this section shall be promulgated unless the agency finds that the final rule minimizes significant economic impact on small entities to the maximum extent possible, consistent with the purposes of this subchapter, the objectives of the rule, and the requirements of applicable statutes.

''(2) If an agency determines that a statute requires a rule to be promulgated that does not satisfy the criterion of paragraph (1), the agency shall—

''(A) include a written explanation of such determination in the final regulatory flexibility analysis; and

''(B) transmit the final regulatory flexibility analysis to Congress when the final rule is promulgated.''.

(2) JUDICIAL REVIEW.—Section 611 of title 5, United States Code, is amended to read as follows:

''§ 611. Judicial review

''(a)(1) For any rule described in section 603(a), and with respect to which the agency—

''(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities;

''(B) prepared a final regulatory flexibility analysis pursuant to section 604; or

''(C) did not prepare an initial regulatory flexibility analysis pursuant to section 603 or a final regulatory flexibility analysis pursuant to section 604 except as permitted by sections 605 and 608,

an affected small entity may petition for the judicial review of such certification, analysis, or failure to prepare such analysis, in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 or under any other provision of law shall have jurisdiction over such petition.

''(2)(A) Notwithstanding any other provision of law, an affected small entity shall have 1 year after the effective date of the final rule to challenge the certification, analysis or failure to prepare an analysis required by this subchapter with respect to any such rule.

''(B) If an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection may be filed not later than 1 year after the date the analysis is made available to the public.

''(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be subject to the provisions of, or otherwise required to comply with, the final rule.

''(4) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

''(5)(A) Notwithstanding section 605, if the court determines, on the basis of the court's review of the rulemaking record, that there is substantial evidence that the rule would have a significant economic impact on a substantial number of small entities, the court shall order the agency to prepare a final regulatory flexibility analysis that satisfies the requirements of section 604.

''(B) If the agency prepared a final regulatory flexibility analysis, the court shall order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the court's review of the rulemaking record, that the final regulatory flexibility analysis does not satisfy the requirements of section 604.

''(6) The court shall stay the rule and grant such other relief as the court determines to be appropriate if, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5), the agency fails, as appropriate—

''(A) to prepare the analysis required by section 604; or

''(B) to take corrective action consistent with section 604.

''(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

''(c) Except as otherwise required by the provisions of this subchapter, the court shall apply the same standards of judicial review that govern the review of agency findings under the statute granting the agency authority to conduct the rulemaking.''.

(c) REVISION OF CERTAIN PROVISIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT RELATING TO TESTING.—In applying section 409(c)(3)(A), 512(d)(1), or 721(b)(5)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(3)(A), 360b(d)(1), 379e(b)(5)(B)), the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency shall not prohibit or refuse to approve a substance or product on the basis of safety, where the substance or product presents a negligible or insignificant foreseeable risk to human health resulting from its intended use.

(d) TOXIC RELEASE INVENTORY REVIEW.—

(1) Not later than 180 days after the date of enactment of this subsection, the Administrator of the Environmental Protection Agency shall carry out a review of each characterization or listing of a substance added since November 8, 1994, to the Toxic Release Inventory under section 313(c) of the Emergency Planning and Community Right to Know Act of 1986 (42 U.S.C. 11023(c)).

(2) In this review, the Administrator shall determine with respect to each such characterization or listing whether removal of the substance from the Toxic Release Inventory

presents a foreseeable significant risk to human health or the environment.

(3) The Administrator shall remove from the Toxic Release Inventory any substance the removal of which is justified by a determination under paragraph (2).

(4)(A) Not later than 90 days after the date of enactment of this section, the Administrator shall publish a draft review and the Administrator's preliminary plans to use the authority under paragraph (3), and afford interested persons an opportunity to comment.

(B) Promptly upon completion of the review, the Administrator shall provide Congress with a written report summarizing the review and the reasons for action or inaction on each characterization or listing subject to this subsection.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—Part I of title 5, United States Code, is amended by striking the chapter heading and table of sections for chapter 6 and inserting the following:

"CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

''SUBCHAPTER I—REGULATORY ANALYSIS

''Sec.
''601. Definitions.
''602. Regulatory agenda.
''603. Initial regulatory flexibility analysis.
''604. Final regulatory flexibility analysis.
''605. Avoidance of duplicative or unnecessary analyses.
''606. Effect on other law.
''607. Preparation of analysis.
''608. Procedure for waiver or delay of completion.
''609. Procedures for gathering comments.
''610. Periodic review of rules.
''611. Judicial review.
''612. Reports and intervention rights.

''SUBCHAPTER II—ANALYSIS OF AGENCY RULES

''621. Definitions.
''622. Rulemaking cost-benefit analysis.
''623. Agency regulatory review.
''624. Decisional criteria.
''625. Jurisdiction and judicial review.
''626. Deadlines for rulemaking.
''627. Special rule.
''628. Requirements for major environmental management activities.

''SUBCHAPTER III—RISK ASSESSMENTS

''631. Definitions.
''632. Applicability.
''633. Principles for risk assessments.
''634. Rule of construction.
''635. Comprehensive risk reduction.

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

''641. Procedures.
''642. Delegation of authority.
''643. Judicial review.
''644. Regulatory agenda.''.

(2) SUBCHAPTER HEADING.—Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

''SUBCHAPTER I—REGULATORY ANALYSIS''.

SEC. 5. JUDICIAL REVIEW.

(a) IN GENERAL.—Chapter 7 of title 5, United States Code, is amended—

(1) by striking section 706; and

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

"§ 706. Scope of review

''(a) To the extent necessary to reach a decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

''(1) compel agency action unlawfully withheld or unreasonably delayed; and

''(2) hold unlawful and set aside agency action, findings and conclusions found to be—

''(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

''(B) contrary to constitutional right, power, privilege, or immunity;

''(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

''(D) without observance of procedure required by law;

''(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 or otherwise reviewed on the record of an agency hearing provided by statute;

''(F) without substantial support in the rulemaking file, viewed as a whole, for the asserted or necessary factual basis, in the case of a rule adopted in a proceeding subject to section 553; or

''(G) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

''(b) In making the determinations set forth in subsection (a), the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

"§ 707. Consent decrees

''In interpreting any consent decree in effect on or after the date of enactment of this section that imposes on an agency an obligation to initiate, continue, or complete rulemaking proceedings, the court shall not enforce the decree in a way that divests the agency of discretion clearly granted to the agency by statute to respond to changing circumstances, make policy or managerial choices, or protect the rights of third parties.

"§ 708. Affirmative defense

''Notwithstanding any other provision of law, it shall be an affirmative defense in any enforcement action brought by an agency that the regulated person or entity reasonably relied on and is complying with a rule, regulation, adjudication, directive, or order of such agency or any other agency that is incompatible, contradictory, or otherwise cannot be reconciled with the agency rule, regulation, adjudication, directive, or order being enforced.''.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 7 of title 5, United States Code, is amended by striking the item relating to section 706 and inserting the following new items:

''706. Scope of review.
''707. Consent decrees.
''708. Affirmative defense.''.

SEC. 6. CONGRESSIONAL REVIEW.

(a) FINDING.—The Congress finds that effective steps for improving the efficiency and proper management of Government operations will be promoted if a moratorium on the implementation of certain significant final rules is imposed in order to provide Congress an opportunity for review.

(b) IN GENERAL.—Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

''801. Congressional review.
''802. Congressional disapproval procedure.
''803. Special rule on statutory, regulatory, and judicial deadlines.
''804. Definitions.
''805. Judicial review.
''806. Applicability; severability.
''807. Exemption for monetary policy.

"§ 801. Congressional review

''(a)(1)(A) Before a rule can take effect as a final rule, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

''(i) a copy of the rule;

''(ii) a concise general statement relating to the rule; and

''(iii) the proposed effective date of the rule.

''(B) The Federal agency promulgating the rule shall make available to each House of Congress and the Comptroller General, upon request—

''(i) a complete copy of the cost-benefit analysis of the rule, if any;

''(ii) the agency's actions relevant to sections 603, 604, 605, 607, and 609;

''(iii) the agency's actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

''(iv) any other relevant information or requirements under any other Act and any relevant Executive orders, such as Executive Order No. 12866.

''(C) Upon receipt, each House shall provide copies to the Chairman and Ranking Member of each committee with jurisdiction.

''(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction to each House of the Congress by the end of 12 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B).

''(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

''(3) A major rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

''(A) the later of the date occurring 60 days after the date on which—

''(i) the Congress receives the report submitted under paragraph (1); or

''(ii) the rule is published in the Federal Register;

''(B) if the Congress passes a joint resolution of disapproval described under section 802 relating to the rule, and the President signs a veto of such resolution, the earlier date—

''(i) on which either House of Congress votes and fails to override the veto of the President; or

''(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

''(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 802 is enacted).

''(4) Except for a major rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

''(5) Notwithstanding paragraph (3), the effective date of a rule shall not be delayed by operation of this chapter beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 802.

''(b) A rule shall not take effect (or continue) as a final rule, if the Congress passes a joint resolution of disapproval described under section 802.

''(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this chapter may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

''(2) Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

''(A) necessary because of an imminent threat to health or safety or other emergency;

''(B) necessary for the enforcement of criminal laws;

''(C) necessary for national security; or

''(D) issued pursuant to a statute implementing an international trade agreement.

''(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802 or the effect of a joint resolution of disapproval under this section.

''(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, section 802 shall apply to such rule in the succeeding Congress.

''(2)(A) In applying section 802 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

''(i) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the 15th session day after the succeeding Congress first convenes; and

''(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

''(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a final rule can take effect.

''(3) A rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law (including other subsections of this section).

''(e)(1) Section 802 shall apply in accordance with this subsection to any major rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on November 20, 1994, through the date on which the Comprehensive Regulatory Reform Act of 1995 takes effect.

''(2) In applying section 802 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

''(A) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date of enactment of the Comprehensive Regulatory Reform Act of 1995; and

''(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

''(3) The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 802.

''(f) Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

''(g) If the Congress does not enact a joint resolution of disapproval under section 802, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

''§ 802. Congressional disapproval procedure

''(a) For purposes of this section, the term 'joint resolution' means only a joint resolution introduced during the period beginning on the date on which the report referred to in section 801(a) is received by Congress and ending 60 days thereafter, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the ____ relating to ____, and such rule shall have no force or effect.'. (The blank spaces being appropriately filled in.)

''(b)(1) A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution may not be reported before the eighth day after its submission or publication date.

''(2) For purposes of this subsection the term 'submission or publication date' means the later of the date on which—

''(A) the Congress receives the report submitted under section 801(a)(1); or

''(B) the rule is published in the Federal Register.

''(c) If the committee to which is referred a resolution described in subsection (a) has not reported such resolution (or an identical resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such resolution in the Senate upon a petition supported in writing by 30 Members of the Senate and in the House upon a petition supported in writing by one-fourth of the Members duly sworn and chosen or by motion of the Speaker supported by the Minority Leader, and such resolution shall be placed on the appropriate calendar of the House involved.

''(d)(1) When the committee to which a resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of, a resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

''(2) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order.

''(3) Immediately following the conclusion of the debate on a resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

''(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

''(e) If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

''(1) The resolution of the other House shall not be referred to a committee.

''(2) With respect to a resolution described in subsection (a) of the House receiving the resolution—

''(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

''(B) the vote on final passage shall be on the resolution of the other House.

''(f) This section is enacted by Congress—

''(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

''(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

''§ 803. Special rule on statutory, regulatory, and judicial deadlines

''(a) In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of enactment of a joint resolution under section 802, that deadline is extended until the date 1 year after the date of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 801(a).

''(b) The term 'deadline' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

''§ 804. Definitions

''(a) For purposes of this chapter—

''(1) the term 'Federal agency' means any agency as that term is defined in section 551(1) (relating to administrative procedure);

''(2) the term 'major rule' has the same meaning given such term in section 621(5); and

''(3) the term 'final rule' means any final rule or interim final rule.

''(b) As used in subsection (a)(3), the term 'rule' has the meaning given such term in section 551, except that such term does not include any rule of particular applicability including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing or any rule of agency organization, personnel, procedure, practice or any routine matter.

''§ 805. Judicial review

''No determination, finding, action, or omission under this chapter shall be subject to judicial review.

''§ 806. Applicability; severability

''(a) This chapter shall apply notwithstanding any other provision of law.

''(b) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

''§ 807. Exemption for monetary policy

''Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.''.

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect on the date of enactment of this Act and shall apply to any rule that takes effect as a final rule on or after such effective date.

(d) TECHNICAL AMENDMENT.—The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rulemaking ..... 801".

SEC. 7. REGULATORY ACCOUNTING.

(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) MAJOR RULE.—The term ''major rule'' has the same meaning as defined in section 621(5)(A)(i) of title 5, United States Code. The term shall not include—

(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

(B) regulations issued with respect to a military or foreign affairs function of the United States or a statute implementing an international trade agreement; or

(C) regulations related to agency organization, management, or personnel.

(2) AGENCY.—The term ''agency'' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

(A) the General Accounting Office;

(B) the Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

(b) ACCOUNTING STATEMENT.—

(1) IN GENERAL.—(A) The President shall be responsible for implementing and administering the requirements of this section.

(B) Not later than June 1, 1997, and each June 1 thereafter, the President shall prepare and submit to Congress an accounting statement that estimates the annual costs of major rules and corresponding benefits in accordance with this subsection.

(2) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement shall cover, at a minimum, the 5 fiscal years beginning on October 1 of the year in which the report is submitted and may cover any fiscal year preceding such fiscal years for purpose of revising previous estimates.

(3) TIMING AND PROCEDURES.—(A) The President shall provide notice and opportunity for comment for each accounting statement. The President may delegate to an agency the requirement to provide notice and opportunity to comment for the portion of the accounting statement relating to that agency.

(B) The President shall propose the first accounting statement under this subsection not later than 2 years after the date of enactment of this Act and shall issue the first accounting statement in final form not later than 3 years after such effective date. Such statement shall cover, at a minimum, each of the fiscal years beginning after the date of enactment of this Act.

(4) CONTENT OF ACCOUNTING STATEMENT.—(A) Each accounting statement shall contain estimates of costs and benefits with respect to each fiscal year covered by the statement in accordance with this paragraph. For each such fiscal year for which estimates were made in a previous accounting statement, the statement shall revise those estimates and state the reasons for the revisions.

(B)(i) An accounting statement shall estimate the costs of major rules by setting forth, for each year covered by the statement—

(I) the annual expenditure of national economic resources for major rules, grouped by regulatory program; and

(II) such other quantitative and qualitative measures of costs as the President considers appropriate.

(ii) For purposes of the estimate of costs in the accounting statement, national economic resources shall include, and shall be listed under, at least the following categories:

(I) Private sector costs.

(II) Federal sector costs.

(III) State and local government administrative costs.

(C) An accounting statement shall estimate the benefits of major rules by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in health, safety, or environmental risks shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

(c) ASSOCIATED REPORT TO CONGRESS.—

(1) IN GENERAL.—At the same time as the President submits an accounting statement under subsection (b), the President, acting through the Director of the Office of Management and Budget, shall submit to Congress a report associated with the accounting statement (hereinafter referred to as an ''associated report''). The associated report shall contain, in accordance with this subsection—

(A) analyses of impacts; and

(B) recommendations for reform.

(2) ANALYSES OF IMPACTS.—The President shall include in the associated report the following:

(A) Analyses prepared by the President of the cumulative impact of major rules in Federal regulatory programs covered in the accounting statement on the following:

(i) The ability of State and local governments to provide essential services, including police, fire protection, and education.

(ii) Small business.

(iii) Productivity.

(iv) Wages.

(v) Economic growth.

(vi) Technological innovation.

(vii) Consumer prices for goods and services.

(viii) Such other factors considered appropriate by the President.

(B) A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

(3) RECOMMENDATIONS FOR REFORM.—The President shall include in the associated report the following:

(A) A summary of recommendations of the President for reform or elimination of any Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

(B) A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

(d) GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall, in consultation with the Council of Economic Advisers, provide guidance to agencies—

(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to sections 3 and 7 of this Act, including—

(A) detailed guidance on estimating the costs and benefits of major rules; and

(B) general guidance on estimating the costs and benefits of all other rules that do not meet the thresholds for major rules; and

(2) to standardize the format of the accounting statements.

(e) RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.—After each accounting statement and associated report submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

(1) for improving accounting statements prepared pursuant to this section, including recommendations on level of detail and accuracy; and

(2) for improving associated reports prepared pursuant to this section, including recommendations on the quality of analysis.

(f) JUDICIAL REVIEW.—No requirements under this section shall be subject to judicial review in any manner.

SEC. 8. STUDIES AND REPORTS.

(a) RISK ASSESSMENTS.—The Administrative Conference of the United States shall—

(1) develop and carry out an ongoing study of the operation of the risk assessment requirements of subchapter III of chapter 6 of title 5, United States Code (as added by section 4 of this Act); and

(2) submit an annual report to the Congress on the findings of the study.

(b) ADMINISTRATIVE PROCEDURE ACT.—Not later than December 31, 1996, the Administrative Conference of the United States shall—

(1) carry out a study of the operation of the Administrative Procedure Act (as amended by section 3 of this Act); and

(2) submit a report to the Congress on the findings of the study, including proposals for revision, if any.

SEC. 9. MISCELLANEOUS PROVISIONS.

(a) EFFECTIVE DATE.—Except as otherwise provided, this Act and the amendments made by this Act shall take effect on the date of enactment.

(b) SEVERABILITY.—If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Mr. JOHNSTON. Mr. President, I understand that will be the pending business when the Senate returns from recess. In the meantime, we will continue to discuss this package with our colleagues and, hopefully, will be able to arrive at further modifications along the lines we have talked about. I believe those negotiations will happen tomorrow.

Mr. LEVIN. Reserving the right to object, Mr. President, there was a unanimous-consent agreement that had been entered into previously between Senator DOLE and Senator DASCHLE. Is there any intent in what the Senator from Louisiana has just said to modify in any way the previous unanimous-consent agreement that had been entered into?

Mr. JOHNSTON. No, the only unanimous consent I asked is that when this draft is prepared, that it be printed in the RECORD for notice.

The majority leader, I was just informed, will ask on tomorrow afternoon—I did not ask unanimous consent but I was just advised that he would ask for permission to withdraw the committee amendments to S. 343 and send a substitute to the desk.

I am not asking that be done. I was just giving the Senate notice because his staff just gave me that notice. I wanted to make the Senate aware of that.

I hope tomorrow we can reassure Senators on matters, or change that which needs to be changed, and get a very broad consensus bill so when we come back after the recess we will have a bill that passes overwhelmingly.

Mr. President, I said a moment ago Senator DOLE intended to put in the substitute tomorrow afternoon. I meant on Friday afternoon, because that is what he meant. I wanted to give my colleagues notice of that.

THE BUDGET RESOLUTION

The PRESIDING OFFICER (Mr. DEWINE). Under the previous order, the Senate will resume debate on the conference report to House Concurrent Resolution 67, the budget resolution for fiscal year 1996.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I rise this afternoon to voice my strong support for the budget conference report, which I believe is a historic document that looks forward and not back; one that promises freedom, not Government servitude; and one that delivers hope and not despair.

Mr. DOMENICI. Mr. President, I wonder if the Senator will yield for a moment?

Mr. GRAMS. Yes, go ahead.

Mr. DOMENICI. Mr. President, I understand we are going to be on this resolution for 1 hour now; is that correct?

The PRESIDING OFFICER. There is not an hour to end the debate, or to begin debate.

Mr. DOMENICI. We will be going back and forth? I ask the Senator, how much time would the Senator like?

Mr. GRAMS. No more than 10 minutes.

Mr. DOMENICI. I yield 10 minutes to the distinguished Senator.

Mr. GRAMS. Mr. President, talking about the budget, this historic budget is a budget unlike any other approved by Congress in more than a quarter of a century because, not only does it balance the budget within 7 years without raising taxes, it actually cuts taxes for middle-class Americans.

It marks the first time since 1969 that Congress has committed itself to a balanced budget, and reflects the change demanded by the voters in November: Get government off our backs and out of our back pockets.

Mr. President, our budget resolution provides $245 billion in tax relief, making it the largest tax refund in history.

I am proud that the centerpiece of the tax relief package will be the $500 per-child tax credit originally proposed by me and my very good friend from Indiana, Senator COATS, in our families-first legislation, and by Representative TIM HUTCHINSON in the House.

Along with my freshman colleague, Senator ABRAHAM, and the leadership of Senator DOLE, we have ensured that this Senate goes on record supporting middle-class tax relief, and incentives to stimulate savings, investment, job creation, and economic growth.

And, Mr. President, this tax relief could not have come at a better time.

Government has become a looming presence in the lives of the American people, mostly through the encouragement of Congress.

Each year, the people are asked to turn more and more responsibilities over to the Federal Government—for Government regulation, for Government support.

From the time they get up in the morning till the time they go to bed at night, there are very few aspects of daily American life that are not touched by the hand of government.

So government has been forced to grow just to keep up.

Consider that government spending at the Federal State, and local levels has jumped from less than 12 percent of national income in the 1930's to more than 42 percent today.

And the burden for keeping these ever-ballooning bureaucracies in operation has fallen on the taxpayers, of course—through more and higher taxes.

As a sign of just how big the Federal Government has grown—and how the number of tax dollars sent to Washington have grown right along with it—look what has happened to the IRS.

Today, it has an annual operating budget in excess of $7.5 billion. If it were a private company, its gross receipts—more than $1 trillion—would put it at the top of the Fortune 500 list.

All that—just by processing tax dollars.

Most middle-class American families pay more in Federal taxes than they spend for food, clothing, and shelter combined.

Families with children are now the lowest after-tax income group in America—below elderly households, below single persons, below families without children.

Since 1948, when Americans paid just 22 cents per dollar of their personal income in taxes, the Gallup organization has asked Americans what they think about the taxes they pay.

That first year, 57 percent of the people said yes, taxes are too high. Today, nearly 50 cents of every dollar earned by middle-class Americans goes to taxes of some sort—and 67 percent of the people say they're handing over too much of their own money to the Federal Government.

They might feel differently if they were getting a fair return on then investment. But Americans see their hard-earned dollars being wasted by the Federal Government. They look at the services they are getting in return and they feel like they are being taken to the cleaners.

The 1993 tax bill offered by President Clinton did not help, either. As the largest tax increase in American history, it hit middle-class Americans right where it hurt the most—their wallets.

The President's 1993 tax hike actually increased their tax burden, making it more difficult for the middle class to care for themselves and their children.

And I remind you—not a single Republican voted for it.

The tax burden has become so heavy in my home State of Minnesota that it took until May 14 this year—134 days into 1995—for us to finally reach Tax Freedom Day.

That is the day when Minnesotans are no longer working just to pay off taxes, and can finally begin working for themselves. Nearly 20 weeks, over 800 hours on the job just to pay Uncle Sam and his cousins at the State level.

In order to pay all these taxes, Americans are spending more time on the job. Within the past three decades, the average American has added about 160 hours annually to their work schedule. That is about 4 extra weeks of work a year.

They are overworked, overstressed, and they are moonlighting more than ever before.

In 1995, one in six Americans holds more than one job. One out of every three is regularly working on weekends and evenings. And it is not because they necessarily want to—it is because they must.

A significant number of families are relying on that second job just to pull themselves above the poverty line and meet their annual tax obligations.

The majority of families who have reached a middle-class standard of living are families relying on two incomes. They are still pursuing the American dream, but the ever-increasing tax burden keeps pushing it out of reach.

Imagine what those longer work hours are doing to the family. Or better yet, listen to taxpayers like Natalie Latzska-Wolstad of Coon Rapids, MN, who struggle with the demands of family life, the job, and the Government—while pursuing their own version of the American Dream.

I went to the floor of the Senate last month to talk about Natalie and her family, after she wrote me a moving letter about the enormous tax burden her family is forced to bear.

It hit home for Natalie after she and her husband met with their realtor, only to learn that they simply could not afford to purchase a new home on their own.

Let me quote just a few paragraphs from Natalie's letter: ''I have finally reached the point of complete frustration and anger over the amount of taxes being deducted from my check each month,'' she wrote.

When we got home that evening my husband and I sat down with our checkbook and our bills and tried to determine what we were doing wrong.

After taking everything into consideration we determined that we weren't spending our money foolishly.

The only real problem we found was when we looked at our paycheck stubs and actually realized how much of our income was going to pay for taxes.

It saddens me to think of how hard my husband and I work and how much time we have to spend away from our daughter to be at work, and still we cannot reach the American dream.

This is a disturbing letter, and I am even more troubled knowing it is just one of hundreds I have received from across the country. I know you have heard some Senator on the floor say: Americans do not want tax relief. I do not know who they are talking to, or who is writing them letters. But I hear something completely different from the people that I get letters from. Here is another example.

From California:

Our families desperately need tax relief, and our Government needs to stop spending so wastefully.

From Georgia:

I want to personally thank you for fighting for tax relief for families. Your efforts do not go unnoticed.

From Illinois:

We are a one-paycheck family struggling to keep our heads above water.

Two of our three children are in a private school. The burden of paying for the public and private school systems is great for us. Nonetheless, we must do what we know to be best for our children.

It is encouraging to know there are members of the government who understand our struggle and are working on our behalf.

From Kentucky:

We realize you are fighting a tough battle and we fully support you on this issue. Keep fighting!

From Oklahoma:

I want to let you know there are a lot of us middle-income heads of households who support you firmly.

And finally from Pennsylvania:

Please continue to keep the pro-family community in mind. The family, its strength, is what keeps this nation strong.

Those are strong words, Mr. President, from people who know what they are talking about.

As somebody once told me, those who say, We don't need a tax cut probably do not pay taxes.

Contrary to 40 years of conventional wisdom in Washington, American families are better equipped and better able than the Federal Government to spend their own dollars. And they need the tax relief offered in the budget resolution more than ever.

When we first introduced the idea of family tax relief and the $500 per-child tax credit in 1993, our arguments were simple: taxes were too high, the burden of tax increases fell disproportionately on the middle-class, and big government was forcing more workers out of the working class and into the welfare class.

Today, those same problems remain, and the arguments for tax relief have not changed, either. The big difference, however, is that this year, with this Congress—with this budget resolution—we are finally doing something about it.

The $500 per-child tax credit takes money out of the hands of the Washington bureaucrats and leaves it in the hands of the taxpayers. It would return $25 billion annually to families across America, $500 million to my Minnesota constituents alone.

And it is truly a tax break for the middle class. We will ensure that 9 out of every 10 dollars of this tax relief go to families making less than $100,000.

That is not the wealthy, Mr. President. That is middle-class America.

The Clinton administration and the Treasury Department have tried to refute our tax relief numbers.

Without dwelling on the inherent bias in asking the President's own Treasury Department to examine a Republican budget plan, let me just say that our budget figures are based on numbers provided by the nonpartisan Congressional Budget Office and the Joint Tax Committees.

Members of the President's own party have called on him to use CBO numbers—numbers which clearly show middle-class taxpayers benefit most from our tax relief.

Along with tax relief, the other important aspect of the budget resolution is that we have balanced the budget.

For decades, Congress has offered up budgets which raised taxes, sent government spending spiraling out of control, and created massive deficits.

They built up a national debt of nearly $5 trillion because Congress thrives on spending other people's money.

But who gets stuck with the bill?

Not this generation. No, we are passing this debt on to our kids and grandkids.

Even the Clinton administration, despite all its talk about shrinking the deficit, has washed its hands of the problem.

Under both of the President's budget plans, the deficit would increase from $177 billion this year to well over $200 billion through the next decade, and add another $1.5 trillion to the national debt.

When the voters ushered in a new political reality in November, they soundly rejected business as usual in Washington.

They looked to the Republicans for an alternative, for a budget that could turn back 40 years of spending mentality and the belief that ''money will fix everything, especially if it's your money and Washington can spend it.''

Today, we have delivered.

We crafted a document the naysayers said could never be achieved—a resolution that brings the budget into balance by the year 2002—and it is proof that we are serious about living up to our pledge.

And we have done it without slashing Federal spending, without putting children, seniors, and the disadvantaged at risk.

Most of our savings are achieved by slowing the growth of Government.

Will there need to be some sacrifices? Yes, although the Government will have to sacrifice more than the people will.

Will belts need to be tightened? Yes.

But a belt that is not tightened today may become a noose tomorrow, a noose around the necks of our children and grandchildren.

As I hear over and over from Minnesotans: The American people are willing to make those sacrifices—if they believe their Government is serious about making change.

At long last, America has a Congress that is serious.

Mr. President, what we do with this budget resolution, we are doing for the taxpayers who silently foot the Government's bills—the average men and women who get up every morning, send their kids to school, go to work, maybe at more than one job, and pay their taxes every year.

They are the forgotten middle-class families, the people who have for too long borne the burden of Federal overspending.

The taxpayer have watched their money vanish and then reappear in the form of some lavish Federal program which benefits few but the bureaucrats themselves.

Mr. President, is it fair to ask these middle-class Americans to endure greater economic hardships if we continue to do nothing?

Is it fair to expect middle-class Americans to endure greater economic hardships if we continue to do nothing?

Is it fair to expect middle-class Americans to do without, when their Government has never had to, if we continue to do nothing?

Is it fair to enslave the children of middle-class America with our debts if we continue to do nothing?

If each Senator in this Chamber asks themselves those very questions, the budget resolution will pass and it will be an overwhelming victory—a victory not for this Congress, but a victory for the people.

Thank you, Mr. President. I yield the remainder of my time.

Mr. DOMENICI. Mr. President, I understand that Senator BROWN was next.

How much time is the Senator going to use?

Mr. BROWN. I would like 10 minutes.

Mr. DOMENICI. I yield 15 minutes to Senator BROWN. And then following that, we will go to Senator FRIST if there is no Democrat who wants to be heard.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. I thank the Chair.

I wish to start this discussion off with a tribute to a Senator who has been on the front line in this fight for a long time. Senator DOMENICI's brilliant efforts not only helped put together a package that has not been put

together before in this Senate, at least during the last quarter century, but he brought people with widely diverse views into agreement over a plan that will rescue America. This is a bailout for America's finances. I believe it is due in large part to an enormous amount of dedicated effort by the Senator from New Mexico.

Mr. President, I said bailout of America's finances. That is not an overstatement. That is precisely what I meant.

For those who are listening, let me share with you why I believe that is true. The chart on my left is a simple, straightforward chart on the amount of money this country owes.

Mr. President, let me quickly acknowledge these are not numbers that an accountant would use. There is no CPA firm in the country that would show this as the amount we owe. It is far from what we owe. It does not use sound accounting principles that are generally accepted, but it is the numbers that we use. It does not show our contingent liabilities. It does not show a wide balance sheet. But this is the net amount, if you are in the marketplace to borrow each year, and it is significant in that it is the amount that American working men and women have to pay interest on each year.

What we have seen for a quarter century is a continuous growth line of budget deficits. They go up in bad times and down slightly in good times, but they continue to grow and grow and grow and grow.

Mr. President, what is depicted here is nothing more on a straight basis than the amount we owe coming from the lower levels in the 1950's, rising to almost $5 trillion. That is roughly $40,000 for every working person in this country.

Let me put it in perspective. That is every man, woman and child who has a full-time or a part-time job owes over $40,000 for their share of the national debt. What is significant is that they have to pay the interest on that every year. Before a penny goes to support their family, before a penny goes to support their parents or their children, before a penny goes to pay the necessities of life, they have to come up with the interest on over $40,000.

The problem is that this amount is expected to explode even higher. Any reasonable person, Democrat or Republican, liberal or conservative, who can look at these numbers, who can look at this chart, who can look at the forecasts that have been put in place, cannot but conclude that this problem has to be solved. It is not a question of can we wait until tomorrow. It is not a question of can we hide from it. It is not a question of can we refigure it in a way that will not look as bad. It is a simple, straightforward question that we are at a point now where the deficits are in a runaway fashion, and if we fail to address it, if we fail to acknowledge it, every American, rich or poor, will be poorer because of it. The predominance of the American economy in the 20th century will be lost. Our ability to be able to finance our debt, our very ability to borrow in the international marketplace will be destroyed.

I believe people who do research of this type cannot help but notice what has happened to the value of the dollar in this crisis has gotten worse. The value of the dollar has plummeted. As a young man in the United States Navy when I visited Japan, the dollar would buy over 400 yen. And as we speak it is in the neighborhood of 85. It used to be, at the end of the war, that the dollar would buy 5 deutsche marks. As we speak it is about 1⅓.

The trend is not good. The reality is the financial crisis that has gripped our country has seen the rapid depreciation of the value of our currency. We have turned the biggest trade surplus in the world's history into the biggest trade deficit in the world's history. We have turned the greatest creditor nation in the world into the biggest debtor nation in the world.

I honestly believe that unless we address this problem, what we will face is a drastic, almost catastrophic financial failure of this Nation.

The good news is that this budget does address it. This budget does give us a plan, and it gives us a commitment. It involves a proposal to revise the programs when reconciliation bill comes before this body.

Some will say it is too harsh, and some, like me, will say it is too weak; it is not strong enough; we ought to do more; we ought to end the deficit in the next year or two and not wait 7 years. But the political reality is that this is a budget that can pass. This is a budget that will solve the problem. It is a moderate proposal, but it is essential. We do not continue to have a viable financial circumstance for this Nation as a whole if this problem goes unaddressed.

The normal process is for the President of the United States to come forward and recommend a budget. One may fairly ask: What did the President recommend in light of those astronomic increases in the deficit?

Here is what the President suggested. He suggested huge increases in spending each year for the next 5 years, and proposed increasing the annual deficit from what was then estimated as $177 billion for 1995, increasing it each and every year up to $276 billion in the year of 2000. Now, that is reestimated by the Congressional Budget Office over the next 5 years.

Members will note that what we have talked about is a 7-year budget that not only comes into balance but provides a surplus. But the President's plan for this Nation was not to reduce the annual deficit but to increase it and to increase it dramatically. I believe that had we followed the President's course, the U.S. finances would be comparable to those of Orange County today. What the President had prescribed was a plan for fiscal disaster for this Nation and a poorer life for every working American and higher interest charges for every working American to pay, and, yes, a further decline in the value of the dollar.

Some will say: Well, the President stepped forward and revised those figures and, instead of proposing continuous, increasing deficits, advocated balancing the budget within 10 years. Indeed, all Americans have heard the President speaking on TV, talking about he proposes a balanced budget in 10 years and the Republicans in 7 years. So what are we talking about? In fact, he even said his was far more humane.

Mr. President, I wish to address that because the President of the United States himself has indicated that the Congressional Budget Office is the one that ought to be the arbiter of these figures.

The Congressional Budget Office did evaluate his figures. They did come back and tell us what the President's revised proposal was. It was not a $276 billion debt increase in the year 2000, as he had originally proposed. What he proposed was something that involved a 10-year budget, but in the 7th year it called for a $210 billion deficit.

Mr. President, here is the proposal: Continuous rising debt, continuous rising spending by the President and a deficit by the year 2002, a deficit increase by the year 2002 of $210 billion.

The agreement that is before this body is a surplus proposal for that year of $6.4 billion—a $210 billion increase in the deficit versus a $6.4 billion surplus.

Some will say: Wait a minute; that is not what the President said. He said he wanted it balanced by the end of 10 years.

Mr. President, the figures are not what he said in his rhetoric but what they total up to when you have an independent Congressional Budget Office review them.

The reason I mention all of this is because this body faces a choice. It faces a choice of whether we vote yes or no on this budget resolution.

Let me remind the body of what the choices that have been presented are, and they are the only alternative choices out there. One is to balance the budget in 7 years and have a $6.4 billion surplus. The other is the President's revised plan that calls for a $210 billion deficit and a failure to address the problem in the following years. Mr. President, there is no choice. And that is the bottom line of what we consider here today. It is either fiscal disaster, continuing increases in deficits and debt, a higher and higher burden for every working American, or it is a responsible plan that slows the growth of spending.

Now, Mr. President, some may say, ''It slows the growth? I thought you were cutting?'' Mr. President, on this chart we see what this budget does. It modestly increases spending each year and modestly reduces the deficit each year, attaining a surplus by the year 2002.

Some will say, ''Wait a minute. Let us talk about real numbers and real figures. What does this budget really do?'' We have heard, and it has been said nationwide, that the President says we slashed and cut Medicare. Mr. President, that is false. That is inaccurate. That is not true. That is not a fair representation of the facts of this budget.

Now what are the facts of this budget? Medicare in 1995 spends $158 billion. Medicare under this plan by the year 2002 will spend $244 billion. Medicare will increase over the distance of this plan by $317 billion on a net basis and $349 billion on a gross basis.

Some will say, ''Wait a minute. Medicare increases? I thought you were cutting it.'' What this budget plan calls for is a slowing of the rate of increase in Medicare. It does not call for a cut in Medicare. It calls for a huge increase in Medicare. Let me repeat it. On a gross basis, this budget calls for a $349 billion gross increase over 7 years in Medicare spending. To depict it as a slash in Medicare is simply inaccurate. Literally over the next 7 years we will spend $1.6 trillion on Medicare. And total spending on Medicare in the next 7 years will be 73 percent higher over the next 7 years than it has been in the past 7 years.

I hope as Americans listen to this debate, they will have firmly fixed in their minds that what this budget does is to increase Medicare spending, not cut it. It also slows the rate of increase in Medicare spending, so that it is less likely that the trust fund goes bankrupt. For those who think we ought to increase spending even faster than this budget does, I hope they will accept the burden to come here and explain what they do when they bankrupt the trust fund, how they provide health care, because, Mr. President, that is the bottom line for the debate on health care. Yes, you can spend up all your savings account, but what happens when it runs out? That is what this budget attempts to address.

Now, some have said we will cut Medicaid. What are the facts? Medicaid spent $89 billion in 1995 and will spend $124 billion a year by the year 2002. Medicaid spending will rise $149 billion on a net basis. It will spend a total of $772 billion in the next 7 years. The total spending in the next 7 years on Medicaid will be 73 percent higher than it was in the past 7 years.

Well, perhaps by now people are saying, ''Wait a minute, I have heard all the numbers. What is bottom line?'' The bottom line is the rhetoric by those naysayers that say we cannot change anything. The bottom line is, what they have used to describe and attack this budget has not been accurate. The bottom line is, what we have seen is a misdescription of what this budget does.

Mr. President, lastly what I heard some of the detractors say is, this budget provides a huge increase in defense spending. Mr. President, if you look at the numbers, I think they speak for themselves. Defense spending goes from $270 billion in 1995 to $271 billion in the year 2002.

The PRESIDING OFFICER. The Chair will advise the Senator his time is expired.

Mr. BROWN. I ask unanimous consent that I have an additional 4 minutes.

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

Mr. BROWN. Mr. President, the reality on defense spending is that between now and the next 7 years, compared to 1995 defense spending, it will drop $13 billion. It will not increase; it will drop. Some will say, ''Wait a minute. It might have dropped more under other plans.'' That is absolutely correct. But let me remind the body that that $13 billion drop is a drop in stated dollars and not adjusted for inflation. If you viewed it in constant dollars, it would be much more dramatic dollars. Could we save more in defense? My view is we could, and should. But to say this is a bad budget because it increases defense spending simply flies in the face of the real fact.

Now, Mr. President, I want to put back up the chart we started with, because I think it displays in cold, hard facts the reality of this debate. Do we adopt a budget that brings us into balance? Or do we go on as we have? Is the status quo that the President advocates good enough? Or do we need to take strong, firm steps to slow the growth of spending and bring the budget into balance and restore fiscal soundness?

Mr. President, I believe there is no choice. I believe there is no choice because there is no alternative before the body. If you select staying with the status quo, you not only condemn American working men and women to carry a burden of interest payments and debt that will cause the greatest economy in the world to stagger and fall, you not only foment a fiscal crisis, but you deny the men and women and the children and their children and their great grandchildren any possibility of having a competitive economy in the years ahead.

There is no choice on this budget, Mr. President. It is either adopt a reasonable plan to move this budget into balance or offer the status quo that the President has advocated and see the future of our children and grandchildren lost. Great nations and great societies have arisen in abundance on this Earth. They abound around the globe. The glories of the Samarian society and the Egyptian society are renowned in the textbooks of history. The Greek civilization brought great advances to mankind. Perhaps few have achieved the dominance of the Romans. There was a time when French glory spread its influence around the world. And there was a time when the Sun never set on the British Empire.

Each nation in its turn has had its time in the Sun. And now, Mr. President, the question is whether or not the Sun will set on the greatest experiment in democracy in the history of mankind—the United States of America. This budget offers our children a future.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. I yield such time as may be required for me, which I will take from our side.

Mr. President, I rise today, first, to commend my colleagues on the Budget Committee who participated in the conference on the budget resolution. I was not a member of the conference, but as a member of the Budget Committee, I certainly appreciate the hard work that went into this package from Members in both Houses of Congress.

Second, I want to express my strong support for this package and to point out why the reforms Republicans have outlined in this plan are vital to America's future. This is truly a historic budget agreement, one that will achieve balance in 2002 for the first time in almost three decades. And this budget is fair. It slows the growth of Federal spending. Even President Clinton has now agreed that we must balance the budget and that we must change our spending habits if we are ever to restore the long-term health of this country.

Mr. President, as a physician, I would like to focus on the health care spending aspect of this budget agreement, because I think it is critical for each and every American to understand exactly what the Republicans have proposed. But first I would like to commend the conferees on coming to an agreement with respect to tax relief for hard-working Americans.

The conference agreement ensures that we get to balance by first locking in spending cuts and then, and only then, by cutting taxes to put hard-earned dollars back into the hands of the working families and small businesses of the country.

I look forward to working with the Finance Committee to craft the specifics of the Senate tax relief bill which I hope will, indeed, include family tax relief, as well as capital gains tax cuts. These reductions will greatly benefit the American family and the American economy.

Mr. President, the most important provisions of the budget conference agreement in my mind are those which address the growth in the Medicare and Medicaid Programs. Like the earlier resolution passed by the Senate, the budget resolution conference report sets forth outlay levels for Medicare spending that are based on reforms necessary to preserve and protect Medicare. These new spending levels will require structural changes in our Medicare system, changes which will improve the system, will improve the delivery of care, changes which are absolutely essential to ensure that Medicare will be solvent in the year 2002 and beyond.

By beginning the process of reform to avoid bankruptcy in the short-term, we will be on our way toward structural reform that will ensure Medicare's long-term viability so that this program, which is so important to many seniors and individuals with disabilities, will be there for years to come.

Yet, even though these reductions in the growth of Medicare spending will certainly require change, it is important to understand that both total spending and spending for each Medicare beneficiary will continue to grow over time, will continue to increase at a rate well above that of inflation.

Total spending grows in Medicare from $178 billion in 1995 to $274 billion in the year 2002. That is an average annual growth rate of 6.4 percent in the Medicare Program, which is twice as fast as the average projected inflation rate over the next 7 years.

More importantly and easier to understand, I think, and I will refer to this chart next to me, is that the Medicare per capita spending in this conference agreement—that is, how much we are spending per Medicare beneficiary—increases over time. A Medicare beneficiary today will have spending associated of $4,816 in 1995, and in this conference agreement, that will increase by the year 2002 to $6,734. This is not a cut, this is an increase from 1995 to the year 2002 for each individual in the Medicare Program, from $4,800 to $6,700. That is a 40-percent increase over 7 years. Even after accounting for inflation, that is a 12-percent increase per person in our Medicare Program over these 7 years.

These numbers show two things. First, the Republican budget takes care of our seniors. The conference agreement increases spending for each Medicare beneficiary so that we can continue to provide access to high-level, high-quality care for our seniors and disabled citizens.

Second, these numbers show that the Republican budget is responsible by requiring the Medicare Program to be improved and to be restructured, it strengthens and preserves the fiscal viability of the program for our Nation's seniors now and for generations to come.

Finally, the conference agreement strikes the right balance on Medicaid as well. Currently, the growth in Medicaid is simply unsustainable. Medicaid comprises nearly 20 percent of State budgets. In my own State of Tennessee, Medicaid accounts for 25 percent of the overall State budget, $3 billion of a $12 billion State budget. If left unchecked, Federal spending on Medicaid will double by the year 2002. It is simply not sustainable.

The conference agreement gradually slows the rate of growth in the Medicaid Program from over 11 percent now down next year to 8 percent, gradually down to 7, 6, 5, and then 4 percent by the year 2002. Still, total Federal spending on the Medicaid Program will be $773 billion over the next 7 years.

Again and again, Governors all across this country have told us that if we strip away the regulations, if we increase flexibility and return control of these programs in Medicaid over to the States that they will be able to institute reforms to achieve these levels of Federal spending.

Mr. President, the States are the entities responsible for managing the Medicaid Program, and I am confident that the levels agreed to in the budget resolution conference report will be attainable.

I wanted to outline the specifics of the Medicare and Medicaid spending today, because I do believe it is important, critical that we look at the facts and not just get lost in the rhetoric. The rhetoric that we have heard today, and will likely hear tomorrow, undoubtedly will continue to surround our consideration of this agreement as we hear that there are tax cuts being taken on the backs of the elderly and the poor. This representation really ignores the problems that are inherent in our Federal health programs that do need to be improved, that do need to be changed. And this representation is, in my judgment, an inappropriate response to an impending crisis that is staring us in the face.

Again, I am proud of my colleagues and honored to be a part of this historic occasion.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BUMPERS. Mr. President, the great French philosopher Voltaire once said, ''History doesn't repeat itself, men do.'' So here we go again, precisely as Voltaire said, plowing the same ground, the same way we did in 1981, and it will be a few years from now before we can stand on the floor and say, ''I told you so.''

In 1981, I stood right here at this desk and fought like a saber-toothed tiger to keep us from quadrupling the deficit. But there was a herd instinct that swept across this floor, and only 11 Senators—only 11—stood up for common sense.

What did we get? We got a deficit which grew to $290 billion in 1992, and which accumulated over the years into today's $4.6 trillion national debt.

This chart shows what the Republicans promised in 1981. They were going to balance the budget in 1983, no later than 1984, and here is where they said the deficit would go—down toward zero. Between 1984 and 1985, they said, we would have a balanced budget.

''How do you reach a balanced budget?'' we asked. ''You double defense spending and cut taxes,'' they said. That was their method of balancing the budget.

What happened? Here it is. By 1983, we had a $200 billion deficit. Even those of us who were terrified by the 1981 budget changes would never have guessed that could happen.

David Stockman, President Reagan's head of OMB, wrote a book about that.

Here it is. It is called ''The Triumph of Politics,'' and he wrote it in 1986, after the damage had been done. In the book he says that the 1981 Reagan budget plan was all done on the back of an envelope. Where were the numbers coming from, he asked? People kept putting things on his desk that he did not understand.

Stockman was a friend of Senator MOYNIHAN because he had studied under Senator MOYNIHAN while in college. And in his book, Stockman relates a conversation he had over dinner with the Senator and Mrs. Moynihan on September 24, 1981 after the damage of the Reagan tax cuts had already been done. Stockman says he told MOYNIHAN, ''You guys on the hill are going to have to rescue this. We went too far with the tax cut and now I can't get them to turn back.''

And MOYNIHAN responds, ''I am not sure whether anything can be done about it.''

And so the damage continued to pyramid. In 1992, Bill Clinton was elected President. President Clinton came to this body in 1993 with a proposal to raise taxes by $250 billion and cut spending by $250 billion, and we passed it, without one single Republican vote in the House and without one single Republican vote in the Senate.

And this chart shows where the deficit was when President Clinton made his proposal. It was headed for a $300 billion deficit in 1992. We had nearly a $300 billion deficit. The Republicans said the Clinton proposal would be a disaster for the Nation and would bring on a terrible depression. The predictions were ominous and endless. But what happened? The deficit, the first year, went from $300 billion to $255 billion; the next year, to $203 billion; and this year to $175 billion, without one single Republican vote.

So here we are. We cannot stand to admit the success of that. So we have this budget here. I daresay I could walk down the streets of Little Rock and pick out 535 people at random, bring them to Washington, put 435 in the House and 100 in the Senate, and I promise you that we could come out with a better budget, a more compassionate budget, and a fairer budget, than this one.

I heard a Congressman say the other day that there is ''plenty of pain in this for everybody.'' Really? Pain for everybody? What about Members of Congress? Where is their pain? Where is the pain of people who can afford to send their children to school without Pell grants and student loans?

The one thing that will restore some sense of decency, civility, culture, and social fabric in this country is education. You can stand on this floor and

moralize all you want. You are not going to force people to go to church by moralizing with them. You are not going to force people to quit having babies out of wedlock by moralizing with them. You are going to solve all of these problems by educating people. The one thing Joycelyn Elders said—and it is not popular to quote her these days, but this is worth repeating—when they asked, ''What are you going to do about this generation?'' She said, ''Nothing, they are already lost. I am going after the next generation.'' Well, I do not totally agree with that, but I can tell you that is where our money ought to be spent—on the coming generation.

So what are we going to do? Cut $11 billion out of education for the next 7 years and stand back and ask why our children are not learning.

What else? Why, we are going to deny 350,000 children the right to Headstart. Everybody knows what Headstart means to children, particularly from poverty areas. So what are we going to do? Sorry, we are closed.

What else? Two things that we fund here are, for some reason, such an anathema to most Republicans. I watch public broadcasting and Discovery and Arts and Entertainment. I do not watch sitcoms. I do not know any of those people. I do not say that boastingly. It just does not interest me. I have an intense curiosity about everything, and I am interested in knowledge; I want to learn all I can before I die—and that is not too far away. But I am still curious about everything, so I watch the Learning Channel and the channels where I am likely to learn something, not the channels where I know I am not going to learn anything.

So what do the Republicans propose? Eliminate PBS. Eliminate the National Endowment for the Arts. ''Well, Senator, you favor pornography, or you must if you favor the National Endowment for the Arts.'' No, I do not favor pornography. But I am hot to keep the Arkansas symphony afloat. I am hot to keep the Arkansas Repertory Theater afloat. I am hot to see people in small rural communities of this Nation get exposed to Shakespeare now and then. I deplore the Mapplethorpe exhibit as much as the Presiding Officer or any other Senator. It is like welfare—eight percent rip off. You cannot design a program that somebody is not going to corrupt.

So two of the few civil, decent culturally enriching things in this Nation, public broadcasting and the National Endowment for the Arts, they go on the block.

Earned-income tax credit. You think about the earned-income tax credit, which everybody considers to be the greatest program ever invented to keep people off welfare. This is where people who make less than $28,000 a year get a refundable credit of up to $2,200 a year, on a sliding scale. We make money off of it because we keep them off welfare. Is that what DALE BUMPERS says? No. That is what Senator DOMENICI, chairman of the Budget Committee, said. What did he say about the earned income tax credit? ''It is a great way to help families with the costs of raising their children. It sends assistance to those in need; to those who work hard and yet struggle to make a living and provide for their children.'' That was Senator DOMENICI, not DALE BUMPERS. This is what Senator PACKWOOD said: ''A key means of helping low-income workers with dependent children get off and stay off welfare.'' Those are Senator PACKWOOD's words. This is what President Reagan said: ''The best antipoverty, the best profamily, the best job creation measure to come out of the Congress.''

So what do we do to that? About $21 billion is whacked off of it in this budget resolution.

Family values. I must tell you that I get sick listening to the moralizing about family values from the same people who choose to torpedo the best program we have going to help families stay together and stay off welfare.

What else are we going to do? We are going to sell the Presidio, the most magnificent piece of property left in America. The old Fort Presidio goes on the auction block.

What else? We are going to sell the naval petroleum reserves, which we have always relied on in a time of military crisis. The naval petroleum reserve. We are going to sell it to the highest bidder.

What else? We are going to privatize all those people who are in the towers at the airports who guide our planes. We are going to privatize them. It will run for profit in the future—not for safety necessarily, but for profit.

What else? We are going to sell the Uranium Enrichment Corporation and the Power Marketing Administration which make the Government money. We will get a pretty good amount of revenue in the year that we sell those programs, but then we will fail to get the annual revenue that we are getting now.

What else? We are getting down to the bone now, Mr. President. We are going to cut Medicare $270 billion. How are we going to do that? We are going to reform Medicare. How are we going to reform it? Nobody knows. Nobody has said.

We can either bankrupt every rural hospital in America, which we would do in my State, cut doctors' fees to the point they do not want to participate in the program anymore, or assess every single Medicare recipient in the country $3,345 over the next 7 years.

Medicaid, the poorest of the poor, we are going to increase 4 percent. It has been increasing by 10 percent. What will happen? We will do block grants to the States and we will have 50 different programs for Medicaid.

Mr. President, all 100 people who sit in this body get a nice fat check every month, $133,000 a year. A lot of them never dreamed they would make that much. I guess I am one of them. We get $133,000 a year. We have a nice, fat, cushy pension waiting to retire. But we have a health care plan second to none. Any doctor or hospital in this city is more than pleased to see a Member of Congress come in because they know our plan will pay for everything.

But do you know what we forget? We forget that 37 million people in this country are over 65, and 50 percent of them go to bed terrified at night for fear they will get sick and not be able to pay their medical bills. We in Congress have no such fears.

What are we going to do? We are going to give a $245 billion tax cut. Not a middle-class tax cut. I cannot believe people have the temerity to call this a middle-class tax cut. This tax cut, at least the House tax cut, goes to virtually the wealthiest people in America.

What in the name of God are we thinking about? Seventy percent of the people of this country say, ''Don't spend that $245 billion on tax cuts.'' If you can come up with $245 billion, put it on the deficit.

Mr. President, what is next? Defense—the Senate Armed Services Committee is this day marking up a bill that is calculated to do one thing: that is to gin up the cold war one more time. More B–2 bombers. For whom? Whom are we going to bomb? Even new battleships—two battleships. All kinds of things the Defense Department, even the Joint Chiefs of Staffs, say they do not want. We in Congress will teach the Joint Chiefs a thing or two about military battles.

Imagine Senators telling old people we are cutting Medicare by $270 billion and telling poor people we are cutting Medicaid by $180 billion. What do we say to the Defense Department? Have it all; just have what you want. Do you want to kill the ABM treaty so the Russians have no choice but to start rearming? Do you want to build all the weapons systems that really have no meaning in today's world? Here is the proof of the pudding.

The United States is spending $280 billion this year, counting the Energy Department's budget, on defense; the eight biggest military nations on Earth outside NATO—Russia, China, North Korea, Iraq, Iran, Libya, Syria, Cuba, our most likely adversaries—the combined total budgets of all eight nations is $121 billion.

We are spending twice as much in the United States alone as our eight most likely adversaries combined. When we add NATO spending of $250 billion, the United States and NATO are spending four times more than all these nations combined. Mr. President, this sounds like sheer lunacy, because it is.

In a few days, the Budget Committee will send over all their mandatory spending instructions to the committees to report back to them by September 22. Then CBO will certify that the budget really will be in balance in the year 2002. Then the Budget Committee

will tell the Finance Committee, ''Come up with a big tax cut of $245 billion over the next 7 years,'' and then the Budget Committee will combine all of this mandatory savings legislation with a tax cut bill, and it is all going to be passed in one fell swoop.

What does that mean? That means that we will pass a tax cut this fall. We will pass this budget, and all the appropriations bills that go with it, and then we will be free to have an immediate tax cut.

Then next year, it will require only 51 votes to undo every bit of our balanced budget. If we have a recession, a war, if we have a trade war, earthquakes, hurricanes, floods, every Senator in this body will fall all over himself to vote to pay for every bit of it, and there goes our balanced budget because we will have already passed a $245 billion tax cut.

Mr. President, we are back to square one. I know my time is about to expire. I wanted to say some other things. I just want to close by making a couple of observations.

This budget is guaranteed not to solve the problems of this Nation. This budget tells the American people only one thing: That it has been crafted with the utmost cynicism to keep people's attention diverted just long enough to get this tax cut passed.

When we pass a tax cut, think of who will feel the pain. Here is the chart. On capital gains alone, 76.3 percent of the capital gains tax cuts will go to the wealthiest 5 percent of people in America—76 percent to the wealthiest 5 percent of people in America. If that is what America is about, somehow or another, I missed it all. You could not hold a gun to my head and make me vote for this budget. I yield the floor.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time consumed by the quorum not be charged against the resolution.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. PELL. Mr. President, it should come as no surprise that the budget resolution which has come back to us from conference is far worse and more dismaying in its impact than the version which passed the Senate on May 25.

What I said when I voted against the resolution the first time applies now with even more force: This budget is a plan for the evisceration of progressive government as we have come to know it in the past 40 years. Sadly, it marks the end of an era of high intentions and decency and compassion in public policy.

On of the worst provisions of the conference report, from my point of view, is the mandatory cut of some $10 billion in education programs, notwithstanding the fact that the Senate last month voted 67–32 to restore $9.2 billion to this account.

The conference cut in education will substantially increase the indebtedness that students incur to pay for college tuition, adding some $4,000 to $5,000 to the cost of an average student loan. It could well mean that literally millions of students will have to trim, defer or even drop their plans for college.

A number of important education programs—such as Safe and Drug Free Schools, Goals 2000, School to Work Opportunities, Head Start, Pell grants, the National and Community Service Act and Vocational Education—could well be subject to severe funding reductions and even elimination.

At a time when our Nation needs a more educated and better prepared workforce, these education cuts mean we would be moving in precisely the opposite and wrong direction.

Similarly, Mr. President, the conference report's outline for spending on foreign affairs, the so-called 150 account, indicates that over time, there will be significant cuts in funding for U.S. foreign affairs agencies, personnel and assistance programs; there will be an enormous reduction in U.S. financial support for the United Nations and U.N. peacekeeping missions; and there will be major constraints on the ability of the United States to conduct diplomacy and exert influence abroad.

If we follow the prescriptions in this budget plan, the United States will be unable to exercise leverage over or work cooperatively with the international community to resolve conflicts, advance our interests, or promote democratic and free market principles.

I am particularly disturbed by the potential impact of the budget plan on our ability to contribute to the United Nations. Having just returned from the 50th anniversary celebration of the United Nations, I am once again reminded of the tremendous contributions that the United Nations has made to support and advance U.S. foreign policy goals, and of how useful a tool it could be for the United States in the future. I am not so naive as to profess that the United Nations has always lived up to its potential, but for every example of failure that are numerous countervailing examples of success.

These cuts will set us squarely down the road toward retrenchment and withdrawal. If we choose to go this route, we will do grave disservice to the next generation of Americans. At the end of World War II, we chose not to yield to the temptation of isolationism, and our country prospered as it never had before. I think we should have learned our lesson by now.

These cuts in education funding and in the foreign affairs account typify the great differences in priorities and values which distinguish the opponents from the proponents of this resolution. All of us agree that many Federal programs should be trimmed or restructured or phased out altogether. But we have significant differences over where the axe should fall.

I for one think that far more critical attention should be given to modifying and reducing the elaborate defense and security structure which in many ways is a casualty of its own success in the cold war.

I am dismayed that the conference report comes back to us with even greater allowance for defense outlays than we originally provided. As I see it, we should be spending far less on defense and more on domestic social programs.

The same might be said for the vast hidden budget of our intelligence apparatus which I note spent some $10 billion in its unsuccessful efforts to estimate the state of the Soviet economy, the collapse of which it failed to anticipate.

Mr. President, as I indicated last month, my differences on the budget go deeper than priorities. I continue to question the basic premise that the Federal budget must be brought into absolute balance in a specific time frame.

And I particularly question the wisdom, indeed the sanity, of providing for tax cuts at the very time our objective should be to bring revenues and expenditures into balance. It seems preposterous that the budget resolution now comes back to us with a provision for tax cuts of $245 billion, notwithstanding the Senate's decisive rejection by a vote of 69 to 31 of the Gram amendment last month.

For every dollar of opportunistic tax cuts provided by this resolution, an offsetting dollar must come from some other source. The designers of this budget actually propose to borrow funds in the next few years to make up for the lost revenue, and then the impact will fall on school children, college students and Medicare recipients among many others.

This seems like a strange way indeed for a modern society to manage its affairs. A far better way, it seems to me, would be to make judicious cuts, reduce the deficit to reasonable proportions and, if necessary, raise additional revenues to preserve worthy programs.

We should not loose sight of Franklin Roosevelt's wise dictum that ''Taxes, after all, are the dues that we pay for the privileges of membership in an organized society.'' In the end, we get what we pay for.

OPPOSITION TO DEFENSE FUNDING LEVELS

Mr. GRASSLEY. Mr. President, I have asked to speak at length on this conference agreement to raise some serious reservations about the funding levels it contains for defense. I appreciate Chairman DOMENICI's cooperation in allowing me this time.

I would like to say first that I will vote for this conference report. I spoke

at length earlier today about the positive aspects of this budget, and why it's needed for this country's future. Whatever reservations I have about the defense numbers, they are secondary to the main priority—which is a credible, balanced budget.

To me, the explosion of debt sanctioned by Congress over the last three decades is unconscionable. It has become a moral issue with me. We are mortgaging our children's future by failing to act responsibly now. It has to stop. The goal of this conference agreement is, in fact, to restore responsibility to our fiscal policy. And that's why I support the conference agreement despite my opposition to the defense budget levels.

Let me also say that I strongly supported the Senate budget, including the defense numbers. To me, the Senate's version of the budget we passed in May was the most credible budget passed by this body that I have voted for. There was no smoke and mirrors. Just sound, tough choices. And as I have done before on this floor, including today, I want to once again commend Chairman DOMENICI for his outstanding leadership in crafting that budget.

Having provided that context, Mr. President, I would like now to address the defense issue.

The conference report pumps $40 billion into the defense budget over the next 7 years. There are two justifications given. First, the defense budget is ''underfunded.'' Second, we need more money for weapons so we can have more money for readiness.

Neither argument has credibility, in my view.

The defense debate is often dominated by fancy buzz words and phrases. Two examples are: First, the defense budget is ''underfunded''; and second, we cannot sacrifice ''future readiness'' for current readiness. These are the phrases being used. But what do they mean?

What I plan to do is explain these arguments in terms the taxpayers can understand. That way, they can see how they are getting ripped off.

First, the underfunding argument. This argument cites a gap between the level of funding for programs in the defense budget, versus the realistic cost of those same programs when the bills come due. It says more money is needed to fund everything that's in the defense budget.

This argument is bogus. The fact of the matter is, more money would not be needed if the defense managers were to manage their programs properly. The funding gap cited in the conference agreement is future cost overruns that happen historically because defense managers are not doing their jobs.

The defense budget is not underfunded; it is overprogrammed. The cost of what is in the budget is deliberately underestimated. That way, the bureaucrats can squeeze more programs in. It is a bait-and-switch game that would make the best of the con artists green with envy.

Once they get all the programs stuffed in by underestimating their cost, they turn around and say: ''Gosh, we need more money to pay for everything we just crammed in there.''

If it were not for the conscious game of deliberately underestimating costs to shoehorn more programs into the budget, the term ''underfunding'' might be legitimate. But that is not the case. The fact that it is a deliberate scheme to game the system is why it is really a case of overprogramming, not underfunding.

For example, when Republicans accuse President Clinton of using rosy economics to balance the budget—therefore, claiming his budget really is not balanced—we are accusing him of not making the tough choices. By assuming a rosier revenue stream, he is trying to fit more programs into the Federal budget, and make fewer cuts. It is poor management and leadership. It will lead to higher deficits. In his case, our accusations are justified.

It is the same with the defense budget. That is why I call the defense budget a ''blivet''—5 pounds of manure in a 4-pound sack. The question is, after they pull this bait-and-switch routine, do we give them a bigger sack, or do we ask them to manage their manure better?.

Interestingly, Mr. President, I used this argument to successfully freeze the defense budget in 1985—during the height of the Soviet threat. If the argument was successful then for spending less money, why would we use it now to argue for more money, especially when the threat is gone?

Simply put, those who are using the argument now to justify more spending do not understand the issue.

The Defense Department has a history of playing the overprogramming game. I first uncovered it in 1983, and used analysis of that problem to show how more money was making the funding gap worse. The answer was not more money, but rather better management. Using that argument, we froze defense spending in 1985, and it has been plateaued ever since.

The overprogramming gap was bad back in 1983, and it hasn't gotten any better. The data confirm this. The conference report language acknowledges that the problem is still with us. But what the report does not do is present a logical case for why an argument that once was used to justify less spending and better management, is now used to justify more spending in place of better management.

If my colleagues were to respond correctly to this problem, we would say better management must substitute for more money. That means taking away a pound of manure, rather than getting a bigger sack. Better yet, preventing the excess manure in the first place is what we want. That is proper management. If all we do is keep getting a bigger sack, we're rewarding bad management.

It is a game. It is a game mastered by crafty bureaucrats to extort taxpayer money out of Congress. In reality, by doing what is argued for in this conference agreement, we would be covering the cost overruns that will result from putting in more money.

You see, the cost overruns have not occurred yet. They will occur each of the next 7 years, if business is conducted as usual. Putting $40 billion more in the defense budget guarantees that business will be as usual. And we will get $40 billion of cost overruns as a result.

Now, let me address the second argument used by the conferees. It is really just another symptom of the problem I just described.

The second argument goes like this: More money lessens the need for Pentagon decisionmakers to sacrifice future readiness to meet current readiness requirements.

''Current readiness'' means spare parts, fuel, and training. ''Future readiness'' means procurement. This argument simply means that DOD managers do not want to have to manage and prioritize. As cost overruns due to bad management occur in each of the next 7 years in weapons accounts, the managers don't want to have to rob the readiness accounts to pay for the weapons. That is what they used to do. But that would hollow out the force. Instead, this time they want more procurement money to cover the cost overruns.

When you hear the cry for more money for things like ''procurement'' or ''modernization'' or ''future readiness needs''—all of which are fancy buzz words—those are euphemisms for putting in more money to cover cost overruns. It says, ''We are not going to manage better. We have run the defense budget this way for decades, and we're not going to change now.''

That is the attitude that troubles me, Mr. President. What troubles me even more is that the new Republican Congress is willing to tolerate it. We are treating it as a sacred cow. Worse. We are treating it as a sacred fatted cow.

Why is it that Members on my side of the aisle send their management principles on a vacation whenever the defense budget is mentioned? We scrutinize every other program for better performance. But when it comes to the defense budget, it is a jobs jamboree. A pork paradise.

It is hypocritical. It undermines our credibility as a party. We are not willing to tolerate business-as-usual in any corner of the Federal Government, except for defense. On defense, we worship at the altar of the sacred fatted cow.

I want to make it clear, Mr. President, that my colleagues in the Senate did not have this attitude, for the most part. It was mainly those of the other body. During the conference, we met with our counterparts in a very important defense discussion. Afterward, we

reached a compromise on the defense numbers.

I do not intend to mention names. But I would like to relay a couple points that were made by House leaders in defense of pumping up the defense budget.

The first argument was the pork argument. At the time of the defense meeting of conferees, the relevant House committee had already completed work on this year's defense bill. If the conferees did not pump up the numbers, it would mean going back to Members of Congress and saying we would have to go back on our promise to fund this project or that program.

Now, when a Member of Congress is faced with a choice like that, guess what he or she will do? The choice is, go along with the pumped-up defense numbers, or we'll cancel this project in your district. And that'll mean jobs.

What kind of national security strategy is this, Mr. President?

Everyone knows, the defense budget is justified by a national security strategy. We've all heard of the two-war strategy. The defense budget is built on a strategy of fighting and winning two near-simultaneous wars in different parts of the globe.

Now, I am not so naive to think there's any real tight connection between a national strategy and our defense budget. But at least our defense community usually goes along with the gag. They pay lip service to the connection, even though we all know the defense budget is as much a big pork factory as it is a generator of fighting capabilities. If we did not pay lip service, there would be no justification for budget increases, and hence no credibility.

In this case—in my discussion in that defense meeting—there was not even lip service. It was unadulterated realpolitik. The justification for more defense spending was more pork ad more jobs. Period.

The other comment that was made was the recognition that a national security strategy is no longer the basis of our defense budget, since the cold war is over. So what, I asked, is the justification for the present budget, let alone vast new increases. The answer I got was that more defense spending is needed because the United States must police the world. And we are the only ones who can do it.

My question is, how in the world can that justify the spending levels in this agreement? If anything, it undermines it. This defense budget is still based on an obsolete, cold war strategy. We are still buying cold war relics. Before this conference agreement, we were on a path toward a post-cold war budget. But with this influx of money, we are now returning to the cold war budget in a post-cold war era.

If we are now going to be policemen of the world, why are we still buying things that were specifically designed to counter the Soviet threat, not to police the world? We are still buying Seawolfs and B–2's and F–22's and Comanche helicopters, and the like. If we are supposed to now police the world, why are we buying these? The fact is, this argument does not justify these larger defense numbers.

Another argument is that the defense budget is not going up, we are simply trying to freeze it, and keep it from going down. But this is not a credible argument. And it never has been. The defense budget is based on a national strategy, at least supposedly. If the budget declines, which would be consistent with the disappearance of the Soviet threat, what is the problem? There should not be a problem—unless, that is, we view it as a port factory with jobs attached.

Mr. President, there is no logical basis for the defense numbers in this conference agreement. The arguments are bogus, and they reflect a lack of serious, credible justification.

As I mentioned earlier, I support the conference agreement because I believe it will lead to a legitimate balanced budget in 2002. And I am willing to accept the defense compromise if that's what it takes to get an overall agreement.

But I am taking this opportunity to warn my Republican colleagues not to repeat the mistakes we made in the 1980's with the defense budget. In the 1980's, our goal was not a defense buildup. It was a defense budget build-up. We ended up buying much less with much more than we got and spent under the Carter administration. That's because we substituted more money for better management. We lost credibility as a party because of it.

As the party that now controls Congress for the first time in 40 years, we are right back where we were in 1981. Our defense policy, as reflected in this conference agreement, is to once again build up the defense budget, not defense. It is to, once again, create jobs, not a lean fighting machine.

I have been given assurances by Members of the other body that defense reforms are forthcoming. After concentrating this year on health care reform, the top reform priority of the other body next year will be major defense reform.

By inference, my colleagues are admitting that they will tolerate business-as-usual with the Defense Department—at least for 1 more year. I am here to warn my colleagues that 1 year is all they will get. One year to conclude that better management will win out over more money, as a solution.

Because if there is not a change next year to doing business-as-usual in defense, then I will expend everything in mu arsenal to bring sanity to our defense policy. Just like I did from 1983 to 1985, when I ended the irrational defense budget buildup under President Reagan. It was my amendment on this very floor on May 2, 1985, by a vote of 50–49 that ended the insanity back then. And I will do it again.

Even if it takes me 2 full years to do it, like it did back then. And I will win. Because it is not right to have a double standard—one for defense, and one for the rest of Government. All that will do is hurt the credibility of our party. And I do not want that. Because in my view, our party is the only one that can restore hope and opportunity for the next generation.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak therein.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT—PM 58

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

As required by section 19(3) of the Public Telecommunications Act of 1992 (Public Law 102–356), I transmit herewith the report of the Corporation for Public Broadcasting.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 28, 1995.*

MESSAGES FROM THE HOUSE

At noon, 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 resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 38. Concurrent resolution authorizing the use of the Capitol grounds for the Greater Washington Soap Box Derby.

The message also announced that the hose has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 18. Concurrent resolution authorizing the Architect of the Capitol to

transfer the catafalque to the Supreme Court for a funeral service.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1565. An act to amend title 38, United States Code, to extend through December 31, 1997, the period during which the Secretary of Veterans Affairs is authorized to provide priority health care to certain veterans exposed to agent orange, ionizing radiation, or environmental hazards.

The message also announced that pursuant to the provisions of section 9355(a) of title 10, United States Code, the Speaker announces the appointment as members of the Board of Visitors to the U.S. Air Force Academy the following Members on the part of the House: Mr. YOUNG of Florida, Mr. HEFLEY, Mr. DICKS, and Mr. TANNER.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1565. An act to amend title 38, United States Code, to extend through December 31, 1997, the period during which the Secretary of Veterans Affairs is authorized to provide priority health care to certain veterans exposed to agent orange, ionizing radiation, or environmental hazards; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. STEVENS, from the Committee on Rules and Administration:

Special Report entitled ''Review of Legislative Activity During the 103D Congress'' (Rept. No. 104–100).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs:

Deborah Dudley Branson, of Texas, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1996.

Charles L. Marinaccio, of the District of Columbia, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1996.

Steve M. Hays, of Tennessee, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1997.

Martin Neil Baily, of Maryland, to be a Member of the Council of Economic Advisers.

Tony Scallon, of Minnesota, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for a term of three years.

Sheila Anne Smith, of Illinois, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for a term of three years.

Marianne C. Spraggins, of New York, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1997.

Albert James Dwoskin, of Virginia, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1998.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PACKWOOD, from the Committee on Finance:

Ira S. Shapiro, of Maryland, for the rank of Ambassador during his tenure of service as Senior Counsel and Negotiator in the Office of the United States Trade Representative:

(The above nomination was reported with the recommendation that he 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 Mr. CHAFEE:

S. 975. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel JAJO, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. NICKLES:

S. 976. A bill to transfer management of the Tishomingo National Wildlife Refuge in Oklahoma to the State of Oklahoma, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HATCH:

S. 977. A bill to correct certain references in the Bankruptcy Code; to the Committee on the Judiciary.

By Mrs. HUTCHISON (for herself and Mr. DODD):

S. 978. A bill to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, to clarify the inapplicability of antitrust laws to charitable gift annuities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. BOXER (for herself, Mr. KENNEDY, Ms. MIKULSKI, Mrs. MURRAY, Mrs. FEINSTEIN, Ms. SNOWE, Mr. LAUTENBERG, Mr. INOUYE, Mr. GLENN, Mr. PACKWOOD, Mr. DODD, and Mr. SPECTER):

S. 979. A bill to protect women's reproductive health and constitutional right to choice, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HARKIN:

S. 980. A bill to amend the Public Health Service Act and the Social Security Act to protect and improve the availability, quality and affordability of health care in rural areas, and for other purposes; to the Committee on Finance.

By Mr. EXON:

S. 981. A bill entitled ''Truck Safety and Congressional Partnership Act''; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NICKLES:

S. 976. A bill to transfer management of the Tishomingo National Wildlife Refuge in Oklahoma to the State of Oklahoma, and for other purposes; to the Committee on Environment and Public Works.

THE TISHOMINGO NATIONAL WILDLIFE REFUGE ACT

Mr. NICKLES. Mr. President, I take the floor today to introduce a bill which will turn the management responsibilities of the Tishomingo National Wildlife Refuge from the U.S. Fish and Wildlife Service over to the Oklahoma Department of Wildlife Conservation. This legislation responds to unacceptable policies promulgated by the Fish and Wildlife Service in their management of national wildlife refuges.

During the past several years, the Fish and Wildlife Service has attempted to restrict public access and traditional activities on our wildlife refuge preserves. Long-allowed public uses on refuges such as wildlife viewing, hunting, fishing, hiking, grazing, and boating, have come under close scrutiny and curtailment. These shortsighted restrictions proposed by the administration's political appointees have resulted in unnecessary burdens and pressures on the public who use and benefit from our wildlife refuges.

What the Fish and Wildlife Service fails to realize is that the taxpayers own and finance the refuge lands. Outdoor recreation contributes significantly to local economies and local support for the refuges. Allowing traditional activities, such as fishing and boating at Tishomingo, is integral in maintaining continued public support and funding for the refuge system.

Due to ill-advised changes in Federal management practices during the last 10 years, wildlife populations on the Tishomingo refuge have severely declined. The State of Oklahoma, however, presently provides suitable habitats for wildlife resources across the State and currently manages 650,000 acres of Federal land. State officials have assured me that they will improve habitat conditions for wildlife at the refuge and work to reverse the negative impact of inadequate Federal management.

My legislation will ensure limited Federal funding for the Tishomingo Refuge and will ultimately result in significant savings to the Federal Government. The Oklahoma Department of Wildlife Conservation can manage the refuge more efficiently and with fewer taxpayer dollars. Specifically, my bill stipulates annual funding be made available to the State in the amount of 50 percent of the refuge's current operating costs.

In conclusion, I believe the State of Oklahoma can manage the Tishomingo National Wildlife Refuge in an efficient and cost-effective manner and do so with fewer employees than the Federal Government. Local management will result in better communication between the managers of the refuge and

the public. Those responsible for managing our national refuges must be held accountable to the needs of the public they serve.

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. 976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF MANAGEMENT OF TISHOMINGO NATIONAL WILDLIFE REFUGE.

(a) TRANSFER.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall transfer, with the consent of the Governor of Oklahoma, the management of the lands and waters within the Tishomingo National Wildlife Refuge in Oklahoma to the State of Oklahoma for administration by the Director of the Oklahoma Department of Wildlife Conservation (or any successor agency).

(b) MANAGEMENT.—

(1) IN GENERAL.—The lands and waters transferred under subsection (a) shall—

(A) be managed for the same uses and in the same manner as the lands were managed by the United States Fish and Wildlife Service prior to 1994; and

(B) continue to be a national wildlife refuge.

(2) APPLICABLE LAWS.—The laws (including regulations) applicable to the National Wildlife Refuge System established under the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd *et seq.*) shall continue to be applicable to the lands and waters on and after the effective date of the transfer under subsection (a).

(c) AUTHORIZATION OF FUNDING.—For each fiscal year commencing after the date of enactment of this Act, there is authorized to be appropriated to the Secretary of the Interior to make annual grants to the State of Oklahoma for management of the lands and waters transferred under subsection (a) an amount equal to 50 percent of the amount made available to the Secretary of the Interior in fiscal year 1994 for the management of the refuge.

By Mr. HATCH:

S. 977. A bill to correct certain references in the Bankruptcy Code; to the Committee on the Judiciary.

TECHNICAL CORRECTION LEGISLATION

● Mr. HATCH. Mr. President, I am pleased to introduce legislation that would work a purely technical correction to certain references in the Bankruptcy Code.

Title 11, United States Code, section 1228 contains incorrect cross references to 11 U.S.C. §1222(b)(10). Those references should be to 11 U.S.C. §1222(b)(9). The errors have been pointed out to me by practitioners, and have been commented on by the leading bankruptcy treatise. See 5 ''Collier on Bankruptcy'' ¶1288.01 at p. 1228–3 n.1 (15th ed. 1994). The bill I introduce today would correct those errors.

The substance behind the corrections is fairly straightforward. Section 1228 provides for the discharge of debt in chapter 12 bankruptcies. Under that provision, as soon as the debtor completes all payments under the debtor's pan, debt will generally be discharged, subject to a few, limited exceptions. One obvious exception covers certain payments that, under the plan, will necessarily extend beyond the period of the plan. It simply makes sense that, where the plan contemplates payments to be made beyond the period of the plan, the debt will not be discharged at the close of the plan period.

The exception currently refers to subsections 1222(b)(5) and 1222(b)(10), which appear in that section of chapter 12 governing the contents of the plan. The reference to subsection 1222(b)(10) is plainly in error, however, and should be to subsection 1222(b)(9). Subsections 1222(b)(5) and 1222(b)(9) both concern debts on which payments are due following completion of the plan. Subsection 1222(b)(10), however, concerns something entirely different: the vesting of property in the debtor or another entity. The current cites to subsection 1222(b)(10) should be to 1222(b)(9). This bill corrects those errors, in accordance with the suggestions of practitioners and commentators.

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. 977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCE.

Section 1228 of title 11, United States Code, is amended by striking ''section 1222(b)(10)'' each place it appears and inserting ''section 1222(b)(9)''.●

By Mrs. HUTCHISON (for herself and Mr. DODD):

S. 978. A bill to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, to clarify the inapplicability of antitrust laws to charitable gift annuities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE CHARITABLE GIVING PROTECTION ACT OF 1995

● Mrs. HUTCHISON. Mr. President, one of charities' most important sources of funds—charitable gift annuities—is threatened.

Ever since the American Bible Society entered into the first planned giving arrangement in the 1830's, charitable gift annuities have been a traditional method of giving in America. Typically, the donor gives property to a charity and receives some of the investment income for the rest of her life. After the donor's death, the charity keeps the property to help with its charitable mission.

Donors establish charitable gift annuities to help feed and clothe the neediest among us, to provide relief for disaster victims, to heal the sick, to educate our children, and to bring culture to our communities.

The threat to charities comes from the misapplication of laws to protect consumers from securities fraud and unfair competition to charitable giving. A lawsuit filed in Federal court in Wichita Falls, TX, challenges the ability of charities under Federal securities laws and antitrust laws to engage in planned giving with donors.

The lawsuit alleges that the American Council on Gift Annuities—an educational organization sponsored by more than 1,500 charities to assist them in issuing gift annuities—violated antitrust law by providing actuarial tables to charities to assist them in determining the interest they should pay on annuities. The lawsuit also alleges that commingling of more than one charities' trust funds in a pooled income fund is a violation of the Investment Company Act of 1940, and other securities laws.

The plaintiff—a disappointed potential heir of the elderly woman who made the charitable donation—says that it is price-fixing for the council to suggest what charities should pay in interest on gift annuities. She overlooks that gift annuities aren't trade or commerce in the first place. Congress recognized this fact in the Technical Corrections Act of 1988 when it excepted gift annuities from the definition of commercial insurance.

Instead of getting the best possible return on her investment, a charitable donor is trying to help the charity. If she wanted investment return, she would go to a bank or a brokerage house, not the Red Cross.

Lawyers for the plaintiff are seeking class action certification to expand the suit to charities from every State. The lawyers ask for the return of all charitable annuity donations plus treble damages—damages that would have to be paid from endowments or unrelated donations.

Such an award could financially disable thousand of charities, including hospitals, relief organizations, arts groups, museums, universities, and every religious denomination in the country. One of the plaintiff's lawyers in this case has boasted that this is a ''billion-dollar lawsuit,'' because it will extract huge sums of money from our Nation's noblest institutions—and earn him a big contingency fee.

Today I am introducing legislation to prevent the financial security of American charities from being undermined. The bill exempts charitable organization's annuity activities from the antitrust laws. It also codifies current SEC policy for irrevocable trusts by clarifying that charities may make collective investments under the securities laws, such as investment in pooled income funds. For revocable trusts, the bill provides a 3-year window for compliance with the securities laws, termination of revocable trusts, or conversion of revocable trusts into irrevocable trusts.

Similar legislation was unanimously passed this spring by the Texas Legislature to clarify that charities issuing gift annuities are not required to be licensed as insurance companies or incorporated as trust companies.

Charities in America have a consistent track record of honoring their promises and commitments to donors, and will remain liable for fraudulent acts—although none are alleged in this lawsuit. My bill does not exempt charities from liability for fraud. The persons responsible for the Foundation for New Era Philanthropy ''Ponzi Scheme'' would still be held responsible for their acts.

Charities are not harming anyone—the only harm being done is by this lawsuit to America's charities. We must act now to protect charitable giving from harm, and to protect our laws from being misapplied.

Returning charitable annuity gifts and opening up endowments to pay treble damages will harm all of us. Every dollar lost is a child unvaccinated, a baby unfed, a sick person with no medical care, a Boy Scout troop that will cease to exist, a house for a poor family that will not be built, and a scholarship that will not be granted. I urge all Senators to protect their most important institutions and pass this bill as soon as possible.●

By Mrs. BOXER (for herself, Mr. KENNEDY, Ms. MIKULSKI, Mrs. MURRAY, Mrs. FEINSTEIN, Ms. SNOWE, Mr. LAUTENBERG, Mr. INOUYE, Mr. GLENN, Mr. PACKWOOD, Mr. DODD, and Mr. SPECTER):

S. 979. A bill to protect women's reproductive health and constitutional right to choice, and for other purposes; to the Committee on Labor and Human Resources.

THE WOMEN'S CHOICE AND REPRODUCTIVE HEALTH PROTECTION ACT

● Mrs. BOXER. Mr. President, I introduce the Women's Choice and Reproductive Health Protection Act with my colleagues, Senator KENNEDY, Senator MIKULSKI, Senator MURRAY, Senator FEINSTEIN, Senator SNOWE, Senator LAUTENBERG, Senator INOUYE, Senator GLENN, Senator PACKWOOD, Senator DODD, and Senator SPECTER. Similar legislation will be introduced in the House by Representatives SCHROEDER and LOWEY.

The Women's Choice and Reproductive Health Protection Act unequivocally calls on Congress to maintain current policies which preserve a woman's right to choose and critical reproductive health care services.

Specifically, the bill upholds the following policies which represent gains for women that were achieved through legislative action, Presidential Executive order or court decisions:

Medicaid funding of abortions for victims of rape or incest;

Protection for reproductive health care clinics and a woman's access to them;

Reauthorization of family planning programs;

Funding for contraceptive research and for screening programs in all 50 States for breast cancer, cervical cancer, and chlamydia;

The prohibition of any ''gag rule'' on information pertaining to reproductive medical services;

Fair evaluation of the drug RU–486;

Ensuring that all women, including Federal employees, can obtain insurance policies that provide the full range of reproductive health care services;

Allowing women in the military to use their own funds to obtain abortion services at overseas facilities; and

A woman's right to choose, as decided by the Supreme Court in Roe versus Wade.

The American people overwhelmingly support a woman's right to choose. Yet there are those in this Congress who are determined to turn the clock back—on clinic access, on family planning, and on reproductive rights. The women of America cannot afford to go back and this bill calls on Congress to hold firm against such attacks.

I urge my colleagues to join me in cosponsoring this bill and in reaffirming their support for a woman's right to choose and for crucial reproductive health care services.●

By Mr. HARKIN:

S. 980. A bill to amend the Public Health Service Act and the Social Security Act to protect and improve the availability, quality and affordability of health care in rural areas, and for other purposes; to the Committee on Finance.

THE RURAL HEALTH CARE PROTECTION AND IMPROVEMENT ACT OF 1995

● Mr. HARKIN. Mr. President, today I introduce the Rural Health Care Protection and Improvement Act of 1995. I have introduced similar legislation in previous sessions of Congress but believe the need for the legislation has grown more critical in light of our failure to enact comprehensive health care reform and because of the impending cuts in Medicare and Medicaid.

Perhaps no where else will the proposed Medicare and Medicaid cuts hit harder than in Iowa and other rural States where there is such a high proportion of seniors, uninsured and others without access to health care. Iowa ranks first in percent of citizens over age 85 and third nationally in percent of the population over age 65. The health care system in many small towns in Iowa is already on the critical list—we have too few doctors, nurses, and other health care professionals and many of our rural hospitals are barely making it.

Because of demographics our health care providers in Iowa depend heavily on Medicare payments. Many Iowa hospitals are financially strained and 75 percent of all hospitals lost money on patient revenue in 1993. But, according to a recent study conducted by Lewin-VHI, under the Republican budget plan, Iowa hospitals will lose on average $1,276 for each Medicare care patient in the year 2000—and losses for rural hospitals will be even greater.

Mr. President, without question, the future of rural health care is jeopardized by the budget plan we will consider later this week and the reconciliation bill that will implement it. The level of cuts proposed would be absolutely devastating to the fragile health care systems in rural areas and thus to our rural and small town economies as hospitals are typically the largest employer in small towns and help keep other businesses there. So our first and most important concern must be to stop the level of cuts proposed by the budget resolution. If they become law, there is very little that could be done to resuscitate rural health care. Smaller efforts, while well intentioned, will not be successful in counteracting the impacts of such cuts.

We need to be improving access to and affordability of quality health care in rural areas, not reducing it. The legislation I introduce today would do just that. It would make a number of important improvements to rural health. First, it would establish a grant program to expand access to health services in rural areas through the use of telemedicine. For 6 years as chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education my committee funded many telemedicine projects including several in my own State of Iowa. These funds have spurred great interest and activity in telemedicine across the country. But more needs to be done.

The grant program in my legislation will encourage the development of telemedicine networks which can play a critical role in ensuring that people in rural areas have access to high quality health care. Telemedicine puts technology to work to improve the delivery of health care. It uses technology to link patients and their doctors in rural or remote hospitals with highly-trained medical specialists and state of the art medical technology located hundreds, or even thousands of miles away. These linkages will allow more patients to receive care in their community and will ease the burden on specialists in underserved areas. By increasing the education and training opportunities for providers in rural areas these links will also help underserved communities recruit and retain physicians.

Telemedicine will help ensure that people who live in small towns and rural communities have the same access to quality health care as people in Beverly Hills or Palm Beach.

Rural hospitals and other facilities can benefit from the cost savings and access to specialists that telemedicine provides. Using a network, a family doctor in Muscatine, IA could immediately consult with a specialist at the

University of Iowa for an instant diagnosis in a life-or-death situation. A specialist in Mercy Hospital in Des Moines could provide emergency advice and help oversee a difficult surgery taking place in Centerville. And a radiologist at Methodist Hospital in Des Moines could help examine x rays just taken in Jefferson.

My home State of Iowa has developed a world class fiber optic system that holds great potential in the area of telemedicine. Fiber optic cables greatly enhance the potential of telemedicine because they carry much more information than traditional, copper telephone wires.

My President, telemedicine will allow patients to stay close to home for support. For most people, one of the most traumatic times in their life is when they are sick or injured. And we should be helping them stay with their family and friends, who often provide the support and love they need to get well. This will also reduced costs associated with travel.

One of the obstacles for further expansion of telemedicine is the lack of a payment system in Medicare and Medicaid. To begin to address this problem, my legislation would require the Department of Health and Human Services to issue regulations regarding reimbursement for telemedicine.

This legislation would also authorize the Rural Health Outreach Grant Program. I began this program as chairman of the Health Appropriations Subcommittee several years ago and it has been a great success. Many rural communities suffer critical shortages of health providers. Distance, lack of public transportation, rough terrain, and unpredictable weather, present additional obstacles. This initiative recognizes that existing health and social services agencies do not always cooperate and coordinate to reach needy populations in rural America.

Through the Rural Health Outreach Program rural organizations have been able to come together to collaborate and build networks to deliver much needed health care. For example, communities used funds provided by the Outreach Program to provide basic health care services to isolated seniors, to provide care to pregnant women, to build emergency medical systems, and to bring mental health services to isolated communities with the help of telemedicine.

In my own State of Iowa, outreach funds were used to help get a new hospice program in rural Grundy County up and running. The local hospital joined with the local health department and volunteer organizations to develop a program to help families coping with terminal illness. The program helps families that are struggling to survive under the weight of nursing chores, daily responsibilities and grief.

Mr. President, the Rural Health Care Protection and Improvement Act would also extend the Medicare Department, Small, Rural Hospital Program. Between 1980 and 1990, 330 rural hospitals were forced to close their doors, in large part because of inequities in Medicare reimbursement. In OBRA 1989, Congress wisely acted to redress these inequities by establishing the Medicare Dependent Small Rural Hospital [MDH] Program. The MDH Program allows rural hospitals under 100 beds to qualify for somewhat higher reimbursement if over 60 percent of their patient days went to caring for Medicare patients. But, Mr. President this program expired in October 1994.

Iowa has 45 Medicare department, small, rural, hospitals. These hospitals mean access to health care services and retention of local health care providers. They also provide economic stability and are a strong draw for businesses and residents into the area. If the hospital or clinic closes it means that the local economy goes, and the nursing home goes, and so does the local economy. It is a domino effect.

The MDH Program is helping many Iowa hospitals survive and this program should be extended to ensure that these small rural hospitals continue to provide health care services.

So, Mr. President, the Rural Health Care Protection and Improvement Act will help improve access and enhance the quality of health care in rural areas. It will help shore up the fragile health care infrastructure in our rural communities and towns. I am pleased that Senator KASSEBAUM has included the Rural Outreach Grant Program and a Telemedicine Grant Program in her Health Centers Consolidation Act of 1995 that will soon be voted on in the Labor and Human Resources Committee. And, I am hopeful that as we consider steps to improve our Nation's health care system, the Medicare Department, Small, Rural Hospital Program will be extended. But not even my bill will be enough to save rural health care if the unprecedented level of cuts to Medicare being proposed become a reality. We must defeat those proposals and work toward a more sound, a more reasonable effort to reform Medicare.●

By Mr. EXON:

S. 981. A bill entitled ''Truck Safety and Congressional Partnership Act''; to the Committee on Commerce, Science, and Transportation.

THE TRUCK SAFETY AND CONGRESSIONAL INVOLVEMENT ACT

● Mr. EXON. Mr. President, I introduce legislation which the Senate was expected to consider as an amendment to the National Highway System. Last minute negotiations between the chairman of the Commerce Committee and myself produced an understanding that this legislation would be considered by the full committee at the next scheduled markup.

This legislation is a very simple and very narrow measure. It preserves congressional involvement in critical truck safety issues currently before a trinational committee authorized under the North American Free-Trade Agreement. This legislation simply states that if the executive branch moves to set a standard for single trailer lengths pursuant to the NAFTA negotiations and that standards exceeds 53 feet, the executive branch must come to the Congress for such authority.

This legislation only applies to Federal regulations on truck trailer length issue pursuant to the North American Free-Trade Agreement.

Last year, I chaired a hearing on this issue of truck lengths and safety. Needless to say there are serious concerns about the safety of longer and heavier trucks.

Pursuant to the NAFTA agreement, the Governments of Mexico, Canada, and the United States of America are negotiating the harmonization of traffic safety laws. The Senate has been very concerned about these negotiations and following the approval of NAFTA, approved a resolution expressing the sense of the Senate that these negotiations should bring Canadian and Mexican traffic safety up to United States levels, rather than lower United States standards. I am pleased to report that the Clinton administration expressed their desire to involve Congress in the adoption of any new safety rules arising out of these negotiations. this legislation simply locks in that commitment.

Since the Federal Government maintains no single trailer length standards, there is a risk that a future administration cold use the NAFTA negotiations to increase lengths beyond the generally accepted 53-foot standard.

This legislation assures that the Congress will remain involved in critical truck safety issues. Again, Mr. President, this bill only applies if the administration sets a single trailer length standards pursuant to NAFTA negotiations exceeding 53 feet. In such a case, congressional action would be necessary to implement the longer Federal standard.

The amendment does not restrict State action.

The amendment does not affect Federal legislative action.

The amendment does not affect Federal regulatory action not related to the North American Free-Trade Agreement.

The amendment is consistent with the intent of the Reigle-Exon NAFTA/truck safety resolution, approved by the Senate following the approval of NAFTA, and in no way disrupts the long combination vehicles freeze Senator LAUTENBERG and I authored as part of the 1990 highway bill.

I ask my colleagues to consider and support this narrow legislation which will preserve congressional discretion over truck safety and the NAFTA.●

ADDITIONAL COSPONSORS

S. 12

At the request of Mr. BREAUX, the names of the Senator from Vermont

[Mr. LEAHY] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 12, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

At the request of Mr. ROTH, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 12, supra.

S. 67

At the request of Mr. INOUYE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 67, a bill to amend title 10, United States Code, to authorize former members of the Armed Forces who are totally disabled as the result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 73

At the request of Mr. INOUYE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 73, a bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary stores and post and base exchanges.

S. 594

At the request of Mrs. BOXER, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 594, a bill to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer.

S. 607

At the request of Mr. WARNER, the names of the Senator from North Carolina [Mr. HELMS], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 692

At the request of Mr. GREGG, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 692, a bill to amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes.

S. 789

At the request of Mr. CHAFEE, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 789, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly traded stock to certain private foundations, and for other purposes.

S. 849

At the request of Mr. D'AMATO, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 849, a bill to amend the Age Discrimination in Employment Act of 1967 to protect elected judges against discrimination based on age.

S. 851

At the request of Mr. JOHNSTON, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 851, a bill to amend the Federal Water Pollution Control Act to reform the wetlands regulatory program, and for other purposes.

S. 939

At the request of Mr. SMITH, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 939, a bill to amend title 18, United States Code, to ban partial-birth abortions.

S. 942

At the request of Mr. BOND, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 942, a bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitary regulatory enforcement actions against small entities, and for other purposes.

S. 950

At the request of Mrs. BOXER, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 950, a bill to amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to cease mineral leasing activity on submerged land of the Outer Continental Shelf that is adjacent to a coastal State that has declared a moratorium on mineral exploration, development, or production activity in adjacent State waters, and for other purposes.

S. 971

At the request of Mr. COATS, the names of the Senator from Ohio [Mr. DEWINE] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 971, a bill to amend the Public Health Service Act to prohibit governmental discrimination in the training and licensing of health professionals on the basis of the refusal to undergo or provide training in the performance of induced abortions, and for other purposes.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, June 28, 1995 at 1 p.m. to mark up the Department of Defense Authorization Act for fiscal year 1996.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Banking Committee be permitted to meet on Wednesday, June 28, 1995, beginning at 10:40 a.m. to mark up S. 883, the Credit Union Reform Enhancement Act of 1995 and consider pending nominations.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. PRESSLER. 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, June 28, 1995, for purposes of conducting a full committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this meeting is to consider pending calendar business.

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

COMMITTEE ON FINANCE

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet on Wednesday, June 28, 1995, beginning at 9:30 a.m. in room SD–215, to conduct a hearing on the perspective of the Governors on Medicaid.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, June 28, 1995, beginning at 9:45 a.m., in room 485 of the Russell Senate Office Building on S. 814, a bill to provide for the reorganization of the Bureau of Indian Affairs, and for other purposes.

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

SUBCOMMITTEE ON ACQUISITION AND TECHNOLOGY

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Subcommittee on Acquisition and Technology be authorized to meet on Wednesday, June 28, 1995, at 9 a.m. to mark up the Department of Defense Authorization Act for fiscal year 1996.

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

SUBCOMMITTEE ON AIRLAND FORCES

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Subcommittee on Airland Forces be authorized to meet on Wednesday, June 28, 1995, at 11 a.m. to continue mark up of the Department of Defense Authorization Act for fiscal year 1996.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON IMMIGRATION

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Subcommittee on Immigration for the Senate Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, June 28, 1995, at 10 a.m. to hold a hearing on the Report of the U.S. Commission of Immigration.

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

ADDITIONAL STATEMENTS

''ASSESSMENT STANDARDS FOR SCHOOL MATHEMATICS'' RECENTLY PUBLISHED BY THE NATIONAL COUNCIL OF TEACHERS OF MATHEMATICS

● Mr. HATFIELD. Mr. President, 6 years ago the National Council of Teachers of Mathematics [NCTM] released a publication, the ''Curriculum Standards for School Mathematics,'' which established national standards for mathematics education. The Standards presented a vision of appropriate mathematical goals for all students. It represented a consensus view of educators, mathematicians, classroom teachers, researchers, lay persons, and leaders in business.

The Standards are based on the assumption that all students are capable of learning mathematics. The Standards describe what a high-quality mathematics education for North American students, K–12, should comprise. However, since their publication, NCTM has granted permission for the Standards to be translated into the Chinese, Korean, Spanish, and Portuguese languages. The Standards are being used as a guide to mathematics education reform in many countries around the world. This publication has given the world a vision of meaningful mathematics education.

NCTM's goal was to develop mathematics power for all students. Reaching this goal required more than a vision. Two years later this publication was followed by a second document, ''Professional Standards for Teaching Mathematics.'' These Professional Standards are a guide for the creation of a curriculum and an environment in which teaching and learning are to occur. It is now being used by colleges and universities in their mathematics teacher preservice education programs. The goal is to develop public school teachers who are more proficient in selecting tasks to engage students in learning mathematics, providing opportunities for understanding mathematics, promoting the investigation and growth of mathematical ideas, using technology and other tools to promote investigations, and connecting mathematics to previous and developing knowledge.

The Curriculum Standards contained the vision. The Professional Standards outlines teacher training methods that will enable educators to achieve this vision. Recently, NCTM has released a third publication, the ''Assessment Standards for School Mathematics.'' This publication will establish criteria for student assessment and program evaluation and elaborate the vision of assessment that was described in the previous documents. The purposes of assessment include monitoring student progress, making instructional decisions, evaluating student achievement, and evaluating programs. The assessment standards should reflect the mathematics that all students need to know and be able to do, should enhance mathematics learning, should promote equity, and should be an open process.

If meaningful and long lasting change is to realized, all aspects of school mathematics—content, teaching, and assessment—need to change on a systemic basis. These three documents are tools, not solutions. They will provide the tools needed for significant mathematics reform to take place. This effort is truly exemplary in that first, the community came together on its own, and second, standards have been developed without one dollar from the Federal Government.

I appreciate this opportunity to bring this publication to the attention of fellow Senators and voice my support for worthwhile education reforms. I congratulate NCTM for their efforts to this end by providing the mathematics community these valuable documents.●

IN MEMORY OF TREASURY ENFORCEMENT PERSONNEL AND SPECIAL AGENTS LOST IN OKLAHOMA CITY BOMBING

● Mr. KERREY. Mr. President, it has been 2 months since a bomb exploded at 9:02 a.m. April 19 in Oklahoma City. The rescue is over but we are still in shock, still grieving, and still trying to understand this tragedy. I come to the floor today with a profound sense of sadness. My heart goes out to the families of the fine people whose lives have been tragically taken by this horrific act. I feel that it is my duty as the ranking member of the Appropriations Subcommittee which funds the Department of Treasury that I share my thoughts on Treasury law enforcement and their losses. All law enforcement—agent and personnel alike—live with the threat of losing a colleague, but no matter how dangerous the job, no matter how families and the law enforcement community prepare themselves, it is never enough.

It is particularly devastating to have the lives of law enforcement lost in this manner—helpless, unaware, and going about their daily business as were the rest of the employees in the Alfred P. Murrah Federal Building. Wednesday, April 19, 1995, 9:02 a.m., was a sad day for all Americans across the United States. It was also the day that the U.S. Secret Service suffered the largest loss in its history. Assistant special agent in charge, Alan G. Whicher, age 40; office manager, Linda G. McKinney, age 48; special agent, Cynthia L. Brown, age 25; special agent, Mickey B. Maroney, age 50; special agent, Donald R. Leonard, age 50; and investigative assistant, Kathy L. Siedl, age 39. In addition, the U.S. Customs Service lost two senior special agents, Claude A. Meaderis, age 41; and Paul D. Ice, age 42.

Let me just say a few words about these fine people.

Alan Whicher, appointed as a special agent to the U.S. Secret Service on April 12, 1976 in the Washington field office, known by his friends as Al, was a devoted father and husband. His career, which spanned two decades, included the Vice Presidential Protective Division during the Reagan administration and the Presidential Protective Division of two Presidents. He is survived by his wife Pamela Sue Whicher and their three children, Meredith, Melinda, and Ryan.

Linda G. McKinney, was appointed to the Secret Service on June 28, 1981 in Oklahoma City. Linda served as the office manager. She is survived by her husband Danny, and son Jason Derek Smith, age 22. Her mother, Minnie J. Griffon, also survives her. I know she will be sorely missed as a daughter, wife, and mother.

Cynthia L. Brown, who had celebrated her first year as a rookie agent and was married only 40 days to Secret Service Special Agent Ron Brown of the Phoenix field office. They were both waiting for transfers so they could be together. Cindy was only 25, a bright future ahead of her both in her career and in her new life with Ron.

Mickey Maroney, was appointed as a special agent to the U.S. Secret Service in the Fort Worth office on June 14, 1971. Mickey's distinguished career included the Johnson Protective Division and Lady Bird Johnson's protective detail. Mickey is survived by his wife Robbie, and children Alice, age 27, and Mickey Paul, age 23. I know he will be missed by those whose lives he touched.

Don Leonard, was appointed as a special agent to the U.S. Secret Service in Oklahoma City on November 16, 1970. His career spanned over two decades including assignments in the Tulsa resident office, the Protective Support Division, the Vice Presidential Protective Division and the St. Louis field office. Don is survived by his wife Diane, and sons, Eugene, age 26, Jason, age 23, and Timothy, age 22.

Kathy Siedl, was appointed to the U.S. Secret Service on March 17, 1985, as an investigative assistant. She served her country for over a decade. Kathy is survived by her husband Glenn and her son Clint, who I understand collects Secret Service pins. In addition, she is survived by her parents, Dallas and Sharon Davis, and Carol Reiswig, her sister, who works

for the Internal Revenue Service in Oklahoma City.

Paul D. Ice, born and raised in Oklahoma, was a senior special agent for the U.S. Customs Service and had a lengthy record of Government service. He began his career as a Marine jet pilot and spent 5 years with the IRS as an agent in the Criminal Investigation Division before transferring to Customs as a special agent. He was one of the first special agents assigned to the resident agent office in Oklahoma City and had been there for 7 years. He was a member of the Marine Corps Reserve for 20 years, retiring last year with the rank of lieutenant colonel. Paul is survived by his daughters, Sara and Miranda, their mother Faith, and his parents Jack and Neva Ice.

Claude A. Medearis was a senior special agent for the U.S. Customs Service and also a native of Oklahoma and a veteran of public service. Before coming to the Customs Service he served in the military and in the Oklahoma State probation and parole office. He began his career with Customs in Del Rio, TX, before transferring to Oklahoma City in 1992. He was recently promoted to senior special agent status. Claude is survived by his wife Sharon and daughter Kathy.

Mr. President, in light of all that has happened since the bombing, I would simply like to remind us of this simple fact—these brave people who worked in Federal law enforcement were members of the Oklahoma City community. They were mothers and fathers, sons and daughters, they shared the same dreams and goals for their children that their neighbors did—they were little league coaches and volunteers in their community. They were willing to give the supreme sacrifice to their Nation and community—we should not tarnish their families' memories by vilifying them. They are not faceless, nameless robots. They hurt like you when they lose a loved one, as their families hurt now from losing them.●

DON'T SIGN A BAD DEAL IN GENEVA

● Mr. BOND. The world's attention is focused on today's deadline for a resolution of the auto parts trade dispute between the United States and Japan. At the same time, however, another critical trade deadline looms largely unnoticed.

On June 30, the United States must decide whether to lock open its financial services markets regardless of whether our trading partners do the same. We would do this by surrendering our right to take an exemption from the most-favored-nation [MFN] provision of the World Trade Organization's General Agreement on Trade in Services [GATS].

For many years, it has been the policy of the United States to provide open access and national treatment to foreign financial firms that want to enter our market, regardless of foreign barriers to entry by U.S. firms. During the past decade, our Government, actively aided by our financial services industry, has worked to open foreign financial markets. The Uruguay round of the GATT negotiations, which began in 1986, aimed at achieving for the first time multilateral standards for open trade in financial services. Our negotiators sought commitments from other countries that would guarantee substantially full market access and national treatment to U.S. financial firms in foreign markets. Unfortunately, those negotiations ran into difficulties as some of our trading partners with the most restrictive practices in financial services were reluctant to make the market opening commitments needed to bring them to a successful conclusion.

In December 1993, as the Uruguay round concluded in Geneva, negotiators agreed to include financial services within the GATS. That agreement establishes a multilateral framework of principles and rules for trade in financial services, including the principles of national treatment and MFN status. However, members were bound by these principles only to the extent they made commitments in their GATS offers. Unfortunately, the commitments made by many countries to open their markets to foreign financial institutions under that framework were far less than the United States had hoped for. As a result, the United States, as it was legally permitted to do, took an exemption from the GATS MFN obligation with respect to new establishment and new powers for foreign financial firms. The purpose of doing so was to allow our Government to differentiate among members of the World Trade Organization in regard to providing their firms a guarantee they would always have full access with national treatment in our market. In essence, we did not want to lock our market open, while other countries were given GATS protection to continue restricting access to theirs.

The Uruguay round final agreement provided that for 6 months after the GATS went into effect, countries would suspend their MFN exemption and continue to negotiate.

The stakes in these talks are enormous. Exports of financial products and services represent one of the greatest potential export markets the United States will have in the coming century. We are far ahead of most of the rest of the world in development of our markets and of new financial instruments. One need only think of the billions of people in China, India, Indonesia, Brazil, and other developing nations who have no insurance, who do not have access to an ATM machine, who have not ever invested in mutual funds or who do not yet even have saving accounts. As these countries develop and personal income levels rise, U.S. firms can and should play a role in providing those services.

Even more important is the impact of financial services on other trade and investment. The ability of other American industries to sell their goods overseas depends, in large part, on the support of American banks and securities firms in those markets. As U.S. Trade Representative Mickey Kantor recently told the Senate Banking Committee, ''if you can't get your financial services companies into a market, it has a negative effect upon your ability to get your products into the market and, of course, that has a negative effect on the U.S. economy.''

The United States has approached these talks with a call for fair and open markets. We have offered—and urged all other countries to offer— a system of national treatment, whereby foreign institutions would be treated the same as domestic ones.

Unfortunately, it appears likely that come midnight on June 30, we will not have seen sufficient progress to justify signing an agreement. Although several countries have put forward offers that would provide national treatment, the WTO's MFN rule prevents us from guaranteeing these countries national treatment in our market without giving it to all other WTO members as well. Thus, for example, if the United States and the European Union accept each other's offers and guarantee each other national treatment, other countries not doing the same would still reap the benefit of that agreement and get national treatment in both Europe and the United States without offering equal access to their market. These free riders would be getting the benefit of the agreement without giving anything in return.

Many of the offers on the table today are simply unacceptable. India, for example, has closed its insurance market to all private companies. Brazil maintains a total prohibition on new foreign financial firms entering their market. Korea continues to restrict foreign access to its financial markets. A number of Southeast Asian nations have placed on the table offers that could require United States financial companies to divest their current holdings in local firms. These are some of the fastest growing and potentially most lucrative markets in the world. Signing an agreement under these conditions, would lock in these barriers and provide countries a legal right under the WTO to enforce them. That would deny our financial firms access to good markets, and would hurt our ability to get U.S. goods and investments into those markets. We would be insane to sign an agreement which would legitimize these barriers and effectively shut American firms out of these markets in perpetuity while locking our market open to firms from these same countries.

There is an alternative for U.S. negotiators, however; we can reject a bad agreement, maintain our MFN exemption, and begin to negotiate bilateral agreements with countries that want

open financial markets. Under such a plan, the United States could immediately sign agreements with the European Union, Switzerland, Norway, and other countries that are offering national treatment. We could then continue to negotiate with other nations, using access to our lucrative American market as a lever to get them to open their own.

There is no question the United States is under strong international pressure to surrender our MFN exemption. Earlier this year, a senior British trade official flew to Washington to pressure United States Treasury officials to sign an agreement in Geneva—regardless of whether it makes sense for the United States. And the head of the WTO argued recently that the United States must make the right decision and sign whatever agreement is on the table when the deadline rolls around.

Proponents of a deal argue that failure to conclude an agreement will weaken the WTO. But that argument is hogwash. To the contrary, the worst thing we could do would be to sign an agreement that sanctions closed markets and unfair barriers. That would weaken support for the WTO far more than failure to reach an agreement in Geneva. The American people rightly expect that free trade must be a two-way street.

In recent days, some have proposed an extension of the talks as one way to deal with the lack of progress. I believe an extension makes sense since it will allow us to build on the progress that has been made to date. I believe strongly, however, that for the United States to maintain its leverage during any extended talks—whether in the multilateral WTO forum, or on a bilateral basis—the United States must exercise its MFN exemption. To do otherwise would remove any incentive for countries such as Korea, which wants to expand in our market, to negotiate in good faith. Exercising our MFN exemption would not require the United States to retaliate against other countries or to, in any way, close off its market. It would merely give us the right to do so at a later date, if we decided it was in our best interest to do so. Granting MFN, on the other hand, would lock our market open—and thereby remove our leverage in the talks.

U.S. negotiators should stand firm. The United States has played the sucker far too many times in international trade negotiations. The stakes this time are simply too high. Handshakes and promises of future action are not good enough. If the final written offers are not significantly better than those on the table today, U.S. trade officials should act in our clear national interest, and walk away from the table.●

RECOGNIZING RECIPIENTS OF THE GIRL SCOUT GOLD AWARD FROM THE STATE OF MARYLAND

● Ms. MIKULSKI. Mr. President, each year an elite group of young women rise above the ranks of their peers and confront the challenge of attaining the Girl Scouts of the United States of America's highest rank in scouting, the Girl Scout Gold Award.

It is with great pleasure that I recognize and applaud two young women from the State of Maryland who are some of this year's recipients of this most prestigious and time honored award.

These young women are to be commended on their extraordinary commitment and dedication to their families, their friends, their communities, and to the Girl Scouts of the United States of America.

The qualities of character, perseverance, and leadership which enabled them to reach this goal will also help them to meet the challenges of the future. They are our inspiration for today and our promise for tomorrow.

I am honored to ask my colleagues to join me in congratulating these recipients. They are the best and the brightest and serve as an example of character and moral strength for us all to imitate and follow.

Finally, I wish to salute their families and Scout leaders who have provided these young women with continued support and encouragement.

It is with great pride that I submit these two names as recipients of the Girl Scout Gold Award.

GIRL SCOUT GOLD AWARD RECIPIENTS

Miranda Jean Buck of Frederick, MD
Carla R. Williams of Union Bridge, MD.●

TRIBUTE TO JEFF DURHAM

● Mr. COATS. Mr. President, when America celebrates its independence, it celebrates the courage and sacrifice of the men and women who defend it—people who pay a price of pain, inconvenience, and danger.

Jeff Durham has shown that courage, paid that price, and earned our thanks.

Millions of Americans were inspired by the dedication and boldness of the team that rescued Scott O'Grady. When Captain O'Grady returned to America, he gave the lion's share of praise to both God and those soldiers who saved him. As a vital part of that dramatic and successful mission, Jeff Durham is an example of courage and commitment.

There is no virtue more generous than courage. It values duty over comfort, honor over safety, others over self. It is the hallmark of heroes.

From moment to moment our Nation depends on people who will stand guard for American interests and American ideals. That is a lonely watch in a dangerous world. It is a privilege to praise someone who fulfilled that duty with such skill and distinction.

Thank you, Jeff, from all of us in Indiana, for serving God and your neighbors by serving your Nation so well.●

PEACEKEEPING AND PEACEMAKING: THE FUTURE CHALLENGE

● Mrs. FEINSTEIN. Mr. President, I was recently privileged to address the convention of the United Nations Association during its conference in San Francisco, coinciding with the celebration of the 50th anniversary of the United Nations. I took the opportunity to make some observations about the past, present, and future of U.N. peacekeeping, and I offer them here for the record.

THE U.N. MISSION: A TREND TOWARD PEACEKEEPING

When we look at the 50-year history of the United Nations, certain facts and trends become evident. One of these is the increasing trend toward peacekeeping. In the first 43 years of its existence, from 1945 to 1988, the United Nations launched 13 peacekeeping missions in places such as Lebanon, the Dominican Republic, the then-Congo, Cyprus, between India and Pakistan, and along Arab-Israeli borders. While the results of these missions were not uniformly successful, the United Nations proved it was able to play an important role in resolving, or at least containing, a number of dangerous conflicts.

And yet, during this period, the United Nations faced certain realities, the largest of which was the superpower rivalry between the United States and the Soviet Union. As conflicts developed, the countries involved were forced, either through external or internal forces, to align themselves with one superpower or the other. In this environment, the United Nations was often left on the sidelines. When United States and Soviet interests collided, each could cancel out the other's initiatives with their Security Council vetoes. When conflicts involved vital United States and Soviet interests, the two powers did not hesitate to take it upon themselves to try to resolve the conflict in their favor rather than seeking a negotiated resolution through the United Nations.

There is no question that the cold war was a time of serious international insecurity. The specter of two superpowers, with weapons of immense destructive capability aimed at each other, competing for influence across the globe, lasted for nearly 45 years, ending startlingly in 1990 with the collapse of the Soviet Union.

Even today, many people share the misconception that the demise of the Soviet Union has created a more secure world. I do not believe that this is necessarily the case.

The cold war, for all its dangers, had the unintended effect of discouraging many smaller countries, nationalities, and ethnic minorities from fighting one another. The danger that any uprising could, and would with certainty, be put down brutally by the Soviet Union, clearly contained insurrections and civil wars in areas like the former Yugoslavia. If Tito were in power

today, under Soviet control, the civil war would most probably not have happened. A dying vestige of this cold war control is seen today in Chechnya, where a weakened Russia is brutally struggling to contain and vanquish Chechen rebels.

However, the potential for nuclear war also had a deterrent and stabilizing effect on both major superpowers in their dealing with each other.

Today, with these cold war constraints gone, an equally, if not more dangerous scenario has developed whereby smaller conflicts that had been festering just beneath the surface have now emerged, many erupting with unprecedented force and brutality. Though the numbers vary almost weekly, through most of 1994 and 1995, there have been over 30 wars raging simultaneously across the world.

Trouble spots seem to crop up everywhere. Some fizzle quickly, while others spread into larger regional conflicts. Once again, genocide, starvation, ethnic cleansing, mass rape, torture, and millions of homeless people confront all of us. From Bosnia and Croatia to Rwanda and Burundi, from Afghanistan to Algeria, and from Sudan to Tajikistan, ethnic, religious and national grievances are taking a tremendous toll in human life. And whether these conflicts are internal or across borders, they all contribute to the deepening sense of international insecurity.

In this increasingly complex and dangerous environment, there has never been a greater need for the United Nations to provide leadership. No other body, and certainly no single nation, is equipped to deal with the problems of ancient territorial disputes, ethnic and religious rivalries, inherent in the host of newly emergent independent nations, many with ruthless dictators.

For this reason, peacekeeping is fast becoming the most important and significant function of the United Nations. As the world community grapples for ways to deal with these burgeoning conflicts, multilateral peacekeeping is increasingly seen as the best or the only viable recourse. As such, the United Nations alone is also seen—and rightfully so—as the only body with the structure, the experience and the international mandate to make a nonpartisan peacekeeping effort succeed.

The numbers bear out this trend: After 13 peacekeeping missions in its first 43 years, the United Nations has performed 25 such missions in the last 7 years alone. Today there are 16 concurrent peacekeeping missions underway. In 1988 there were 9,000 soldiers from different countries participating in peacekeeping missions. Today there are more than 61,000 from over 80 countries.

I believe that on this anniversary, we should pause, take stock, and reevaluate where events mandate change in both the role and mission of the United Nations. Clearly, peacekeeping has become a major and expanding role. The question is: Can the blue-helmeted observer of the past and present effectively be the peacekeeper of the future?

For a moment, let us look at some peacekeeping successes.

In Cyprus, U.N. peacekeepers have helped since 1964 to prevent a resumption of hostilities that could lead to war between two of our NATO allies, Greece and Turkey.

On the Golan Heights, U.N. peacekeepers have helped make the Israeli-Syrian border one of the quietest in the Middle East for the last 21 years.

In El Salvador and Cambodia, U.N. peacekeepers helped to safeguard the reconciliation process at the end of those countries' civil wars, and helped provide the order necessary to conduct free and democratic elections.

Clearly, these were, and are, successful missions. When peacekeeping works, it can stabilize, reduce tension and hostility, and provide the backdrop needed before which peacemaking can succeed.

It is worth noting here that, today, even with the dramatic increase in peacekeeping missions, U.S. troops constitute only about 5 percent of total U.N. peacekeeping efforts around the world—about 3,300 out of over 61,000.

Now let's look at some of the problems.

As peacekeeping missions increase in numbers, more funding is required to keep it going. In 1988, the [U.N.] peacekeeping budget was $230 million. In 1994, the budget grew to $3.5 billion.

Here, the United States makes its primary contribution to U.N. peacekeeping in financial terms, paying 31 percent of all assessed costs, although Congress has mandated that the U.S. share be reduced to 25 percent this October. In 1988, the U.S. contribution for assessed peacekeeping cost was $36.7 million. In 1994, the U.S. share rose to $991 million — a huge increase.

Clearly not all peacekeeping operations have been successful. We can and should learn from the tragedies of Bosnia and Somalia—perhaps the two most difficult examples of U.N. peacekeeping in the last 50 years. Why have they been so difficult? I would submit that not all peacekeeping missions are the same, and they often become confused. Different peacekeeping missions require different types of peacekeeping efforts. You cannot lump them all together.

For example, in Somalia, the United Nations started out engaged in a successful humanitarian mission to prevent hundreds of thousand from starving to death, but the mission soon changed into one of nation-building and political involvement, finally resulting in confrontations with the warring factions.

The U.N. forces in Somalia proved unable to respond to a shifting set of dynamics. The dynamics in one country are not going to be the same as the dynamics in another, and the dynamics within a country can change overnight. The blue-helmeted observer that cannot fire back to protect himself or civilians, without a convoluted approval process, cannot maintain peace when warring factions want to have at each other.

Somalia was a classic lesson in that regard. We saw a renegade warlord who was prepared to circumvent the peacekeeping mission one way or another. The U.N. forces, when challenged, could not fight back effectively. The result was more than 100 U.N. peacekeepers and 18 U.S. Army Rangers killed during that 24 month mission, and the United Nations and the United States pulled out with mixed results.

But the ultimate challenge in this century to peacekeeping has been the war in the former Yugoslavia. There the United Nations faces insurmountable problems and dilemmas. Literally, more than 800 year of animus, hatred, and territorial disputes have combined to provide UNPROFOR Its most difficult and challenging mission in U.N. history.

Perhaps in 1878, Benjamin Disraeli said it best when he offered these words, in the British House of Lords:

> No language can describe adequately the condition of that large portion of the Balkan peninsula—Serbia, Bosnia, Hercegovina and other provices—[the] political intrigues, constant rivalries, a total absence of all public spirit . . . hatred of all races, animosities of rival religions and absence of any controlling power . . . nothing short of any army of 50,000 of the best troops would produce anything like order in these parts.

And that was 117 years ago.

On one hand, there has been a dramatic decrease in civilian casualties in that terrible conflict—from 130,000 in 1992 down to 3,000 in 1994. On the other hand, it is in Bosnia that we begin to see the major shortcomings of United Nations forces as peacekeepers.

We saw it on May 25 in Tuzla, a ''U.N. Safe Area'' when 71 young people, all under age 28, were killed by a single Serb shell—one of many instances when Serb forces have eroded safe areas with attacks—without any retaliation, despite a Security Council resolution authorizing such responses.

We saw it when 377 U.N. troops were recently taken hostage after a NATO airstrike on a Serbian ammunition dump.

We saw it when Captain O'Grady's F–16 was shot down, the second plane lost in Deny Flight operations, without response [as] scores of hostages were still held captive.

We see it every day, as U.N. peacekeepers attempt to protect innocent civilians, sometimes successfully, but often not.

And we saw it, most poignantly, on June 10, when the United Nations mission in Sarajevo announced it would not respond to protect Muslim enclaves from attack without the consent of the Bosnian Serbs.

I believe it is fair to say that U.N. forces have neither the training, the

equipment, nor the rules of engagement, to allow them to sufficiently respond to attacks against them or against civilian populations. They are meant to be observers—not fighters.

These problems have taken their toll on U.S. congressional support. And they have taken their toll, I think unfairly, on support for the UNPROFOR troops. In the Congress, there has been continuing debate over whether a unilateral or a multilateral lifting of the arms embargo against Bosnia, or the withdrawal of UNPROFOR troops altogether is the humane or the inhumane action to take. And, because the United States has no troops on the ground in Bosnia, we have less leverage in influencing nations that do have troops on the ground.

It is my belief that the United Nations must address peacekeeping efforts more realistically in view of the variety of situations they find themselves in, and provide a speedy and effective response dependent on the individual situation. The rapid reaction force recently created for Bosnia should help. We all hope they can be moved into the scene speedily, and that they will be properly empowered and commanded, in order to have an effective and immediate impact.

The idea of rapid response units has been discussed repeatedly over the past 50 years. At the international seminar hosted by the Netherlands Government in the spring of 1995, the Minister of Foreign Affairs of the Netherlands, Mr. Hans van Mierlo, presented a proposal of how such a force might work. Mr. van Mierlo's plan proposes a permanent rapid response nucleus, which would be able to be sent to a critical area of the world on very short notice. Such a force, if headed by a well-trained commanding officer with field experience, could provide a robust response to any aggressive action.

So my first point here today is that the entire United Nations peacekeeping structure must be reexamined, and perhaps redefined and restructured. Those of us who consider ourselves friends of the United Nations, and who believe that the world needs the United Nations, and vice versa, are prepared to make a case for continued U.S. participation, even for payment of our dues, but our success depends upon the willingness of the U.N. leadership to meet and discuss these issues with the Congress, and on their willingness to make improvements in the way peacekeeping is conceived and carried out.

PEACEKEEPING VERSUS PEACEMAKING

The second point I would like to make here involves peacekeeping versus peacemaking. Clearly the record on peacekeeping over 50 years has been, by and large, successful. The record on peacemaking is less clear.

I believe that the United Nations has an important and viable role in peacekeeping. And at times, the U.N. leadership has proven to be able mediators, and have helped parties in conflict reach a negotiated settlement. At other times it has been unsuccessful. But I do not believe that the United Nations is set up for peacemaking, because sometimes peacemaking requires force, or at least the ability to bring force to bear. The United Nations generally lacks the ability to bring such force to bear—whereas states, and alliances of states, have a greater capacity to do so.

So, I would suggest that peacemaking efforts also be reevaluated. This reevaluation should begin with an assessment of regional and political imperatives that lend themselves toward specific peacemaking alliances. Regional political forces, in the form of strong geographically based alliances, can more effectively spearhead diplomatic and military efforts to promote peacemaking than can the United Nations alone.

For example, peace has reigned in Europe for five decades since World War II, primarily because of the strong NATO alliance. NATO has been an important framework for making and maintaining peace between longtime adversaries—like Greece and Turkey, or Germany and France, and it has deterred aggression and conflict between East and West.

When peacemaking, rather than peacekeeping is called for, the United Nations needs to work with alliances like these to bring about the desired result. The United Nations can even foster the creation of such alliances, as indeed it did through a series of resolutions during the 1990–91 Persian Gulf crisis. When the situation calls for peacemaking, the United Nations must understand whether diplomacy is sufficient, and where it is not, the United Nations must cooperate with individual states and alliances of states that can bring the necessary force to bear.

I am one that believes that the solution in Bosnia must be a negotiated one. In other words, a diplomatic solution rather than a military solution. Why? I can think of no military solution that would solve these 800-year old animosities without enormous bloodshed and loss of life. Nor can I think of a diplomatic solution that will work without the force of military action to compel it and, perhaps, to maintain it.

Warren Zimmerman, former Ambassador to Yugoslavia, in a recent article in the Washington Post, laid out what I believe is the only realistic goal: Give the Bosnian Serbs a limited time and certain deadline to agree to the plan advanced by the so-called contact group of five nations—a plan to which Mr. Milosevic has already agreed—which divides Bosnia virtually in half between the Serbs and their adversaries. But, as Ambassador Zimmerman correctly concludes, this outcome is only realistic if the Bosnian Serbs believe the West means business.

If this solution remains unacceptable to the Bosnian Serbs, there appears to be no other choice but a multilateral lifting of the arms embargo and an expedited removal of UNPROFOR forces.

Based on briefings I have had, I can find no acceptable rationale for a unilateral lifting of the embargo that would not involve the massive loss of life, or one without America being forced to arm and train Muslim forces, with the probability of a major spread of conflict in Croatia, Kosovo, and Macedonia.

In Bosnia, the single biggest problem for UNPROFOR has been that it is trying to carry out its mission with its hands tied. I truly believe that if a U.N. peacekeeping operation is unable to respond to hostile action taken against it, then it is unlikely to succeed.

UNPROFOR troops, through no fault of their own, have had to stand by and watch civilians get picked off by sniper fire, have their own equipment stolen and used against them, and finally, have 377 of them become hostages themselves.

The primary lesson of Bosnia for U.N. peacekeeping is that U.N. military commanders on the ground must have the authority, the weapons, and the trained fighting personnel to respond to hostile action with sufficient force to protect civilians and peacekeepers, and deter attack. This may require the establishment of permanent rapid response teams within U.N. peacekeeping missions, which will protect the mission and enable it to carry out its mandate.

In addition, peacekeepers need to be able to adapt to changing conditions. No matter how well a mission is planned, warring parties can force the United Nations to change its mission, and U.N. troops need to be able to respond. In this case, NATO's military response in the form of airstrikes is based on a ''dual key'' decisionmaking process, whereas both the United Nations and NATO commanders decide upon and coordinate the response. Targeting and execution are joint decisions by United Nations authorities and NATO military commanders.

The final point I'd like to make is that there is a need to develop alternative structures and alliances that can be employed both for peacekeeping and peacemaking.

Neither the United States, nor any other member state, can participate in every U.N.-sponsored effort to resolve every conflict. But I do believe that the United Nations can proceed most effectively if it is able to develop solid back-up among regional groupings and alliances.

Secretary General Boutros-Ghali has suggested that regional groupings like NATO, the Organization of the American States [OAS], and the Organization of African Unity [OAU] could appropriately take on peacekeeping responsibilities for certain types of missions in their regions. Other organizations that might contribute include the Association of Southeast Asian Nations [ASEAN] and the Newly Independent States of the former Soviet

Union. There is a healthy logic to putting together specific alliances in specific areas of the world, so that peacekeeping is carried out with some geographical relationship. Such missions would be strengthened by the political determination of neighbors—who could be affected should a war spread—to see that peace is the only result.

There are successful models that should be considered. One such case involved the United States, Israel, and Egypt, who, in the 1979 Camp David Accords, jointly established a private, United States-led peacekeeping operation in the Sinai peninsula—the Multinational Force and Observers [MFO]. This successful mission, undertaken without U.N. involvement, goes on to this day. It might serve as a model for other missions.

I have little doubt that the value of the United Nations to the international community and the United States will continue to grow. The United States simply does not have the support of its people, nor the resources, to assume the role of world-caretaker for the settlement of all disputes. The recognition of this fact will always bring people back to the conclusion that the United Nations is the best institution we have for dealing in a collective way with problems that affect the security of the United States and others.

Therefore, the United States has an obligation to work with the United Nations—not against it—to improve it, strengthen it, and make it more successful. With U.S. leadership, U.N. peacekeeping can indeed become more effective, better defined, and more realistically employed.●

TRIBUTE TO VAN VANCE

● Mr. MCCONNELL. Mr. President, I stand today to pay tribute to Van Vance, the ''Voice of the Cards.'' Van Vance has kept University of Louisville basketball and football fans tuned in on WHAS radio since the 1981–82 seasons. And today, I'm saddened to announce that one of the biggest Cardinals fans is giving up two of his true loves; play-by-play for U of L basketball and his ''Sportstalk'' radio show.

Van's voice will surely be missed by U of L basketball fans next season. He will also be missed by his old buddy and cohost, Jock Sutherland. For Cardinal fans, Jock and Vance are like the Siskel and Ebert of basketball, they have been inseparable for the past 13 seasons. Jock describes Van as ''an absolute total professional.'' In a recent article in Louisville's Courier Journal Jock called Van ''the Walter Cronkite of Louisville Sports. They can replace you and replace you with a good man, but there'll only be one Walter Cronkite.''

Van's love for basketball started at an early age. He earned the nickname ''Hawkeye'' while playing basketball at Park City High School. He lead the team in scoring during the 1951–52 season, and even though his career high was 39 points, Van most remembers a 34-point performance that included a perfect 18 of 18 from the free throw line. Those are just several reasons Van earned letters in four sports and an athletic scholarship to Western Kentucky University.

His first job in radio came after a station manager in Glasgow, KY, heard his delivery of an ''I Speak for Democracy'' speech. He wasted no time getting to work, he started the job just hours after his last basketball game at Park City High in 1952. Van still had ''Hoop Dreams.'' He went to play basketball for legendary Ed Diddle at Western Kentucky, but when the coach made him choose between basketball and radio, Van gave up the courts for the studio.

After several radio jobs, Van finally landed at WHAS–AM in Louisville. He started as a staff announcer in 1957, and then joined the sports staff in 1970. That same year, WHAS acquired the rights to broadcast the Kentucky Colonels' games of the American Basketball Association. Van did play-by-play for the Colonels until the franchise disbanded in 1976. Then in 1981, WHAS–AM was awarded the rights to U of L football and basketball games, and Van Vance was back on the air. The rest is Cardinals sports history.

Mr. President, I ask you and my fellow colleagues to pay tribute to the career of Van Vance. It has been a memorable one, highlights include; doing play-by-play for the Louisville victory over Duke in the 1986 NCAA championship, the Kentucky Colonels' victory in the 1975 ABA championship, the first basketball ''Dream Game'' between U of L and UK, and the football Cardinals big win in the 1991 Fiesta Bowl. A recent quote from Van sums it up best: ''I've always said a play-by-play announcer is like a surfer—the better the team, the better the game, the better announcer you can be. If you have a good wave, just ride it.'' Let's hope Van catches the ''Big Kahuna'' and the ''Voice of the Cards'' lives on in the hearts of cardinal fans young and old.●

ORDER OF BUSINESS

DEPARTMENT OF JUSTICE AND THE INFORMATION AGE

Mr. DOLE. Mr. President, 2 weeks ago the Senate took a dramatic step toward transforming our telecommunications laws for the 21st century.

CONGRESS SETS TELECOM POLICY

There were many important issues addressed in that debate. But today, I would want to hit on one of the bill's main themes. It is simple, but important—Congress will not play second fiddle to the courts, or any other branch of Government, when it comes to establishing telecommunications policy. Despite heavy opposition by the White House, I believe the final vote of 81 to 18 clearly demonstrated that Congress is now in charge.

This is not just a simple turf battle. Although, I seem to recall, that legislating is a function of Congress, sometimes the courts have forgotten this constitutional separation of powers.

No other branch has greater accountability than ours. Voters have the power to elect us, and they have the power to send us home. We serve at their pleasure.

So in effect, when Congress sets policy, it is set by the people. Neither the courts nor the executive branch can make that claim.

That is why I found it so troubling when the courts usurped Congress' authority to set telecommunications policy in the early 1980's. Instead of the voices of 535 Members of Congress, any judge in the country could unilaterally set telecommunications policy. And they have done so often, sending conflicting signals.

EXPANDING DOJ'S ROLE

The reason I raise this point is some Members of this body wanted to give the Department of Justice the same decisionmaking role as the courts. Under existing antitrust statutes, the Department of Justice prepares an analysis that it must defend and prove in court. In effect, it is the prosecutor. What DOJ wanted in the telecommunications bill, however, was to be both prosecutor and judge. Sort of one-stop shopping.

Mr. President, I did not support this expansion of power. To me, this was not an issue of whether you were pro-Bell or pro-long distance. Instead, I thought it set bad precedent. If we expanded DOJ's authority over Bell companies, someone could legitimately ask: ''Why shouldn't this so-called one-stop shopping be extended to the entire telecommunications industry? And why stop there. Maybe we should give DOJ such authority over all sectors of our economy.''

I do not believe that was the intent of my colleagues who supported giving the Department of Justice a decisionmaking role, but what I did hear, however, was that many colleagues believed that current antitrust standards were not sufficient.

AN OVERZEALOUS DOJ

Mr. President, antitrust standards are not only sufficient, but it seems to me that the current Department of Justice is overzealous in its use of these statutes.

Just take a look at an article entitled, ''Microsoft Corporation Broadly Attacks Antitrust Unit'' that appeared in the June 27 edition of the Wall Street Journal. It outlines Microsoft's latest problem with the Department of Justice's antitrust division.

More importantly, it sheds some light on how the Department of Justice intends to use its antitrust authority to regulate the information age. And to me it is frightening.

The article chronicles Microsoft's latest run-in with the Department of Justice and reports that DOJ is considering blocking Microsoft's efforts to

give customers package deals on certain Microsoft products. The specific products involved are Microsoft's updated windows software package and its new on-line service.

Let us understand what is going on here. A company develops a new product. A product that consumers want. But now the Government steps in and is in effect attempting to dictate the terms on which that product can be marketed and sold. Pinch me, but I thought we were still in America.

If somebody makes something and somebody wants it, you sell it. You do not have to go to the Department of Justice to get their approval.

Unfortunately, DOJ does not stop there. According to the article, and I quote, ''One of the [DOJ] document requests asks the company to produce 'all strategic plans prepared by or for Microsoft by any party and any documents provided by or to the board or top executives of Microsoft concerning predictions as to the future of computers and computer technology.'''

If this report is accurate, DOJ is out of control.

Let us not forget, however, Justice has gone after Microsoft more than once this year. First, there was the accord reached between Microsoft and DOJ that Judge Sporkin opposed until the case was taken away from him.

Then there was Microsoft's efforts to purchase Intuit, a maker of personal banking software. This fell through after DOJ sued to block the deal. According to the Wall Street Journal, before DOJ took Microsoft to court, the company had complied with two DOJ subpoenas which involved producing 772 boxes of paper and a ''foot-high stack of answers'' to DOJ questions. That is right, 772 boxes of paper. Bureaucrats gone wild. Imagine all the time and money, not to mention a forest or two, wasted on complying with Justice's requests.

DOJ: AN EQUAL OPPORTUNITY MEDDLER

And it is not just Microsoft that DOJ has been eyeing lately. For instance, earlier this year this same Antitrust Division declared that a new cellular company by the name of Air Touch was a regional Bell operating company. As a result, it would carry all the restrictions of a Baby Bell company.

True enough, Air Touch was a spin-off from the Baby Bell company called Pactel. But let us not forget the facts.

Fact No. 1. Air Touch is not a subsidiary of Pactel, it is a separate company.

Fact No. 2. Air Touch was purchased with money not connected with Pactel.

Fact No. 3. Cellular or wireless services were not restricted under Judge Greene's break-up of Ma Bell. As Air Touch is a wireless company, how can it have restrictions placed upon it that are not even applicable to a real Bell company? It just does not make any sense.

Now DOJ may believe that Air Touch is a Bell company because it is composed of former Bell property. I guess that makes Bell companies the modern day equivalent of King Midas—anything they touch turns into a Bell company.

Unfortunately, that line of logic creates a new problem. Bell companies have been off-loading all sorts of property to different companies in the last decade. Does that make all of these buyer companies a Bell company, too?

The bottom line is that DOJ cannot and has not justified its actions.

BIG GOVERNMENT: DOJ'S EXPERTISE

Ironically, this is the same Department of Justice that wanted us to give them a key role to play in telecommunications policy, because, get this, they have greater expertise than the FCC. I read articles like the Wall Street Journal's and I am left wondering: ''Greater expertise in what?'' Maybe it's in big government micromanaging business. Or maybe it's that they have greater expertise in scuttling new services and products. Whatever it is, America does not need that type of expertise.

CONCLUSION

Mr. President, if DOJ is able to be this meddlesome under current law, just imagine if we had increased its authority under the telecommunication bill. Unlike Congress, they have little or no accountability.

That is why Congress—not the executive or judiciary branches—should set telecommunications policy.

Mr. President, I ask unanimous consent that the article which appeared in the June 27 Wall Street Journal be printed in the RECORD.

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

[From the Wall Street Journal, June 27, 1995]

MICROSOFT CORP. BROADLY ATTACKS ANTITRUST UNIT

ACTING TO QUASH SUBPOENA, FIRM SAYS IT'S FACING APPARENT ''HARASSMENT''

(By Viveca Novak and Don Clark)

Microsoft Corp., trying to quash a government subpoena related to its new on-line information service, launched a broad attack on the Justice Department's antitrust division.

In its unusual challenge to the subpoena, the Redmond, Wash., software giant lashed out against the department and belittled the legal theories the agency might use to block the company from bundling access to the Microsoft Network with Windows 95, the much-promoted operating system due for release in late August.

Microsoft says it ''has been subjected to a series of burdensome document demands . . . that shows no sign of abating.'' The antitrust division ''seems to be doing its level best to hinder Microsoft's efforts,'' it says, and it calls the subpoena ''the latest salvo in what increasingly appears to be a campaign of harassment directed against Microsoft.''

Microsoft's petition, filed Friday in federal court in the Southern District of New York, asks that the subpoena be set aside. The Justice Department responded yesterday with a motion to strike the petition, setting forth a different version of circumstances surrounding last week's subpoena. The subpoena gave the company only a few days to respond to 33 sets of questions and 16 requests for documents, some of them sweeping.

For example, one of the document requests asks the company to produce ''all strategic plans prepared by or for Microsoft by any party and any documents provided by or to the board or top executives of Microsoft concerning predictions as to the future of computers and computer technology.''

The two sides even disagree about the date the subpoena was issued; Microsoft said it was Wednesday, while the government asserts Microsoft was given a ''courtesy copy'' two days earlier, with slight modifications on Wednesday.

William Neukom, Microsoft's general counsel, said that filing the petition was simply a matter of ''protecting ourselves against the consequences'' of missing the government's deadline, since Microsoft didn't comply with Wednesday's subpoena. The government could have asked a judge to impose sanctions on the company.

Mr. Neukom said Microsoft filed the petition in New York because it was convenient to the company's outside law firm and because courts in New York ''have a history of dealing with fast-moving, complicated business transactions.'' Antitrust experts speculated that Microsoft didn't want to file in Washington because the company might draw Judge Stanley Sporkin, whose sharply critical decision against a separate antitrust accord involving Microsoft was recently overturned.

For its part, the Justice Department contends it was still in negotiations with Microsoft on the scope and timing of delivering the documents when Assistant Attorney General Anne Bingaman received a Friday-morning call from Microsoft's outside counsel ''stating that he was standing in the chambers'' of a district court judge and had moved to quash the subpoena.

Microsoft acted in bad faith, the department's motion defending the subpoena states, by abruptly terminating ''an established negotiating process.'' Microsoft and a Justice Department lawyer had been negotiating Thursday to narrow the scope of the subpoena, and talks hadn't broken off. The motion asserts that Microsoft's petition concerns a matter that should be worked out between the parties. Microsoft's petition is a ''tempest in a teapot,'' the department says.

If the Justice Department were to file suit to force Microsoft to remove software for tapping into its new on-line service from Windows 95, Microsoft may have trouble meeting its Aug. 24 deadline to release the product.

Microsoft is taking an unusual step in filing a copy of the latest Justice Department subpoena with its petition. Many targets of antitrust probes attempt to keep such information requests from becoming part of the public record, since the documents sometimes contain confidential company data or give unflattering hints about areas the agency is investigating. In this case, Microsoft apparently hopes to use the sheer breadth of the department's latest subpoena to bolster the company's case that it is being treated unfairly.

Microsoft isn't the only company receiving subpoenas with short turnaround times. The department also has issued such subpoenas to competing on-line services, software suppliers and companies that plan to supply content for the Microsoft Network, also known as MSN.

One major focus of Wednesday's subpoena is the relationship between the MSN and independent companies that will sell goods or information over the new network. That suggests the agency is examining whether the company is competing unfairly with other on-line services in wooing ''content'' suppliers.

The subpoena asks for the ''full consideration'' paid by Microsoft to each content

company, for example, and whether Microsoft has exclusive rights to their content. Microsoft has said content companies get a standard split of revenues for their services, and are not required to sign exclusive contracts.

Another focus is on Microsoft software, dubbed Blackbird, for developing new content offerings, and on whether companies that use Blackbird can develop content for other on-line services. The subpoena also asks for extensive data on projected sales and expenses tied to MSN and other Microsoft products, including Windows 95.

Last Week, the agency intensified its search for data that might bolster a case that Microsoft's new network might attain market dominance quickly.

One previously undisclosed source is Pipeline Communications Inc. Among other things, the Atlanta company works for on-line services, offering a speedy way for new PC users to try out those services soon after they turn on their machines for the first time. The Justice Department approached Pipeline early last week.

According to Pipeline's data, about 60% of the people offered these trial memberships subscribed, said Matt Thompson, Pipeline's president. If that experience carried over to the huge number of Windows 95 users, MSN could quickly dwarf other on-line services, some industry executives said. Dataquest Inc. expects Windows 95 to sell 30 million copies in just its first six months on the market.

Microsoft's petition seems at least partly a bid to elicit sympathy by portraying itself as the victim of intensive and unfairly focused antitrust-division scrutiny since August 1993. That's when Ms. Bingaman, the division's head, reopened a Federal Trade Commission investigation begun in 1990 and closed after commissioners deadlocked on whether to bring a case.

In large part, the petition catalogs Justice Department requests for information. For example, when Microsoft sought last fall to buy Intuit Inc., a maker of popular personal-finance software, it gave the department 37 boxes of documents in response to its first subpoena, the petition said. A second department request produced 735 more boxes of papers, plus a foot-high stack of answers to questions, after the request was narrowed in negotiations, according to the petition. The Justice Department sued to block the Intuit acquisition, and Microsoft dropped the deal.

The subpoena being challenged is the second issued to Microsoft in connection with the current investigation. Another was issued June 5 and demanded a response by June 9, but the department agreed to extend the deadline. Mr. Neukom was in Washington to meet with Ms. Bingaman last week when he learned the department wanted more data.

TRIBUTE TO EDWARD BANKS

Mr. DOLE. Mr. President, at the end of this month, the Senate will be losing one of our most distinguished employees when Edward Banks retires.

Currently the assistant supervisor of the material facility warehouse section of the U.S. Senate Service Department, Edward has served the Senate with loyalty and dedication for over 36 years.

When Edward served as a messenger in the 1970's and 1980's, he was fondly known throughout the Senate as the ''wagon master''—hailing back to the days of the 1800's when documents, materials, and equipment were delivered by horse and wagon on the Capitol grounds.

Edward carried this affectionate title with pride and great distinction.

I know I speak for all the Senate when I thank Edward Banks for his 3½ decades of distinguished service, and wish him a happy and healthy retirement.

TRIBUTE TO FLORENCE NOLAND

Mr. DOLE. Mr. President, with the August retirement of Florence Nolan, customer service and records specialist in the U.S. Senate Service Department, the Senate will be losing the services of an employee who truly has mastered the nuts and bolts operations of this Chamber.

Florence began her Senate service in the Senate restaurant in 1959. In 1970, she accepted a position with the Sergeant-at-Arms in the service department, where she has worked in a variety of positions ever since.

She is an extremely competent and loyal employee who has made a difference wherever she has served.

I join with all my colleagues in thanking Florence Nolan for her many years of service, and in sending our best wishes for her retirement.

TRIBUTE TO CLAIRE CRIM

Mr. DOLE. Mr. President, for 37 years, Senators, staffers, and members of the public who have dealt with the Senate Services Department have come into contact with Claire Crim.

It is Claire who has welcomed staff and visitors, routed phone calls, filed work orders, and entered computer data. She has fulfilled all these duties and more with a great degree of skill and professionalism.

Claire is retiring from her position as customer service/records specialist at the end of the month, and I join with all my colleagues in thanking her for her nearly four decades of services, and in wishing her a happy and healthy retirement.

SALUTE TO ERIK WEIHENMAYER AND AFB HIGHSIGHTS '95

Mr. DOLE. Mr. President, on Tuesday evening Erik Weihenmayer and his climbing partners reached the summit of Mount McKinley, 20,320 feet into the Alaskan sky and the highest point in North America. Mount McKinley is called ''Denali''—the Great One—by Native Alaskans.

Under the best of circumstances, Mount McKinley is one of the toughest climbs in the world. Average daytime temperatures are a bonechilling 20 degrees below zero, dipping to 40 below at the summit. The National Park Service reports that the success rate for reaching the top is just 47 percent. Since 1913, 79 climbers have died on the mountain. Six died earlier this year.

Mount McKinley is the ultimate challenge for any serious climber. But it is a unique challenge for Erik Weihenmayer, who is blind. Erik was born with limited vision, and lost all his sight by age 13.

Most of the time, Erik is a 26-year old fifth-grade teacher and wrestling coach in Phoenix, AZ. About 10 years ago he took up mountain climbing. He uses two ski poles to locate the footprints of the hiker ahead of him, and then steps in the same tracks. To maintain balance and direction, Erik hangs on to a taut rope tied to his partner. Other than that, he carries the same gear and equipment as other team members.

As Erik has said, ''I may do things a little different, but I achieve the same process * * * . There's very little my team has to do to accommodate me.''

Over the past 10 years, Erik had trekked the Inca Trail in the Andes of South America, the Rockies in Colorado, and other demanding spots around the world.

On June 9, under the sponsorship of the American Foundation for the Blind, Erik and four others set out to conquer the summit of Mount McKinley. The other members of the AFB HIGHSIGHTS '95 team are Sam Epstein, of Tempe, AZ; Ryan Ludwig of Laramie, WY; and Jeff Evans and Jamie Bloomquist of Boulder, CO.

The AFB HIGHSIGHTS '95 team prepared for this climb for 8 months, with rigorous training. Since January, the team also climbed Humphrey's Peak near Flagstaff, AZ; Long's Peak in Colorado; and Mount Rainier in Washington State, all in blizzard-like conditions.

Mr. President, the American Foundation for the Blind deserves great credit for making this climb possible. Founded in 1921, AFB is one of the Nation's leading advocates for the blind.

AFB's motto is ''We help those who cannot see live like those who do.'' Erik exemplifies this spirit. Early on, he decided that ''Blindness would often be a nuisance, would always make my life more challenging, but would never be a barrier in my path.''

Mr. President, the message of AFB HIGHSIGHTS '95 is universal, extending well beyond blindness. It inspires all of us to realize our potential rather than focusing on our limitations.

Coincidentally, Tuesday also marked the 115th anniversary of the birth of Helen Keller. For 40 years, Helen Keller was AFB's Ambassador of Goodwill. At the age of 74, on an around the world flight, she said, ''It is wonderful to climb the liquid mountains of the sky. Behind me and before me is God and I have no fears.'' I imagine that Erik and the AFB HIGHSIGHTS '95 team have been similarly inspired.

Mr. President, let us wish Erik Weihenmayer and his climbing partners Godspeed and a safe return.

CHANGE OF VOTES

Mr. AKAKA. Mr. President, I ask unanimous consent that I be allowed to

change my vote on final passage of H.R. 1058, vote No. 295, the Securities Reform Act of 1995. I voted in favor of the passage of the bill. It was my intention to vote ''no.'' This change in vote will not alter the outcome of the vote.

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

Mr. AKAKA. Mr. President, I also ask unanimous consent that I be allowed to change my June 20, 1995, vote on the motion to table the Lautenberg amendment, vote No. 270, relating to highway speed limits during the debate on S. 440, the National Highway System designation bill. I had inadvertently voted in support of the motion to table the amendment. I wish to be recorded as having voted against the motion to table the Lautenberg amendment. This change in vote will not alter the outcome of the original vote.

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

PRIVATE SECURITIES LITIGATION REFORM ACT

Mr. ROCKEFELLER. Mr. President, today, I joined a large number of my Senate colleagues in voting for S. 240, the Private Securities Litigation Reform Act of 1995. The 70-to-29 vote for this bill in its revised form demonstrated strong bipartisan commitment to repairing and changing the country's securities litigation system.

Like any effort to change the status quo, especially through legislation that must win a majority of support from diverse corners, this final product cannot be called perfect. Compromises and tough judgment calls had to be made throughout the process of grappling with a very complex set of issues posed by securities and the legal system. After much consultation and reflection, today I felt the vote for a more rational, less costly, and improved system was a vote for this bill.

This bill's fundamental purpose is to reduce and deter frivolous and meritless lawsuits in the securities area. The idea is by no means just to protect potential defendants. the need for legislation is based on the costs and problems created by the current system for investors when they cannot get helpful information on investment opportunities; for working Americans when the legal costs of the current system saps jobs, capital, and growth; and for participants like accountants who are at risk of liability that's far beyond their fault. In other words, repairing the system is designed to resolve problems that are hurting small and large investors, workers and our communities, and specific people professionally involved in securities.

Thirty-one years ago I went to Emmons, WV, to be a VISTA worker because I wanted to make some small difference in the lives of other people. I quickly learned that West Virginians are people who value hard work, and are ready to earn their fair share of what society has to offer.

But there were not enough jobs in Emmons, or in many other places in West Virginia. After deciding to make public service my career and West Virginia my permanent home, I also made creating long-term, well-paying jobs for West Virginians one of my main goals. Three decades later, it is still my focus. Almost everything I do for West Virginia must be weighed against that goal of creating the opportunity for West Virginians to earn a living, and, through work, to achieve the quality of life they seek.

And when West Virginians are able to earn a decent living, and are able perhaps to invest a few dollars for their futures through savings or investment, I want to make sure that they are treated fairly and are protected.

It was for both of these reasons—protecting the small companies in West Virginia that create quality jobs and protect wage-earner investors—that I have sponsored the current legislation regarding securities litigation. The bill I sponsored would go a long way toward curtailing what I believe is an epidemic of frivolous securities fraud lawsuits that are brought by a small cadre of lawyers against often small and start-up companies, and against their lawyers and accountants who may have little to do with the operation of the company.

The stated purpose of S. 240, as introduced last January, was to facilitate the ability of companies to gather capital for investment, the underlying theory being that frivolous lawsuits against corporations make it very difficult to do so. While American securities markets have been very successful, the Banking Committee, after extensive hearings, reported that class action suits, as well as the fear of being sued in a class action by professional plaintiffs has the capital formation markets in terror. From this flows the need to come to a better balance between protecting the rights of investors and the standards of recovery. In my view, this is an appropriate goal.

When I was asked to cosponsor S. 240 in January, I carefully analyzed its provisions to make sure that it struck a fair balance, and I came to the conclusion that it did. Regarding frivolous lawsuits, the bill contained many important provisions to assure that meritless lawsuits can be dealt with in an expeditious and less costly way. And there were several important protections for investors as well, including a 1-year extension of the statute of limitations for securities suits, the creation of a self-disciplinary auditor oversight board to assure truthfulness of securities statements; and encouragement of alternative dispute resolution for both plaintiffs and defendants, rather than resorting to lengthy and costly litigation in the courts. Unfortunately, several of these investor protection provisions have been deleted from the bill.

The Banking Committee's action was not one-sided, however, and the bill contains a number of valuable provisions, and changes, to help deter frivolous lawsuits. A review of these changes reveals that the Committee did:

Lower the pleading requirements, somewhat, to a standard set by the leading Federal circuit.

Eliminate an onerous ''loser pays'' provision, but replaced it with a mandatory requirement that judges review pleadings in these cases under Federal Rule 11, which will most often mean that investor-plaintiffs, but not defendants, may be punished. Judges already have this responsibility under Rule 11, and it should be equally applied to plaintiffs and defendants—An amendment by Senator BINGAMAN has now made this provision more balanced.

Eliminate an investor-plaintiff ''steering committee'' to manage the securities class action, but replaced it with a troublesome lead plaintiff provision which will likely result in large institutional investors—to the exclusion of small investors—controlling class actions—An amendment by the Senator BOXER, which would have corrected this shortcoming was defeated during earlier consideration of the bill.

Eliminate a dollar threshold to be the named plaintiff.

Partially restore SEC enforcement against those who aid and abet the commission of a fraud by another, but failed to restore a private right of action.

Other changes included in the committee bill include:

Expanding the protections of the legislation to include the 1933 Securities Act.

Creating a legislative safe harbor for forward-looking economic statements about a company, thus ending an ongoing rulemaking on this subject by the SEC.

An extension of the proportional liability protections.

Providing that investors with the largest financial interest, will control securities class action suits.

Eliminating the loser pays provision, as stated earlier, and replacing it with a provision with a strong presumption of fee-shifting against investors only.

During the Senate's floor consideration of the legislation over the past week, a number of amendments were proposed by some of my colleagues from the Banking Committee. I strongly supported a number of these initiatives, and want to review each of them.

STATUTE OF LIMITATIONS AMENDMENT

In 1991, the Supreme Court decided in the Lampf versus Gilbertson case to establish a uniform statute of limitations applicable to implied private actions under the Securities Exchange Act of 1934. Before this decision, Federal courts had followed the statute of limitations in the applicable State.

The timeframe established was consistent with that for express causes of action for false statements, misrepresentation, and manipulation under the 1934 Act: One year from the date of discovery of the violation or discovery of the facts constituting the violation, or 3 years from the date of the violation.

In 1991, an extension of this statute of limitations was proposed as part of the FDIC Improvement Act. Its supporters sought to change the statute of limitations to 2 years after the plaintiff knew of the securities violation, but in no event more than 5 years after the violation occurred. This provision was dropped because of the argument that it should only be enacted as part of a bill with further reform of the securities litigation system, as we are now doing.

The extension of the statute of limitations was part of both the Domenici/Dodd bill from the 103d Congress, and the original version of S. 240 this year that I cosponsored.

The original S. 240 also provided that a violation that should have been discovered through the exercise of reasonable diligence would fall under the 2-year category.

An amendment rejected by the Senate would have returned the statute of limitation provision to that which was in the original version of S. 240. In the committee markup, the statute of limitation provision was taken out, returning to a shorter 1-year/3-year provision.

A good number of our colleagues believed that this provision was harmful to business in that it would establish, at least de facto, a 5-year statute of limitation; that 3 years is a reasonable cap because after that, cases become stale and more difficult to defend; that a 1-year minimum is enough time to get a suit ready; that there are other adequate remedies including State actions, blue sky laws, and occasionally awarding of disgorgement funds by the SEC; and that the amendment would invite claim speculation—allowing investors to sit back and see if they turn a profit before suing.

There were persuasive arguments put forth by supporters, as well. For example, the Senator from Nevada [Mr. BRYAN] argued that:

The bill as reported has a statute of limitations that is shorter than that in 31 states. Thirteen States also allow tolling of the statute until fraud is discovered.

Under current law, it is too easy for a claim to be barred through no fault of the investor, especially because fraud is difficult to detect.

I supported the amendment because I did not believe that it would adversely impact capital formation, and thus job creation.

AIDING AND ABETTING AMENDMENT

Prior to 1994, courts in every circuit supported the right of investors to sue those who aid and abet securities fraud. This right arose from common law, but was not specifically provided for in Federal securities statutes. For primarily this reason, the Supreme Court—in 1994—eliminated the right of investors to sue aiders and abettors of fraud.

The Senator from Connecticut [Mr. DODD] upon whose advice I depend heavily in this matter, as well as the SEC, the administration, and even the Supreme Court, has expressed the belief that the private right of action to pursue those who aid and abet should be replaced by statute. At the Committee hearing, Senator DODD said, ''This is conduct that must be deterred, and Congress should enact legislation to restore aiding and abetting liability in private actions.''

The SEC testified before the Banking Committee strongly in favor of restoring this investor right because of its deterrent effect on fraudulent behavior. Otherwise, those who knowingly or recklessly assist in a fraud will be shielded.

However, the committee failed to restore the private right of action, but did empower the SEC to bring aid and abet actions, although not authorizing any additional resources for the SEC to undertake this added responsibility.

In my opinion, protecting aiding and abetting has nothing to do with capital formation, since it is not applicable to the primary investment company. I thus supported an amendment, offered by the Senator from Nevada [Mr. BRYAN] which sought to restore this important right of investors to seek redress only against those who knowingly or recklessly provide substantial assistance to another who commits fraud.

SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS AMENDMENT

The term ''forward-looking statements'' is broadly defined in S. 240 to include financial projections on items such as revenues, income, and dividends, as well as statements of future economic performance required in documents filed with the SEC. As with any attempt to foresee the future, such statements always have an element of risk to them, and prudent investors must be careful in relying on them.

Up until 1979, the SEC prohibited disclosure of such forward-looking information because it felt that this information was unreliable, and it feared that investors would place too much emphasis on these materials. After extensive review, the SEC adopted a safe harbor regulation for forward-looking statements in 1979. This regulation—known as rule 175—offers protection for specified forward-looking statements when made in documents filed with the SEC. The theory for the safe harbor was to encourage voluntary disclosure by companies to the SEC. To sustain a fraud suit, a plaintiff/investor needed to show that the forward-looking information lacked a reasonable basis and was not made in good faith.

The effectiveness of this regulation has been widely criticized, and as recently as May 19, 1995, SEC Chairman Arthur Levitt acknowledged ''a need for a stronger safe harbor than currently exists.'' In fact, the SEC is currently conducting a rulemaking on its safe harbor regulation.

The original S. 240 bill required the SEC to consider adopting rules or making recommendations for expanding the safe harbor. This idea was strongly endorsed by SEC Chairman Levitt, among others.

However, the Banking Committee abandoned this approach in favor of enacting a statutory safe harbor provision. Many have argued that the SEC is in the best position. Many have argued that the SEC is in the best position to tailor rules for this issue. The SEC will be able to closely monitor the effects of any new policy and quickly modify it if need be. The SEC also has the advantage of having already examined this problem in great detail.

More important, however, is the way the committee did this. Under the committee version of S. 240, a forward-looking statement can only be the basis for fraud finding if the investor-plaintiff can prove that the statement is knowingly made with the expectation, purpose, and actual intent of misleading investors. Expectation, purpose, and actual intent are to be treated as separate elements, each of which must be proven independently. This is an extremely difficult standard to meet—an amendment adopted by voice vote removed the ''expectation'' requirement.

Any safe harbor provision, whether statutory or by regulation, places a greater burden on the investor to uncover fraudulent misrepresentations. However, in order to encourage companies to file information with the SEC, most believe it is important to have some safe harbor provision. Because I believed that the committee's changes to S. 240 might make it more difficult for investors to prove that forward-looking statements should be liable for fraud—and thus that the SEC promulgated rule currently is a much better standard and that the Congress should leave this to the SEC—I supported the amendment to return this provision to the original S. 240 version.

That amendment failed, and the Senator from Maryland, Mr. SARBANES, proposed an amendment to modify the standard for recovery for fraudulent forward looking statements to require a showing that it was made with actual knowledge it was false or actual intent of misleading. This was what I believed was a reasonable middle-ground standard between what all agreed to be an ineffective current rule on safe harbor—reasonable basis/good faith—and the stringent actual intent standard inserted in the bill by the committee. Unfortunately, this amendment was tabled.

PROPORTIONAL LIABILITY AMENDMENT

Under current law, each defendant who conspires to commit a securities violation is joint and severally liable, and thus can be held accountable for

100 percent of damages found by a court. Most agree that this unfairly treats defendants who have only a small percentage of responsibility.

As originally introduced, S. 240 provided for joint and several liability to be maintained only for primary wrongdoers, knowing violators, and those controlling knowing violators.

As the bill reported by the committee, only knowing violators are held joint and severally liable. Knowing securities fraud is defined in the bill to exclude reckless violators, whose liability would be reduced to proportional liability. Additionally, if the judgment is uncollectible, proportionally liable defendants can be held to pay an additional 50 percent of their share, and can be made to pay the uncollectible share to investors with net worth less than $200,000 and who have lost more 10 percent of their net worth. Under the 50 percent provision, a defendant could be liable for up to 150 percent of their proportional share.

The bill's proportionality provision is an improvement over current law, but may not fully protect investors when a judgment is uncollectible from a primary defendant. An exception was carved out so that those who have invested more than 10 percent of their net worth might still recover at least some portion of the damages even from the non-primary defendant.

An amendment proposed by Senators BRYAN and SHELBY would have allowed for full reallocation of uncollectible shares among culpable defendants, while maintaining a system of proportionality as contained in the committee bill, to protect minimally responsible defendants, who are usually the accountants and attorneys, but at the same time would have been, I believe, fairer to victims of investment fraud.

I supported this important amendment because I believed that it was a vast improvement over the current system of joint and several liability, but also as a stronger protection for investors.

To conclude, Mr. President, I am disappointed that the managers supporting S. 240 rejected the amendments offered that I voted for. Perhaps some further enlightenment and discussion will inspire the conferees to incorporate some of them to ensure the balance that I think the legal system also calls for.

Because the current system and its problems should not be left alone, I still came to the conclusion that a vote for the bill was in the interests of the people I represent and the country. Most of us may not be aware of the way the securities litigation system ultimately affects jobs, economic growth, and opportunity. The proponents of this bill have reminded us of these very real-life and serious effects. Today, I felt it was time to support action to revise and change the system so that it's more about common sense than a proliferation of lawyers and legal costs.

PRIVATE SECURITIES LITIGATION REFORM ACT

Mr. DODD. Mr. President, now that the Senate has completed action on S. 240, the Securities Litigation Reform Act, I wanted to take a few moments to focus on many of the salient provisions of this legislation that were not fully discussed during our 5 days of debate on 17 different amendments.

Of course, I am extremely pleased that the legislation received an overwhelming vote of support from my colleagues this morning, passing by a margin of 70 to 29.

This vote is yet another confirmation of the very strong bipartisan support that the bill has received in the Senate and it also reflects the broad coalition of investor groups and businesses that have supported these reform efforts for the past 4 years.

This is certainly an important day for American investors and the American economy. Passage of S. 240 puts us well on the road to restoring fairness and integrity to our securities litigation system.

To some, this may sound like a dry and technical subject, but in reality, it is crucial to our investors, our economy and our international competitiveness. We are all counting on our high-technology and bio-technology firms to fuel our economy into the 21st century. We are counting on them to create jobs and to lead the charge for us in the global marketplace.

But those are the same firms that are most hamstrung by a securities litigation system that works for no one—save plaintiffs' attorneys.

Over the past 1½ years, the intense scrutiny on the securities litigation system has dramatically changed the terms of debate, as we have seen on the floor for the past 5 days.

We are no longer arguing about whether the current system needs to be repaired; we are now focused on how best to repair it.

Even those who once maintained that the litigation system needed no reform are now conceding that substantive and meaningful changes are required if we are to maintain the fundamental integrity of private securities litigation.

The flaws in the current system are simply too obvious to deny. The record is replete with examples of how the system is being abused and misused.

While there has been much discussion of the position of the Securities and Exchange Commission, it is important to note that the Chairman of the SEC, Arthur Levitt, agrees with the fundamental notion that we must enact some meaningful reform:

> There is no denying that there are real problems in the current system—problems that need to be addressed not just because of abstract rights and responsibilities, but because investors and markets are being hurt by litigation excesses.

The legislation under consideration today is based upon the bill that Senator DOMENICI and I have introduced for the last two Congresses.

There are some provisions from the original version of S. 240 that I would have liked to see included in this bill, such as an extension of the statute of limitations on private actions.

In fact, I strongly supported an amendment offered by my good friend, Senator BRYAN, that would have extended the statute of limitations from 1 year after the fraud is discovered to 2 years and from 3 years after the actual perpetration of the fraud to 5 years.

It is also important to note that the statute of limitations was decreased by the Supreme Court in last year's Central Bank decision, and not by any part of S. 240.

But I certainly understand why this provision was taken out of the committee's product. It is excruciatingly difficult to produce a balanced piece of legislation, especially in such a complex and contentious area.

But that is exactly what the Senate passed today, a bill that carefully and considerately balances the needs of our high-growth industries with the rights of investors, large and small. I am proud of the spirit of fairness and equity that permeates the legislation.

I am also proud of the fact that this legislation tackles a complicated and difficult issue in a thoughtful way that avoids excess and achieves a meaningful equilibrium under which all of the interested parties can survive and thrive.

As I stated earlier, this is a broadly bipartisan effort. This bill passed the Banking Committee with strong support from both sides of the aisle, and the 70 Senators from both parties who voted in favor of the bill this morning, represent all points on the so-called ideological spectrum.

I believe that this morning's strong show of support displays the desire of the Senate to stand in favor of the balanced approach of S. 240. In my view this vote also demonstrates the Senate's disagreement with the more extreme securities reform bill (H.R. 1058) that passed the other body in March.

Those of us who have supported this legislation must be very mindful of the close vote that occurred on the second SARBANES amendment to further limit the safe harbor provisions of the bill.

I, for one, am committed to ensuring that as we move to a conference with the other body, we retain a safe harbor provision that is truly meaningful but that gives no aid and comfort to those who would try to defraud investors.

And I would like to use this opportunity to reinforce the statement that I made earlier today: I will urge my colleagues to reject any conference report that includes safe harbor provisions —or any other provision for that matter—that are so broadly expanded that they breach the rights of legitimately aggrieved investors.

Mr. President, H.L. Mencken once said that every problem has a solution that is neat, simple, and wrong. Believe me, if there were a simple solution to the problems besetting securities litigation today, we would have been able

to pass a bill after 5 minutes, rather than 5 days, of floor debate.

But these problems are so pervasive and complex that we have moved far beyond the point where the public interest is served by waiting for the courts or other bodies to fix them for us.

The private securities litigation system is too important to the integrity and vitality of American capital markets to continue to allow it to be undermined by those who seek to line their own pockets with abusive and meritless suits.

Let me be clear: Private securities litigation is an indispensable tool with which defrauded investors can recover their losses without having to rely upon Government action.

I cannot possibly overstate just how critical securities lawsuits brought by private individuals are to ensuring public and global confidence in our capital markets. These private actions help deter wrongdoing and help guarantee that corporate officers, auditors, directors, lawyers, and others properly perform their jobs. That is the high standard to which this legislation seeks to return the securities litigation system.

But as I said at the beginning of floor debate, the current system has drifted so far from that noble role that we see more buccaneering barristers taking advantage of the system than we do corporate wrongdoers being exposed by it.

But there is more at risk if we fail to reform this flawed system. Quite simply, the way the private litigation system works today is costing millions of investors—the vast majority of whom do not participate in these lawsuits—their hard-earned cash.

Mary Ellen Anderson, representing the Connecticut Retirement & Trust Funds and the Council of Institutional Investors, testified that the participants in the pension funds,

> . . . are the ones who are hurt if a system allows someone to force us to spend huge sums of money in legal costs . . . when that plaintiff is disappointed in his or her investment. Our pensions and jobs depend on our employment by and investment in our companies. If we saddle our companies with big and unproductive costs . . . we cannot be surprised if our jobs and raises begin to disappear and our pensions come up short as our population ages.

There lies the risk of allowing the current securities litigation system to continue to run out of control. Ultimately, it is the average investor, the retired pensioner who will pay the enormous costs clearly associated with this growing problem.

Much of the problem lies in the fact that private litigation has evolved over the years as a result of court decisions rather than explicit Congressional action.

Private actions under rule 10(b) were never expressly set out by Congress, but have been construed and refined by courts, with the tacit consent of Congress. But the lack of Congressional involvement in shaping private litigation has created conflicting legal standards and has provided too many opportunities for abuse of investors and companies.

First, it has become increasingly clear that securities class actions are extremely vulnerable to abuses by entrepreneurs masquerading as lawyers. As two noted legal scholars recently wrote in the Yale Law Review:

> . . . The potential for opportunism in class actions is so pervasive and evidence that plaintiffs' attorneys sometimes act opportunistically so substantial that it seems clear that plaintiffs' attorneys often do not act as investors' ''faithful champions.''

It is readily apparent to many observers in business, academia—and even Government—that plaintiffs' attorneys appear to control the settlement of the case with little or no influence from either the named plaintiffs or the larger class of investors.

For example, during the extensive hearings on the issue before the Subcommittee on Securities, a lawyer cited one case as a supposed showpiece of how well the existing system works. This particular case was settled before trial for $33 million.

The lawyers asked the court for more than $20 million of that amount in fees and costs. The court then awarded the plaintiffs' lawyers $11 million and the defense lawyers for the company $3 million. Investors recovered only 6.5 percent of their recoverable damages. That is 6½ cents on the dollar.

This kind of settlement sounds good for entrepreneurial attorneys, but it does little to benefit companies, investors or even the plaintiffs on whose behalf the suit was brought.

A second area of abuse is frivolous litigation. Companies, particularly in the high-technology and bio-technology industries, face groundless securities litigation days or even hours after adverse earnings announcements.

In fact, the chilling consequence of these lawsuits is that companies—especially new companies in emerging industries—frequently release only the minimum information required by law so that they will not be held liable for any innocent, forward-looking statement that they may make.

Last week, I related to my colleagues the case of Raytheon Co., one of the Nation's largest high-tech, firms. This example warrants recapitulation here. Raytheon made a tender offer of $64 a share for E-Systems, Inc., a 41 percent premium over the closing market price. Let me allow Raytheon to explain what happened next:

> Notwithstanding the widely held view that the proposed transaction was eminently fair to E-Systems shareholders, the first of eight purported class action suits was filed less than 90 minutes after the courthouse doors opened on the day that the transaction was announced. [Raytheon letter to Senator Dodd; June 19, 1995.]

No one lawyer could possibly have investigated the facts this quickly. What the lawyers want here is to force a quick settlement.

The Supreme Court in Blue Chip Stamps versus Manor Drug Store echoed this concern about abusive litigation, pointing out:

> [i]n the field of federal securities laws governing disclosure of information, even a complaint which by objective standards may have very little success at trial has a settlement value to the plaintiff out of any proportion to its prospect of success at trial . . . The very pendency of the lawsuit may frustrate or delay normal business activity of the defendant which is totally unrelated to the lawsuit.

The third area of abuse is that the current framework for assessing liability is simply unfair and creates a powerful incentive to sue those with the deepest pockets, regardless of their relative complicity in the alleged fraud.

The result of the existing system of joint and severable liability is that plaintiffs' attorneys seek out any possible corporation or individual that has little relation to the alleged fraud—but which may have extensive insurance coverage or otherwise may have financial reserves. Although these defendants could frequently win their case were it to go trial, the expense of protracted litigation and the threat of being forced to pay all the damages make it more economically efficient for them to settle with the plaintiffs' attorneys.

The current Chairman of the SEC, Arthur Levitt, as well as two former Chairmen, Richard Breeden and David Ruder, have all spoken out against the abuses of joint and several liability. Chairman Levitt said at the April 6 hearing of the Securities Subcommittee that he was concerned, in particular, ''about accountants being unfairly charged for amounts that go far beyond their involvement in particular fraud.''

Frequently, these settlements do not appreciably increase the amount of losses recovered by the actual plaintiffs, but instead add to the fees collected by the plaintiffs' attorneys.

Again, the current system has devolved to a point where it favors those lawyers who are looking out for their own financial interest over the interest of virtually everybody else.

At the beginning of debate on this bill, I spent a fair amount of time discussing, in some detail, the various provisions of the legislation. I would like to again return our focus to how the legislation that the Senate passed earlier today deals with the existing problems in the securities litigation system:

First, the legislation empowers investors so that they, not their lawyers, have greater control over their class action cases by allowing the plaintiff with the largest claim to be the named plaintiff and allowing that plaintiff to select their counsel.

Second, it gives investors better tools to recover losses and enhances existing provisions designed to deter fraud, including providing a meaningful safe harbor for legitimate forward-looking statements so that issuers are encouraged, instead of discouraged,

from volunteering much-needed disclosures.

Third, it limits opportunities for frivolous or abusive lawsuits and makes it easier to impose sanctions on those lawyers who violate their basic professional ethics.

Fourth, it rationalizes the liability of deep-pocket defendants, while protecting the ability of small investors to fully collect all damages awarded them through a trial or settlement.

I would like to go into each of these provisions in more detail.

The legislation ensures that investors, not a few enterprising attorneys, decide whether to bring a case, whether to settle, and how much the lawyers should receive.

The bill strongly encourages the courts to appoint the investor with the greatest losses—usually an institutional investor like a pension fund—to be the lead plaintiff. This plaintiff would have the right to select the lawyer to pursue the case on behalf of the class.

So for the first time in a long time, plaintiffs' lawyers would have to answer to a real client. We are bringing an end to the days when a plaintiffs attorney can crow to Forbes magazine that ''I have the greatest practice of law in the world. I have no clients.''

The bill requires that notice of settlement agreements that are sent to investors clearly spell out important facts such as how much investors are getting—or giving up—by settling and how much their lawyers will receive in the settlement. This means that plaintiffs would be able to make an informed decision about whether the settlement is in their best interest—or in their lawyers' best interest.

And the bill would end the practice of the actual plaintiffs receiving, on average, only 6 to 14 cents for every dollar lost, while 33 cents of every settlement dollar goes to the plaintiffs' attorneys. This bill would require that the courts cap the award of lawyers fees based upon how much is recovered by the investors. Simply putting in a big bill will not guarantee the lawyers multimillion-dollar fees if their clients are not the primary beneficiaries of the settlement.

Taken together, these provisions should ensure that defrauded investors are not cheated a second time by a few unscrupulous lawyers who siphon huge fees right off the top of any settlement.

The bill mandates, for the first time in statute, that auditors detect and report fraud to the SEC, thus enhancing the reliability of independent audits. The bill maintains current standards of joint and several liability for those persons who knowingly engage in a fraudulent scheme, thus keeping a heavy financial penalty for those who would commit knowing securities fraud.

The bill restores the ability of the Securities and Exchange Commission to pursue those who aid and abet securities fraud, a power that was diminished by the Supreme Court in last year's Central Bank decision.

With regard to frivolous litigation, the bill clarifies current requirements that lawyers should have some facts to back up their assertion of securities fraud by adopting the reasonable standards established by the second circuit court of appeals. This legislation is therefore using a pleading standard that has been successfully tested in the real world; this is not some arbitrary standard pulled out of a hat.

The bill requires the courts, at settlement, to determine whether any attorney violated rule 11 of the Federal Rules of Civil Procedure, which prohibits lawyers from filing claims that they know to be frivolous. If a violation has occurred, the bill mandates that the court must levy sanctions against the offending attorney. Though the bill does not change existing standards of conduct, it does put some teeth into the enforcement of these standards.

The bill provides a moderate and thoughtful statutory safe harbor for predicative statements made by companies that are registered with the SEC. It provides no such safety for third parties like brokers, or in the case of merger offers, tenders, roll-ups, or the issuance of penny stocks. There are a number of other exceptions to the safe harbor as well. Importantly, anyone who deliberately makes false or misleading statements in a forecast is not protected by the safe harbor.

By adopting this provision, the Senate will encourage responsible corporations to make the kind of disclosures about projected activities that are currently missing in today's investment climate.

While almost everyone, including SEC chairman Arthur Levitt, recognizes the need to create a stronger safe harbor for forward-looking statements, this is clearly one of the most controversial parts of the bill.

I recognize the desire of my colleagues who have opposed this provision to clearly and firmly protect investors from fraudulent statements by corporate executives, and I am committed to maintaining the most balanced possible language on safe harbor as we enter into conference with the other body.

I would point out that the legislation preserves the rights of investors whose losses are 10 percent or more of their total net worth of $200,000. These small investors would still be able to hold all defendants responsible for paying off settlements, regardless of the relative guilt of each of the named parties.

And while the bill would fully protect small investors—so that they would recover all of the losses to which they are entitled—the bill establishes a proportional liability system to discourage the naming of deep-pocket defendants.

The court would be required to determine the relative liability of all the defendants, and thus deep-pocket defendants would only be liable to pay a settlement amount equal to their relative role in the alleged fraud. A defendant who was only 10 percent responsible for the fraudulent actions would only be required to pay 10 percent of the settlement amount. In some circumstances, the bill requires solvent defendants to pay 150 percent of their share of the damages, to help make up for any uncollectible amount. By creating a two-tiered system of both proportional liability and joint-and-several liability, the bill preserves the best features of both systems.

Mr. President, the legislation passed by the Senate today will keep the door to the courthouse wide open for those investors who legitimately believe that they are the victims of fraud, while slamming the door shut to those few entrepreneurial attorneys who file suit simply with the intent of enriching themselves through coercing settlements from as many defendants as possible.

It has become clear that today's securities litigation system has become a system in which merits and facts matter little, in which plaintiffs recover less than their attorneys, and in which defendants are named solely on the basis of the amount of their insurance coverage or the size of their wallet; in short, we have a system in which there is increasingly little integrity and confidence. Mr. President, such a system of litigation is rendered incapable of producing the confidence and integrity in our Nation's capital markets for which it was originally designed.

I am extremely pleased that this morning the Senate took the important step of repairing this ailing system by overwhelmingly passing the Securities Litigation Reform Act.

NATIONAL DAIRY MONTH

Mr. LEAHY. Mr. President, I want to bring to your attention that June is National Dairy Month.

Earlier this month I was in Vermont during the Enosburg Falls Dairy Festival in Franklin County, VT, home of some of the finest dairy farms and dairy products in America.

June 1, 1995, was Dairy Day in Montpelier, the State capital. There was a grand celebration with cows on the State house lawn and a milking contest. It was the first chance for Vermont's new agriculture commissioner, Leon Graves, a dairy farmer himself, to show his expertise. And while the celebration is light hearted and fun, there is a serious side to it.

In Vermont we stop and take the time to celebrate the importance of dairy farmers in our State and the importance of milk in our lives. In Vermont we pay tribute to the men and women of America who get up so early in the morning to milk the cows and bring us the safest, most wholesome supply of milk in all the world. I think

we should pay tribute here in Washington, too.

We should also remember how important dairy products are to American culture and to the diet of Americans.

Little League games just would not be the same without the promise of a trip to the drive-in for a cone after the game. The Indy 500 winner still drinks milk in victory lane and cookouts would not be the same without a sizzling burger topped by a slice of cheddar.

More important than the enjoyment we get from dairy products, is the nutrition we get from dairy products. There are some who try to hurt the image of milk and others who distort the truth about the nutritional value of milk, but the facts cannot be denied.

Milk is a nutrient dense food that is an important part of the American diet. Milk and dairy foods supply 75 percent of the calcium in the U.S. food supply as well as substantial amounts of riboflavin, protein, potassium, vitamin B 12, zinc, magnesium, and vitamins A and B 6. Some might argue that calcium can be gained through fortified foods or taking calcium supplements. While these alternatives can supply calcium, research has shown that people who have low calcium intakes also have low intakes of several other nutrients which can be supplied by dairy foods. A recent report from the National Institutes of Health recommends that ''the preferred source of calcium is through calcium rich foods such as dairy products.''

Adequate calcium intake is especially critical for young women. Building optimal bone mass before age 30 is one of the best ways to prevent osteoporosis later in life. Increasingly, we see young women failing to get the calcium they need. In addition, nutrients from dairy products are keys to preventing high blood pressure, which increases the risk of heart disease, stroke, and renal failure.

Many Americans are becoming more conscious about their diets. It is important that people not eliminate nutritious foods such as dairy foods from their diets as they attempt to reduce fat intake. A wide array of dairy foods come in low fat and nonfat versions, while delivering the same amount of nutrients. Research has shown that people can increase dairy food consumption to recommended levels without gaining weight or increasing blood cholesterol.

I will not talk about policy or politics today except to add we need to keep the importance of dairy products in mind as we consider changes to our nutrition programs. And we need to remember the hard working men and women who bring us nature's most perfect food as we craft our dairy policy this year during the farm bill.

I do not often rise to talk about commemorative days, weeks, or months. But I hope my colleagues will join with me in raising the awareness of Americans about good nutrition and expressing our appreciation to America's dairy farmers for their hard work.

ORDER OF PROCEDURE

Mr. GRASSLEY. Mr. President, I have some business to wrap up for this evening, and it has been cleared by the Democratic side of the aisle.

AUTHORIZING USE OF THE CAPITOL GROUNDS FOR THE GREATER WASHINGTON SOAP BOX DERBY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 38, just received from the House.

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

The clerk will state the concurrent resolution.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 38) authorizing the use of the Capitol grounds for the greater Washington Soap Box Derby.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the concurrent resolution be considered and agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

So the resolution (H. Con. Res. 38) was agreed to.

ORDERS FOR THURSDAY, JUNE 29, 1995

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 a.m. on Thursday, June 29, 1995; that following the prayer, the Journal of the proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business until the hour of 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the following exceptions: Senator THOMAS, 30 minutes; Senator MURKOWSKI, 15 minutes; Senator DORGAN, 30 minutes; Senator FEINSTEIN, 15 minutes; further, that at the hour of 10:30 a.m., the Senate resume consideration of S. 343, the regulatory reform bill.

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

Mr. GRASSLEY. I further ask unanimous consent that prior to the Senate recessing for Independence Day, that debate only be in order to S. 343, with the exception of the withdrawal of the committee amendments, and the majority leader offering a substitute amendment.

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

PROGRAM

Mr. GRASSLEY. For the information of all Senators, the Senate will resume consideration of the regulatory reform bill tomorrow at 10:30 a.m., pending the arrival of the budget conference report from the House on which approximately 5 hours of debate remain.

Therefore, all Senators should expect rollcall votes during Thursday's session of the Senate.

RECESS UNTIL 9 A.M. TOMORROW

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recession under the previous order.

There being no objection, the Senate, at 7:08 p.m., recessed until Thursday, June 29, 1995, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 28, 1995:

DEPARTMENT OF STATE

FRANCES D. COOK, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SULTANATE OF OMAN.

J. STAPLETON ROY, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF INDONESIA

THOMAS W. SIMONS, JR., OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF PAKISTAN.

JOHN M. YATES, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BENIN.

DEPARTMENT OF TRANSPORTATION

GEORGE D. MILIDRAG, OF MICHIGAN, TO BE A MEMBER OF THE ADVISORY BOARD OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION, VICE L. STEVEN REIMERS.

DEPARTMENT OF THE TREASURY

LAWRENCE H. SUMMERS, OF MASSACHUSETTS, TO BE DEPUTY SECRETARY OF THE TREASURY, VICE FRANK N. NEWMAN, RESIGNED.

EXTENSIONS OF REMARKS

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1996

SPEECH OF

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes:

Mr. FAZIO. Mr. Chairman, this is a particularly ill-considered amendment offered today by the gentleman from Wisconsin, [Mr. KLUG], and I oppose it strongly. It gives little thought to the reductions to the Government Printing Office already contained in the bill or the significant reductions to GPO over many years due to its modernization efforts. Let me describe those efforts for my colleagues.

In 1975, GPO had 8,500 full-time equivalents, or FTE's. The committee-mandated level of 3,900 FTE's means GPO has reduced its staff by over 50 percent since that time.

In just the past 2 years—since February 1993—total GPO employment has fallen by 13 percent. FTE's have been reduced from 4,893 to 4,250, a reduction of 646 positions at a cost savings of $32 million. During those 2 years and based on the retirement incentive program, which was authorized by law, 357 positions, primarily managers and supervisors, were eliminated representing about 7 percent of GPO's work force.

GPO's authorized level has been reduced in this bill from 4,293 FTE's to 3,900 FTE's. In addition, GPO has typically employed fewer FTE's than authorized by law. For example, in fiscal year 1994, GPO utilized 4,364 FTE's compared with an authorized level of 4,493. In the current fiscal year, 1995, GPO is utilizing 4,250 FTE's compared with an authorized level of 4,293, and their objective is to reduce FTE's further in this fiscal year—to 4,200.

Clearly, the trend over many years has been to reduce employees at GPO, to take advantage of modern equipment, to bring management-to-employee ratios into equality with those throughout the Government, and to use even fewer FTE's than authorized by law.

This amendment offers absolutely no guidance as to where a 350-employee reduction would come from. GPO's core printing and binding function—which utilizes the vast majority of FTE's—could be affected adversely.

Perhaps more important, an amendment of this nature sends a terrible message to an important agency and to the employees who would be affected. It sends the message that no matter what strides GPO makes in downsizing, we will never consider it enough. No matter what type of planning they start to undertake for cost-effective long-term downsizing, we will always throw another curve at them.

There are $155 million of cuts in this bill, and GPO has already been dealt its fair share of cuts as we seek to reduce the legislative branch. Let's leave GPO alone. I urge a ''no'' vote on the Klug amendment.

IN HONOR OF DR. WILLIAM STEUART McBIRNIE

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. MOORHEAD. Mr. Speaker, I rise with sadness today upon learning of the passing of Dr. William Steuart McBirnie. Dr. McBirnie established the United Community Church of Glendale in the winter of 1960 and served for more than 20 years as senior pastor. Dr. McBirnie was a well versed man who will be missed. He was a humanitarian who founded the World Emergency Relief, a nonprofit organization providing relief aid to the needy and suffering throughout the free world. Holding seven doctoral degrees, Dr. McBirnie was a knowledgeable man. As a professor of Homiletics, Church Architecture and Middle Eastern Studies, he was eager to share his wisdom. He is a man who was in touch with society. Not only was he author of over 1,200 books and other publications, Dr. McBirnie acted as a news analyst for ''The Voice of Americanism'' which aired over a nationwide radio network. He offered forthright and thought provoking commentaries to millions of listeners daily.

A man respected by many, he was the recipient of numerous honors. Dr. McBirnie has been knighted twice and received the George Washington gold medal of honor from the Freedom Foundation, Valley Forge, PA.

Dr. William Steuart McBirnie was a personal friend of mine who will be missed. Yet it is comforting to know that he has entered into the rest which he so richly deserves.

HEALTH COST FIGHTER MOVING ON

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. STARK. Mr. Speaker, at the close of this month, Tom Elkin will be stepping down from his position as assistant executive officer for health benefits for the California Public Employees' Retirement System. I would like to take this opportunity to thank Tom for the great work he has done for CalPERS and the people of California.

Tom's energy, knowledge, and enthusiasm are key reasons why the CalPERS board entrusted him to guide the system's health program. He has been instrumental in CalPERS' success in holding down health insurance costs for the nearly 1 million people who receive health benefits through CalPERS and actually obtaining cost reductions in the last 2 years through hard bargaining with providers. Under his management, the CalPERS health program has maintained quality and choice for its participants while keeping providers honest and focused on those who come to them for care.

During the 103d Congress, CalPERS was used as a paradigm by many players in the health reform debate who sought to reproduce the system's savvy use of its market power to negotiate with health care providers. Tom Elkin's skill and diligence created this enviable record of quality and cost containment which has made CalPERS a model for health care management for the 21st century.

California will miss the service of this distinguished public servant, who is moving on to new challenges. I wish Tom the best for the future.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1996

SPEECH OF

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes:

Mr. FAZIO. Mr. Chairman, I rise in opposition to the Christensen amendment. During the 13 years that I've managed the legislative appropriations bill, I can't count the number of times we have dealt with an amendment to cut elevator operators.

As a newcomer to our body, the gentleman from Nebraska, Mr. Christensen, lacks the perspective on this issue that many of his more senior colleagues enjoy. The fact is, over the last dozen years or so, the House has cut elevator operators from a level of 150 to just 22 today. Twelve of these operators work in the Capitol, 10 work in House buildings. The average salary of these full-time employees is below $20,000.

Over the years, the Architect regularly has requested funds to modernize elevators. Because the committee has worked to make these funds available, and because this modernization has been carried out in many areas, we have been able to reduce the number of elevator operators dramatically. The fact is, we employ a minimum number now, and we use them where Member traffic and traffic from our visitors is heaviest, essentially only where it is absolutely necessary to expedite Members getting to votes.

I also think the gentleman forgets that these loyal employees are some of the best goodwill ambassadors in the House, responding tirelessly to thousand of questions from our visiting constituents each year and helping our visitors through the Capitol's bewildering and sprawling complex.

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The events of yesterday dramatically point out the difference that a few seconds can make in whether Members will get to the Chamber successfully to represent their constituents on the important bills and amendments we vote on daily. As the Republican leadership insists on a 17-minute time frame for votes in order to expedite the business of the House, punctuality will remain very important.

I strongly oppose the gentleman's amendment, and I urge my colleagues to let their common sense overcome this crude attempt to engage in the politics of sound-bites and political expediency.

CONGRESSIONAL REFORM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 28, 1995 into the CONGRESSIONAL RECORD:

REFORMING CONGRESS

Last week the House passed its version of the 1996 funding bill for Congress. Overall funding for the House would be cut 8% from the 1995 level. Congress must take the lead in fiscal discipline. This bill is a step in the right direction.

The bill also includes several worthwhile reforms of the operations of Congress. It cuts funding for committee staff, cuts Members' mail allowances, and eliminates a congressional committee. It also cuts back congressional support agencies. The Office of Technology Assessment, the Government Printing Office, and the General Accounting Office all would be downsized.

These are all worthwhile reforms, and they reflect Members' continuing efforts to streamline Congress and improve its operations. In my view, three broader changes could make the reform process better.

ALLOWING MORE AMENDMENTS

The floor amendment process needs to be more open. The House leadership prohibited several reform amendments to the congressional funding bill from being considered on the floor. Members wanted to offer amendments, for example, to eliminate additional committees and ban gifts from lobbyists. Of the 33 amendments that Members wanted to offer on the floor, only 11 were allowed. Most of the denied amendments called for additional reforms or deeper spending cuts.

Last session Members in the minority objected, with some justification, that many of their amendments were not allowed to be offered, and they promised that if they were ever in the majority the amendment process would be much more open. Yet the new leadership has made only modest progress toward more openness. The amendment process tends to be open on minor bills and restrained on controversial matters. Certainly on some difficult bills and amendment process cannot be totally open. But on such bills the leadership has to identify the major policy issues and allow a thorough and thoughtful consideration of them. We still have a long way to go to reach the goal of allowing Members to vote on the major reform issues of the day.

GREATER BIPARTISANSHIP

Another concern is the increasingly partisan nature of congressional reform. A partisan task force has been set up by the House leadership to make recommendations on additional reforms, particularly further changes in committee jurisdictions.

Committee reform is an appropriate topic for review, but I am disappointed that the leadership has chosen not to make it a bipartisan task force. Last Congress we set up the Joint Committee on the Organization of Congress in a bipartisan way, with an equal number of Members from both parties. Historically that has been the best way to achieve long-lasting institutional reform.

REGULARIZING REFORM

I also believe that we need to regularize the congressional reform process, taking up a major reform package each Congress.

One of my main conclusions from my work last Congress on the Joint Committee on the Organization of Congress is that the institution is better served if congressional reform is treated more as an ongoing, continual process rather than something taken up in an omnibus way every few decades.

Congress has set up three major bipartisan, House-Senate reform efforts in recent times—the 1945, 1965, and 1993 Joint Committees on the Organization of Congress. All three committees were given extremely broad mandates—to look at virtually all aspects of Congress in order to improve efficiency and effectiveness. The Joint Committee in the last Congress took up everything from committee jurisdiction changes and the congressional budget process to ethics reform, House-Senate relations, and congressional compliance with the laws we pass for everyone else. We conducted scores of hearings, heard from hundreds of witnesses, looked over thousands of pages of testimony, considered hundreds of reform ideas, and issued reports totalling several thousand pages.

In my view, it would be far preferable to have the House take up a major congressional reform resolution each Congress. That would make the task much more manageable, since Members would be able to focus attention on the key issues of the day rather than the entire range of procedural and organizational matters carried over from previous Congresses. It would allow us to continually update the institutions of Congress in a rapidly changing world. Letting systematic institutional reform slide for several years only allows problems to fester and heightens partisan tensions.

I recently introduced a resolution requiring the Rules Committee to take up the issue of a congressional reform resolution each Congress. If the Committee decides against sending such a reform resolution to the House floor for consideration, they would have to explain—as part of a required end-of-Congress report—why they thought congressional reform was not needed.

Interest in congressional reform tends to ebb and flow according to the changing interests of the voters and the main House players in reform, the shifting national agenda, and the varying amounts of media coverage given to the operation of Congress. I believe we need to regularize the process so that whoever is in charge of reform in the future will be looking seriously at scheduling and debating a congressional reform resolution each Congress.

This is not a new idea. The Legislative Reorganization Act of 1970 stated the need for a congressional panel to ''make a continuing study of the organization and operation of the Congress''. Moreover, the 1974 bipartisan House Select Committee on Committees stated that ''a key aspect of any viable reorganization is provision for continuing evaluation of its effectiveness, and for periodic adjustments in the institution as new situations arise''. It is time to finally follow through on these recommendations and regularize the congressional reform process.

We have been making progress on reforming Congress. But pursuing reform in a more bipartisan, open, and regular way will make our efforts more productive.

ACKNOWLEDGEMENT OF THE ULSTER PROJECT

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. FROST. Mr. Speaker, I would like to acknowledge the Ulster project. For the second consecutive year, youths from Northern Ireland have come to Arlington, TX, to see and learn how individuals from different backgrounds can live together in peace.

The Ulster project is comprised of teenagers from Northern Ireland who travel to the United States for 1 month. Teenagers of both Protestant and Catholic faiths participate. Each Irish youth is placed in an Arlington family that shares similar interests. The goal of the program is to demonstrate to the Irish teenagers that people from different faiths and backgrounds can peacefully coexist. The ultimate goal is that they take the experiences that they have learned back home with them to Ireland.

Living in Arlington, TX, this summer are the following teenagers, listed with their hometown: Judith A. Conliffe, Belfast; David Laughlin, Newtonabbey; Andrew McCorriston, Belfast; Louise Morris, Belfast; Cherith McFarland, Newtonabbey; Peter Kelly, Bangor; Ashleigh Cochrane, Newtonabbey; Janine Swail, Belfast; Donna Smyth, Newtonabbey; Gareth Price, Bangor; Fiannuala Hanna, Belfast; Gavin Kyle, Glengormley; Stuart Hall, Belfast; Adrian Kidd, Newtonabbey; Neil McCabe, Belfast; Catherine Davidson, Belfast. Richard Hazley of Bangor and Regina Bradley of Belfast will be accompanying the teenagers as counselors.

Again, I commend this project as a genuine effort to help a country that has for too long been torn apart by war. Progress has been made in Ulster to bring about a peaceful solution. This program and ones like it can only serve as a shining example of what can happen if people work with one another to achieve mutual respect and understanding.

RECOGNITION OF DR. GREG ROTH

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. MOORHEAD. Mr. Speaker, selflessness is a cherished commodity in the era in which we live.

I rise today to recognize Dr. Greg Roth, executive pastor of my home church, Glendale (CA) Presbyterian. Dr. Roth is an individual who exemplifies this selflessness through his love and concern for others. We honor a man who through years of dedicated service to his church and his community, has earned a reputation for leadership, compassion, and generosity.

He, like others, envisions things which are for the betterment of our society. Yet, what

sets him apart is his willingness to sacrifice time to lead in the establishment of programs such as the Glendale Coalition to Coordinate Emergency Food and Shelter, The Lords Kitchen, a feeding program for the homeless, Glendale Cold Weather Shelter, and a host of others. Because of his compassion, Dr. Roth has conducted numerous funerals for the homeless men and women. He is also highly respected member of several different boards, such as the Glendale Homeless Coalition and Positive Directions, a county funded Mental Health Drop-in Center.

Unfortunately, for those of us in the community we will miss Dr. Roth. As he departs for the Centerville Presbyterian Church in Fremont, CA, I would like to wish him, Marsha, and Amanda all the best as they move on. I am sure that they will have a strong and positive impact in Fremont as they have had here in Glendale.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1996

SPEECH OF

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes:

Mr. FAZIO. Mr. Chairman, during consideration of this bill, we are fortunate that the House will have two good amendments to consider regarding what I consider to be one of the most ill-considered cuts in the bill—the elimination of the Office of Technology Assessment [OTA].

At a time when the Speaker talks constantly about the cyber-Congress and bringing this Congress into the space age of modern communication and the effective use of technology, one of the first steps as we take up this year's 13 annual appropriations bills is to eliminate the very agency—OTA—which gives Congress an independent capacity to analyze complex and technical issues.

My personal preference is that we simply restore OTA in its present form. My amendment does include a reduced funding level for OTA of 15 percent, in keeping with the cut applied to the General Accounting Office and other reductions in the bill. Certainly, OTA should not be immune to legislative downsizing.

However, I also think our colleague, AMO HOUGHTON, has offered a thoughtful amendment that would essentially abolish OTA but hold on to its core function and its core staff by moving them to become a new component of Congressional Research Service. I think this approach has much to commend it. In fact, 10 percent of OTA's annual budget goes to pay for its leased space. If we could just move OTA into a Federal office building like House Annex No. 2 or another appropriate Federal facility, we could recoup that cost as well as a number of administrative costs associated with maintaining OTA's facilities.

Although I would prefer to leave OTA alone, the Houghton amendment, making a 32-percent cut in OTA's regular budget, is probably the best long-range solution for retaining OTA's important mission while allowing it to be carried on as cost-effectively as possible in keeping with overall legislative branch reductions. I intend to support his approach.

For my colleagues who may not be as familiar with OTA as some of their seniors, perhaps an introduction is necessary. OTA is a bipartisan organization analyzing science and technology issues in depth for Congress, primarily for House and Senate committees.

OTA is a bipartisan organization. For example, last year, OTA issued 21 major reports, and 85 percent of them were requested on a bipartisan basis. The reports are begun only after OTA's congressional governing board, which has an equal number of Republicans and Democrats, gives the green light to proceed. The Board also reviews all reports for bias before they are released.

Although OTA is a small agency with only 143 full-time employees and an annual budget for fiscal year 1995 of about $22 million, we get a tremendous bang for our buck because OTA draws on the expertise of over 5,000 outside-the-beltway specialists from industry, academia, and other institutions each year in contributing to its reports and its policy recommendations.

OTA is a lean, cost-effective organization. Since 1993, OTA voluntarily has reduced its middle and senior management by almost 40 percent. OTA relies wherever possible on the use of temporary expert technical staff to avoid adding to its spartan number of full-time employees.

The most important thing to know about OTA is that it saves taxpayer dollars. Again and again, OTA analyses have been the basis for wise policy decisions as Congress formulates legislation. Here are just a few examples:

First, OTA's reports on health care services have saved taxpayers billions by analyzing which medical treatments are cost-effective for inclusion under Medicare and which are not.

Second, OTA's study of the computers at the Social Security Administration last year saved an estimated $368 million.

Third, OTA's cautions about the Synthetic Fuels Corporation saved an estimated $60 billion in spending for energy research.

Fourth, OTA's study of technologies permitted FAA to choose the most cost-effective explosion detection device standards for airline safety.

Fifth, OTA's recommendations concerning the electric power industry contributed greatly to deregulation of the electric power industry as part of the Energy Policy Act of 1992.

In the past few days, we have each received several impressive bipartisan Dear Colleague letters that tell about the special role played by OTA. CURT WELDON and JOHN SPRATT, the chair and ranking member of the Military Research and Development Subcommittee of the National Security Committee respectively, told us how, in response to the bombing in Oklahoma City, they had occasion to draw on OTA's work about countering terrorism. They said their committee has drawn on OTA work on such topics as the former Soviet Union and proliferation, preserving a robust defense technology and industrial base, and evaluating the potential for using a dual-use strategy to meet defense needs. WELDON and SPRATT concluded by saying, ''The type of work they perform is just not available from other congressional agencies.''

JOHN DINGELL and JIM MCDERMOTT told us of OTA's importance in evaluating Medicare, rural health care, pharmaceutical research and development, and tough issues like defensive medicine and medical malpractice, unconventional cancer treatments, forensic DNA testing, and other very technical issues related to health. ''Time and time again,'' they said, ''OTA reports have provided the timely information necessary for Congress to make good policy decisions to spend federal health care dollars well.''

MIKE OXLEY, chair of the Commerce Committee's Subcommittee on Commerce, Trade, and Hazardous Materials, and RICK BOUCHER, a Democratic member of that subcommittee, brought our attention to OTA's work on environment issues before their subcommittee including Superfund, nuclear contamination in the Arctic Ocean, alternatives to incineration for cleaning up selected Superfund sites, and new biological pesticides.

A letter from our colleague GEORGE BROWN, the former chairman of the Science Committee, and others cited a small sample of the leaders from business and industry, science and academic who believe the committee made a mistake in trying to eliminate OTA.

Leaders from business and industry endorsing OTA include Norman Augustine, the president of Lockheed-Martin; David Potter, former vice chairman of General Motors Corp.; Doug Decker of Johnston Controls; Robert Klimish, vice president of the American Automobile Manufacturers Association; John Seely Brown from the Xerox Palo Alto Research Center; Michel T. Halbouty, president of America's largest independent oil company; David Hale, chief economist for Kemper Financial Services; Mitch Kapor, chairman, of ON Technologies Inc. and the inventor of Lotus 1–2–3; John Diebold of the Diebold Institute for Public Policy Studies, Inc.; Brooks Ragen, chairman and CEO of Ragen McKenzie; and Jim Christy from TRW.

Scientists and academics endorsing OTA include Sally Ride, America's first woman astronaut; Guy Stever, Science Advisor to Presidents Ford and Carter; Ed David, Science Advisor to President Nixon; Charles Vest, president of Massachusetts Institute of Technology; Jim Hunt, former chancellor of the University of Tennessee Medical Center; Harold Brown, former president of Caltech and former Secretary of Defense under President Carter; Robert Frosch of the Kennedy School of Government at Harvard University; Granger Morgan and Marvin Sirbu from Carnegie-Mellon University; Daniel Bell of the American Academy of Arts & Sciences; George Connick, president of the Education Network at the University of Maine; John Dutton, Dean of Earth Sciences at Pennsylvania State University; Rosemary Stevens of the University of Pennsylvania; Chase Peterson, president emeritus of the University of Utah; Max Lennon, past president of Clemson University; Alvin L. Alm of Science Applications International Inc.

Other supporters include our most eminent scientific organizations: the American Association for the Advance of Science; the National Academy of Sciences; the Federation of American Scientists; the American Physical Society; the American Association of Medical Colleges; and American Psychological Association.

The Dear Colleague letter pointed out that technology offices modeled after OTA have

been established by the parliaments of England, France, Germany, the Netherlands, and the European Commission. Clearly, OTA has a national and international reputation for excellence.

Coming from a State where agriculture is of pre-eminent importance, I am struck by the number of important analyses OTA has provided in the agriculture area, a policy area where one might not normally think of complex or highly technical issues. For nearly 20 years, OTA has provided exceptional support on agriculture technology and policy to Congress. As we begin the Farm Bill debate this year, we are already armed with a major, new assessment from the agency—''Agriculture, Trade and the Environment''—which presents several ways to achieve trade growth and environmental quality in complementary fashion.

OTA is completing another study using the best scientific expertise available in the country to identify agriculture's environmental priorities for better targeting of the Conservation Reserve Program and others under continuing budget stress. In a second study, OTA is assessing ways that agricultural research can generate new technologies at a faster pace, so as to ensure continued growth in trade while still meeting environmental, food safety, and public health goals. Another assessment now underway examines the roles biologically based pest controlled technologies can play in reducing the risk and use of pesticides while maintaining competitiveness. This subject affects several farm bill titles, including research, technology transfer, and land management.

In closing, I'll emphasize several points. First, it is imperative that Congress retain an independent analytical function. We don't want to rely on executive branch agencies.

Second, OTA's work cannot be picked up adequately by GAO or CRS, which focus on entirely different types of studies. The idea that OTA's work somehow could be contracted out is also unworkable. We would either be beholden to organizations supplying studies slanted to their own interests, or if we were willing to pay top dollar for the type of long-range studies OTA now undertakes, we would lose the important capacity inherent in an established professional staff to give testimony or to assist with legislative proposals sometimes years after the studies have been completed.

third, policy questions are increasingly complex and technical. Environmental risk assessment and telecommunications are just two examples of complicated policy issues that confront Congress this year. Our colleagues have pointed out many others in the areas of national security, health, agriculture, and the environment. We make important policy choices every day, and we need OTA to help us sort out fact from fiction.

I ask my colleagues to support the Fazio and the Houghton amendments to restore OTA and to hold on to the important mission of this agency in support of our congressional decision-making.

TRIBUTE TO ANDREW G. CANGEMI

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. FORBES. Mr. Speaker, it is no coincidence that Andrew G. Cangemi is the 1995 recipient of the Mental Health Association's Community Service Award at an event honoring Clinton Court. Mr. Cangemi exemplifies how one individual, like one new living option for people with a history of mental illness, can make all the difference in the world.

On a daily basis, Andy Cangemi touches many lives. Andy serves as an associate vice president of the Nassau County Council, Boy Scouts of America, and is a member of its board of directors. In 1994 he received the distinguished Citizen Award from the Scouts. He has received citations from the county of Nassau, towns of Huntington, Hempsted, and Islip for his work in the community. He particularly enjoys his volunteer work with the Northport Youth Soccer League.

As president of the Advancement for Commerce and Industry, a business organization of several hundred members, he has worked tirelessly to promote a working partnership between government and business to revitalize economic, environmental, and social conditions on Long Island.

As a partner in Sigel, Fenchel & Peddy, P.C. he is a member of both the Nassau and Suffolk Bar Associations. He is active in the Nassau County Judicial Advisory Council, the Columbian Lawyers Society, and the Sons of Italy. He has served as chairman of the Nassau County Bar Association's Condemnation and Tax Certiorari Committee, and as a lecturer for the Nassau Academy of Law.

Andy Cangemi's inspiration and vitality flows out of his background. As a neighborhood boy from Brooklyn, he considers himself fortunate to work his way up and have had the opportunity to become a practicing attorney. His interests in community services is an expression of the great responsibility he feels to give back. The energy he devotes represents a coming together of the personal and the professional man.

I've had the privilege of being a part of many important initiatives on Long Island, and I am proud to help MHA build Clinton Court. This project will be a model for affordable housing that will enable people with psychiatric disabilities to become productive, independent members of our community.

Mr. Speaker, it is a pleasure to know Andy Cangemi and I am proud today to be able to commemorate his many accomplishments. He is an example of the best of Long Island and of this Nation, a hard-working man who gives his time tirelessly to those less fortunate than himself. He demonstrates that in today's busy world compassion is still possible and relevant.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1996

SPEECH OF

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes:

Mr. FAZIO. Mr. Chairman, the rule for this bill is frequently controversial because the provisions of the legislative appropriations bill affect our personal offices, our committees, and the offices and people supporting this institution. We all have personal knowledge of much of the subject matter, but there are many different perspectives about the standards we should be setting for ourselves and the way we should be administering the House. Those perspectives ensure controversy, and as the floor manager of the legislative appropriations bill for the last 13 years, I've managed my share of them. That honor now falls to my good friend, RON PACKARD, as the new chairman of the Legislative Appropriations Subcommittee.

This year 33 amendments were offered to the Rules Committee—however, only 11 were accepted.

The structure of this rule stands in stark contrast to the open rule adopted for consideration of the military construction appropriations bill, which was considered immediately prior to this one.

Although some good questions will be debated today, I am troubled by the important subjects that will be skipped.

Thoughtful amendments were submitted on a number of issues affecting the way we conduct business here. Amendments were submitted including:

First, ensuring the frequent flier miles earned by Government travel will only be applied to Government travel,

Second, eliminating funding for the Joint Economic Committee, and

Third, eliminating the discrepancy between congressional retirement benefits and other congressional employees.

I'm particularly concerned that the Republican majority on the Rules Committee voted down three amendments to the rule offered by their Democratic counterparts:

First, the Brewster/Harman lockbox amendment—this is a good concept that has been endorsed overwhelmingly by the House in the past. It's too bad we won't have a chance to consider it again when it comes to cuts in our won backyard.

Second, an amendment offered by Mrs. SCHROEDER to abolish the Joint Tax Committee. Mrs. SCHROEDER made a good argument at the Rules Committee comparing the Republican attitude toward the Select Committees of Hunger, Narcotics, Aging, and Children, Youth and Families—which were eliminated at the beginning of this Congress—and whether we should be considering joint tax in this same vein. Unfortunately, the House won't have a chance to make the comparison.

Third, last but hardly least, a gift ban proposed by our freshman colleague, JOHN

BALDACCI from Maine. The GOP freshmen came in with big reform plans for Congress. Now, when a gift ban is proposed, we're told that this is not the proper legislative vehicle for considering it, that it is too difficult to make these determinations in this bill.

Fortunately, there are some good questions the House will have an opportunity to discuss:

First, clerk-hire, official expenses, and mail. We'll be considering an amendment to cut costs more severely in the accounts affecting our personal offices even as a major cost-shifting effort is contemplated that will have a significant impact on the day-to-day operations of our personal offices.

Second, the proper funding level for Members' mail. We've slashed funding for mail significantly in the last few years—we'll have another chance to see if the Members feel we've finally done enough.

Third, the operation of the Government Printing Office and our depository libraries program. It is fitting that we consider the proper funding level for depository libraries especially as we move to an increased level of electronic dissemination of documents.

I'm grateful to the Rules Committee that we will also have a good debate about the vital support organizations for Congress that help us do our job.

There is a good amendment offered by Mr. CLINGER and our colleagues, Mr. PORTMAN, Mr. CONDIT, and Mr. DAVIS to add funding to the Congressional Budget Office [CBO] in support of the important work they have been given in the unfunded mandates legislation passed by Congress earlier this year. I'm concerned about the offset they are offering in abolishing funding for the American Folklife Center, but it is important to talk about the resources needed for CBO to do their job properly for us.

Two good amendments take up the question of the Office of Technology Assessment [OTA]. My amendment is a straight restoration of OTA with a 15 percent cut in line with our cut to the General Accounting Office. Mr. Houghton's amendment would cut OTA further—to $15 million—and make further savings by shifting their box on the organizational chart to Congressional Research Service.

I'm also grateful to the Rules Committee for allowing us to take up this important question of the authority of the Joint Tax Committee regarding refunds for our largest taxpayers.

This authority was, in my opinion, mistakenly eliminated in this bill. Joint tax works closely with the U.S. Treasury and provides a vital legislative check on their work, finding errors in approximately 9 percent of the cases reviewed and easily paying for the limited resources we devote to this function each year. There are solid reasons for joint tax performing this function, and I'm pleased that we will have a chance to point those out to the membership.

We will have some good debates. But the Rules Committee has left out too many important questions and has continued their intransigence in permitting the House to debate a gift ban. I oppose this rule, and I ask my colleagues to send this rule back to the Rules Committee to open up this debate and permit us to take up additional important questions that affect this institution and the way we conduct the people's business here.

TRIBUTE TO CHRIS K. MOUROUFAS

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Ms. ESHOO. Mr. Speaker, I rise today to pay tribute to Chris K. Mouroufas, a proud Greek-American, a great civic leader, and an extraordinary friend who passed away this month.

Mr. Mouroufas lived the American success story. Born in Messina, Greece, he emigrated to the United States, built a prosperous business, and became widely known in the Greek-American community for his willingness to help newcomers. He was a leader in the affairs of the city of San Francisco, having been appointed to the San Francisco Protocol Committee by mayors George Moscone, DIANNE FEINSTEIN, and Art Agnos. In addition, Mayor Agnos named Mr. Mouroufas to the San Francisco Film Commission, where he served as chairman.

Mr. Speaker, Chris Mouroufas was a prominent member of the San Francisco Bay area who selflessly gave his time and talents to make our community a better place. What he cherished most was his family and his family of friends. He was a man of his word, a man of loyalty and a man of integrity. When Chris Mouroufas extended himself in friendship, it was a bond for life. I know, I was blessed to be his friend. I ask my colleagues to join me in honoring him and all he did as a noble citizen of a nation he embraced, served, and loved, and extend our deepest sympathies to his beloved wife, Tula, and godson, Christopher.

SAYING NO TO MOBUTU

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. HAMILTON. Mr. Speaker, President Mobutu of Zaire has ruled his country for over 30 years, during which period he has become one of the world's richest individuals by impoverishing his fellow countrymen. I wish to place into the RECORD the following exchange of letters between International Relations Committee Chairman BENJAMIN A. GILMAN and I and the Department of State concerning the issue of granting a visa to President Mobutu to visit the United States.

U.S. DEPARTMENT OF STATE,
Washington, DC, June 21, 1995.

Hon. LEE H. HAMILTON,
House of Representatives.

DEAR MR. HAMILTON: Thank you for the letter which you and Chairman Gilman sent to the Secretary on May 19 expressing concern about a possible visit to the United States by President Mobutu of Zaire. We assure you that President Mobutu will not be coming to Washington and that the U.S. visa sanction directed against him and his entourage remains in effect. We agree that President Mobutu needs to demonstrate by his deeds rather than statements that he is committed to a genuine transition to democracy in Zaire. We appreciate your bipartisan support for our Zaire policy.

As you know, the President issued a proclamation in June 1993 suspending the entry into the United States of immigrants and nonimmigrants who formulate or implement policies impeding a transition to democracy in Zaire or who benefit from such policies, and the immediate families of such persons. The intention of the proclamation was to send a strong message to President Mobutu that his obstruction of Zaire's transition to democracy was not without penalty. The visa sanction has been—and remains—one of our most effective measures to influence Mobutu and his entourage, and we have seen no change on the part of the Zairian president which would warrant a reversal of this policy.

President Mobutu has not applied for a visa to the United States, but if he or persons acting for him do so, we will remind him that he remains subject to the visa proclamation. On the basis of rumors of an impending visit, our Charge d'Affaires in Kinshasa made a formal demarche to the office of the Presidency, outlining our continuing concerns about the slow pace of the transition, and reiterating that President Mobutu remains subject to the visa sanction.

Rumors of a Mobutu visit to Washington appear to have been generated entirely by the Zairian president and a number of lobbyists in his employ. His agents attempted—unsuccessfully—to obtain an invitation for Mobutu to address a variety of private organizations. When it became clear that neither invitation nor visa would be forthcoming, President Mobutu's spokesman in parliament announced that the Zairian leader had decided to postpone travel in view of the outbreak of the Ebola virus in Kikwit.

You should know that there is a strong possibility that President Mobutu may attend the 50th U.N. General Assembly in New York this fall. While the Presidential proclamation on visas would permit us to refuse a visa to Mobutu for a bilateral visit, our international obligations under the U.N. Headquarters Agreement would likely require us to permit his entry to attend the General Assembly.

We hope this information is useful to you. If we can be of further assistance to you on this or any other matter, do not hesitate to contact us.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary, Legislative Affairs.

COMMITTEE ON INTERNATIONAL RELATIONS, U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, May 19, 1995.

Hon. WARREN CHRISTOPHER,
Secretary of State,
Department of State,
Washington, DC.

DEAR MR. SECRETARY: It has come to our attention that President Mobutu of Zaire may be seeking to visit the United States in the near future. We urge you to continue your policy of not granting an entry visa to the United States to President Mobutu of Zaire.

We strongly believe that such a visit should not take place. The visa restriction policy is one of the few instruments of leverage the U.S. has on President Mobutu and his regime. While we hope that President Mobutu is serious in his recent statements concerning a return to democracy in Zaire and improved human rights, there is ample reason for skepticism. Allowing Mobutu to visit the United States before any substantial steps have been taken toward resolving the on-going political crisis in Zaire would be an unwarranted retreat from the policy of both the Clinton and Bush Administrations.

Zaire under Mobutu represents perhaps the most egregious example of the misuse of U.S. assistance resources. The U.S. has given Zaire nearly $1.5 billion in various forms of

aid since Mobutu came to power thirty years ago. Partially because of this assistance, Mobutu has been able to maintain control of Zaire and bleed the country into its current dismal state. In recent years, Mobutu has resisted both domestic and international pressure for democratization and continues to cling to power.

In both the 102d and 103d Congress, the House passed bipartisan resolutions calling on Mobutu to step down from power and urging that the United States continue active efforts to this end. Allowing Mobutu to visit the United States at this time would be directly counter to the letter and spirit of these resolutions.

We look forward to your early reply and to working with you on this issue.

With best regards,

Sincerely yours,

LEE H. HAMILTON,
Ranking Democratic Member.
BENJAMIN A. GILMAN,
Chairman.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1996

SPEECH OF

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes:

Mr. FAZIO. Mr. Chairman, I share the concerns of the gentleman from Utah [Mr. ORTON], who is offering this amendment to add resources to the Superintendent of Documents.

The committee is undertaking an enlightened policy of providing the greatest possible incentives to Federal agencies to shift their reliance on traditional printing and switch to electronic dissemination of documents to the greatest extent possible. By shifting the cost of printing documents to the originating agencies instead of assuming responsibility for it in our legislative appropriation, it is thought that agencies are more likely to scrutinize their needs and consider whether making documents available electronically will suit their purposes just as well, with the added benefit of decreased overall costs to the Federal Government.

However, frequent users of our Federal depository libraries have raised some legitimate concerns.

First, our experience with electronic dissemination is limited. For example, last year the Government Printing Office acquired and distributed over 20 million copies of publications, some 65,000 titles—but only 306 titles were provided by GPO in electronic format to participating libraries.

Second, although we want to encourage electronic distribution of information, it is also likely that the nature of some documents will never make them suitable for only electronic transfer either because of the nature of their use, or because the users don't have access to computers, or because the libraries need a permanent printed copy for historical research purposes.

Last, there is also legitimate concern that agencies, faced with these additional costs, will use the costs as an excuse not to comply with their obligations under the law in making documents available to depository libraries. Since at least some problems with fugitive documents are of concern to depository libraries already, then this changeover is certainly a process we want to monitor carefully.

Because of the legitimate concerns raised by librarians and others familiar with the depository library system, I offered and the chairman accepted language at the full Appropriations Committee meeting to ensure that the public's access to information will remain unchanged and to see that this changeover is administered smoothly. The language, which appears on page 31 of the report states:

The Committee's intent is that the public's access to information through Federal Depository Libraries will not be reduced as a result of these policies, but will be maintained and enhanced. The Committee expects the Superintendent of Documents to monitor these new policies and report about the progress of the agencies in converting to electronic format and distribution, complying with the reimbursement policy, and the effects of these policies on the availability of documents to the public.

So I share the concerns of the gentleman from Utah, and the committee has taken steps, as outlined in the report, to monitor this changeover carefully.

I am also concerned about offsets offered by the gentleman from the Botanic Garden's conservatory renovation funds. Although the funds provided by the committee appear to be a substantial boost to the Botanic Garden's normal appropriations, the additional funds represent a multiyear effort that is also dependent on private funds for this long-overdue project.

For both reasons, I oppose the amendment and urge my colleagues to vote against it.

NOTING THE PASSING OF FORMER STATE REPRESENTATIVE IKE THOMPSON

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. STOKES. Mr. Speaker, I am saddened to announce the passing of a former member of the Ohio State House of Representatives. On June 25, 1995, the Cleveland community mourned the death of Isaiah ''Ike'' Thompson. For 20 years, Ike Thompson represented Cleveland's east side in the Ohio Legislature. His district included portions of Glenville, Euclid, Bratenahl, and East Cleveland.

The passing of Ike Thompson brings to a close a distinguished career of public service. I join members of the Cleveland community, Ike's family and colleagues in mourning the loss of a talented legislator and a good friend. I rise today to reflect upon the life of Ike Thompson and to share with my colleagues some information regarding his political career.

Mr. Speaker, Ike Thompson was born in Birmingham, AL, and moved to Cleveland during his early childhood. He attended Central High School and Cleveland State University. In 1942, Ike became a factory worker for the Weatherhead Co. He began his political career when he became a precinct committeeman in 1963. Ike also later served as a Democratic ward leader. In 1970, Ike Thompson was elected to the State House of Representatives. He would spent the next 20 years serving his constituents in that legislative body. It was a job which he took very seriously.

During his first year in the legislature, Ike introduced a bill making it illegal for poll watchers to wear police uniforms and carry guns. He based his initiative on the fact that off-duty policemen entering voting places were intimidating and discouraging potential voters. Over the years, Ike would note that this was the most important legislation that he ever sponsored because it gave people the right to vote without fear. During his first term, Ike Thompson was named by his colleagues as the Number One Rookie Legislator, an honor in which he took great pride.

Throughout his political career, Ike Thompson earned a reputation for his strong legislative efforts on behalf of consumers. He was best known for getting the Ohio Legislature to approve the ''lemon law,'' which protects new car buyers from manufacturing defects. It is praised as one of the strongest such laws in the country. During his tenure in office, Ike was also chosen to serve as executive vice president of the Black Elected Democrats of Ohio.

Mr. Speaker, Ike Thompson retired from the State legislature in 1990, following 20 years of service to the Greater Cleveland area. We mourn the recent passing of our friend, Ike Thompson. He will always be remembered for his dedication and commitment to public service. As we remember Ike Thompson, we pay tribute to a distinguished legislator who has earned a special place in our State's political history. I offer my condolences to Ike's family, including his wife of 60 years, Lodeamer, and his daughter, Arwilda Storey. I ask that my colleagues join me in paying tribute to a gifted public servant, Ike Thompson.

BICENTENNIAL CELEBRATION OF WARREN, PA

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. CLINGER. Mr. Speaker, I rise today in celebration of the bicentennial of my hometown, Warren, PA. It is a great pleasure to join my family and friends in sharing this special historic event.

This year's Fourth of July celebration holds a special meaning for the people of Warren County. Not only will we commemorate the birth of our great Nation, we will also mark a great milestone in the history of an extraordinary town.

More than two centuries ago, European settlers achieved independence for the Thirteen Colonies, forming the United States of America. In 1795, the Pennsylvania legislature honored the great patriot Gen. Joseph Warren, by granting his name to a valley nestled between the Allegheny Mountains and the Allegheny River. Although General Warren never saw the land which bears his name, his memory lives through the people who reside in Warren today.

Reflecting on 200 years of stable existence, Warrenites have much to be proud of. The

people of this community have honorably participated in every military conflict in our Nation's history. They have persevered over time by cultivating the region's abundance of natural resources. Warren is also home to Kinzua Dam, one of the largest reservoirs east of the Mississippi River. Most importantly the people of Warren are proud of their heritage, which is memorialized by the four flags flown each day in Heritage Park.

Warren is a special town, a community of spirit and pride. It is a wonderful place to live and I have many treasured memories from a lifetime of experiences there. Growing up in Warren provided me with a strong foundation of values, which continue to guide me to this day.

Thank you, Mr. Speaker, for allowing me the distinct pleasure of recognizing the 200th anniversary of Warren, PA. Warrenites embody what it is to be an American by uniting under the U.S. flag while remembering and honoring the pioneers who came before them. It is most appropriate that the bicentennial festivities coincide with the Fourth of July celebration. This holiday is more than just picnics and fireworks, it is the chance to reflect on a cherished privilege we call freedom.

PRESIDENT LEE'S ONE GIANT STEP OUT OF ISOLATION

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. HILLIARD. Mr. Speaker, I was pleased to see that President Lee Teng-hui had taken one giant step out of isolation in having concluded his private trip to a Cornell University reunion on June 9–10, 1995. As the Washington Post and other major newspapers have noted, President Lee's successful visit to his alma mater ''marked a bold, symbolic step out of Taiwan's decade and a half of official international isolation.''

Taiwan's political achievements are recognized worldwide, and I applaud Taiwan's successful efforts in having dismantled its old political system and replace it with one of Asia's most exuberant new democracies. In the last few years, martial law has been lifted, political prisoners have been freed, and opposing parties are firmly established and flourishing. Moreover, Taiwan has continued to enjoy an unprecedented economic prosperity. Its citizens enjoy one of the highest standards of living and Taiwan is our sixth-largest trading partner.

I have met with President Lee Teng-hui, an affable world-class statesman, as well as other Taiwanese leaders such as Foreign Minister Frederick Chien, a Yale-educated diplomat par excellence; and Representative Benjamin Lu, Taiwan's top diplomat in Washington, DC. They all have impressed me with their vision, forthrightness, intelligence, and their belief in our values and our democratic system of government.

Taiwan is our ally in the Pacific and throughout the world. In the days and months ahead, I hope to see even stronger support given to the Republic of China in its bid to enter the United Nations and other international organizations.

Mr. Speaker, my constituents in Alabama hope that Representative Benjamin Lu will soon find time to visit Alabama to tell the Taiwan story—a story that deserves to be told and retold as a shining example of how an undeveloped nation and its 21 million people became one of the world's most prosperous democracies in four decades. My constituents also are eager to hear Representative Lu tell how President Lee has taken Taiwan out of international isolation and how President Lee envisions Taiwan for the rest of this century and the early 21st century.

Representative Lu, my constituents and I hope you will come visit us in Alabama—real soon.

TRIBUTE TO OFFICER BOB HENRY

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. COX of California. Mr. Speaker, I rise today to honor the memory of Bob Henry, a dedicated law enforcement officer for the city of Newport Beach, CA, who earlier this year was slain in the line of duty.

In the early morning hours of Sunday, March 15, 1995, Officer Robert Henry, 30, was shot in the head during a struggle with an intoxicated man intent on committing suicide. Officer Henry battled for his life, but passed away after more than a month of struggle on April 13. He was the first officer in the history of the Newport Beach police department to be killed in the line of duty.

A native Californian and a devout Catholic, Bob Henry joined the Newport Beach police force 5 years ago, and dedicated his life to serving and protecting the residents of Newport Beach. In his service there, he earned the respect of his colleagues and of his community. He is remembered as a model police officer, an officer who was always prepared to do whatever the job called for—bringing his strength, compassion, courage, and sense of humor along with him.

Above all, Mr. Speaker, Bob Henry is remembered as a loving and devoted family man. He leaves behind his wife, Patty, and their three children: 6-year-old Bobby, 2-year-old Jenna, and Alyssa—who was born only 1 month before the shooting. While nothing can compare to the incalculable pain they all feel at his loss, I hope it is of some comfort to them to that all of us feel a profound sense of gratitude for the sacrifice he was willing to make.

I ask my colleagues to join me in saluting the bravery and honor with which Officer Henry carried out his duties. His children must always know that their father's death was in the service of others, and that we will always honor his memory. Although we are overwhelmed with sadness, we are grateful that such a man graced us with his example, his commitment, and his sacrifice.

DELAURO HONORS 1995 SPECIAL OLYMPICS WORLD GAMES' VOLUNTEERS AND SPONSORS

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Ms. DELAURO. Mr. Speaker, in 2 short weeks the world will turn its eyes to New Haven, CT, where the 1995 Special Olympics World Games will be held. The games will showcase the talent and spirit of mentally retarded athletes from around the world.

The 1995 games will be the world's largest sporting event this year. Seven thousand athletes from 140 countries, 1,500 coaches, and 500,000 spectators are expected to attend. These figures represent significant growth for the Special Olympics since the first games were held in 1969.

The 1995 games have been made possible through the hard work and dedication of countless individuals, municipalities, private organizations, and businesses. There has been tremendous enthusiasm and support generated from all levels throughout the region. Today I would like to specifically recognize the contributions of the games' volunteers and sponsors, who have given so much to this worthy cause.

Forty-five thousand volunteers, the largest volunteer force ever assembled in the Northeast, are taking part in the games. I salute the residents of south central Connecticut and the entire State, for their commitment and spirit. These volunteers have been working fast and furiously to ensure that the athletes enjoy nine wonderful days of competition, friendship, and learning. All of the volunteers have participated in training sessions about how to work well with people with mental retardation and to address the vast cultural differences of the many visitors.

The games are fortunate to enjoy the support of many corporate sponsors. Among the major private contributors are McDonald's Corp., Coca-Cola Co., Eastman Kodak Co., IBM Corp., Adidas, General Motors Corp.'s GMC Truck, and M&M Mars. These corporations have generously provided much of the financial support that is vital to ensuring that the games are a success.

Last week the President, who is honorary chair of the Games, announced that he will attend the opening ceremony in New Haven on July 1. His participation in this event is a tribute to the volunteers and the sponsors who through their hard work and dedication have assured that the Special Olympics will be well-received both nationally and internationally.

I ask my colleagues to join me today and salute the contributions of the thousands of volunteers and sponsors who, through their generosity, have made the games the success I know they will be. Their efforts will make the 1995 games a world class sporting event for these very special athletes to enjoy.

EXPROPRIATION IN COSTA RICA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. TOWNS. Mr. Speaker, I want to express my strong concern over the expropriation of the cellular telephone system installed and formerly operated by Millicom in Costa Rica. Congress must address this situation not only for the sake of this U.S. company, but because of the terrible discouragement the expropriation makes against investors to bring Latin America into the information age, and onto the information highway.

Millicom has headquarters in New York and operates cellular telephone networks in 19 countries in Europe, Asia, Africa, and Latin America. The company was invited by Costa Rica to install a cellular telephone system there. After the system had succeeded and was being expanded, the government began using insidious techniques of regulatory expropriation to nullify Millicom's property rights. Finally, a court ruled that the Costa Rican Constitution requires the government's telephone company to be a monopoly, and thereby expropriated Millicom's network and overturned written assurances Millicom had received that it could own and operate the system. Negotiations with Millicom to resolve the situation were on the threshold of an agreement when they were suddenly terminated last month by the President of Costa Rica.

REMEMBERING THE CONTRIBUTIONS OF FORMER CHIEF JUSTICE WARREN BURGER TO THE COURT AND THE NATION

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. VENTO. Mr. Speaker, I rise today to celebrate the life of an extraordinary Minnesotan, former Chief Justice Warren Burger, who passes away this past Sunday. I am proud to say that Justice Burger was not only from Minnesota, but he hailed from my home city and neighborhood of St. Paul, MN.

Justice Burger's devotion to the Court and the justice system was evident in his hard work and long tenure as a public servant. He began working in the Federal court system in 1956 and remained until he retired as the most senior justice on the Supreme Court through 1986. Justice Burger devoted time after his retirement from the Court to organize the celebrations of the 200th anniversary of the Constitution and Bill of Rights, serving as the Chairman of the Commission on the Bicentennial of the United States Constitution.

During his 17 years on the Supreme Court, Justice Burger made rulings on complex and controversial issues such as school busing, obscenity laws, prison reform, and sexual discrimination, and he was a special champion of judicial reform. It was importantly Justice Burger, a Nixon appointee, who in one of the most important chapters in our history wrote the opinion clearing the way for the release of the Watergate tapes that would become a determinating factor in Nixon's resignation of the Presidency averting a constitutional crisis that threatened our Nation.

During his years of service on the Supreme Court, he watched the ideology of the Court as a whole swing between liberalism and conservatism. Justice Burger tended toward strict conservatism, but he was also sympathetic and pragmatic; open to others ideas often writing opinions praised by his colleagues attempting to insure the Constitution as a living document and judicial review activism.

The Nation is saddened by the loss of former Chief Justice Warren Burger. As we mourn his death, however, we must remember how much he gave to the Court and the Nation. His work is an important legacy that impacts every American's life and will shape the lives of future generations. We will not forget his positive contributions to this country, and I join the Nation in applauding his accomplishments and expressing my sympathy to Justice Burger's surviving family for their loss.

TRIBUTE TO THE NATION'S HISTORICALLY BLACK COLLEGES AND UNIVERSITIES BLACK COLLEGES ADVOCACY DAY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. STOKES. Mr. Speaker, I rise to pay tribute to the Nation's historically black colleges and universities, one of our country's crown jewels. HBCUs have educated some of our Nation's most distinguished leaders—past and present. They include the former Supreme Court Justice, the late—Thurgood Marshall, Jr., renowned civil rights leader, Dr. Martin Luther King, Jr., former Secretary of the Department of Health and Human Services, Dr. Louis Sullivan, the current Secretary of the Department of Energy, Hazel O'Leary, the list goes on.

While HBUCs represent only 3 percent of all American institutions of higher education, they graduate 34 percent of all African Americans with bachelor's degrees. Of the top five schools in the Nation with the most black graduates accepted into medical school in 1993, four were HBUCs.

Mr. Speaker, the Nation's HBCUs stand 105 strong and proud. In recognition of this standing, I ask that the statement given by one of our most distinguished former colleagues, the Honorable William ''Bill'' Gray, be included in the CONGRESSIONAL RECORD. This distinguished gentlemen recently testified before the Labor, Health and Human Services, and Educational Appropriations Subcommittee.

His testimony, vividly outlines the achievements of the Nation's historically black colleges and universities, and why the Federal investment must continue. The education cuts contained in the Republican-passed budget resolution, from eliminating funding for trio, to freezing funding for Pell grants, would devastate these institutions.

Mr. Speaker, I ask my colleagues to lend their strong support to preserving and enhancing this national resource.

TESTIMONY BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON LABOR, HHS AND EDUCATION BY THE HONORABLE WILLIAM H. GRAY, III, PRESIDENT AND CHIEF EXECUTIVE OFFICER UNITED NEGRO COLLEGE FUND, FEBRUARY 3, 1995

Mr. Chairman and Members of the Subcommittee on Labor, HHS and Education Appropriations, I am William H. Gray, III, chairman and chief executive officer of the United Negro College Fund (UNCF). I am pleased to return to this body, where I served for many years as a Member of the Appropriations Committee and chairman of the Budget Committee. As a result of those experiences, I know and respect the challenges you face and the complex and difficult budgetary and programmatic issues that are before you.

Now, as head of the college fund, I wrestle with the same question you face as members of this subcommittee, and that is, ''How and to what extent do we support educational opportunity for those with the aptitude and ability to succeed in college, but whose family financial circumstances limit their opportunities.'' The college fund has raised over $250 million in the past two and a half years in corporate and individual gifts to help supplement other student and institutional aid at our 41 member institutions. And each year we must justify our 'bottom line' to a corporate board of directors which carefully scrutinizes our costs, our productivity, and our results. Fiscal responsibility and accountability are crucial to the college fund's operations and viability. I believe the same is true for the viability of our Nation.

As you well know, the options you will hear during these hearings and through other channels will be many and varied. I believe they must be carefully weighed and analyzed, as your final decisions will be critical. They will impact the Nation's future generations and ability to compete in a global market place, and thus, will help set the stage for what America is to become. My comments are based on a fundamental principle that I'd like to leave with you in the hope that it will help guide your deliberations and decision making—the principle is that as a Nation we will reap what we sow.

The fact that our Nation leads the world in economic and military might is not coincidental. Our unmatched educational and health systems did not happen fortuitously. The most advanced system of technological communication in the universe did not just fall out of the sky and land in America. A very deliberate and concerted effort begun some 100 years ago was made by our Government and private leaders to invest in industrialization, research and invention, and most importantly in the training and education of Americans. Those investments have resulted in today's harvest of American economic, educational, and technological superiority. This economic investment in intellectual capital has paid off well.

I believe, however, that we cannot rest on these laurels, because if America is to maintain its leadership role, we must continue to strategically plant and cultivate seeds of educational and economic opportunity. According to the U.S. Department of Labor's Workforce 2000 report, over 50 percent of new workforce entrants will be minorities by the year 2000, the majority of which will be African Americans; and most of the new jobs created will be technical in nature, requiring a more highly educated workforce.

Institutions of higher education have a very important role in preparing tomorrow's workers and America's historically black colleges and universities are especially fertile ground for the growth and nurturing of tomorrow's workforce. The reasons are clear:

Black student enrollment in HBCUs grew by 27 percent over the last ten years, from 177,000 to 224,946 and is still rising.

HBCUs make up only 3 percent of all American institutions of higher education, but graduate 34 percent of all African Americans with bachelor's degrees.

Historically black colleges and universities (HBCUs) prepare proportionately more African Americans for professional and technical careers than do mainstream majority institutions.

UNCF's own Xavier University sent more black graduates to medical schools last year than any other U.S. college or university, followed by Howard University, and then Hampton University. Further, of the top five schools in the nation with the most black graduates accepted into medical school in 1993, four were HBCUs.

Between 1981 and 1991, a significant shift away from social sciences occurred in the areas of study chosen by African American students.

(A) Bachelor degrees in engineering jumped by 42 percent;

(B) Bachelor degrees in business increased by 25 percent;

(c) Bachelor degrees in health-related professions rose by 17 percent.

Mr. Chairman, HBCUs have performed a remarkable task, educating over one third of this country's black college graduates, 75 percent of all black Ph.Ds, 46 percent of all black business executives, 50 percent of black engineers, 80 percent of black Federal judges, 85 percent of all black doctors, 50 percent of the Nation's black attorneys, and 75 percent of black military officers.

And Mr. Chairman, our schools have done all this for less cost than majority institutions. HBCUs maintain low tuition in order to provide access to the largely economically disadvantaged student population that they serve. The average tuition and fees at UNCF's 41 private schools in 1992–93, at $5,008, was less than half the average of private colleges nationally. These colleges are a bargain—low cost and a high success rate.

I believe that these and other statistical data convey a clear and strategic role for HBCUs, and suggest a vital need for increased federal and private investment in and nurturing of these institutions. Everything we know today tells us that America needs more, not fewer persons, trained to undertake the challenges of a changing workplace. Clearly HBCUs provide us with one of the best and lowest cost vehicles for ensuring that young African Americans will be ready to assume roles that they must play if America is to continue to prosper in the future. And I believe that the fiscally responsible thing to do is pay a little now, rather than pay a lot later. Sow the seed now so we can reap a new harvest of prosperity in the 21st century by:

Increasing funding for the title III, part B, historically black college and university program created in 1986. Title III funds are critical in that they provide much needed institutional resources to create and improve academic programs; implement community outreach and pre-college programs; acquire instructional equipment, research instrumentation, library books, periodicals and other learning aids; and improve funds management.

These funds are also provided to selected graduate and professional schools and science and engineering programs which prepare HBCU students for careers in which they are under-represented.

Increasing support for several discretionary programs created in the 1992 reauthorization of the Higher Education Act:

(1) Institute for International Public Policy (title IV, part C, which will train African Americans, hispanics, and other minorities for careers in international service;

(2) Institutional support for HBCU library and learning resource enhancement (title II part D), which develops and strengthens libraries and library information science programs and provides fellowships to encourage graduate study in that area.

(3) Federal guarantees for the HBCU Capital Financing Program, which will assure access for HBCUs to the private construction financing markets for much needed renovation and building of laboratory and classroom facilities; and

(4) Faculty development fellowships program, which provides assistance to faculty to complete their doctoral degrees and return to our campuses.

Increasing support for the trio programs, which represent the only hope for many students to learn about college through upward bound, talent search and educational opportunity centers; to receive academic reinforcement, counseling and tutoring through student support services; and to gain access to graduate and professional school through the Ronald C. McNair post-baccalaureate achievement program.

As you know, the trio program has a real friend on this committee in Congressman Lou Stokes. Through his leadership, thousands of disadvantaged, low income and first generation students have succeeded as a result of the nurturing and cultivation provided by this program. Current funding levels however, provide supportive educational opportunities to only about ten percent of all eligible students.

And finally, but of equal critical importance, title IV student assistance programs have been the lifeline for most poor students. Ninety-five percent of all UNCF students receive some form of title IV, student assistance—61 percent receive Pell grants, 60 percent receive FFELP loans, 31 percent receive supplemental educational opportunity grants (SEOGs), and 27 percent receive Federal college works study. The Pell Grant program is particularly vital to HBCUs because its the cornerstone of a poor students' financial aid package and more than 27 percent of HBCU students come from families with household incomes below $20,000.

It is the combination of these Federal grants, loans and work study aid, coupled with significant private contributions from UNCF and other private gift and scholarship aid that provides opportunities for our students to develop and grow into contributors to our great society.

These modest public and private investments in human capital have resulted in an excellent crop of African American professionals. The college fund, in celebrating its fiftieth anniversary, is extremely proud of this harvest and we believe that our alumni are a testament to the quality education available at our colleges and universities. They are the teachers, lawyers, doctors, business persons, entrepreneurs, elected officials, and law enforcement officers in every neighborhood in America, and they are the famous pioneers such as Leontyne Price, Martin Luther King, Jr. Thurgood Marshall, former Secretary of HHS Louis Sullivan and the current Energy Secretary Hazel O'Leary.

Mr. Chairman, on behalf of the college fund member schools, I thank you for the opportunity to present this testimony and hope that this committee, in its wise stewardship, will continue to sow seeds in the fertile grounds of historically black colleges and universities.

AN EIGHTH-GRADE PERSPECTIVE ON PRESIDENTIAL PROBLEM SOLVING

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. HYDE. Mr. Speaker, "If I were President of the United States, I would * * *" was the title of an essay contest sponsored by the Chicago Sun Times. The eighth grade English class at Churchville Junior High located in Elmhurst, IL, participated in this contest. I would like to share with my colleagues the issues these young people see as important and how they would correct the problems if they were President.

IF I WERE PRESIDENT OF THE UNITED STATES I WOULD * * *

(By Aaron Hubalik)

If I were the president of the United States I would help homeless people have job opportunities, clean up crime, and lower taxes.

First, I would give the homeless people a chance to have a job opportunity. I would lower the price of cars and put it towards job opportunities. I would also build amusement parts and take 15 percent of the money earned every month towards more jobs.

Second, I would clean up the crime in our cities. Since gangs are the major problem, I would increase police presence especially in bigger crime areas.

Lastly, I would lower taxes to about 7% so people would have more money to spend for their needs. This would also help the economy grow and create work opportunities.

In conclusion, as president I would give homeless people opportunity, clean up crime, and lower taxes.

(By Jodi Carnevale)

Make all countries come to peace with each other. I would improve every state, and close Abortion clinics.

I would put together a committee who will go to one state and straighten up that state, then that state can help improve the other states. It might take time, but if we all help, it will happen.

While I'm improving states, I would close all the Abortion clinics by destroying the clinics, and building a playground in it's place. It's better to see kids happily playing, that not to see them at all.

I'll have all the Countries sign a treaty, so there will never be another war. So instead of helping just our country, I helped the world.

I could make the World better by straightening up states, closing Abortion clinics, and making peace. This way, we're guaranteed a better future than the one we have in store for us.

(By Amy Byrne)

If I could be president I would make more places for homeless people to go and I would give more money to schools.

Everybody complains about people being dirty or living on the streets and sleeping on benches, so why don't we give these people somewhere to go? I would build large dormitories (large buildings) every couple of blocks for people to sleep, eat and entertain themselves. There would be things for kids to do and we would find jobs for adults or if they needed to learn to read or write we would teach them.

Another thing I would do is give more money to schools. If the schools had more money we could have better uniforms, and more activities, like more dances and a softball team.

If I had a chance to be President of the United States of America I would have places for homeless people and give more money to schools

(By Fred Fang)

As president, I would increase funding to space exploration and conservation programs. I would also cut defense spending to pay for new programs.

First, funding space exploration is crucial. The earth is crowded and resources are depleted. Many possibilities show up when traveling at light speed. Not only could we explore new planets, but also colonize them, and mine their usable resources.

Secondly, I would grant funding to conservation groups like ''Green Peace'', and make environmental issues more important. Until we find new planets with usable resources, we must conserve. We must conserve so that the earth will stay comfortable.

Finally, I would cut defense spending. Prime Time Live aired a special on government spending. It showed many warehouses with munition surpluses. I propose to sell one-third of surpluses.

In conclusion, my job is to better the world. If these goals are met, my presidential term would be successful.

(By Maja Garmager)

If I were president of the United States I would have all abortion clinics closed, there will be no more homeless people, and nothing at the grocery store would cost more than fifty cents.

First, all abortion clinics will close. If any other doctor is doing abortions they will be arrested and put in jail. If people want to give up the baby, put it up for adoption.

Second, there will be no more homeless people. We will build more apartment buildings, and they will have no rent, so they can live there.

Lastly, at the grocery store nothing will cost more than fifty cents. So that everybody could afford it. If they don't have money they can use food stamps.

In conclusion, all abortion clinics will closed, there will be no more homeless people, and everything at the grocery store will be fifty cents.

(By Katie Durkowski)

I would help the homeless get jobs, money and housing. I would also extend the school year.

To start off, I would help the homeless get jobs, money, and housing so they can raise a family and their self esteem. They would get free job training and they would be placed in a job that best suits them. They would make enough money to raise their family, keep their house, and have extra spending money.

Secondly, to lengthen the school year. I would take the many unneeded holidays. Many kids don't appreciate them anyway. I would also add every other Saturday. This will improve learning and test scores.

In conclusion, as President of the United States I would help the homeless get jobs, money and housing. I would also extend the school year.

(By Chris Buenz)

As President, I would give money to the poor. I would also help finance schools and give some important accessories to the schools.

Firstly, I would give money to the poor people. The reason's why I would give money to the poor people are it would help clean up our streets and make it look better. Also, they could buy a nice suit and tie which would help them get a job. Then, they could provide for themselves.

Next, I would give money to the public schools. Kids going to school need up to date equipment like computers, books and other accessories. If kids don't have these they won't learn the right stuff and be behind in technology.

In conclusion, as President I would give money to the poor, help finance schools and give schools nice equipment.

(By Kristi Marotta)

As President I would help the country get on its feet. I would do this by getting people jobs and having stricture crime laws.

To help people get jobs, I would lower the amount of imports from other countries. This would eliminate some of the competition from other countries. This way we would have to make more products at home and need more workers to make them. This is how I would create more jobs.

Next, I would make stricter crime laws. To accomplish this, stricter punishments for serious crimes are needed. I would support the death penalty and caining. Also teenagers should be tried as adults for serious crimes. These are examples of crime laws that I would support.

In conclusion, as President, I would help people get jobs and make stricter crime laws.

(By Jeannie Gleser)

If I were President of the United States, I would develop a better country. The following are things I would do. First, I would ban abortion, then take care of the homeless and hungry. Last, I would destroy all weapons.

First, I would ban abortion. Abortion is killing an unborn baby. Abortion leaves guilt with the mother. It is also inhumane.

Secondly, I would take care of the homeless. I would make more jobs for them, by creating more stores and businesses. I would first hire bosses and managers to employ homeless workers.

Lastly, I would destroy all weapons. I would burn the weapons. Weapons just hurt and kill. They are unnecessary for humans. This would also cut down on crime.

In conclusion, if I became President I would ban abortion, make jobs for all, and destroy all weapons. I would then be famous for my great actions.

(By Samantha Hiza)

If I were President of the United States I would focus on refining welfare.

First, I'd change the requirements to get welfare. You should only be eligible for welfare if you have children. Adults should try to fend for themselves, but we should help the children who have no control over it.

Secondly, people shouldn't get more money for more children. If you go on welfare receiving money for one child, you should continue receiving that rate no matter how many children you have. That way people aren't just having children to get more money.

Lastly, you should only receive welfare for a short while. That way people aren't living off tax money and are motivated to find a job.

In conclusion, my main concern would be to refine welfare by only giving money to people with children, not giving more money for more children, and only giving money for a short while.

(By Jim O'Sullivan)

If I were President, I would give motivation to the citizens and fix the prison problems.

First, to motivate the people of the US to help the government out (and to show we are trying), I would cut my income from $200,000 to half. This would still allow a good income and also save money. I would also start cutting unneeded spending.

Secondly, I would fix the prison problems. We have people who are in jail, and tax payers are paying their stay. I would make the prisoners work for their stay. If someone would not want to work, they would have the option of doing the alternate. Which would be to receive a warm jacket and some food and ship them into the middle of nowhere.

In conclusion, if I was President, I would try to motivate the country by cutting government spending, and fix prison problems.

(By Christina Suarez)

If I were the President I would get more jobs and homes for the homeless. Then I would also have shorter times in the day during school.

I would first, try to get jobs for the homeless. I would then start working in stores and other places. I would get the whole town to start making more shelters have more soup kitchens and donate clothes. While a person is trying to get a home they could stay in shelters.

Secondly, I would have shorter times in school. What I mean is have students go to school at 10:00 A.M. and go back home at 3:00 P.M. This reason is so kids can sleep in and have more time in the afternoon.

In conclusion, if I were the President I would get jobs and homes for the homeless. Then I would have shorter times in a school day.

(By Kerry O'Reilly)

If I were president of the United States, I would help homeless people find homes, make school years shorter, and also lower taxes.

First, I'd help the homeless find homes. They'd get their homes free of charge for about a year or until they get a job. Homeless people need shelter because of the dangerous conditions that occur outside our homes. After they're able to support themselves, they'll be treated exactly as every other American homeowner.

Secondly, the school year would be shorter. Kids ages 10–18 have so much pressure during the school year. They deserve a big break!! The year would be from September 1–May 1.

Thirdly, I'd make sure to lower taxes. Americans pay too much. Let's cut down! Especially on the stuff we don't need! This would keep people from going poor.

Again, if I'm president, I'd help homeless find homes, make school years shorter, and lower taxes.

(By Jeffrey Knabe)

If I were president; Firstly, I would pass a law outlawing automatic weapons. Then I would expand the Police to stop the sale of those weapons. Secondly, instead of letting people have welfare money for as long as they like, I would set a certain limit.

Firstly, I would do what I could to get automatic weapons off the streets. Then I would try to expand police to try to get automatic weapons off the streets.

Secondly, I would try to change the welfare policy. To ''If you are out of a job you can apply for welfare for a limited time''. I think that some, not all, people who are on welfare should try harder to get a job.

In conclusion, if I were president I would try to stop the sale and the illegal trading of automatic weapons. Secondly, I would set a limit on welfare.

(By Justin Scully)

If I were president I would make more jobs, create a better health plan but mainly for senior citizens, raise taxes on rich and a little on the middle class to get us out of debt. Also I would build low cost housing, get more police and bring peace in Bosnia.

I would make more jobs by re-creating the CCC but for all ages. To get people off the streets.

For better health plans I would make sure everybody is covered and get rid of the law suits on doctors.

I would raise taxes mainly on the rich to get out of debt, and build low cost housing.

Lastly crime I think we should hire more police officers and that would create more jobs.

In conclusion I think I would be a good president because of all the reasons.

(By Daniel Jugle)

If I were the president of the United States I would help the homeless more and I would try harder to reduce crime.

First, I would help the homeless more I would do this by giving them money, making more homeless shelters, and having more food drives.

Second, I would try harder to reduce crime I would do this by providing more police and having a strong Death Penalty.

In Conclusion, helping the homeless more and trying to reduce crime are the two things I would do first if I were president of the United States.

(By Jaffray McCarthy)

I think that government thinking in programs and creating new jobs needs restructuring.

Firstly, I would stop outrageous spending. One type of spending is congressional spending. One example of this is a congressman's frequent travel by transport plane, costing up to $50,000*. Another type of spending is money for unneeded programs. One example of this was a funded program was to study how long it took ketchup to come out of a bottle*.

Secondly, I would use the money saved from the unneeded programs to create new jobs. One of the jobs I would create is construction crews to build low cost housing for poor people. Another job I would create is a street clean-up crew to clean streets from litter and graffiti.

In conclusion, these are my restructuring ideas. I think any reasonable person would agree with at least one idea.

REDUCE THE CAPITAL GAINS TAX

HON. CHARLIE ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. ROSE. Mr. Speaker, last week I cosigned a letter to the President emphasizing my commitment to a reduction in the capital gains tax. This same letter also raised the specter of an increase in the minimum wage. I do not support an increase in the minimum wage at this time, but do hope the discussion on a reduction of the capital gains tax can be stimulated.

SAMANTHA McELHANEY: AN OUTSTANDING YOUNG STAR

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. HOYER. Mr. Speaker, I rise today to acknowledge the outstanding talents of Ms. Samantha McElhaney, a resident of Clinton, MD and a recent graduate of Suitland High School in Prince Georges County.

As a student of the prestigious Performing Arts Magnet School Program at Suitland, Samantha studied opera, singing in both French and Italian. Not only is Ms. McElhaney a gifted singer, but she is also a driven student and athlete. She enjoys studying biology, and has been recognized as a superior shot-putter and discus thrower. Outside of her vocal training, studying, and athletics, Ms. McElhaney has found the time to share her talents with the community by singing in the choir at Ebenezer AME Church in Fort Washington.

I am pleased to submit to my colleagues an article by David Montgomery which appeared in the Washington Post. It is my hope that this article will give further insight into the achievements and future of this talented young woman.

[From the Washington Post, June 1, 1995]

POWERFUL VOICE MAY CARRY 17-YEAR-OLD A LONG WAY

(By David Montgomery)

In the age of rock and rap, fine U.S. opera singers are rare, so it caused a stir when Samantha McElhaney was discovered recently in the practice studios of Suitland High School.

''She has the potential to be one of our great American opera singers,'' said Elayne Duke, president of the Rosa Ponselle Foundation, an opera talent underwriting group outside Baltimore. ''This [talent] maybe will come along once in our lifetime.''

''I would call her a *wunderkind*,'' said Myra Merritt, a Metropolitan Opera soprano who has taught McElhaney. ''She has one of those dramatic, heroic, epic, full-throated voices that comes along once in a lifetime.''

The object of all this effusion is a studious 17-year-old soprano from southern Prince George's County. She is no pampered diva. In her senior year at Suitland, she drives herself to achieve good marks in biology, her favorite subject. Last year she was one of the top high school shot-putters and discus throwers in the county. She can bench-press 185 pounds.

Most of all, she sings.

''I wake up and get in the shower, I'm singing,'' she said. ''I'm walking around the house, and I'm singing.''

At school, in addition to regular voice lessons, she spends her free time in the practice studio. Her teachers say McElhaney's voice is a remarkable gift, but it would have remained the vocal equivalent of an uncut diamond if she had not poured enormous work and study into her singing. Her gift has become her responsibility.

''She's very meticulous about her voice, her instrument,'' said Ronald Johnson, coordinator of visual and performing arts at Suitland. ''She takes a lot of care and pride in her instrument.''

McElhaney is one of many vocal talents nurtured at Suitland, which has a performing arts magnet program. The mellifluous singing in French and Italian that the audience hears during senior recitals is the most obvious clue that the rigorous art of opera is being passed down to a new generation.

''It is our opinion here at Suitland that our students must be versatile,'' Johnson said. ''Along with the spirituals [and other musical styles], we want to make sure our students have a very strong background in classical music.''

McElhaney's relationship with music goes way back. She could talk before she was a year old, and she started singing soon after. Her nickname, Mandy, bestowed by her dad, comes from the Barry Manilow song of the same name.

The family lives in Clinton. Robin McElhaney, her mother, is executive assistant to the president of a trade association, and Samuel McElhaney, her father, is a technical information specialist for the State Department. McElhaney's sister, Adrienne, 13, has been admitted to Suitland's vocal program; she shows a talent for singing Broadway show tunes.

Growing up, McElhaney sang whenever the opportunity arose, in the middle school chorus, in the choir at Ebenezer AME Church in Fort Washington. Before she got to Suitland, music was just a hobby. Her main goal, even as a 12-year-old, was to make all the right moves that would lead to a good college. She considered music a means to that end. She realized she could use her singing to audition for Suitland's academically challenging magnet program. She sang ''Amazing Grace'' and passed the audition.

In McElhaney's junior year, her teachers noticed a significant change in her voice. By senior year, there was stunning improvement. Her voice had lost its ''breathiness'' and acquired a lyric timbre.

It was the voice of a much more seasoned performer than a 17-year old shower singer.

For the first time, McElhaney allowed herself to dream of a career as an opera singer.

This spring, she won the prestigious Rosa Ponselle Gold Medallion, named after one of the first great American divas, who lived in Baltimore.

At her senior recital last month, McElhaney was resplendent in a red dress with a black velvet jacket and a red handkerchief. Before the piano began each piece, she would bow her head, then she would look up and her face would appear transformed, becoming tragic, comic, coy, as befitted each selection.

The French and Italian lyrics soared and swooned and filled the auditorium.

To lend her performance authenticity, she imagined a private meaning for each piece that matched the emotion communicated by the composers. So, when she sang ''Pur dicesti, o bocca bella,'' by Antonio Lotti, a spritely solo about a beloved and beautiful object, she was thinking ''about me asking my father to get me a car, o bocca bocca bella!'' she said.

She got six standing ovations. When the recital was over, Samuel McElhaney brought up a bouquet of roses for his daughter the diva.

The experts say she has the talent to become one of the great voices of her generation—but they add a big if.

''The next few years will be the most critical part of her life,'' said Duke, of the Ponselle foundation. ''This is where she is going to develop as a singer or lose her voice altogether. That depends on where she will study and with whom she'll study.''

Everyone has an opinion about how to manage the rising star's career. Duke thinks McElhaney ought to study with a private coach for two years, spend a year in Italy, make her debut at age 21 and never mind getting a college degree.

McElhaney, for her part, cares too much about college to forgo it. Besides, private opera coaches don't offer scholarships. She is leaning toward accepting a scholarship to New York University, which has a music program. If her opera dreams don't pan out, she'll have a degree to fall back on.

But she has faith in her gift: ''I love singing, and I know it can carry me far.''

HONORING DR. ROBERT T. MILLER FOR HIS 49 YEARS OF SERVICE AT BAYLOR UNIVERSITY

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. EDWARDS. Mr. Speaker, today it is with great pride and pleasure that I honor Dr. Robert T. Miller, distinguished professor of political science, on his 49 years of outstanding service at Baylor University in Waco, TX.

Baylor University, without a doubt, has most certainly benefitted from Dr. Miller's wisdom, experience and understanding of political science. Students at Baylor are fortunate to have been able to study under his expert instruction. Many of his students today are successful attorneys, college professors, and government professionals. Dr. Miller has touched the lives of many people over the course of his career, and it is only right that we honor him today.

I ask Members to join me in congratulating Dr. Miller for his contribution to higher learning and for his dedication and commitment to the students at Baylor University.

THE HAMMOND ADULT EDUCATION PROGRAM

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. VISCLOSKY. Mr. Speaker, it is with great pleasure that I rise to call your attention to the School City of Hammond Adult Education Program in Hammond, IN. This outstanding program has successfully taken on the immense job of tackling adult illiteracy. I would like to highlight for you and my other colleagues this impressive program and its many achievements.

Under the direction of Dr. Gary Jones, assistant superintendent of curriculum for the School City of Hammond, and Dr. Steve Watson, director of adult education and extended services, the Hammond Adult Education Program has developed into one that should be used as a model for adult education programs throughout the country.

The Hammond Adult Education Program uses several innovative approaches to fight adult illiteracy. Hammond adult basic programs and services include literacy training and life skills education, as well as GED preparation and English as a second language. Joblink 2000 Workforce Development and Instructional Programs, which are joint training programs developed by Hammond adult education, the Inland Steel Co., and the United Steelworkers of America Local 1010, provide academic instruction to steelworkers so that they can learn new skills and compete in a global market. Another initiative the Hammond adult education is most proud of is the continuing education program specifically designed for the Navy recruiting district of Chicago. This program, which is the first in the Nation to qualify GED graduates for acceptance into the U.S. Navy, was initiated 2 years ago and has proven to be very successful.

The Hammond Adult Education Program has entered into cooperative agreements with 22 local agencies, institutions, and organizations to coordinate the planning and delivery of services to adults. Moreover, Hammond adult education exceeds both Federal and State averages relative to student attendance and retention. Again, this year, Hammond adult education joined with the city of Hammond and other educational institutions to sponsor a job fair. This year's fair, which attracted more than 600 participants, was held at the Hammond Area Career Center and featured educational provider booths, an assessment of learner skills follows up by guidance counseling, and displays by local employers.

The Hammond Adult Education Program is already a nationally recognized leader in the field of adult education having received the U.S. Secretary of Education's Outstanding Adult Education Program in 1990. In addition, this distinguished program has received the following awards: 1994 Tri City Community Mental Health Center Community Service Award; 1990 Region V Outstanding Adult Education Program Award; 1990 Indiana Department of Education's nomination for Outstanding Adult Education Program Award; 1984 Governor's Indiana Adult Literacy Coalition's Exemplary Instruction Award; 1984 Citation in Effective Literacy Programs; and, in 1984, the Indiana Division of Adult Education Program Quality Award.

The Hammond Adult Education Program functions as a true melting pot for all racial, ethnic, cultural, socio-economic, and religious groups in northwest Indiana. In May, I spoke to 231 graduates who received their GED diplomas from the Hammond Adult Education Program at the GED graduation and recognition ceremony. These fine graduates, along with the 2,000 other students enrolled in this program are to be commended for their dedication to improve themselves through continuing education. I enthusiastically applaud the Hammond Adult Education Program for successfully improving the quality of life for residents in northwest Indiana.

A TRIBUTE TO LEWIS D. WALKER

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. MONTGOMERY. Mr. Speaker, I am taking this opportunity to pay tribute to an outstanding public servant who has served his country in a quiet, effective, and dedicated manner for over 30 years, Lewis D. Walker, known by his friends and all who know him as ''Dee Walker.''

Dee Walker has been the Army's senior civilian adviser for environment, safety and occupational health matters for the past 14 years. During this period of time, the Nation's environmental laws have tripled, environmental program funds have grown from $200 million to over $1.3 billion and the potential severity, and cost of Army accidents and tasks to health have increased dramatically. Dee Walker is an outstanding career executive and is recognized for distinguished service by international, government, academic, and public interest groups. In 1992, he completed a 2-year Army wide effort to craft a detailed environmental strategy to guide Army policy and programs into the 21st century. His exemplary leadership has steadily reduced environmental violations.

Mr. Walker managed the largest environmental cleanup in United States history at the Rocky Mountain Arsenal [RMA] in Colorado. For 8 years, he successfully pushed for an initiative to have RMA designated a national urban wildlife refuge which the President signed into law on October 9, 1992. This action is expected to relieve the Army of a cost of at least half a billion dollars.

He skillfully negotiated a $1.2 billion lawsuit against a huge corporation responsible for much contamination which resulted in saving the Government 50 percent of the cleanup cost. When the State of Colorado filed suit against the Army over the cleanup process, Dee Walker was in the forefront, working closely with the Department of Justice to develop a highly successful litigation strategy that resulted in a $72 million cost avoidance. The landmark legislation to designate RMA as a Natural Wildlife Refuge and transfer it to the control of the Department of the Interior will save the Army $500 to $700 million in cleanup and restoration cost.

Mr. Walker's justification of a modified cleanup option for the Louisiana Army ammunition plant saved the Army $27 million. When the Army accepted responsibility for Hamilton Air Force Base in California and reached agreement on cleanup, the cost of which was projected to be $44 million, Dee Walker contributed to a negotiated cost of $34 million, saving the Army and the taxpayer $10 million. His critical direction on the Chesapeake Bay initiative achieved 100 percent compliance for the 22 Army Installations in the region. In recognition of its strong environmental management under his control, the Department of Defense designated the Army as the executive agent for a $124 million program to restore formerly used defense sites [FUDS]. The $35 million National Defense Center for Environmental Excellence and the Environmental Corporate Information Management Systems were also placed under his control. The Army was designated the lead defense agency for administering relationships with the Agency for Toxic Substances and Disease Registry. Mr. Walker has sponsored a management initiative that would cut $2 billion by having the Department of Defense adopt a lead agent management approach.

Dee Walker's responsibilities and accomplishments are too numerous to detail in this short summary of 30 odd years of diligent and conscientious work, which began in 1963 at the Department of the Interior in New Mexico. From 1966 to 1970, he served with the Agency for International Development in Bangkok, Thailand. Later, he returned to the Department of the Interior, although in Washington, DC, in the Bureau of Reclamation during the period of 1971–73. From 1974–79, he served with the U.S. Water Resources Council in Washington, and from 1980 through the present, he has served as Deputy Assistant Secretary of the Army.

Dee Walker is known as a firm but strong promoter of high morale among his staff and fellow associates. He provides critical leadership, management, and human resource guidance. His success in this area has enabled the environmental community to respond favorably to increasing public and congressional expectations in a timely manner. Walker has a

commonsense approach to the substantial responsibility that comes along with the job. In addition, he has the ability to relate effectively with his associates and staff. These qualities have served to promote a successful program which has created substantial savings in human anguish, and human and monetary resources in the programs under Dee Walker's direct policy oversight. Walker's responsibilities extended to the aftermath of Operation Desert Shield/Desert Storm, during which he provided sound policy direction for issues such as health risk assessments of the oil fires and depleted uranium cleanup efforts in Kuwait.

Mr. Walker's lovely wife, Colleen, and their two daughters have contributed greatly to his success in his lifelong endeavors. He is recognized for his active participation in church and community activities.

I know that you all will join me as we pay tribute and best wishes to Dee Walker as he enters this well-earned and richly deserved new venture in his life, his retirement.

CALLING ON THE CLINTON ADMINISTRATION TO GAIN THE RELEASE OF UNITED STATES CITIZEN HARRY WU, ARRESTED IN CHINA ON JUNE 19

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. SMITH of New Jersey. Mr. Speaker, less than 1 month has passed since the President extended most-favored-nation trading status once again to the People's Republic of China. Ignoring the tragic human rights record of China, the huge trade imbalance, the ongoing pirating of intellectual properties, the forced abortion policy and the exporting of nuclear technology to rogue nations, Mr. Clinton rewarded the Chinese leaders while turning his back on the millions of Chinese who are imprisoned, tortured, persecuted, forced into slavery, and have their voices silenced, some even before they are born.

Mr. Clinton believes that granting MFN to China will encourage the Chinese leadership to improve their human rights record. It didn't work last year. And it's not going to work this year, either.

Case in point: On June 19, 1995, Harry Wu, a United States citizen, was arrested as he entered China.

Harry Wu is well known to many of us here in Washington. A former political prisoner in China for 19 years, Harry has tirelessly worked to expose China's human rights abuses—the extensive prison labor system, the backbone of China's export industry; the trafficking of body parts of prisoners for transplants and research—uncovering the numerous products manufactured in the slave labor camps which are being sold in the United States.

Knowing that each time he returned to China to investigate human rights abuses he put himself in danger, Harry continued to go back remembering those millions who, like he, suffered, or like his brother, died at the hands of the Chinese Government and military.

Harry has been a stellar, informative, persuasive witness at several congressional committee hearings. Once, when asked about why he placed his life at risk to expose the horrors of China's prison labor system he responded: ''I really want to forget the nightmares of the past period, but, you know, some things simply didn't go away. So, like a bad dream, they refuse to disappear.

''Finally, I got a chance to tell the truth to the world.

''I am a survivor. I think I have a responsibility to those inmates who are still there.''

Today Harry Wu is not free. His whereabouts are unknown. The U.S. Embassy in Beijing was not informed of his arrest until June 23—4 days after the arrest.

A U.S. Embassy spokesperson claims that the delay in notification was the result of poor communications. Another spokesperson said that the Embassy and Chinese officials were discussing sending a representative to visit Harry.

Ten days have passed since Harry Wu, a United States citizen, was arrested in China. How much longer will he have to wait for the U.S. Government to respond? How long will the discussions take? And in the meantime, what will happen to Harry Wu?

Mr. Speaker, I have sat with Harry Wu in my own office many times hearing of the unspeakable conditions under which the Chinese people live while their leaders are rewarded year after year after year. It distresses me greatly to think that Harry is not free, may be tortured, and that the administration is moving so slowly to respond to his need.

Mr. Speaker, I call on the Clinton administration to move swiftly to make contact with Harry Wu and to obtain his release. I urge my colleagues to do the same. The administration may at this point be accustomed to turning its back on the people of China. We cannot allow them to become accustomed to ignoring innocent Americans in foreign prisons.

I also urge my colleagues to sign the letter to Jiang Zemin calling for the release of Harry Wu.

Soon the House will take up the disapproval of MFN for China. Some of us might be tempted to put trade, money, over human rights and dignity. Some of us might believe that criticizing China for human rights abuses is interfering with the internal matters of a foreign government. I do not.

Today an innocent United States citizen is being detained in China. What more needs to happen? We cannot ignore this. It should offend every Member of this body that while the administration rewards the Chinese Government, that government responds by arresting a United States citizen.

Harry Wu has been a voice for the voiceless crying out for truth and justice. Now his voice has been silenced, and I pray that silence is only temporary. We must raise our voices loudly and clearly to the Chinese Government. Harry Wu must be released and the Chinese Government must be held accountable for this affront against the United States.

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, June 29, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 30

10:30 a.m.
Foreign Relations
To hold hearings on the nominations of David L. Hobbs, of California, to be Ambassador to the Co-operative Republic of Guyana, and William J. Hughes, of New Jersey, to be Ambassador to the Republic of Panama.
SD–419

JULY 11

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on environmental programs.
SD–192

Energy and Natural Resources
To hold hearings to review the Secretary of Energy's strategic realignment and downsizing proposal and other alternatives to the existing structure of the Department of Energy.
SD–366

10:00 a.m.
Veterans' Affairs
To hold hearings to examine options for compliance with congressional budget resolution (H. Con. Res. 67) instructions relating to veterans' programs.
SR–418

JULY 13

9:30 a.m.
Small Business
To hold hearings on the future of the Small Business Investment Companies program.
SR–428A

Indian Affairs
To hold hearings on S. 479, to provide for administrative procedures to extend Federal recognition to certain Indian groups.
SR–485

POSTPONEMENTS

JUNE 29

9:30 a.m.
Small Business
To hold hearings to examine the future of the Small Business Investment Company program.
SD–538

Daily Digest

HIGHLIGHTS

Senate passed Private Securities Litigation Reform Act.

Senate

Chamber Action

Routine Proceedings, pages S9199–S9323

Measures Introduced: Seven bills were introduced, as follows: S. 975–981. **Page S9305**

Measures Reported: Reports were made as follows:

Special Report of the Committee on Rules and Administration of a review of the legislative activity during the 103d Congress. (S. Rept. No. 104–100) **Page S9305**

Measures Passed:

Private Securities Litigation Reform Act: Committee on Banking, Housing, and Urban Affairs was discharged from further consideration of H.R. 1058, to amend the Federal securities laws to curb certain abusive practices in private securities litigation, and by 69 yeas to 30 nays, 1 responding present (Vote No. 295), the bill was then passed, after striking all after the enacting clause and inserting in lieu thereof the text of S. 240, Senate companion measure, after agreeing to the committee amendment in the nature of a substitute, and taking action on further amendments proposed thereto, as follows: **Pages S9199–S9226**

Adopted:

(1) By 57 yeas to 42 nays, 1 responding present (Vote No. 293), Specter Amendment No. 1485, to clarify the standard plaintiffs must meet in specifying the defendant's state of mind in private securities litigation. **Pages S9200–01**

Rejected:

(1) Boxer Amendment No. 1480, to exclude insider traders who benefit from false or misleading forward looking statements from safe harbor protection. (By 56 yeas to 42 nays, 1 responding present (Vote No. 294), Senate tabled the amendment.) **Pages S9201–02**

(2) Specter Amendment No. 1483, to provide for sanctions for abuse litigation. (By 57 yeas to 38 nays, 1 responding present (Vote No. 291), Senate tabled the amendment.) **Pages S9199–S9200**

(3) Specter Amendment No. 1484, to provide for a stay of discovery in certain circumstances. (By 52 yeas to 47 nays, 1 responding present (Vote No. 292), Senate tabled the amendment.) **Page S9200**

Subsequently, S. 240, Senate companion measure, was returned to the Senate calendar. **Page S9226**

Authorizing Use of Capitol Grounds: Senate agreed to H. Con. Res. 38, authorizing the use of the Capitol grounds for the Greater Washington Soap Box Derby. **Page S9323**

Congressional Budget—Conference Report: Senate began debate on the provisions of the conference report on H. Con. Res. 67, setting forth the congressional budget for the United States Government for fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002. **Pages S9236–60, S9296–S9304**

Comprehensive Regulatory Reform Act: Senate began consideration of S. 343, to reform the regulatory process, with committee amendments in the nature of a substitute. **Pages S9261–96**

Senate will resume consideration of the bill on Thursday, June 29, 1995.

Messages From the President: Senate received the following messages from the President of the United States:

Transmitting the report of the Corporation for Public Broadcasting; referred to the Committee on Commerce, Science, and Transportation. (PM–58). **Page S9304**

Nominations Received: Senate received the following nominations:

George D. Milidrag, of Michigan, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation.

Lawrence H. Summers, of Massachusetts, to be Deputy Secretary of the Treasury.

Frances D. Cook, of Florida, to be Ambassador to the Sultanate of Oman.

J. Stapleton Roy, of Pennsylvania, to be Ambassador to the Republic of Indonesia.

Thomas W. Simons, Jr., of the District of Columbia, to be Ambassador to the Islamic Republic of Pakistan.

John M. Yates, of Washington, to be Ambassador to the Republic of Benin. **Page S9323**

Messages From the President: **Page S9304**

Messages From the House: **Pages S9304–05**

Measures Referred: **Page S9305**

Executive Reports of Committees: **Page S9305**

Statements on Introduced Bills: **Pages S9305–08**

Additional Cosponsors: **Pages S9308–09**

Authority for Committees: **Pages S9309–10**

Additional Statements: **Pages S9310–15**

Record Votes: Five record votes were taken today. (Total—295) **Pages S9199–S9202, S9219**

Recess: Senate convened at 8:40 a.m., and recessed at 7:08 p.m., until 9 a.m., on Thursday, June 29, 1995. (For Senate's program, see the remarks of the Acting Majority Leader in today's RECORD on page S9323.)

Committee Meetings

(Committees not listed did not meet)

AUTHORIZATION—DEFENSE

Committee on Armed Services: Committee met in closed session to mark up proposed legislation authorizing funds for fiscal year 1996 for military activities of the Department of Defense, and to prescribe military personnel strengths, but did not complete action thereon, and will meet again tomorrow.

AUTHORIZATION—DEFENSE

Committee on Armed Services: Subcommittee on Acquisition and Technology met in closed session and approved for full committee consideration those provisions which fall within its jurisdiction of proposed legislation authorizing funds for fiscal year 1996 for national defense programs.

AUTHORIZATION—DEFENSE

Committee on Armed Services: Subcommittee on Airland Forces met in closed session and approved for full committee consideration those provisions which fall within its jurisdiction of proposed legislation authorizing funds for fiscal year 1996 for national defense programs.

BUSINESS MEETING

Committee on Banking, Housing, and Urban Affairs: Committee ordered favorably reported the following business items:

S. 883, to enhance the safety and soundness of federally insured credit unions, and to protect the National Credit Union Share Insurance Fund;

An original bill to extend and authorize funds for the Defense Production Act of 1950; and

The nominations of Martin Neil Baily, of Maryland, to be a Member of the Council of Economic Advisers, Charles L. Marinaccio, of the District of Columbia, Deborah Dudley Branson, of Texas, Marianne C. Spraggins, of New York, and Albert James Dwoskin, of Virginia, each to be a Director of the Securities Investor Protection Corporation, Steve M. Hays, of Tennessee, to be a Member of the Board of Directors of the National Institute of Building Sciences, and Tony Scallon, of Minnesota, and Sheila Anne Smith, of Illinois, each to be a Member of the Board of Directors of the National Consumer Cooperative Bank.

BUSINESS MEETING

Committee on Energy and Natural Resources: Committee ordered favorably reported the following bills:

H.R. 402, to make certain technical corrections to the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act to provide for the conveyance of certain lands within Alaska and to resolve certain other issues, with an amendment in the nature of a substitute, and in lieu of S. 537, Senate companion measure;

S. 283, to extend the deadlines under the Federal Power Act applicable to the construction of two hydroelectric projects in Pennsylvania;

S. 801, to extend the deadline under the Federal Power Act applicable to the construction of two hydroelectric projects in North Carolina; and

S. 638, authorizing funds for project development programs of United States insular areas, with an amendment in the nature of a substitute.

MEDICAID

Committee on Finance: Committee held hearings to examine the overall Medicaid program, focusing on certain recommendations on how to control the cost of the Medicaid program, receiving testimony from Florida Governor Lawton Chiles, Tallahassee; Vermont Governor Howard Dean, Montpelier; Illinois Governor Jim Edgar, Springfield; and Utah Governor Michael O. Leavitt, Salt Lake City.

Hearings continue tomorrow.

BIA REORGANIZATION

Committee on Indian Affairs: Committee concluded hearings on S. 814, to provide for the reorganization of the Bureau of Indian Affairs, after receiving testimony from Hilda A. Manuel, Deputy Commissioner for Indian Affairs, Bureau of Indian Affairs, Department of the Interior; William Ron Allen, Jamestown

S'Klallam Tribe of Indians, Sequim, Washington; Tadd Johnson, Bois Forte Band of Chippewa Indians, Nett Lake, Minnesota; Chuck Jacobs, Oglala Sioux Tribal Council, Pine Ridge, South Dakota; and Herman T.J. Laffoon, Colorado River Indian Tribes, Parker, Arizona.

House of Representatives

Chamber Action

Bills Introduced: Thirteen public bills, H.R. 1941–1953 were introduced. **Pages H6480–81**

Committee To Sit: The Committee on Science and the Committee on International Relations received permission to sit today during proceedings of the House under the five-minute rule. **Page H6403**

Flag Desecration Constitutional Amendment: By a recorded vote of 312 ayes to 120 noes, Roll No. 431, (two-thirds of those present voting in favor), the House passed H.J. Res. 79, proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States. **Pages H6403–46**

By a yea-and-nay vote of 63 yeas to 369 nays, Roll No. 430, rejected the Bryant of Texas motion to recommit the joint resolution to the Committee on the Judiciary with instructions to report the bill back to the House with an amendment that gives Congress and the States the power to prohibit only the ''burning, trampling, soiling, or rending'' of the flag; and directs Congress to determine what constitutes a flag, and to prescribe procedures for the proper disposal of the flag. **Pages H6436–45**

H. Res. 173, the rule under which the joint resolution was considered, was agreed to earlier by a recorded vote of 271 ayes to 152 noes, Roll No. 429. Earlier, agreed to order the previous question by a yea-and-nay vote of 258 yeas to 170 nays, Roll No. 428. **Pages H6403–15**

Foreign Operations Appropriations: The House continued consideration of H.R. 1868, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996. **Pages H6446–80 (continued next issue)**

Agreed To:

The Smith of New Jersey amendment that prohibits any Federal funding to any private, nongovernmental, or multilateral organization that directly or indirectly performs abortions in a foreign country except in special cases; and prohibits funding to the United Nations Fund for Population Activities unless that organization ceases all activity in China (agreed to by a recorded vote of 243 ayes to 187 noes, Roll No. 433); **Pages H6447–62**

The Menendez amendment that reduces the amount of United States assistance to Russia by the amount spent on the construction of the Juragua nuclear power plant in Cienfuegos, Cuba; and **Pages H6463–68**

The Goss amendment, as modified, that prohibits the government of Haiti from receiving any funds after March 1, 1996 if the President determines that the upcoming election is not held in a democratic fashion (agreed to by a recorded vote of 252 ayes to 164 noes, with 1 voting ''present'', Roll No. 441). **Pages H6468–80 (continued next issue)**

Rejected:

The Meyers of Kansas amendment to the agreed to Smith of New Jersey amendment that sought to strike language that prohibits any Federal funding to any private, nongovernmental, or multilateral organization that directly or indirectly performs abortions in a foreign country except in special cases (rejected by a recorded vote of 201 ayes to 229 noes, Roll No. 432); **Pages H6451–62**

The Bonoir motion that the Committee rise (rejected by a recorded vote of 188 ayes to 231 noes, Roll No. 435) **Pages H6477–79**

The Meek amendment to the agreed to Goss amendment that sought to allow continued assistance to Haiti if the President determines that the Haitian government is continuing to make progress in implementing democratic elections (rejected by a recorded vote of 189 ayes to 231 noes, Roll No. 436); **Pages H6468–80 (continued next issue)**

The Volkmer motion that the Committee rise (rejected by a recorded vote of 185 ayes to 236 noes, Roll No. 437); **(See next issue.)**

The Pelosi amendment to the agreed to Goss amendment that sought to allow contained assistance to Haiti if it is made known to the President that the democratic process is becoming strengthened (rejected by a recorded vote of 186 ayes to 233 noes, Roll No. 440); **(See next issue.)**

The Wise motion that the Committee rise (rejected by a recorded vote of 179 ayes to 236 noes, Roll No. 438); and **(See next issue.)**

The Volkmer motion that the Committee rise and report the bill back to the House with the enacting

clause stricken (rejected by a recorded vote of 166 ayes to 255 noes, Roll No. 439). (See next issue.)

The Wilson substitute to the Menendez amendment was offered, but subsequently withdrawn that sought to reduce the amount of United States assistance to any government that aids in the completion of the construction of the Jurugua nuclear power plant in Cienfuegos, Cuba. Pages H6464–68

Amendments Ordered Printed: Amendments ordered printed pursuant to the rule appear on page H6482.

Committee Meetings

PERISHABLE AGRICULTURAL COMMODITIES ACT

Committee on Agriculture: Ordered reported amended H.R. 1103, Perishable Agricultural Commodities Act.

COMMERCE, JUSTICE, STATE, AND JUDICIARY APPROPRIATIONS

Committee on Appropriations: Subcommittee on Commerce, Justice, State, and Judiciary approved for full Committee action appropriations for Commerce, Justice, State, and Judiciary for fiscal year 1996.

DISTRICT OF COLUMBIA APPROPRIATIONS

Committee on Appropriations: Subcommittee on District of Columbia held a hearing on Privatization and the D.C. Government. Testimony was heard from L. Nye Stevens, Director, Federal Management and Workforce Issues, General Government Division, GAO; Michael C. Rogers, City Administrator, District of Columbia; and John O'Leary, Deputy Director, Reason Foundation Privatization Center.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS

Committee on Appropriations: Subcommittee on Treasury, Postal Service, and General Government approved for full Committee action appropriations for Treasury, Postal Service and General Government for the fiscal year 1996.

FINANCIAL INSTITUTIONS REGULATORY RELIEF ACT

Committee on Banking and Financial Services: Continued markup of H.R. 1362, Financial Institutions Regulatory Relief Act of 1995.

OVERSIGHT

Committee on Commerce: Subcommittee on Energy and Power held an oversight hearing on High-Level Radioactive Waste Disposal. Testimony was heard from Senators Bryan and Reid; Representatives Ensign and Vucanovich; the following officials of the NRC: Ivan Selin, Chairman; E. Gail dePlanque and Kenneth C. Rogers, both Commissioners; Daniel A. Dreyfus, Director, Office of Civilian Radioactive Waste Management, Department of Energy; Susan Clark, Commissioner, Public Service Commission, State of Florida; and public witnesses.

Hearings continue June 30.

TRANSFORMATION OF THE MEDICAID PROGRAM

Committee on Commerce: Subcommittee on Health and Environment continued hearings on the Transformation of the Medicaid program. Testimony was heard from Jonathan Ratner, Associate Director, Health financing Issues, GAO; P. William Curreri, M.D., Commissioner, Physician Payment Review Commission; and public witnesses.

OLDER AMERICAN'S ACT

Committee on Economic and Educational Opportunities: Subcommittee on Early Childhood, Youth and Families held a hearing on the Older American's Act. Testimony was heard from Representatives Martinez, Morella, Regula, Kennedy of Massachusetts and Wyden; Fernando M. Torres-Gil, Assistant Secretary, Administration on Aging, Department of Health and Human Services; Ed Bill, Office of Services to the Aging, State of Michigan; and public witnesses.

SAFETY AND HEALTH IMPROVEMENT REFORM ACT

Committee on Economic and Educational Opportunities: Subcommittee on Workforce Protections continued hearings on H.R. 1834, Safety and Health Improvement Reform Act of 1995. Testimony was heard from Robert Reich, Secretary of Labor; and public witnesses.

FUNDING CIVIL SERVICE RETIREMENT

Committee on Government Reform and Oversight: Subcommittee on Civil Service held a hearing on Funding Civil Service Retirement. Testimony was heard from Representatives Bilirakis, Quillen, and Bateman; James L. Blum, Deputy Director, CBO; William Flynn, Associate Director, OPM; and Johnny Finch, Assistant Comptroller, General Government Division, GAO.

ILLICIT DRUG AVAILABILITY

Committee on Government Reform and Oversight: Subcommittee on National Security, International Affairs, and Criminal Justice concluded hearings on Illicit Drug Availability: Are Interdiction Efforts Hampered by a Lack of Agency Resources? Testimony was heard from George Weise, Commissioner, U.S. Customs Service, Department of the Treasury; and Adm. Robert E. Kramek, USCG, Commandant,

U.S. Coast Guard, Department of Transportation and U.S. Interdiction Coordinator.

OVERSIGHT

Committee on Government Reform and Oversight: Subcommittee on Postal Service continued oversight hearings on the U.S. Postal Service. Testimony was heard from the following officials of the U.S. Postal Service: Marvin Runyon, Postmaster General; Michael S. Coughlin, Deputy Postmaster General; and Joseph J. Mahon, Jr., Vice President, Labor Relations.

OVERSIGHT

Committee on International Relations: Subcommittee on International Economic Policy and Trade held an oversight hearing on the U.S. AID Housing Investment Guaranty Program. Testimony was heard from Frank Conahan, Senior Defense and International Affairs Advisor to the Comptroller General, GAO; and David Hale, Deputy Assistant Administrator, AID, U.S. International Development Cooperation Agency.

ISSUANCE OF SUBPOENAS AND RELATED MATTERS

Committee on International Relations: Subcommittee on International Operations and Human Rights met to consider issuance of subpoenas, writs of habeas corpus ad testificandum, and/or other measures to secure the attendance of witnesses.

STATE TAXATION OF NONRESIDENTS' PENSION INCOME

Committee on the Judiciary: Subcommittee on Commercial and Administrative Law held a hearing on state taxation of nonresidents' pension income, including the following bills: H.R. 371, to prohibit a State from imposing an income tax on the pension income of individuals who are not residents or domiciliaries of that State; H.R. 394, to amend title 4 of the United States Code to limit State taxation of certain pension income; and H.R. 744, to limit State taxation of certain pension income. Testimony was heard from Senator Reid; Representatives Vucanovich and Stump; and public witnesses.

DIGITAL PERFORMANCE RIGHT IN SOUND RECORDINGS ACT

Committee on the Judiciary: Subcommittee on Courts and Intellectual Property concluded hearings on H.R. 1506, Digital Performance Right in Sound Recordings Act of 1995. Testimony was heard from Bruce Lehman, Assistant Secretary and Commissioner of Patents and Trademarks, Patent and Trademark Office, Department of Commerce; Marybeth Peters, Register of Copyrights, U.S. Copyright Office, Library of Congress; and public witnesses.

UNITED STATES POW/MIAs IN LAOS

Committee on National Security: Subcommittee on Military Personnel held a hearing on U.S. POW/MIAs in Laos. Testimony was heard from Kent Wiedemann, Deputy Assistant Secretary, East Asia and Pacific, Department of State; the following officials of the Department of Defense: James W. Wold, Assistant Secretary, POW/MIA Affairs; and Brig. Gen. Charles R. Viale, USA, Commander, Joint Task Force for Full Accounting; and public witnesses.

CONFERENCE REPORT—CONGRESSIONAL BUDGET

Committee on Rules: Granted, by a voice vote, a rule waiving all points of order against the conference report to accompany H. Con. Res. 67, setting forth the congressional budget for the United States Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002, and its consideration. The rule provides 1 hour of debate. Finally, the rule provides that clarifying procedural language and the correct revenue amounts for reconciliation published in section 2 of the rule shall be effective upon final action on the budget resolution by the Congress. Testimony was heard from Chairman Kasich.

MISCELLANEOUS MEASURES

Committee on Science: Ordered reported amended the following bills: H.R. 1815, National Oceanic and Atmospheric Administration Authorization Act of 1995; H.R. 1175, Marine Resources Revitalization Act of 1995; and H.R. 1601, International Space Station Authorization Act.

The Committee began markup of H.R. 1870, American Technology Advancement Act of 1995.

RESTRUCTURING THE FEDERAL SCIENTIFIC ESTABLISHMENT

Committee on Science: Held a hearing on Restructuring the Federal Scientific Establishment. Testimony was heard from public witnesses.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Committee on Rules: Granted, by voice vote, a modified closed rule on H.R. 1944, making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, providing one hour of general debate to be equally divided between the chairman and ranking minority member of the Committee on Appropriations. The rule permits the Chairman of the Committee on Appropriations to offer one amendment, which shall be considered as read and shall not be subject to amendment or division of the question. The rule waives all points of

order against the amendment. Finally, the rule provides one motion to recommit, with or without instructions.

Testimony was heard from Chairman Livingston and Representative Taylor of North Carolina.

SBA's LOWDOC LOAN PROGRAM

Committee on Small Business: Subcommittee on Government Programs held a hearing on SBA's Low-Documentation (LowDoc) Loan Program. Testimony was heard from the following officials of the SBA: Patricia Forbes, Assistant Deputy Administrator, Economic Development; and John Cox, Associate Administrator, Financial Assistance; and public witnesses.

PAYROLL TAXES BURDEN ON SMALL BUSINESSES

Committee on Small Business: Subcommittee on Taxation and Finance continued hearings on the Burden of Payroll Taxes on Small Businesses, with emphasis on the current dollar burden and impact of payroll taxes on small businesses. Testimony was heard from Mark Iwry, Benefits Tax Counsel, Office of Tax Policy, Department of the Treasury; and public witnesses.

COMMITTEE BUSINESS

Committee on Standards of Official Conduct: Met in executive session to consider pending business.

Joint Meetings

IMMIGRATION

Joint Hearing: Senate Committee on the Judiciary's Subcommittee on Immigration concluded joint hearings with the House Committee on the Judiciary's Subcommittee on Immigration and Claims to review recommendations for immigration reform in the United States, after receiving testimony from Barbara Jordan, Chair, United States Commission on Immigration Reform.

COMMITTEE MEETINGS FOR THURSDAY, JUNE 29, 1995

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Armed Services, closed business meeting, to continue mark up of a proposed National Defense Authorization Act for fiscal year 1996, and to receive a report from the Senate Select Committee on Intelligence on the Intelligence Authorization Act for fiscal year 1996, 9 a.m., SR–222.

Committee on Commerce, Science, and Transportation, to hold hearings on the nominations of Robert Talcott Francis II, of Massachusetts, and John Goglia, of Massachusetts, each to be a Member of the National Transportation Safety Board, and Robert Clarke Brown, of New York, to be a Member of the Board of Directors of the Metropolitan Washington Airports Authority, 9:30 a.m., SR–253.

Committee on Energy and Natural Resources, to hold oversight hearings with the Committee on Environment and Public Works, on energy and environmental implications of the Komi oil spills in the former Soviet Union, 10 a.m., SD–366.

Subcommittee on Parks, Historic Preservation and Recreation, to hold hearings on S. 594, to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, 2 p.m., SD–366.

Committee on Environment and Public Works, to hold oversight hearings with the Committee on Energy and Natural Resources, on energy and environmental implications of the Komi oil spills in the former Soviet Union, 10 a.m., SD–366.

Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety, to hold oversight hearings on the Clean Air Act's inspection and maintenance program, 2 p.m., SD–406.

Committee on Finance, to continue hearings to examine ways to control the cost of the Medicaid program, focusing on the program's historical perspective, 9:30 a.m., SD–215.

Committee on Foreign Relations, to hold hearings on the nominations of John Todd Stewart, of California, to be Ambassador to the Republic of Moldova, Michael William Cotter, of the District of Columbia, to be Ambassador to the Republic of Turkmenistan, A. Elizabeth Jones, of Maryland, to be Ambassador to the Republic of Kazakhstan, Victor Jackovich, of Iowa, to be Ambassador to the Republic of Slovenia, and John K. Menzies, of Virginia, to be Ambassador to the Republic of Bosnia and Herzegovina, 9:30 a.m., SD–419.

Committee on Governmental Affairs, Permanent Subcommittee on Investigations, to hold hearings to review the friendly fire incident during the Persian Gulf War, 10 a.m., SD–342.

Committee on the Judiciary, business meeting, to consider pending calendar business, 9:15 a.m., SD–226.

Committee on Labor and Human Resources, Subcommittee on Aging, to hold hearings on proposed legislation authorizing funds for programs of the Older Americans Act, 9:30 a.m., SD–430.

NOTICE

For a listing of Senate Committee Meetings scheduled ahead, see page E1360 in today's RECORD.

House

Committee on Commerce, Subcommittee on Health and Environment, to continue hearings on H.R. 1627, Food Quality Protection Act of 1995, 1:30 p.m., 2322 Rayburn.

Subcommittee on Oversight and Investigations, to continue hearings on the Implementation and Enforcement of

the Clean Air Act Amendments of 1990, 10 a.m., 2123 Rayburn.

Committee on Economic and Educational Opportunities, hearing on Departmental Reorganization, 10 a.m., 2175 Rayburn.

Committee on Government Reform and Oversight, and the Subcommittee on Government Management, Information, and Technology, joint hearing on Investment Budgeting in Other Countries, State and local Governments, 10 a.m., 2154 Rayburn.

Subcommittee on Human Resources and Intergovernmental Relations, to continue oversight hearings on delays in the FDA's Food Additive Petitions and GRAS Affirmation Process, 2 p.m., 2247 Rayburn.

Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, hearing on Political Advocacy with Taxpayers Dollars, 2 p.m., 2154 Rayburn.

Committee on International Relations, hearing on International Terrorism, 10 a.m., and to mark up the following: H.R. 927, Cuban Liberty and Democratic Solidarity Act of 1995; and H.J. Res. 83, relating to the United States-North Korea Agreed Framework and the obligations of North Korea under that and previous agreements with respect to the denuclearization of the Korean Peninsular and dialog with the Republic of Korea, 2 p.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, hearing on H.R. 1047, Voluntary Environmental Self-Evaluation Act, 10 a.m., 2237 Rayburn.

Subcommittee on Crime, hearing on Cocaine and Federal Sentencing Policy, 9:30 a.m., 2226 Rayburn.

Subcommittee on Immigration and Claims, hearing on H.R. 1915, Immigration in the National Interest Act of 1995, 9:30 a.m., 2141 Rayburn.

Committee on Resources, Subcommittee on National Parks, Forests and Lands, hearing on legislation regarding Utah Wilderness, 10 a.m., 1324 Longworth.

Committee on Science, to continue hearings on Restructuring the Federal Scientific Establishment, 9:30 a.m., and to mark up pending business, 12 p.m., 2318 Rayburn.

Subcommittee on Technology, hearing on Effective Standards on International Competition, 9:30 a.m., 2325 Rayburn.

Committee on Small Business, hearing on H.R. 1670, Federal Acquisition Reform Act of 1995, 10 a.m., 2359 Rayburn.

Committee on Standards of Official Conduct, executive, to consider pending business, 11 a.m., HT–2M Capitol.

Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation, hearing on the Privatization of Coast Guard Vessel Traffic Service Systems, 10 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Education, Training, Employment and Housing, oversight hearing on the Veterans Employment Training Service reorganization, implementation of the Uniformed Services Employment and Reemployment Act and One-Stop Employment Centers, 9:30 a.m., 334 Cannon.

Next Meeting of the SENATE

9 a.m., Thursday, June 29

Senate Chamber

Program for Thursday: After the recognition of four Senators for speeches and the transaction of any morning business (not to extend beyond 10:30 a.m.), Senate will resume consideration of S. 343, Comprehensive Regulatory Reform Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

Thursday, June 29

House Chamber

Program for Thursday: Unavailable at time of printing.

Extensions of Remarks, as inserted in this issue

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(House proceedings for today will be continued in the next issue of the Record.)

Congressional Record

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