United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, WEDNESDAY, NOVEMBER 8, 1995 *No. 176*

House of Representatives

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. RADANOVICH].

DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
November 8, 1995.

I hereby designate the Honorable GEORGE P. RADANOVICH to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

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

Deliver us, O God, from any type of violence that does damage to the human endeavor, from any kind of arrogance that allows us to think we are the only ones who know Your will. While we may know our own beliefs and attitudes and we make our best judgments as to the verities of life, we pray that we will reveal humility and contrition when we think of Your will for other people and for our world. Temper our minds and language and our actions in such manner that we truly seek truth and do so with humility that should ever be with us. In Your name we pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. CHABOT led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

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

H.R. 1103. An act to amend the Perishable Agricultural Commodities Act, 1930, to modernize, streamline, and strengthen the operation of the Act.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that fifteen 1-minute speeches will be allowed on each side.

THE NEW MAJORITY IS KEEPING ITS PROMISES; PRESIDENT CLINTON SHOULD TOO

(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, many of us promised the people back home that when we got to Washington, we would work hard to cut the Federal spending here in Washington, lower taxes for the middle class, and overhaul welfare. Come to think about it, President Clinton campaigned on much the same platform. The difference is, we delivered on our end of the bargain by adopting those very reforms. The President, on the other hand, has had second thoughts, and third thoughts.

He promised to end welfare as we know it. Now, he threatens to veto welfare reform legislation. He promised a middle-class tax cut. Instead he engineered the largest tax increase in peacetime history.

Now, he threatens to veto legislation that will cut the taxes of millions of American working men and women. He promised to cut government spending and reduce the Federal deficit. Instead, he threatens to veto legislation that will do just that.

Mr. Speaker, we in the majority have delivered on our promises and we hope that the President will follow up on his end of the bargain.

JAPAN'S COMPLAINT

(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, the Daiwa Bank of Japan has been indicted. They covered up billions of dollars of losses. They embezzled millions. There was mail fraud, wire fraud, conspiracy. And what is really unbelievable, the Japanese Government knew of Daiwa's crimes. The Japanese Government did nothing about Daiwa's crimes and the Japanese Government, furthermore, never, let me repeat, never notified Uncle Sam about these problems.

After all this, Japan has the nerve to complain about the Central Intelligence Agency checking out their trade programs. Unbelievable. I say, right on, John Deutch. It is time the CIA gets in the kitchen. These are threats. Shame, Japan, hide your face.

BALANCE THE BUDGET WITH THE RECONCILIATION BILL

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

Mr. TIAHRT. Mr. Speaker, it is late in the fourth quarter, the score is tied. The outcome is uncertain. The American taxpayers are on the edge of their seats. Will Congress and the President keep their promise to balance the budget? I do not know of anyone who ran against a balanced budget. We all said we were responsible enough, we were smart enough, we were tough enough to make the hard decisions. Even the President ran on balancing the budget in 5 years. So are we going to keep our word? The American public wants to know. They are tired of the excuses, the nitpicking, the pet programs.

Mr. Speaker, they know that it is their money, not the Government's money. It is time to do what every American household does, what every American business does, what common sense cries out for. Let us balance the Federal budget and do it with the Reconciliation Act.

STOP THE VIOLENCE

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

Mr. WILLIAMS. Mr. Speaker, as we stand here in sorrow still in the shadow of the terrible assassination of Yitzhak Rabin, we say to the far right, particularly the religious far right in the country and around the world, put aside your ugly poster. Still the mean words. Support a sane, safe separation of church and State. Stop the violence, far right. Put down you guns.

BALANCED BUDGET WITHIN OUR GRASP

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

Mrs. SEASTRAND. Mr. Speaker, for the first time in a generation, a real balanced budget is within grasp. For the first time in a long time, Congress has acted responsibly. It has held itself accountable. It has made tough decisions and is doing the right thing for America's future.

This time, Congress has laid aside the excuses that previous Congresses made for not balancing the budget and then passing its financial responsibilities to future generations.

This time, this new Congress has said no to the Washington-style budget gimmicks that never work and always cause the American people to lose confidence in our system of government.

Today, the national debt stands at $4,984,737,460,958.92.

For the first time in years Congress is serious about balancing the budget. We owe it to our children to secure for them the American dream and not to keep adding to the American debt.

AMERICAN PEOPLE REJECT EXTREMISM OF REPUBLICAN REVOLUTION

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

Ms. DELAURO. Mr. Speaker, some people just do not get it. Last night, as voters all over the country were rejecting the extreme agenda of the Gingrich revolution, House Republicans were working behind closed doors to raise Medicare premiums.

Medicare part B premiums were scheduled to drop to a 25-percent rate, but late last night, Republicans voted to raise those premiums to 31.5 percent. That means instead of $42 a month, seniors will pay $53 a month beginning on January 1.

The Gingrich revolution means that seniors will pay more for Medicare, students will pay more to go to college, and middle-class working families will pay more in taxes. That is wrong.

Yesterday, the American people rejected the extremism of the Gingrich revolution. Today, Members of this body should follow their lead and reject the continuing resolution that will increase Medicare premiums for seniors.

WE MUST BALANCE THE BUDGET

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

Mrs. VUCANOVICH. Mr. Speaker, it is a common fact that you cannot spend money that you do not have and expect to get away with it. We all must repay our own personal debts or face harsh consequences if we do not. But it seems that here in Washington debt is consistently ignored by the people who are spending the taxpayers money.

Mr. Speaker, our Federal Government has run up a debt of nearly $5 trillion by spending money that it does not have. The consequences to future generations if this behavior continues will be severe. The irresponsibility practiced by previous Congresses will be the burden that future generations will be forced to bear. No one deserves that kind of treatment.

So what do we need to do to make sure this does not happen? We must balance the budget—not only this year, but every year. Our children and all that follow are depending on us.

MERRY CHRISTMAS, SENIORS

(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, there is a chill in the air in many cities in America, so people start thinking about the holidays and doing their holiday shopping.

Well, if my colleagues have any people on their holiday list, like I do, who are on Medicare, the Gingrich Republicans have just shown what they better given them, because last night, and today, they are giving them a huge increase in part B premiums.

So, if my colleagues have Medicare people on their shopping list, get a pretty box and stuff cash in it, because what they are going to need is another $11 a month, $132 a year, just to get through 1996.

''Merry Christmas, seniors,'' from the Gingrich Republicans.

AMERICAN PUBLIC SEES THROUGH MEDIGOGUERY

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

Mr. HOKE. Mr. Speaker, the part B premium that we have been hearing about from the other side is going to remain fixed at 31.5 percent. That is what it is at now; that is what it will remain at. That is what the President's plan called for it to stay at, and the Democrats know, they absolutely know, that in order to save Medicare, it must stay at that.

The part B premium will go up from about $47.10 to around $53. That is $6. At the same time, the average Social Security monthly benefit will go up about $25, obviously a net increase for seniors.

Mr. Speaker, the American public can see through the demagoguery and medigoguery that is being brought by the other side. I want to share from polls that were just released last week. This is the CBS–New York Times poll. ''Who do you think can handle the most important problems facing the United States, congressional Republicans or President Clinton?'' Forty percent said Republicans; 30 percent said President Clinton.

''Which party better represents your views on national issues?'' Fifty-five percent said Republicans; 25 percent said Democrats.

ELECTION RESULTS SHOW AMERICANS REJECT REPUBLICAN REVOLUTION

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

Mr. RICHARDSON. Mr. Speaker, I notice the other side is not talking about the elections yesterday. Voters around the country yesterday put the brakes on the Republican revolution with this message: ''You are going too far and too fast to the right, and we are sending you a message to cool it.'' Voters want the mainstream rather than the extreme; the center, rather than the right.

A broad cross-section of Americans yesterday rejected Republican plans to cut Medicare and education for a tax giveaway and gutting the environment. The American people want to go forward, not to the right. As a start, the majority should stop playing default politics with the debt limit and the country's financial stability.

ELECTIONS ARE A POSITIVE FOR REPUBLICANS

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

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to my dear friend from New Mexico talk about the voting last night, and with typical Orwellian Newspeak and an inability to capture basic mathematics. Once again, the gentleman misses the point.

When the dust clears, the Republican party will have picked up three key seats and one through five major elections. The fact is for the first time in 28 years, a Republican made huge gains, even though we did not win the Governor's mansion in Kentucky. While work is going on, while we have a 50-seat majority in the New Jersey House, while we will see the governorship come to us in Louisiana, while we saw a reaffirmation of our policies in Mississippi, the American people have their eyes on what goes on in this Chamber. The fact is the American people want to see us balance the budget.

I listened with all due interest and due respect to the gentlewoman from Colorado [Mrs. SCHROEDER] talk about giving a Christmas gift. Well, the greatest Christmas gift we can give seniors and we can give youngsters and we can give everybody in this Nation is balancing our budget, getting our fiscal house in order. Those are the most important numbers.

□ 1115

CONSPIRACY CONTRACT SHAM

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

Mr. HILLIARD. Mr. Speaker, the Republicans and their rich medical doctor friends have entered into a conspiracy contract sham to take money earmarked for Medicare benefits from the elderly middle class.

The middle class seniors worked for years and the Government took a part of their salaries each pay period, and put it in a trust fund so that when they stopped working or got sick, money would be available for their medical care.

The conspiracy contract between the Republicans and their rich doctor friends allow the doctors to continue to charge high fees, and in some cases, for unnecessary medical procedures and for this, the rich doctors, through the American Medical Association, endorsed the Republican cutback of Medicare benefits.

Mr. Speaker, this is a Republican conspiracy sham in another Republican contract against America.

THE NATIONAL DEBT

(Mrs. SMITH of Washington asked and was given permission to address the House for 1 minute.)

Mrs. SMITH of Washington. Mr. Speaker, today, the national debt stands at $4,984,737,460,958.92.

This is a problem that has to be dealt with right now. We cannot afford to wait for another Congress somewhere down the road to balance the budget. It is way too late for excuses.

The American people want results, they want an end to the blame-game excuses, and they want a balanced budget.

Last week, Federal Reserve Chairman Alan Greenspan had this to say if Congress and the President fail to deliver a balanced budget: ''If, for some unknown reason, the political process fails, it would signal that the United States is not capable of putting its fiscal house in order, with serious, adverse consequences for financial markets and economic growth.''

Mr. Speaker, Congress is doing its part and when it comes time, I hope the President will do his part and sign a real balanced budget that really puts people first.

ELECTION RESULTS

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

Mr. MILLER of California. Mr. Speaker, voters all across the country yesterday voted against the Republican Medicare cuts and the Republican cuts in education. They voted to put Democrats in office at the local level. And yet last night what were the Republicans in the House of Representatives, and the U.S. Senate doing? They were secretly negotiating to bring about the first installment of the withering of Medicare that the Speaker has said he supports and endorses. They are going to start to wither Medicare by raising the part B premiums today in the debt limit.

They are going to ask senior citizens to step up and take these cuts in Medicare benefits at a time that they still want to continue to press forward for a $245 billion tax cut for the wealthiest people in this country.

Yes, the Republican votes today will be to let Medicare wither. We ought to reject those votes. We ought to reject that proposition, and we ought to do what the people of this country voted yesterday to do and that is to protect Medicare, to make sure that it is not used as a piggy bank for tax cuts for the wealthy.

BALANCE THE BUDGET

(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, it is atrocious that more than 39 cents of every dollar spent in Federal income taxes goes to pay for the interest alone on the national debt. This does not even touch the national debt itself, which is the result of over 25 years of reckless liberal spending.

The new Republican majority is working hard to bring responsibility back to government spending, which will benefit the people of this country and the economy. First, by eliminating the annual deficit, we can start to pay off our $4.9 trillion national debt. Second, the economy will be boosted due to a drop in interest rates as a result of the balanced budget. This will save students money on their college loans, as well as make it easier for people to own their homes.

A balanced budget will improve the lives of hard-working American families. Let's do the right thing and balance this budget.

REPUBLICANS GO TOO FAR

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

Mr. BRYANT of Texas. Mr. Speaker, I think we are all for balancing the budget, in response to the last speaker, but I would suggest to Members that the American people do not think that we ought to grant a $245 billion tax cut to the wealthiest Americans while cutting Medicare for average people as the way of doing it. That is the Republican agenda.

The fact of the matter is, Speaker NEWT GINGRICH and his new Republican majority have simply gone too far. The American people recognize it. Yet they apparently do not. Because last night while the election returns were coming in all around the country that clearly rejected this extreme agenda, the Republicans were in a meeting up here changing the current situation with regard to Medicare part B premiums which were scheduled to drop to a 25-percent rate. They decided to raise those premiums to 31.5 percent, which means that instead of a $42-a-month premium, seniors will pay $53 a month beginning on January 1.

Thank you very much, Republican new majority, led by Speaker NEWT GINGRICH. You are big talkers when it comes to talking about middle-class America, but when it comes to elderly people, you want to balance the budget on their backs.

CLASS WARFARE

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

Mr. RIGGS. Mr. Speaker, all this class warfare nonsense and the Medicare tactics are designed to do one thing, disguise the fact that the Members on this side of the aisle, the Democrat minority, have no plan to balance the Federal budget.

We have already made history. We have passed the first balanced budget in 26 years. And President Clinton and the congressional Democrats had 3 years to do that job. In fact, America is still waiting for the President's balanced budget plan. And if he has a better way to balance the budget than we do, we would like to see it.

President Clinton has offered no budget that balances in 7 years. He has offered no budget that balances ever, and these are the deficits projected by the Congressional Budget Office based on his budget plan, $200 billion deficits as far as the eye can see. So we are waiting on this side of the aisle, colleagues. Let us see your balanced budget plan.

THE CONTINUING RESOLUTION

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

Mr. GENE GREEN of Texas. Mr. Speaker, I am glad my colleague from California, as a new Member of this House, talked about the balanced budget. But in 1992, under the Republican leadership, we had a $290 billion deficit. And last year, under this current year, we have $164 billion. It is going in the right direction without cutting Medicare and Medicaid.

It is now November 8, 40 days after the beginning of the fiscal year and only 5 days before the current continuing resolution expires. And what have we seen under this revolutionary Congress? We only have two bills that have been signed into appropriations bills, 40 days late for our fiscal year.

Is that fiscal responsibility? We are aiming for default by the extremist Republican majority. In fact, only two bills at 5 percent of the Federal discretionary funding have been approved. What we are seeing is gambling with the stability of our economic system in the United States based on the Republican majority.

They are too busy cutting Medicare, cutting education funding to make government do its job, and that is really to have a balanced budget.

MEDIGOGUERY

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

Mr. STEARNS. Mr. Speaker, the folks on this side of the aisle talk about $245 billion in tax cuts. Divide that by 7, that is $35 billion a year on a 1.5 trillion budget: These so called tax cuts represent less than 2 percent of the budget; maybe it is 1 percent over 7 years. It is a blip on the screen. To make that a main issue, it is like the Washington Post said, it is medigoguery. Remember these tax cuts are less then the Clinton tax hikes of 1993.

Speaking of the Washington Post, look at this quote from their November 3, 1995, editorial. It said,

> Now President Clinton has walked away from the welfare bill he sent to Congress last year just, as the week before he renounced the tax increase he pushed to passage in 1993. What next? Perhaps he will say he did not mean to send up last year's health care reform proposals either. Mrs. Clinton made him do it. It becomes increasingly difficult for us to know what the President stands for or whether he stands for anything.

Mr. Speaker, this is a stinging indictment, considering the source. I rarely ever agree with the Washington Post, but in this case, I really think they are onto something.

WEEKLY READER STUDY

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

Mr. MEEHAN. Mr. Speaker, last week a study from the University of California concluded that the ''Weekly Reader,''—a staple of American classrooms—had been used as an instrument of propaganda by the tobacco industry.

For 5 years, between 1989 and 1994, the largest shareholder of RJR Nabisco owned the Weekly Reader. Look at the poster. RJR Nabisco, the epitome of corporate responsibility, uses Joe Camel as its spokesman.

During the period when RJR owned the Weekly Reader, 68 percent of the articles on tobacco reflected the industry's viewpoints. One of the articles went so far as to actually debate whether or not Joe Camel encourages kids to smoke.

Mr. Speaker, the Weekly Reader study further explains why Joe Camel is more recognizable to 5-year-olds than Ronald McDonald and why the smoking rate among eight-graders has jumped up in the last 5 years.

Tobacco giants, like RJR Reynolds and Philip Morris, have been—and continue to—target our kids. They plaster their misleading messages on every billboard, magazine, and convenience store in sight. And the penetration of the youth market to pre-adolescents, now extends to the classroom. What is next, the Marlboro Man math book?

COMMENDATION TO MR. DINO CORBIN

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

Mr. HERGER. Mr. Speaker, I rise today to commend one of my northern California constituents, Mr. Dino Corbin. As the general manager of KHSL–TV in Chico, CA, Mr. Corbin showed great courage and leadership by canceling the Jenny Jones Talk Show and replacing it with more family-oriented programs. In a television world that is becoming increasingly seamy, Mr. Corbin is the first and only broadcaster to stand up for the standards and best interests of his community of which he is morally and legally bound to uphold.

Instead of mindlessly exploiting the problems of our culture, the television industry and all Americans should be working to solve them. As a concerned parent and legislator, I congratulate and thank Mr. Corbin for his courage and unwavering moral judgment and hope that the television industry heeds this call.

DEBT CEILING PROPOSAL TIES PRESIDENT'S HANDS

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

Mr. LEVIN. Mr. Speaker, last night Democrats were called to the Committee on Ways and Means to mark up debt ceiling legislation, but it immediately became clear we had been called to a holdup, not a markup.

No responsible Member of Congress wants the Government to default, but the Republican debt ceiling proposal makes default more likely because it would tie the President's hands in managing the debt.

Why are Republicans going to the brink to put heat on the President to accept their extremist agenda? In a word, to blackmail the Presidency. Republicans are playing with fire but the whole Nation could be burned. Adjustable mortgage rates would go up, then fixed mortgages, car loans, credit cards.

Democrats never tried to tie the hands of a President like this. The Nation's full faith and credit is too important to be a political pawn for the extremist agenda of the Speaker.

The Speaker is toying with the unspeakable. So let us say no to default. Say no to extremism. Say no to the Republican holdup.

THE NATURE CONSERVANCY

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

Mr. COOLEY. Mr. Speaker, the practice of using the taxpayer's money to subsidize lobbying—either directly or indirectly—is wrong and it should be stopped.

The clearest example of tax dollars being used for lobbying involves The Nature Conservancy [TNC], America's richest nonprofit organization, with assets exceeding $850 million. In 1993, TNC received a $44,100 grant from NOAA to ''support volunteer outreach and public affairs programs for the Florida Keys National Marine Sanctuary.'' Documentation from TNC and

NOAA clearly indicates that some of this money was used to engage in blatant political advocacy, including lobbying local county officials to vote against holding a referendum on the sanctuary.

TNC's lobbying efforts in south Florida were summarized in a quarterly report sent to NOAA. This describes a TNC contractor's very interesting activities performed under that grant, which included: ''developed and directed plan to counter opposition's push for a county-wide referendum against the establishment of the Sanctuary * * * Plan was successful in blocking referendum and generated many positive articles and editorials using many of the messages discussed in plan.'' TNC denies lobbying with grant funds, relying on a filmsy crutch regarding segregated funds and the like. However, TNC has yet to produce any itemization to explain how the $44,000 was spent. TNC's shrouded activities are questionable enough that they have received considerable press in Florida.

TNC's lobbying schemes are but the tip of the iceberg for taxpayer-funded lobbying activities. Later today my colleagues will have the unique opportunity to finally bring an end to these unjustified lobbying shenanigans, and I urge my colleagues' support in this effort. Enough is enough.

MEDICARE

(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, Medicare cuts, now an $11 premium increase on part B, all to pay for a tax break for the wealthy.

My constituents are concerned. And in fact, a recent letter from one of my constituents said:

DEAR REPRESENTATIVE STUPAK: I have been out of circulation for a while because of illness. I do hope my letter will not be too late for your consideration.

We are deeply concerned about the health care programs, particularly Medicare and Medicaid and also Social Security. Granted they need attention. It seems the first move should be to take the graft out and better bookkeeping. There are also many programs that are fleecing America which could be cut to help balancing the budget!

My husband and I have worked very hard all our lives and strived to make a decent retirement situation. We have been community workers giving our time and money. We thought we were in good condition until my husband and downed with Alzheimer's Disease and I have been in the hospital 9 times in recent years. My husband worked for the Post Office thirty-seven and a half years, the last 15 as Postmaster.

We should have a good retirement but instead we are going broke. Please consider what you are doing to the middle class.

To my GOP colleagues, as my constituent asked, it is not too late to reject the Republican Medicare cuts to pay for a tax break for the wealthy.

□ 1130

PRESIDENT SHOULD SIGN THE BALANCED BUDGET

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

Mr. TATE. Mr. Speaker, the voters of the Ninth Congressional District have sent a clear message to me. They want less taxes, and less government, and less spending, and that is exactly what the Republican Congress is doing. We are going to balance the budget for the first time in a generation, the second time in my lifetime, which will lower interest rates and create more jobs for the people of Washington State. We will reform the welfare system which has been a failed system by anyone's standards by increasing personal responsibility. We will save Medicare which President Clinton's own board of trustees said was going broke by preserving, protecting, and strengthening Medicare by giving seniors more choices and weeding out waste, fraud, and abuse and giving it more competition. We will also provide tax relief for working families in the form of a $500-per-child family tax credit.

Mr. Speaker, we challenge the President to join with us, and balance the budget, and work for these types of reforms. Mr. President, no more gimmicks. Mr. President, no more tricks. It is time to do the right thing for America's future. Sign the balanced budget.

KENTUCKY REJECTS REPUBLICAN ASSAULT ON AMERICA

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

Mr. WARD. Mr. Speaker, the people of Kentucky yesterday rejected the Republican assault on America and elected Democrat Paul Patton as our next Governor. I rise today to congratulate him, and I have today's Louisville Courier-Journal, which I will give to the Speaker because, make no mistake about it, Speaker GINGRICH, this Kentucky election was a sharp repudiation of the Republican contract and devastating Medicare cuts imposed by you. This election serves as clear and convincing evidence that the American people do not support these draconian cuts to our Nation's safety net, and that was before today's news that Speaker GINGRICH late last night moved up the date to January 1, next year, when our seniors will have to begin paying the higher part B premium. Take the time to balance the Federal budget carefully without hurting our seniors, our children, our students. We can do it. We just have to do it carefully.

Mr. Speaker, that is the message from Kentucky.

REJECTION OF REPUBLICAN EXTREMISM

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

Mr. SCHUMER. Mr. Speaker, Earth to the Speaker. Earth to the Speaker. Come in Mr. Speaker.

Yesterday people from Kentucky to New Jersey, from Niagara Falls to Staten Island rejected Republican extremism.

They rejected gutting Medicare to pay for tax cuts for the rich. They rejected cuts to student loans and education. They rejected the extremism of the Contract on America.

And today, Colin Powell is announcing that he will not run for President as a Republican. Why? Because Republican extremists will reject General Powell—a moderate, pro-choice, pro-gun control war hero.

Yet, as if he had not heard the news, the Speaker woke up this morning and said, ''Today's a perfect day to raise Medicare premiums for our seniors.'' Republicans are actually bringing to the floor today a $100 increase in next year's Medicare premiums as part of the stop-gap spending bill.

And like lemmings, this extremist Congress follows him over the cliff.

Earth to the Speaker. Come in Mr. Speaker.

The American people do not want your type of revolution. They want change that makes sense. And yesterday, they said overwhelmingly that the Speaker's extremism just does not make sense.

WATCHING AND WAITING

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

Mr. LEWIS of Georgia. Mr. Speaker, the votes have been tallied, the results are in and the message is clear: Voters across the country have rejected the extremist right-wing Republican agenda. In Kentucky, Maine, Mississippi, Virginia, and New Jersey, Democrats were victorious.

The voters said no to the Republican cuts in Medicare. They said no to Republican tax breaks for the rich. They said no to Republican assaults on our environment. And they said no to Republican cuts in student loans and education.

Mr. Speaker, heed the message of the 1995 elections. America is watching and waiting, waiting for 1996. Waiting to stop Republican attacks on the elderly, the poor, students, and working-class Americans; 1995 is a prelude.

MESSAGE OF VIRGINIA ELECTION

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

Mr. PAYNE of Virginia. Mr. Speaker, we had an election in Virginia yesterday, and the Republicans in this House ought to sit up and take notice.

Our Republican Governor tried to make the election a referendum on his program of tax cuts. Under the Governor's plan, tax cuts would be paid for by slashing spending for colleges and universities, law enforcement, and important social services. In Virginia, the Republicans' tax cuts would take effect right away, but painful spending cuts would be put off for the future.

Does that sound familiar?

The people of Virginia got a good look at the Allen plan, and despite the Governor's tireless campaigning, they rejected his program by a big margin. They defied the odds and kept the Virginia General Assembly in Democratic hands.

Mr. Speaker, the message from yesterday is clear: People do want tax relief, but not if it means gutting programs that help our children and help make our communities strong, and not if it means putting balancing the budget at risk. It is a lesson that we ought to learn here in Washington.

HONORING THE LIFE AND LEGACY OF YITZHAK RABIN

Mr. GILMAN. Mr. Speaker, pursuant to the order of the House of yesterday, I call up the Senate concurrent resolution (S. Con. Res. 31) honoring the life and legacy of Yitzhak Rabin, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 31

Whereas Yitzhak Rabin, a true hero of Israel, was born in Jerusalem on March 1, 1922;

Whereas Yitzhak Rabin served in the Israel Defense Forces for more than two decades, and fought in three wars including service as Chief of Staff of the Israel Defense Forces during the Six Day War of June 1967;

Whereas Yitzhak Rabin served the people of Israel with great distinction in a number of government positions, including Ambassador to the United States from 1968 to 1973, Minister of Defense from 1984 to 1988, and twice as Prime Minister from 1974 to 1977 and from June 1992 until his assassination;

Whereas under the leadership of Yitzhak Rabin, a framework for peace between Israel and the Palestinians was established with the signing of the Declaration of Principles on September 13, 1993, continued with the conclusion of a peace treaty between Israel and Jordan on October 26, 1994, and continues today;

Whereas on December 10, 1994, Yitzhak Rabin was awarded the Nobel Prize for Peace for his vision and accomplishments as a peacemaker;

Whereas shortly before his assassination, Yitzhak Rabin said, ''I have always believed that the majority of the people want peace and are ready to take a chance for peace. . . . Peace is not only in prayers . . . but it is in the desire of the Jewish people.'';

Whereas Yitzhak Rabin's entire life was dedicated to the cause of peace and security for Israel and its people; and

Whereas on November 4, 1995, Prime Minister Yitzhak Rabin was assassinated in Tel Aviv, Israel: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) condemns the heinous assassination of Prime Minister Yitzhak Rabin in the strongest possible terms;

(2) extends its deepest sympathy and condolences to the family of Prime Minister Yitzhak Rabin and to all the people of Israel in this moment of tragedy;

(3) expresses its admiration for the historic contributions made by Yitzhak Rabin over his long and distinguished career of public service;

(4) expresses its support for the government of Acting Prime Minister Shimon Peres; and

(5) reaffirms its commitment to the process of building a just and lasting peace between Israel and its neighbors.

SEC. 2. When the Senate completes its business today, it stand adjourned as a further mark of respect in honor of the late Yitzhak Rabin.

SEC. 3. The Secretary of the Senate is directed to transmit an enrolled copy of this resolution to the family of the deceased.

The SPEAKER pro tempore (Mr. BEREUTER). Pursuant to the order of the House of Tuesday, November 7, 1995, the gentleman from New York [Mr. GILMAN] and the gentleman from Indiana [Mr. HAMILTON] each will be recognized for 45 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

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

Mr. Speaker, it is with deep sorrow and a sense of personal loss that today we consider legislation that memorializes the life and legacy of Israel's slain Prime Minister, Yitzhak Rabin. Prime Minister Rabin, who was gunned down on Saturday night by a lone assassin, was attacked by an extremist who was opposed to his efforts at reconciliation and peace with the PLO, initiated 2 years ago with the signing of the Declaration of Principles.

The shocking circumstances of Prime Minister Rabin's death magnify the tragedy of his loss. I was honored to participate in the Presidential delegation that attended Prime Minister Rabin's state funeral in Jerusalem. It was gratifying to see an extensive list of Heads of State and international dignitaries in attendance, including representatives of nations with which Israel does not have diplomatic relations, and to hear many eloquent speakers reiterate their commitment to a lasting peace throughout the region.

This distinguished gathering mourned the life and legacy of Yitzhak Rabin, a soldier-statesman who became his nation's first native born Prime Minister. Born in Jerusalem in 1922, as a young man, Yitzhak Rabin fought for Israel's independence by defending the Tel-Aviv-Jerusalem highway. He distinguished himself on numerous occasions, none more so than when, as Chief of Staff of the Israeli Defence Forces, he led Israel's troops through the Old City to the Wailing Wall during the Six-Day war of 1967. This memorable event brought about the reunification of all Jerusalem, and Rabin's birthplace, an Israel's capital.

General Rabin also distinguished himself in his service to his country as Ambassador to the United States for 5 years. He contributed significantly to the close United States-Israel partnership that persists today. His commitment to that relationship, as well as his personal and unstinting commitment to peace with security, were evident throughout the remainder of his political career, both as Minister of Defense and as Prime Minister of Israel.

Just 2 weeks ago Congress celebrated the 3,000th anniversary of Jerusalem as Israel's capital. As Jerusalem's most famous native son, Prime Minister Rabin participated with us in the rotunda delivering deeply moving remarks. His presence still echoes in our hallway. It is with a sense of utter disbelief that we consider this legislation today.

Prime Minister Rabin will forever be remembered as a man who not only led Israel to victory in war, but who also led her citizens in pursuit of peace. At this troubled time in Israel's history, we express our support for Israel's transition government, and reaffirm the congressional commitment to a lasting peace between Israel and her neighbors.

Our thoughts and prayers are with the Rabin family, for Acting Prime Minister Shimon Peres, and for all the people of Israel at this time.

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

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Mr. HAMILTON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Missouri [Mr. GEPHARDT], the distinguished minority leader.

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

Mr. GEPHARDT. Mr. Speaker, I rise today to urge all of my colleagues to support this resolution—to pay tribute to one of the greatest soldiers of peace the world has ever known.

Like all Americans, I was shocked and saddened at the senseless murder of Prime Minister Rabin this past Sunday. And the great irony is that he died as he lived—celebrating and advocating the cause of peace in the Middle East.

To me, Yitzhak Rabin was the very essence of leadership, because up until the last moments of his life, he did not do what was easy; he did not do what was popular—he did what was right.

He not only brought his nation to the brink of a real and lasting peace—he rallied millions of Israelis, and millions of people all over the world, in support of that crusade.

Many of us in this Chamber had the opportunity to travel to Israel on Monday—to grieve along with the people of Israel. And for me, as for so many of us, the loss was as personal as it was political.

For I know Yitzhak Rabin as a kind and caring man—as someone who carried a love for his people, and an abiding belief in peace, deep inside him. To

talk with him—even to stand in the same room with him—was to feel his generosity of spirit, and his profound humanity.

Yitzhak Rabin may be irreplaceable—and his kind of leadership may come once in a generation, perhaps once in a century. But there is one thing that each Member of this House can do to honor his name, and that is to keep his dream alive, to put into practice the peace agreement he has already secured, and to keep waging his battle for a comprehensive peace throughout the Middle East. If we can do that, if we can give meaning to the dream that sustained Yitzhak Rabin both in life and in his work, then we will know that the did not die in vain.

Mr. Speaker, I urge Members to support this resolution to honor the name and the work and the commitment of a great human being, Yitzhak Rabin.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Ohio [Mr. HOKE].

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

Mr. Speaker, I rise to pay tribute to and speak words on behalf of Yitzhak Rabin. I had the privilege of meeting Prime Minister Rabin in August 1995 with a very small delegation which was hosted in his office in Jerusalem. We spent about an hour, an hour and a quarter, with the Prime Minister. I recognized immediately that this was a man who was a giant, because he put ahead of his own personal ambition, ahead of his party's political ambitions, ahead of any personal thought, obviously even of personal welfare and safety, he put first and foremost his love for the state of Israel and his commitment to the long-term preservation and viability and existence of the nation of Israel, and he was, in that sense, utterly unique in that he brought these qualities of genuine selflessness to the work that he did and to the Israeli people.

It is a tremendous sense of loss, not just with respect to the leadership that is gone, this man who was in fact both the George Washington and ultimately the Abraham Lincoln of his people, but it is also a sense of personal loss that makes me very sad about the events of this past weekend, the falling of this extraordinary figure, a figure who, first and foremost, put love of nation, and who set an example for leadership everywhere. I support this resolution.

Mr. HAMILTON. Mr. Speaker, I yield 1½ minutes to the gentleman from Maryland [Mr. WYNN].

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

Mr. Speaker, I rise today to support this resolution. In our times, we have found out that giants do not get to die in bed: John F. Kennedy, Martin Luther King, Anwar Sadat, and now Yitzhak Rabin. Because these giants have the courage to stand up and speak out on controversial issues and take risks, all too often they are the victims of the assassin's bullet.

Yitzhak Rabin was indeed a giant. Among his last comments at the peace rally before his assassination he said, ''People really want peace.'' This was the idea that guided the last few years of his life. Because Rabin was both a realist and a visionary, he understood that the use of force alone would not solve the problems of the Middle East. He also understood that the road to peace would be long and difficult. He understood that a political solution would require consideration of politically unpopular terms, and direct talks with people he often believed were directly responsible for the deaths of hundreds of Israeli citizens. He understood that it is sometimes necessary to do that which is unpleasant for the sake of a greater good.

I believe this led him to shake hands with former adversary PLO leader Yasser Arafat on the White House lawn for the sake of peace. He leaves us a legacy that should not die. A giant has died. Let his legacy of peace live on.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, I thank the distinguished chairman of the committee for yielding time to me.

Mr. Speaker, the United States and Israel share many ideals, beliefs, and goals. We both cherish peace, but will gladly fight to maintain democracy and freedom. Now, sadly, regretfully, we also share the martyrdom of a national hero.

Like our Nation's first martyr, Abraham Lincoln, Yitzhak Rabin dedicated his life to building a whole and free nation. Both men were shaped by the tragic necessity of war, though war did not take them from us. Instead, assassins stole these men of peace with senseless acts of vengeance.

We both know the tragedy of mindless violence. America has learned to recover, and, you, too will heal as America has healed. While that healing will always be darkened by the memory of this tragedy, the life cut down while leading Israel, the memory should also be brightened by Yitzhak Rabin's life, and leading Israel and the world to peace in the Mideast.

Following Abraham Lincoln's assassination, Herman Melville wrote ''The Martyr,'' and spoke of the endurance of the American spirit, a spirit that Israel shares:

He lieth in his blood,
The father in his face,
They have killed him, the Forgiver,
The Avenger takes his place.
There is a sobbing of the strong,
And a pall upon the land
But the people in their weeping,
Bare the iron hand.

Mr. HAMILTON. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, the last time that Yitzhak Rabin spoke to us right here in the U.S. Congress, he invoked a phrase from Archibald MacLeish, and used it in reference to Israel's young dead soldiers: ''Their tombstones say, 'We leave you our deaths. Give them their meaning.''' Last week God said to us, ''I give you his death. Give it its meaning.''

Throughout the course of human history, when the mortal lives of our great leaders have been sacrificed to the cause of peace, brotherhood, and progress, the moral force of their message takes on an immortal life of its own within the human character. Yitzhak Rabin takes his place alongside those responsible for the evolution of the human spirit: Rabbi Akiba, who recited the Shema as he was being tortured to death for having preached during his life that ''Thou shalt love thy neighbor as thyself,'' through Jesus Christ, Mahatma Ghandi, Anwar Sadat, Martin Luther King, and so many others whose shoulders we stand upon.

Today, our task, our responsibility, for which future generations will hold us accountable, is to be true to their memory, to give the life of Yitzhak Rabin its deserved, its lasting, and its great meaning.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman form New Jersey [Mr. ZIMMER].

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

Mr. Speaker, I had the great honor of meeting with Yitzhak Rabin, both before he was Prime Minister and when he was Prime Minister, in two visits to Israel, being impressed by this strength, the understanding, and the strategic vision of the man, and his love for his nation and for his people.

As one of thousands of New Jerseyans who attended a memorial service for slain Israeli Prime Minister Yitzhak Rabin, I was moved by the outpouring of emotion for one of the world's great leaders.

As a Jew, I was stunned and sickened to learn that Rabin was killed by another Jew in an act of despicable cowardice. We must not allow Rabin's heroic efforts to be tarnished by those who would seek to exploit his tragic death as an opportunity to further divide the Israeli people. In the words of Rabin himself, before a joint meeting of Congress last year:

> I have come from Jerusalem in the name of our children, who began their lives with great hope and are now names on graves and memorial stones, old pictures in albums, fading clothes in closets. Each year as I stand before the parents whose lips are chanting ''Kaddish,'' the Jewish Memorial Prayer, ringing in my ears are the words of Archibald MacLeish who echoes the pleas of the young dead soldiers:
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> ''They say: We leave you our deaths. Give them their meaning.''

He continued:

> Let us give them their meaning. Let us make them an end to bloodshed. Let us make true peace. Let us today be victorious in ending war.

The loss of Yitzhak Rabin casts a darkness on the world, but I believe his light will continue to shine.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Speaker, it is very difficult for me to come on the House floor today to talk about the loss that the world has felt as a result of the death of Yitzhak Rabin. With my children, I learned of the news on Saturday evening, and it brought back such a flood of memories of other times in our family's history and in this country's history.

Our hearts go out to the Rabin family and to the people of Israel, and to peace-loving people throughout the world, to recognize that yes, Yitzhak Rabin was a man who was a soldier for peace, who fought for his country, but nevertheless, who gave his life to preserve a peace for his country.

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And all of us that commit ourselves to trying to find peace for Israel find the inspiration in his life and what he stood for and for the caring that he continues to provide this world through his life and its meaning.

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

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

Mr. Speaker, I rise to join my colleagues in paying tribute to Israeli Prime Minister Yitzhak Rabin, who was gunned down in Jerusalem, November 4.

Prime Minister Rabin was an extraordinary leader. The story of his life is the story of the State of Israel: He served his people for more than 50 years: as a soldier, a diplomat, a politician, and finally a statesman. He was at the center of every major event in his country's brief history. He dedicated his life to Israel's security, survival and freedom:

As commander of the Harel Brigade, he helped to win Israel's 1948 war of independence;

As Chief of Staff of the Israel Defense Forces, he planned and executed a quick victory over Arab armies that threatened Israel in 1967;

As Defense Minister, he worked to strengthen Israel's ability to defend against outside threats;

As Prime Minister, he pursued peace with Israel's former enemies, with the same fervor, dedication, and courage he had exhibited in war.

Yitzhak Rabin was a patriot. He was also a person of extraordinary strength and character. I was impressed by his honesty and his realism. He was not an ideologue or a romantic. He was direct. There was about him no pretense, no deception, no subterfuge.

Though a successful politician, he was also a nonpolitician: he had no use for the pomp and pretensions of high office. He did not do things just to stay in power. He did them because he was trying to build a peace.

Prime Minister Rabin developed close ties with the United States. He respected America's leadership role in the world and acknowledged its efforts on behalf of Middle East peace. He was a close friend of every President since Lyndon Johnson, and those friendships helped create a unique bond between Israel and the United States. It is fair to say that no single leader in either country contributed more to this close and vital relationship.

Most of us will remember Yitzhak Rabin for what he achieved in the last years of his life. We will remember him, and we honor him today, for his dedication and his courage in the search for peace.

Yitzhak Rabin had a vision of Israel as both a Jewish state and a democratic nation. His policy toward the peace process grew directly out of that vision. He led his people toward an historic compromise with the Palestinians to share the land. He favored a policy of negotiation, including direct talks with the PLO and territorial concessions in exchange for real peace.

Yitzhak Rabin understood that military rule over the territories meant endless war and that subjugation of a people was contrary to Jewish tradition. He understood that annexing the territories would dilute the Jewish character of the State of Israel. He understood that a negotiated peace was the only solution.

Some of those who lavish praise on Yitzhak Rabin today are the same voices who, just days ago, sought to undermine the peace process.

We must be clear about what he stood for, and what he gave his life for: To honor Yitzhak Rabin is to support the peace process.

Let me quote from his final remarks, delivered at a peace rally in Jerusalem just four days ago:

> I waged war as long as there was no chance for peace. I believe there is now a chance for peace, a great chance, and we must take advantage of it for those who are standing here, and for those who are not here—and there are many. I have always believed that the majority of the people want peace and are ready to take a chance for peace.
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> Violence erodes the basis of Israeli democracy. It should be condemned and wisely expunged and isolated. It is not the way of the state of Israel. . .
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> Peace is not only in prayers . . . but it is the desire of the Jewish people.

This remarkable man led his country in war and in peace. His legacy stands for all of us to reflect on: A firm commitment, in the face of adversity, to security, democracy, and peace. The best tribute we can offer today to Yitzhak Rabin is to rededicate ourselves to a just, lasting and comprehensive peace in the Middle East.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. FOX] who also accompanied the Presidential delegation to Jerusalem.

Mr. FOX of Pennsylvania. Mr. Speaker, the death of Israeli Prime Minister Yitzhak Rabin is a tragedy, not only for Israelis and Jews, but indeed for Americans and all those who strive for peace throughout the world.

The United States and Israel are partner in world affairs. As partners, we have built a foundation based on years of mutual respect and trust. Together, we share risks, rewards, and losses as we strive to make this world a better and safer place.

One of the rewards came just a month ago when Israel and the Palestinians signed the second phase of the Oslo accord. That document was the result of hard work and dedication to peace that was the hallmark of Prime Minister Rabin. Now, sadly we must share the loss of having him taken from us so prematurely and so violently. But sharing that loss makes the burden for both Israelis and Americans easier.

In the long run, I believe that those who resort to violence will find that it accomplishes little. Often, it spurs people on to completion of the task at hand, in this case peace in the Middle East.

Dr. Martin Luther King, Jr., once said:

> The ultimate weakness of violence is that it is a descending spiral, begetting the very thing it seeks to destroy. Instead of diminishing evil, it multiplies it. * * * Returning violence multiplies violence and adds a deeper darkness to a night also devoid of stars. Darkness cannot drive out darkness; only light can do that. Hate cannot drive out hate; only love can do that.

Mr. Speaker, I first met Prime Minister Rabin when he hosted a congressional delegation in Israel. I found him to be someone very special, someone who cared deeply about his country, cared deeply about world peace and making a difference.

I think what we can say about Prime Minister Rabin, while his work is not completed, it is up to those of us who are living to carry on his dream of making sure there is peace in the Middle East and making sure that we do the best as Americans and members of the world body to make sure that the world is a better place for our having made a mark in furtherance of his dreams and those that we all share.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Speaker, as we mourn the death of Yitzhak Rabin, we need as well to celebrate his life. Born of a Jewish family in a neighborhood of Palestine, he lived to see that neighborhood become a nation and those neighbors a people. As a young man, he was a common soldier. He lived to become a leader of one of the world's foremost fighting forces.

His life is woven through the fabric of what became a modern democracy, but mostly he achieved in his life what no Jewish family had been able to achieve in 2,000 years, because most certainly he once heard his mother pray, ''Next year in Jerusalem.'' Jews have returned to Jerusalem, not simply during his life but because of his life. He lived to see that prayer achieved.

As the generations pass, many remember that as a soldier he made that

return possible. They need to recall as well that as a statesman, he made that return to Jerusalem permanent.

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

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Speaker, Israeli Prime Minister Yitzhak Rabin was one of the few people who do not just pass through this world, but enhance it. He was a brilliant strategist, a great thinker, a fierce warrior, a reluctant politician, a good diplomat, a pragmatist, and a visionary who spent his entire life working for the betterment of his country.

I am outraged that he was taken from us by a coward, by a pisher, by a hatred for his politics. I am heartbroken that he was murdered as he stood on the apex of his greatest success, gazing into the promised land of peace. I am saddened beyond words at his passing.

I am convinced that the escalation of violent rhetoric, the disintegration of civil political discourse, contributed to his death. I was recently viciously attacked for being critical of those who spew this kind of venom. But the assassination of Yitzhak Rabin has only reinforced my belief in what I said weeks ago. Words do matter. Disagreements with political leaders must be expressed at home in the voting booths, not by violence, effigies, and guns. And certainly not by manipulating the good intentions of the diaspora and well-meaning politicians across the ocean.

Yitzhak Rabin's sacrifices were not in vain. His goals, first to protect his land through war, and then maintain it through peace, are supported by the majority of Israelis and will be fulfilled. En route to the funeral I saw a sign held by a young girl. It said, ''We knew war. Let's learn peace.''

Mr. GILMAN. Mr. Speaker, I continue to reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, we have a resolution before us that does not address the loss of an idea, but the death of a man.

Two years ago, the world echoed the words of Yitzhak Rabin: ''Enough of blood and tears. Enough.'' But a madman decided there would be more blood and tears. So today, we mourn Yitzhak. Another soldier has given his life for peace; another leader has given his life for his country.

We trusted Prime Minister Rabin's strength to guide the peace process. We knew that he, as a soldier, understood the costs and risks of war. We were inspired that this man of courage could become one of the greatest peacemakers the world has ever known.

So, this event shakes to its foundation our faith in reason and in humanity. And it contains a lesson for all those who live in the world's democracies: Terrible dangers lurk at the extremes of politics.

As we pray for Yitzhak Rabin, his family, and the country of Israel that we all so love, we must also keep our own country in our prayers. The voices of reason must speak out louder. The lovers of peace must step forward to continue his great work, in the Middle and here at home.

Mr. GILMAN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman from New York [Mr. GILMAN] for his kindness.

Mr. Speaker, I join all of my colleagues in extending our sympathies to the family of Prime Minister Rabin.

Mr. Speaker, I wanted to inform my colleagues that in the city of McAllen, TX, Sunday evening there was a memorial service conducted by Rabbi Lipper of the Temple Emmanuel. I was honored and privileged to have been asked to give a part of the eulogy, since I knew the Prime Minister for many years. Mr. Speaker, I would like for my colleagues to know, the passing of Prime Minister Rabin is a loss to the world.

Mr. Speaker, it is a loss to all of those that honor and love peace. I think that we should continue, and his legacy should be that there shall be peace throughout the Middle East, and that there should be the recognition that Israel is a land and a people and a democracy, and that we instill in all of the people in that area that this should continue and that we truly achieve a peace where all can live as equals under one God who made us all, and that we make this the legacy of Yitzhak Rabin.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Speaker, I join with all the Members and rise strongly to support Senate Concurrent Resolution 31 honoring slain Prime Minister Yitzhak Rabin. As an Israeli war hero, both during the war of independence in 1948 and also the 1967 war to unite the historic Israeli nation, he served his nation and was an inspiration to people all over the world.

Mr. Speaker, I met Prime Minister Rabin several times and I was impressed not only with his commitment and dedication to his nation's security, but also to the realization that peace was not only in the interest of the Palestinians, but also in the interest of the Israelis.

He, more than any person I think I have ever met, Mr. Speaker, exemplifies a verse in the Old Testament, Isaiah 2:4:

> He will judge between nations and will settle disputes for many peoples. They will beat their swords into plowshares and their spears into pruning hooks. Nation will not take up sword against nation, nor will they train for war anymore.

Mr. HAMILTON. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York [Mrs. LOWEY].

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Mrs. LOWEY. Mr. Speaker, just 11 days ago I joined with Yitzhak Rabin at the U.S. Capitol to celebrate Jerusalem's 3,000 anniversary. As I shook Prime Minister Rabin's hand to say goodbye, I said the words we all know so well: ''Next year in Jerusalem.''

Next year has come too soon. On Sunday I traveled to Jerusalem with a pain in my heart—a pain I know we all share.

Today we join with the Israeli people to commemorate the life of a great man. Yitzhak Rabin lived the life of the State of Israel. He fought for its independence, and he fought to keep it free and secure. He dedicated his life to the cause of creating and defending a homeland for the Jewish people.

To everything there is a season, Yitzhak Rabin said on the White House lawn. And when it was time for war, Yitzhak Rabin was the greatest of warriors. And when it was time for peace, Yitzhak Rabin was the greatest of peacemakers. With his own hands we waged war, and then, with his own hands, outstretched, he waged peace.

Of course Yitzhak Rabin did not choose peace because he loved Israel's former enemies. He chose peace because he loved Israel—as we all do.

And so today, let us rededicate ourselves to Yitzhak Rabin vision. Let us heed the words of one of Yitzhak Rabin's partners in peace, ''Let us not keep silent. We are not ashamed, not are we afraid. Let our voices rise high to speak of our commitment to peace for all times to come.''

Noa Ben-Artzi Philosof called her grandfather a pillar or fire, and so he was. May his spirit always shine brightly to show us the way.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, the shock that has a paralyzing effect on all of us and the sadness that envelopes us on learning of the assassination of Yitzhak Rabin makes it difficult to express as eloquently as we would like our feelings at this particular time.

This man, who was such an integral part of the reestablishment of a Jewish homeland after 2,000 years and fighting for its survival and security and whose commitment, as the gentleman from Indiana mentioned earlier, to a democratic society in this Jewish homeland was so strong, he was the personification of the State of Israel.

I think it is interesting, if my colleagues would remember when he and King Hussein came here to speak to a joint session of Congress, his words at that time.

> I have come from Jerusalem in the name of our children who began their lives with great hope and are now names on graves and memorial stones, old pictures in albums, fading clothes in closets. Each year as I stand before the parents whose lips are chanting

''Kaddish,'' the Jewish memorial prayer, ringing in my ears are the words of Archibald MacLeish who echoes the plea of the young dead soldiers: ''They say we leave you our deaths, give them their meaning.''

Let us give them meaning. Let us make an end to bloodshed. Let us make true peace. Let us today be victorious in ending war.

We all join in saluting the great life of Prime Minister Rabin and mourn his passage.

Mr. GILMAN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Missouri [Mr. EMERSON].

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

Mr. EMERSON. Mr. Speaker, I thank the distinguished chairman for yielding time to me.

I want to rise in strong support of the resolution before the House and to join my colleagues in expressing my profound sense of loss on the death, the tragic death of Prime Minister Rabin. He was a man of great vision and fortitude and character and leadership and peace. We do not see his likes too often. And that makes it all the more tragic when someone of his magnitude leaves us.

But I have every confidence that the kind of example that he set is going to be an inspiration to others and, notwithstanding the tragedy of this event, I am hopeful that great good may come from it by virtue of the fact that other people in leadership positions will emulate what he has done.

I want to extend my sympathy to his family, to his wife, his children, and his grandchildren.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I rise to pay tribute to Yitzhak Rabin, a great soldier, a great leader, a great man.

I was honored to be in Jerusalem on Monday and humbled by the outpouring of affection and respect for the Prime Minister. It was not long ago that Israel was unfairly treated by some as an outcast among nations; yet on Monday, delegations from around the world embraced Israel and joined her in mourning the terrible tragedy, the loss of Yitzhak Rabin. The community of nations did this in part because Prime Minister Rabin made it impossible not to.

When I think of the Prime Minister's contributions, I think of his vision, his resolve, his love of Israel, and his steadfast dedication to her secure future. Most of all I think of his courage, as a young man fighting for Israel's survival and, in later years, fighting for a just peace.

He understood that doing what is right would bring contempt from some and considerable risk. But he thought of the generations yet to come.

He knew that unless he gave leadership, his grandchildren, and all children—Arab and Israeli—faced a future fraught with peril.

It wasn't possible not to be moved by the words of those who spoke at his funeral. And I will always remember the thousands of people lining the streets, filled with profound sadness and respect. Many told me that they felt comfort at seeing the outpouring of support from around the world.

But the greatest tribute is still to come. That tribute will be in Israel's continued commitment to the peace process and in our Nation's unwavering partnership and support.

My heartfelt wishes to Mrs. Rabin. May she and the family be comforted among the mourners of Zion.

Mr. GILMAN. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. STEARNS].

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

Mr. STEARNS. Mr. Speaker, I rise today to honor a man who always fought when necessary, but only so that peace could be attained.

No one can claim that Yitzhak Rabin was not a warrior. Upon his graduation from high school he postponed his plans to study agriculture in the United States and instead joined the Jewish underground, which was then fighting for the very idea of independence and the existence of a Jewish homeland.

Yitzhak Rabin spent the rest of his life as a soldier, leading the men and women of the resistance, and eventually the Israeli military. Through battle after battle with the Arab countries of the region and molding the Israeli Defense Forces into one of the best trained and most motivated forces in the world; first as Israel's Army Chief of Staff, later as the Minister of Defense, and finally as Prime Minister.

Along the way he saw his friends and allies die. In one battle during the Arab-Israeli war of 1968, the Brigade he commanded lost close to 70 percent of its membership while fighting to relieve Jerusalem, the city of his birth, and to reopen supply lines with the Israeli forces in Tel Aviv. Today you can see the remains of this battalion as a memorial to the men who lost their lives in this struggle. But eventual victory was assured, as long as men like Yitzhak Rabin fought on.

These were the actions of a man who knew the value of a free and secure Israel. To further this dream, he knew a lasting peace would eventually have to be reached with Israel's Arab community as well as with the surrounding Arab nations. In 1992, while serving his first term as Prime Minister, he began the steady progress toward peace that earned him the Nobel Peace Prize in 1994. It was in a speech here in Washington, DC, in 1993 that Mr. Rabin said, ''We are destined to live together on the same soil in the same land. We, the soldiers who have returned from battles stained with blood; we who have seen our relatives and friends killed before our eyes; * * * We who have fought against you, the Palestinian's, we say to you in a loud and clear voice: Enough of blood and tears. Enough!''

Last weekend's tragedy, the first assassination of an Israeli Prime Minister, ended one life. But it cannot end the dream that Yitzhak Rabin's life stood for: a free and secure Israel, at peace with itself and the world.

The Bible has an appropriate verse which describes our memory of Prime Minister Rabin and with which I would like to conclude, ''Blessed are the peacemakers, for they shall be called the children of God.'' We should all remember Mr. Rabin; a warrior when necessary and a peacemaker when possible for his people and for all of Israel.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Speaker, a man of war, a man of peace, I think that most succinctly describes Yitzhak Rabin, the man we eulogize today. Only a man of his background and commitment could bring Israel to make the bold and courageous steps for peace so necessary in recent years.

I recall meeting with Yitzak Rabin in his office in Jerusalem the early part of this past June in which he gave graciously of his time and patience, I might add, for spirited discussion of the peace process, especially as it relates to Israel's northern neighbor and the land of my grandfathers, Lebanon.

I recall watching both he and the king of Jordan light each other's cigarettes just off the floor of this body following their speeches to a historic joint session of Congress.

These two soldiers of war and soldiers of peace had it right when they said, The peace process must survive. It is now time for all religious fanatics on all sides to stop the killing in the Middle East and to realize that the peace process must now be strengthened. Those who fuel the flames by their hotheaded rhetoric to satisfy these enemies of peace, including in this body, should pay the real tribute to Yitzhak Rabin and his family by supporting the peacemakers.

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

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

Mr. ROEMER. Mr. Speaker, it is a very difficult job to try to console someone like Mrs. Leah Rabin in this difficult hour. It is very difficult to match the eloquence of President Clinton with his words eulogizing this great leader.

It is difficult to match King Hussein's strength and commitment to the peace process and his words in Jerusalem. And it is impossible to better articulate what Noa Ben-Artzi Philosof, the granddaughter of Mr. Rabin, said in such moving words about her love for the leadership of her grandfather.

I would say that two of the things that I will just humbly attempt to cite, which were inspirational about Mr. Rabin that we will miss in Israel, in the Middle East, and America is that right now in politics there is a vacuum for leadership and courage. Mr. Rabin would never think of licking his fingers

to the wind and testing where public attitudes were on issues. He was a wind tunnel of strength for looking at where in a visionary sense his country should go for the best interests of later generations. And in this peace process, he was willing to risk everything to lead his people toward this vision of courage.

Second, I think he teaches us in death that in a democracy, whether it be Israel or the United States, that the people in a democracy have a commitment to speak up for a policy that they believe in or that they disagree with, that they cannot afford to remain silent or on the sidelines.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the ranking member from Indiana for yielding time to me.

I want to raise my voice in support of this resolution and in praise of Yitzhak Rabin. He was a model, a model of peace and a model of strength and a model of resoluteness. Whether one agreed with Prime Minister Rabin or not, one knew one thing: He did what he believed.

In an age of conventional politicians across the world, you never saw Yitzhak Rabin putting his finger to the wind. Rather, he made up his mind and he did the right thing. As a military man, he was sometimes accused of being too tough, as after Lebanon. As a Prime Minister, he was accused of being too soft. But Yitzhak Rabin had only one thing at heart throughout his career, and that was the State of Israel and the Jewish people who lived in Israel.

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He is a model for all of us, whatever our background, religion, or nationality, and our condolences to Leah Rabin and the Rabin family.

Mr. GILMAN. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. LEWIS], who also joined us in the congressional delegation to Jerusalem.

Mr. LEWIS of Georgia. Mr. Speaker, I rise to pay tribute to a fallen soldier, a warrior, a warrior for peace * * * Yitzhak Rabin.

Today our condolences and our hearts go out to the people and friends of Israel, the Rabin family, and lovers of peace.

Prime Minister Rabin was a great man, a great statesman and a great peacemaker. He lived his life protecting the people of Israel and gave his life trying to bring an end to the cycle of violence that has plagued his nation. He was a warrior for peace and that will be his legacy. No assassin's bullet can extinguish the flame, the dream, that Yitzhak Rabin ignited in the hearts and minds of his people. Yitzhak Rabin may no longer be with us, but his dream for a safe, secure Israel, an Israel at peace with itself and its neighbors, lives on.

We have all lost a great leader, a great man * * * a man of peace. Bless him.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, over the last 21 years I came to have a tremendous amount of professional respect and personal affection for Yitzhak Rabin. I remember after Camp David having a conversation with Anwar Sadat, and I asked him whether or not Camp David in his view represented a separate peace between Egypt and Israel or whether it would represent the first step in a comprehensive settlement. He said to me, ''Well, it had better be the latter because, if it isn't, I'll be dead within 5 years,'' and he was.

Mr. Speaker, the last time I talked to Yitzhak Rabin he told me that without peace there was no real security for Israel, and he expressed his frustrations that his political opponents were lobbying this Congress to get in the way of the Israeli Government's efforts to move the peace process forward. Two days ago in Israel, at Mr. Rabin's funeral, a key member of the Knesset said to me, ''We have our necks out a mile. Is it too much to ask that Congress stay out of the way?'' He said, ''You must understand we have to help the Palestinians to make their elections work so that we have something real to build on.''

Rabin and Peres in Israel, Sadat of Egypt, John Hume of Northern Ireland, they and people like them risk their lives and their careers routinely to bring the security of peace to their people. The best tribute to Yitzhak Rabin on this floor will not be our words. It will be our actions in either furtherance of or in obstruction of the cause which he gave his life for and risked his life for on almost a daily basis.

Mr. Speaker, I will miss Mr. Rabin both professionally and personally. He was one of the most dedicated and determined, and yet calm, men I have ever had the privilege to know in my life. I think he will truly go down as one of the great men who all of us have had the privilege to know.

Mr. GILMAN. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

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

Mr. LEVIN. Mr. Speaker, being at the funeral on Monday was one of the most moving and troubling experiences in my life. The murder of Yitzhak Rabin was a personal, and national, and an international tragedy. The national aspects were so well, so well spoken, at the funeral, as were the international aspects, by King Hussein, and President Mubarak, and President Clinton.

But those of us who were there and those who listened also were struck by the personal aspects. The granddaughter reminded the murderer and the world that when he murdered the Prime Minister he not only killed a great statesman, a great leader, but a grandfather.

What is there left for us to do? To grieve and to recommit ourselves to peace and the battle against extremism.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from California [Ms. HARMAN].

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

Ms. HARMAN. Mr. Speaker, I was proud to know Yitzhak Rabin, who served his country superbly and simultaneously in dual roles as Prime Minister—and chief peace-maker—and Minister of Defense—and Commander-in-Chief. I was honored to be part of the Congressional delegation to his extraordinarily moving state funeral.

The major figures of the Arab world made their first trips to Israel to attend the Rabin funeral, perhaps the best tribute to the impact of the man we mourn. Our large American delegation was seated behind them, and I took strange comfort gazing over the Arab headgear to the plain, flag-draped coffin.

King Hussein's remarks were so moving. He called Rabin his brother and friend, and spoke of his own legacy as achieving peace for all the world's children—not just Jordan's. Back at the King David Hotel following the ceremony, our delegation encountered the King, sitting on the terrace gazing at the old city—his first gaze in 42 years since he witnessed the assassination of his grandfather.

At the Western Wall, our delegation toured the newly excavated tunnels around the Second Temple. Our guide pointed out that the Second Temple fell because Jews began to fight Jews. The air was redolent with the unasked question: Would this—Jerusalem's rebirth and the best chance for peace in the history of the Middle East—come apart because, once again, Jew is fighting Jew?

I pray not, and urge passage of Senate Concurrent Resolution 31 which pays tribute to one of the world's great leaders and reaffirms America's support for the peace process.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, I thank the gentleman from New York [Mr. GILMAN] for yielding me the time.

As we all mourn the tragic death of Yitzhak Rabin, let us also take a moment to celebrate his extraordinary life, to express a profound and abiding gratitude for what he was able to do during his days on this Earth, for that wonderful gravelly voice that always carried a kind of palpable wisdom with it, for his courage, courage defined as always being willing to take real risk for a greater good, in his case enormous political risk for the greater good

of a lasting peace. He was not only a great leader for Israel, but for all of us who seek a world of security and stability and decency.

Mr. Speaker, we express our deep sympathy and respect to the family of Prime Minister Rabin, to the brave people of Israel as they struggle forward. In our sadness we must also keep faith with Yitzhak Rabin's determined mission. We all have a responsibility now to come together to persevere in his name and in his honored memory to complete Yitzhak Rabin's journey to peace.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from New York [Mrs. MALONEY].

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

Mrs. MALONEY. Mr. Speaker, on Monday, a beautiful and sad teenage girl captured the attention of the world as she spoke softly in Hebrew.

The simple eloquent speech of Yitzhak Rabin's granddaughter Noa broke our hearts.

And Prime Minister Rabin's death breaks our hearts and tries to break our spirit.

The man who fought to create the State of Israel, led Israel to victory in bitter wars, and was leading his nation down the difficult path of peace, is gone.

But the Yitzhak Rabin who did all this would not want our spirits to be broken.

If only he could have seen the historic gathering Monday in Jerusalem: Former Arab enemies wept alongside Leah Rabin; dozens of countries which once had no use for Israel sent their Heads of State to his grave; the President of the United States spoke as movingly as if he had lost his brother.

The legacy of Yitzhak Rabin is a State of Israel that is strong, secure, and welcomed in the community of nations.

The best way to honor his memory is to ensure that his beloved nation can live and prosper in peace.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Florida [Ms. ROS-LEHTINEN], chairman of the Subcommittee on Africa.

Ms. ROS-LEHTINEN. Mr. Speaker, the assassination of Israeli Prime Minister Rabin came as a shock to all of us. We almost considered him an irreplaceable leader in the search for a lasting peace between Israel and its neighbors.

Rabin's death reminds us that sometimes the greatest physical and moral courage is not to be found among those who make war, but among those who seek to make peace. Fortunately, Israel is a democracy whose government's policies are not the whim of only one man. And, although we mourn the loss of a courageous leader, we can be comforted by the fact that the goals he set for himself and his country are goals that are widely shared in Israel and they will continue to be pursued.

Perhaps the greatest monument that could be erected to Prime Minister Rabin would be for all of us to renew our own efforts to erect a structure of peace that can bring genuine security and peace to the people of Israel and to all of its neighbors.

We simply cannot allow fanatics—be it those who killed Egyptian President Anwar Sadat or the young man who has been arrested for the assassination of Prime Minister Rabin—to determine what the future of Israel and the Middle East shall be. We must move forward toward our goal of a lasting peace and a secure Israel.

This process has already produced benefits. And those benefits were there for all to see at Prime Minister Rabin's funeral. We have seen Israel and Jordan successfully negotiate a peace treaty. King Hussein of Jordan attended Rabin's funeral—something that would have seemed impossible just a couple of years ago—and vow publicly, ''we are not ashamed, nor are we afraid, nor are we anything but determined to conclude the legacy for which my friend fell.''

We have seen the ending of some boycotts of Israel by the countries in the gulf, and I think it is important that ministers from two gulf countries had the courage to attend the Rabin funeral. Let us build on this and make Israel our strong ally.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the distinguished gentleman from American Samoa [Mr. FALEOMAVAEGA].

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

Mr. FALEOMAVAEGA. Mr. Speaker, it is an honor and privilege for me to share with my colleagues and the American people the recent tragic event that took the life of one of the great leaders of the world and certainly of his native homeland, the state of Israel.

Mr. Speaker, for generations to come the name of Yitzhak Rabin will be enshrined in the hearts and minds of the men, women, and children of Israel. He was an outstanding warrior of the highest order, and a great man—because he also was a peacemaker. Truly the Almighty could not have said it better, Mr. Speaker, when he said, ''Blessed are the peacemakers for they shall be called the children of God.''

Yitzhak Rabin is honored foremost not for his leadership as a warrior and soldier, but as a peacemaker. On behalf of the American Samoan people we extend our fondest alofa, shalom, peace be with you, to the last Prime Minister Rabin, Mrs. Rabin, their children, and family.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. MANZULLO], a member of our Committee on International Relations.

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Mr. MANZULLO. Mr. Speaker, I spoke at the Temple Beth El in Rockford a few nights ago and would like to share those same thoughts with my colleagues this afternoon.

Mr. Speaker, as a Member of the United States Congress, I had the rare opportunity to meet Yitzhak Rabin in the recent past. I recall a man of great intensity, and as he spoke in his baritone voice, my colleagues and I were mesmerized. A photographer captured my meeting with Yitzhak Rabin, and that photo hangs proudly in my office in Washington. As you peered into his deep-set eyes, it was apparent he was the consummate warrior and the ultimate peacemaker.

Yitzhak Rabin was the warrior who helped Israel become a nation in 1948, the warrior who led Israel against insurmountable odds in the Six Day War, the warrior who knew he had to rely on God's strength to protect his tiny nation. He persevered only because he believed that the cause of Israel was greater than Israel itself; a cause for freedom for all people who had been oppressed.

And Yitzhak Rabin was the peacemaker, the one who saw Israel's role in the world from the perspective of a lasting peace. The warrior was tired of fighting and turned his energies to making peace.

I met those whom he had touched deeply: King Hussein of Jordan and Hosni Mubarak of Egypt. They respected Rabin because of his strength. He was a strong man—strong at age 73—strong in his beliefs for free Israel and strong in his convictions for a lasting peace in the Middle East. They respected him because he respected them.

They're gone now: Moshe Dayan, Menachem Begin, Golda Meir, David Ben Gurion. Now, the only native-born Israeli Prime Minister, Yitzhak Rabin, has gone to rest.

At the funeral service Monday in Israel, King Hussein was visibly moved. Who would have thought we would have seen that happen in our lifetime, a once bitter enemy shaken by the loss of a comrade in peace?

And Rabin's granddaughter, who is preparing to go into the military, as do all young people in Israel, said, ''as a pillar of light led our people through the wilderness, my grandfather led me, and who will lead me now?''

His memory leads us now. The memory of one who fought for peace, and who died for peace.

We honor the warrior turned peacemaker, the one who had the courage to believe the sons of Hagar and Sarah would someday reconcile, the one who believed Isaiah: ''and he will judge between the nations, and will render decisions for many peoples. And they will hammer their swords into plowshares and their spears into pruning hooks. Nation will not lift up sword against nation, and never again will they learn war.''

Mr. HASTINGS of Florida. Mr. Speaker, I am privileged to yield 1 minute to the distinguished gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Speaker, over 2,500 years ago, a great prophet of Israel, Habakkuk, looked around and saw the violence and the war that wracked his nation, and he asked this question: ''How long, Lord? How long before the violence ends and the peace reigns?'' The Lord answered, as recorded in the Holy Scriptures, in the book of Habakkuk: ''Write the vision and make it plain on tablets, that he may run who reads it, for the vision is yet for an appointed time, but at the end, it will speak and it will not lie; though it tarries, wait for it, because it will surely come.''

Prime Minister Rabin's struggle, his vision for peace, will be rewarded. The peace will come; though it tarries, it will come.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New Jesery [Mr. MENENDEZ], a member of our Committee on International Relations.

Mr. MENENDEZ. Mr. Speaker, it goes without saying that America and Israel share much in common. Both countries are built on a fierce commitment to freedom, democracy, and liberty. Both nations are heroic reactions to prejudice and oppression. And both nations know all too well, the price that must be paid for holding true to an ideal.

Yet another one of those shared experiences is that we are both relatively new nations. We measure our history as countries in decades rather than millennia. But compared to even the United States, the modern state of Israel is a sapling in the world forest.

I touch on this because, as Americans it may be hard for us to imagine Yitzhak Rabin's place in modern Israel's brief history. To give an American a proper perspective, imagine being witness as George Washington was gunned down by a mad Tory.

It is, in fact, a fair and historically accurate comparison to mention Rabin and Washington in the same breath. Patriot soldiers who helped forge a nation, then went on to become elected leaders of the very nation they fought for so bravely. Seeing Rabin and Washington as comrades may shed some light on why this tragedy touches Israel and the rest of the world so deeply.

Yitzhak Rabin earned our respect with his deeds. We were willing to follow him on the path to peace because we knew that he had marched down the road of conflict. Simply put, we trusted him to win the peace because he had been trusted to win the wars.

One of my most meaningful privileges as a Member of Congress is that I was able to work with Prime Minister Rabin. As a member of the International Relations Committee I met with him in Israel an then, back in Washington just a few weeks ago. He was a true leader who inspired cooperation with his honesty, his courage, and his deeds.

Prime Minister Rabin was well aware of the risks to Israel and to himself in trying to make peace. But he understood that the risk of not making peace is far greater. Perhaps because he was a soldier, perhaps because he was a patriot, perhaps because he was a father and a grandfather, perhaps because of all of those things, Yitzhak Rabin knew that peace is the most universal of all goals.

And as Americans, we were proud to stand with him in the quest for a just, fair, and permanent peace in the Middle East. This tragedy will not make us waver in that noble pursuit. We are committed to his goals. The doubters will quickly come to understand what Rabin knew in his soul—that peace is stronger than any gun.

Yitshak Rabin was indeed a 20th century George Washington. And as was said of Washington, it can be said of Rabin:

''First in war.

''First in peace.

''First in the hearts of his countrymen.''

Mr. HASTINGS of Florida. Mr. Speaker, I am privileged to yield 2 minutes to the distinguished gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, all of us in this country and across the globe send our thoughts and our compassion to the Rabin family, but those of us involved in the politics of our Nation need to learn from Yitzhak Rabin's courage; not the courage to stand up to lunatics with guns, that is a different kind of courage, which he obviously also had, but the courage to stand up in a very tough political climate.

The most difficult thing for politicians is to stand up to an angry and vocal group of their own constituency. For those of us in this Congress, we see it on a daily basis. We have freedom of speech in this country, as they do in Israel. Oftentimes that speech is fiery and poisoned, the price that was paid by Yitzhak Rabin for all too many good people sitting by silently, as those who condemned him for engaging in the peace process, for those who stood by and did not join with him in speaking out in favor of peace.

In this country we have many voices that are extreme, that feel they too get their directions directly from on high. This democracy survives not just by its laws, but by the accommodation of thoughts, by the ability to come to this Chamber and have a dialogue. The extremism that exists in our land threatens our democracy, as that lone gunman threatened the life of Yitzhak Rabin. The peace process will continue. It will thrive. All of those in this Chamber and across the globe will understand how critical it is, and must not let their voices be muted. We must continue that effort.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Speaker, I thank the gentleman from New York very much for yielding me this time.

Mr. Speaker, my time in Congress is almost the same as Israel's birth and growth. I was elected to the House for the first time in November 1948. Israel became a Nation in May 1948. I have known all of its leaders and Ambassadors to the United States, including Yitzhak Rabin with whom I established a firm friendship when he became Ambassador to the United States in 1965. We became close friends.

He was one of the giants of Israel, one of the long line who had developed Israel into the splendid nation it is today: Ben Gurion, Levi Eshkal, Golda Meir, Moshe Dayan, and the other stalwarts of that great State.

Yitzhak Rabin's contributions to Israel in peace and war were among the greatest in Israel's history. He had the courage to press for peace with his Arab neighbors over the objections and the extreme hostility of Arabs and Israelis both. His death, of course, will be an immense loss to the peace which he sought, and toward which he had done so much. In his memory, the peace process should bring Israelis and Arabs closer to the bargaining table to seek the peace for which Yitzhak Rabin gave his life.

Addie and I extend our profound sympathy to Leah and the Rabin family, whose courage and dignity have been an inspiration to the world.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Speaker, I thank my friend and colleague, the gentleman from Florida, for yielding time to me.

Mr. Speaker, I join my colleagues in this Chamber in support of Senate Concurrent Resolution 31. This resolution condemns the assassination of Israeli Prime Minister Yitzhak Rabin, and extends our deepest sympathy to his family and the people of Israel.

The hearts of Americans are heavy and laden with grief. We join the Government and people of Israel in mourning the tragic loss of Prime Minister Rabin. The world pauses to pay final tribute to a leader whose last mission was a quest for peace.

Mr. Speaker, it has been said that Yitzhak Rabin dedicated his life to Israel's rebirth, its security, and its freedom. He was a soldier who led troops during Israel's war of independence. When he was elected Prime Minister, Mr. Rabin was able to forge a close relationship with the United States and other allies in the pursuit of peace in the Middle East.

Yitzhak Rabin was a warrior who came to believe the time had come to seek peace. He believed it in his heart, and he spent his days leading the nation of Israel toward that ultimate goal. In 1993, the eyes of the world turned to Washington, DC, as Prime Minister Rabin and PLO leader Yasser Arafat pledged a bond of peace between Israel and the Palestine people. Prime Minister Rabin harbored no hatred as he said:

We have come to try to put an end to the hostilities so that our children, our children's children, will no longer experience the painful costs of war, violence and terror.

Mr. Speaker, the voice of Prime Minister Rabin has been silenced. But I am convinced that his quest and his longing for peace will be fulfilled. Those of us who are committed to peace realize the dangers when you dedicate your life to that goal. Here in America, the assassinations of President Abraham Lincoln, John F. Kennedy, and Dr. Martin Luther King, Jr., took from our midst other great men who were committed to peace and understanding.

The healing process that America has undergone far too often now confronts our friends in the Middle East. We stand aligned with our neighbors as they confront this challenge. Prime Minister Rabin died in the quest for peace. It is our responsibility to continue that quest with even greater commitment and urgency. This would be the greatest testament to the memory of Yitzhak Rabin.

During my tenure in the U.S. Congress, and throughout my life, I have enjoyed a close relationship with members of the Jewish community. On their behalf, and on behalf of the entire 11th Congressional District, we offer our condolences to the family of Prime Minister Rabin. We offer our support to the people and Government of Israel in this time of great loss.

Mr. Speaker, as we gather today to pay tribute to Prime Minister Rabin, I am reminded of the words of acting Prime Minister Shimon Peres who said,

* * * I know a deep mourning has fallen on Israel, on our people, our neighbors, because he was a rare leader in our nation, and a rare leader in our world. When I look at the map of world leaders, I see no one who worked with greater resolve, skill, devotion and self-sacrifice than Yitzhak Rabin.

Mr. Speaker, hatred has, indeed, taken from our midst the dreamer. We cannot and will not allow hatred to end the dream.

Mr. HASTINGS of Florida. Mr. Speaker, I am privileged to yield 2 minutes to my good friend, the distinguished gentleman from New York [Mr. ENGEL], who was a member of the presidential delegation that went to the funeral of Prime Minister Yitzhak Rabin.

Mr. ENGEL. Mr. Speaker, I thank my friend, the gentleman from Florida, for yielding time to me. We had a lot of conversation on that plane. We did not sleep very much, but those of us that were privileged to be part of the official American delegation to Israel for the tragic funeral of Prime Minister Rabin will remember it and cherish it for the rest of our lives.

Mr. Speaker, when we arrived in Israel, we were given two badges. These were the badges we wore, which said that we were part of the official delegation and allowed us to get into the cemetery. What I saw in Israel, and I have been to Israel many, many times, what I saw in Israel was nothing that I have ever seen: throngs of people crowding each street corner, throngs of people crowding as the motorcades went by, as our bus went by, into the cemetery; people lighting memorial candles, people holding vigils, people holding signs. It was just something that will live with me for the rest of my life.

I was proud. We had 15 Senators and 19 House Members there as part of the official delegation. Although, again, I have been to Israel many times, and I feel so strongly about enhancing the United States-Israel alliance, which is a vital alliance for both countries and a good, strong alliance, I think that this time in Israel, short as it was—36 hours, and we did not even have a chance to sleep; we were there, we ran around, we came back—I think this trip had the most meaning for me.

Mr. Speaker, I was privileged and proud to know Yitzhak Rabin for many, many years. I was privileged and proud to call him my friend. I was privileged and proud to watch him, watch him grow, watch him change, in an evolutionary change. He fought on the battlefield and was a soldier in war when he felt that was the way to protect his nation, but he became a soldier for peace, understanding that peace was the only way to go, and the best way to ensure the security of his nation.

Let me say to my dear friend Yitzhak Rabin, ''We will miss you, but we will never forget you. All of us will try to emulate you. Peace, shalom. That is the most important thing.''

Mr. HASTINGS of Florida. Mr. Speaker, I 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 rise in praise of Yitzhak Rabin, in sadness over his passing, and in support of the resolution today.

Mr. Speaker, I rise today in support of Senate Concurrent Resolution 31, which extends the deepest sympathy of this Congress to the family of Prime Minister Rabin and to the people of Israel. The world lost a great man on November 4, when an assassin's bullets took from our midst a true leader.

The eulogies for Yitzhak Rabin have been eloquent and heartfelt. His credentials, his accomplishments, his dedication, and his vision have been lauded by leaders around the world. Listening to these somber words of praise and mourning, of shock and grief, of public and personal memory, I have been struck by the resonance of this loss across diverse populations, across communities and across nations. It is not only the people of Israel who are mourning Prime Minister Rabin's tragic, untimely, and violent death. They have been joined in their grief by people around the world. This loss struck a chord.

I have thought deeply about how Yitzhak Rabin touched so many people. He was great in many ways. What stands out about Yitzhak Rabin, to me, what elevates him so far above the rest, was his courage to change. After pursuing one vision, the vision of the warrior, for the majority of his life, Yitzhak Rabin recognized, and then acted on his recognition, that the way to the future was through peace, not through war. He had the courage to change and through that courage, changed the course of the world.

The day that the peace agreement was signed on the White House lawn, Yitzhak Rabin proved that there is no conflict too old, too entrenched, or too deep to be resolved. His work and his handshake demonstrated that negotiations and compromise can produce results. He gave impetus to participants in other longstanding conflicts to start talking to their opponents; he gave hope to the victims of conflict that peace is possible.

Above all else, Prime Minister Rabin was a realist. He knew that proving peace was possible did not prove that peace was easy. His assassination is a tragic example of how difficult the pursuit for peace can be.

Mr. HASTINGS of Florida. Mr. Speaker, I am privileged to yield 2 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Speaker, on July 26, 1994, Yitzhak Rabin, Prime Minister and Defense Minister of the State of Israel, addressed the United States Congress. These are his words on that day:

Each year, on Memorial Day, for the Fallen of Israel's war, I go to the cemetery of Mount Herzl in Jerusalem, facing me are the graves, headstones, the colorful flowers blooming on them, and thousands of pairs of weeping eyes. I stand there, in front of that large, silent crowd, and read in their eyes the words of, ''The Young Dead Soldiers,'' as a famous American poet, Archibald MacLeish, entitled the poem from which I take these lines:

They say;
Whether our lives and our deaths
were for peace and a new hope,
we cannot say;
it is you who must say this.

☐ 1300

Today Yitzhak Rabin is among the fallen on Mount Herzl. He has given us his life; we must give it meaning. We must labor and live so that his life and death stands for peace and a new hope.

Prime Minister Rabin closed his remarks with an ancient blessing and a continuing plea for peace. Again, in his words: Blessed are you, oh, Lord, who has preserved us and sustained us and enabled us to reach this time. God bless the peace.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Speaker, I thank the distinguished gentleman from Florida [Mr. HASTINGS], and I rise to support this resolution in honor of Prime Minister Rabin and offer to those of us who would reflect how telling it is to hear that in the glaring headlines of the Israeli papers we have the family of the alleged perpetrator acknowledging the tragedy of this incident and the hopelessness that they feel, and asking for forgiveness. We can

forgive but we must learn that violent talk can also bring about violent deeds.

The headlines rang out across this Nation over the weekend, but one that was more telling than any was one that said ''Muslims, Christians and Jews share a prayer for the same, an uneasy peace.''

We in America know about an uneasy peace, for we have been caught up in the turmoil of an assassination of President John F. Kennedy who rose in this Nation to speak of values of unity and unification, and we experienced sadly the short life of Dr. Martin Luther King, who himself was a promoter of peace. Therefore, I applaud and salute Prime Minister Rabin who after experiencing the tragedy of war embraced the idea that this world is better off if he spoke for peace and worked for peace even if there was those detractors who spoke violently against peace. Prime Minister Rabin risked his life and braved his enemies to stand up for peace for Israel and peace for the world.

So I come today to say that peace will prevail, peace will survive, for Prime Minister Rabin was a freedom fighter who turned his eyes toward being a fighter for peace. His life was one that reflected a sense of understanding that it was better to send home the military boys and girls of our families in Israel and the Arab world, in this Nation whole and in one complete piece. This can be done if we pay tribute to Prime Minister Rabin by our action to secure peace in the Mideast.

So this headline of ''Muslims, Christians and Jews share a prayer for the same, an uneasy peace,'' should result in more than prayer, we should make peace happen.

To Mrs. Rabin and her family my deepest regret, I am privileged to have met him. But the words of his granddaughter captured his life better than others. She said ''no one knows the caress that you placed on my shoulder and the warm hug that you saved only for us.'' I would simply add.

Shalom, peace, let us maintain peace in his name.

Mr. Speaker, I rise today to support Senate Concurrent Resolution 31 to honor the legacy of slain Israeli Prime Minister Yitzhak Rabin. I was extremely shocked and saddened when I heard the news that he had been killed. His life, which mirrored the life of the State of Israel, was committed to establishing security for his people and a lasting peace for the Middle East.

As a military leader, Mr. Rabin was a giant; he fought for the Independence of his country and was the Israeli Military Chief of Staff during the Six Day War in 1967. As a peacemaker, Mr. Rabin worked to establish a relationship with the Palestinians and signed Israel's second peace treaty, with Jordan.

Throughout history, many have given their lives in the pursuit of peace: Gandhi, John F. Kennedy, Robert F. Kennedy, Anwar Sadat, and now, sadly, Yitzhak Rabin. Mr. Rabin's death should not be the end of his vision of a lasting peace for the Middle East. As was evident by those who attended his funeral on Monday, the peace process is on a course that cannot be stopped. And, the United States should do all that it can to make sure that the process continues.

As the U.S. Representative for the 18th District of Texas, I am the caretaker of the Mickey Leland Kibbutz program. This program takes young people from Houston, and sends them to Israel. Ideas and cultural attitudes are exchanged. It is in this spirit of cooperation and peace that Yitzhak Rabin's dream will continue. The American/Israeli relationship is unflappable. The United States must, and will continue to support Israel and its people in their quest to live free from war and bloodshed.

During my last visit to Israel, I was struck by the similarities between our two peoples. We are both committed to democracy and free expression, to personal liberty, and to the pursuit of happiness. It is because of these similarities that the United States must continue to be Israel's strongest ally. We must stand by Israel and the Israeli people in this time of need.

Let us not let Yitzhak Rabin's murder be the ending of one man's vision. Let us make it the catalyst in a new, lasting commitment to bring to fruition Mr. Rabin's vision of a Middle East with open borders, peaceful and free. This must be our commitment, it must be our duty.

I say to the people of Israel, we will stand behind you. We will not forsake you. The peace process must be expedited. The days of death and bloodshed will end. Yitzhak Rabin's life has ended, but his dream lives on.

Peace, Shalom.

Mr. GILMAN. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. FORBES].

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

Mr. FORBES. Mr. Speaker, I rise in support of this resolution.

Mr. Speaker, blessed are the peacemakers; and the Prime Minister of Israel, Yitzhak Rabin, was truly one of this century's great peacemakers. To his family and to all Israelis, in fact to all Americans who came to know and honor this great man, I rise in support of this resolution.

Let us take this opportunity as well to embrace heartily the peace process and our hope that all parties in this peace process will move forward in the name of the Prime Minister, and that the Syrians and the Palestinians and all of those who want a stable and lasting peace for all of the people of the Middle East will take this opportunity in memory of the slain Prime Minister to wholeheartedly embrace the process, to live by the tenets of the Oslo accords and to once and for all bring stability to this vital and strategic area of the world.

Mr. HASTINGS of Florida. Mr. Speaker, I am privileged to yield 2 minutes to the distinguished gentleman from Florida [Mr. DEUTSCH], my friend and colleague.

Mr. DEUTSCH. Mr. Speaker, I, too, today join my colleagues in rising in support of this resolution.

I had the honor to meet and interact with Yitzhak Rabin probably at least a dozen times. The last time I was in Israel I knew I was going to have an opportunity to spend some time with him, and I read his autobiography on the plane over to Israel, and his autobiography in a sense is really almost a history of the modern State of Israel.

From the time of a young man in his early twenties being the commander of the Hagana and Palmach troops that defended and really secured the existence of Jerusalem for the Jewish State, going on from the 1948 through 1967 war when he commanded Israeli defense forces into his first term as Prime Minister, his life truly is the life of the modern State of Israel.

Any death is a tragedy, and the tragedy that we see here is of untold, indescribable proportions. Brothers killing brothers. I think everyone in the world feels that pain. The pain that we feel is not just for the family, and we feel that pain, but really for the future as well.

Because those of us who know and understand some of Jewish history know that there has been brother kiling brother that has destroyed prior States of Israel, and our hopes and our prayers is that that is not what this is about, but this is the act of a crazed one person, and that is the only act, and it is not tidings of worse things to come.

Many people who have been in this Chamber on a daily basis do not acknowledge or do not realize that right above us, actually straight in the center of us, is a wreath of Moses who looks down on us every day in this U.S. Congress, and for those who are watching on C–SPAN I would ask them when they come to Congress, and even those in the gallery can look.

I, too, know that God looks on us in our presence and through his help and strength that his will will be done in the future.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker and my colleagues, I did not know Prime Minister Rabin well, but I had an opportunity, like many of you, to hear him. I remember 2 years ago I stood on the White House lawn and saw that famous handshake that he said was so rare, but he felt should be so common, of people coming together, and we praised him then for his peace efforts.

I had the opportunity to join Chairman GILMAN and other Members of the new majority also in a bipartisan effort and flew to Jerusalem earlier this year; and we reassured the Prime Minister and other leaders that we were committed to peace, his peace efforts in the Middle East; and we lauded him at that time. But I got to see him firsthand; and I saw a tough man, a firm man, but a gentleman. Again, I did not know him that well, but I feel privileged to have had the opportunity to discuss peace with him and his efforts.

Then we heard not too long ago his admonition that the land of milk and honey should not be a river of tears

and blood, and all of us listened, and we heard him again appeal to the Middle East and to the world for peace.

So we saw a man who was drawn into war, but who worked for peace, and he taught us a lesson, a lesson that we should be thankful for and remember toward world peace, Be prepared for war, but, in fact, that we should all work for peace. He will be missed by myself and many others who have had a brief opportunity to work with him, but we will work toward his legacy, and that legacy was one of peace.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from Illinois [Mr. RUSH], my friend and colleague.

Mr. RUSH. Mr. Speaker, as an individual who has dedicated his life to fighting for a better understanding of and more harmonious relationships between all the people of the world, regardless of their race, religion, or ethnic background, I was particularly wounded and shocked by the assassination of Prime Minister Rabin.

I had the unique opportunity to meet with Yitzhak Rabin 3 months ago when I visited Israel for the first time. It was through this unique visit that I had an opportunity to meet with Mr. Rabin. In his presence, I was immediately put at ease by his earthy style and his folksy, one might even say, laid back demeanor. I recognized his straightforward approach and his direct response to questions posed to him. I recognized an extraordinarily courageous man whose nobility was not camouflaged nor bolstered by pretense, pomp, or circumstance. I was particularly impressed with the strength that he displayed on the question of Hebron. The success of the peace process was paramount to this warrior for peace.

Yitzhak Rabin epitomized the phrase ''an ordinary man who accomplished extraordinary things.''

Mr. HASTINGS of Florida. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. ACKERMAN], my friend and colleague.

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

Mr. ACKERMAN. Mr. Speaker, I want to thank the gentleman from New York [Mr. GILMAN] and the gentleman from Florida [Mr. HASTINGS] for bringing this to the floor.

Mr. Speaker, I rise in the strongest of support for this resolution.Almost 2 months ago, I was asked to speak during a synagogue service in New York about the hopes and dreams of both the American and Israeli people for an enduring and secure peace.

The assassination of Prime Minister Yitzhak Rabin last Saturday night cut to the very heart of those hopes and dreams.

During my remarks, I shared the profound experience I had with another assassination. I talked about how I rushed from school to my mother's apartment in Flushing when I heard the news that President Kennedy had been shot. We were part of an America that feared that we had lost our hopes and our dreams.

Flying to Israel for the funeral of another great leader gunned down for his beliefs and principals, I wondered whether Israel and its people would itself fall into hopelessness.

On Monday morning, the day of Mr. Rabin's funeral, my question was answered. There was despair, but there was hope as well. There was hope, because you cannot kill dreams with bullets. That hope was rekindled by the sight of presidents, prime ministers and ambassadors, who gathered atop Mount Herzl in Jerusalem from places across our planet. That hope was strengthened by the sight of international leaders wearing yarmulkes and listening to the recitation of Kaddish, the Jewish mourner's prayer. By the sight of Islamic leaders wearing Kafias. That hope was rejuvenated by the vision of former enemies gathered between Israeli flags unfurled in a soft breeze at the foot of the coffin of a former enemy-general, now felled in the war for peace.

And despite the nightmare of this assassination, the dream of peace was sustained, and even strengthened, at the extraordinary sight of Egypt's President Mubarak and Jordan's King Hussein reaching out to console the widow of a slain Israeli Prime Minister. The King calling her his sister, just as they have reached out to console the widows of their own citizens lost in the futility of the wars of the past.

The world must learn from this horrible deed. We must learn that words have consequences. That fundamentalist zealots on all sides are not part of any legitimate debate, and that those who encourage them have joined with the forces of darkness. And that real dialog is necessary.

Mr. Chairman, we honor the memory of Prime Minister Rabin by staying the course, and continuing our quest for a secure peace.

Mr. Speaker, the world has lost a leader. Many of us have lost a friend. But I am certain that the United States and Israel will continue to build on the hopes and dreams of both our people.

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

Mr. Speaker, we have heard expressions of support and deep sympathy for the Prime Minister now departed. We have also heard sympathy and condolences appropriately directed to the family of Yitzhak Rabin and the people of Israel in this moment of tragedy. This resolution expresses its admiration for the historic contributions made by Prime Minister Rabin over his long and distinguished career of public service. Also, it expresses support for the government of Acting Prime Minister Shimon Peres.

I was a member of the Presidential delegation that attended the funeral, after which we had the distinct privilege and pleasure of having Mr. Peres take from his busy time to come and thank all of the Americans who were a part of that delegation.

I also thought that President Clinton also used his time well to thank the members of the Knesset who sponsored a brief reception for the American delegation. It was an extremely moving experience to be a part of such an historic moment and to see the numbers of faces that lined the streets of Jerusalem that were in mourning and in sympathy for their and our departed leader.

As this resolution comes to the floor, I am hopeful that civil discourse will take on new meaning for all of us that at least should learn from these kinds of experiences, that we can be better in our disagreements.

The song says, ''When will they ever learn? When will they learn?''

I hope from this sad tragedy that all of us will learn the lessons of peace.

Mr. Speaker, I yield back the balance of my time.

☐ 1315

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

Mr. Speaker, in closing, I want to first express my appreciation that the Members of this House have had the opportunity today to eulogize Prime Minister Yitzhak Rabin. His tragic death will, we hope, serve as a catalyst to all those in the Middle East to come together and to move the peace process forward.

It is essential that extremists cease their hateful activity so that the nation of Israel can benefit from the tragic death of Yitzhak Rabin as a motivator for healing his nation.

Mr. Speaker, all of Israel's citizens must play a constructive role in determining Israel's future. Prime Minister Rabin's death can and should be a force for peace. But first, Israel's citizens need to listen to each other, to understand and recognize their hopes and fears, their dreams, and concerns.

Let us hope and pray that Yitzhak Rabin's shocking loss will spur leaders throughout the Middle East into a more active and a committed role for a long-lasting peace.

Mr. MANTON. Mr. Speaker, I rise today to express my outrage and sadness over the assassination of Israel's Prime Minister Yitzhak Rabin. There are few people who stand against incredible odds to achieve peace. Yitzhak Rabin was one such person—a great leader and laborer for peace.

Mr. Speaker, a crime this violent and thoughtless is unspeakable, especially when it is against a person so dedicated to promoting peace in an area infested with war and upheaval for so long. Prime Minister Rabin brought his people together to mend the wounds of the past and prepare them for the road of peace, a profound achievement for which he was recognized in 1994 when he received the Nobel Prize for Peace. His dedication to this cause was so great, he died for it. As it is said in the bible, ''Blessed are the peacemakers, for they shall be called sons of God.'' This passage reminds us that Prime Minister Rabin's efforts in the peace process must continue and never be allowed to falter.

Only a short time ago, Prime Minister Rabin joined President Clinton and Palestinian leader Yassar Arafaat at the White House for a second peace treaty signing, ensuring that lasting peace would prevail in the Holy Land. We must not let this cowardly act of murder deter the people of Israel and Palestine from living together in harmony. Although the peace process between Israel and Palestine has not

been an easy one and the murder of Rabin has made it more difficult, we as Members of Congress must help ensure it will not be further jeopardized by the ignorant.

Mr. Speaker, it is my hope that justice for those involved in this unspeakable crime will be swift and severe. A great friend of peace is lost and will never be forgotten. My deepest condolences go out the Rabin family and the nation of Israel.

Mr. CUNNINGHAM. Mr. Speaker, today I rise to honor the memory of Prime Minister Yitzhak Rabin. Prime Minister Rabin was a true hero who devoted, and eventually sacrificed his life for peace and democracy in the country of Israel. My heart goes out to this great peacemaker's family and the citizens of his country, all of whom will surely miss him.

Yitzhak Rabin was a courageous military leader who fought for Israel's freedom and spearheaded its rebirth. Just as he defended Israel from the threats of enemies, he also pursued peace with those who posed threats. As Prime Minister, he successfully achieved a very positive relationship with our country and won the hearts of several U.S. presidents.

The strong leadership and numerous accomplishments of Yitzhak Rabin will not soon be forgotten. Although his was a tragic death, this courageous leader's ideas and progress toward peace will continue. Prime Minister Rabin wanted a free, democratic Israel where peace prevailed throughout the land. I am confident that the peace process between Israel, the Palestinians and Arab countries will continue with the same vigor and spirit that the Prime Minister dedicated to this crusade.

In honor of this hero, I urge you to vote in favor of Senate Concurrent Resolution 31, Honoring the Life and Legacy of Yitzhak Rabin. Not only does this measure extend sympathy to the family and condemn the assassination, it also expresses our commitment, as legislators, to the Middle East peace process. Your vote in favor of Senate Concurrent Resolution 31 is of vital importance.

Mr. BARRETT of Wisconsin. Mr. Speaker, the date of June 26 will long be remembered by peace-loving people throughout the world. For it was on that date in 1992 when Yitzhak Rabin's fragmented Labor Party scored an upset victory in elections over the Likud Party on a platform of progress and peace.

In that election, the Israeli people spoke loud and clear. The Jewish State could no longer afford to shed the blood of its sons and daughters. Only by pursuing a real and lasting peace with its neighbors, would their country fulfill its prophecy as embodied in the national anthem Hatikva: ''To be a free people in our land, in the land of Zion and Jerusalem.''

With this weekend's senseless assassination of Prime Minister Rabin in the midst of the largest peace in rally in the nation's 47-year history, we are left to search for answers in the face of this horrible tragedy. Above all else we are left to wonder if this act of brutal cowardice will derail the tremendous strides Israel, its Arba neighbors, and the United States have made together since Rabin came to power.

Rabin was a skillful general who spent the better part of his life in the Israeli military, helping to protect his young homeland from constant attacks and acts of war. But in the end, Rabin will be remembered as a peace warrior, who would not back down from his mission, even at the price of his own life.

Now more than ever before, we must strengthen our resolve for peace. We must not waste a moment to move forward to fulfill the promise for which Yitzhak Rabin gave his life. If we need any clearer indication of the world's commitment to realizing Rabin's legacy, we need look no further than the outpouring of grief at Monday's funeral from leaders whose very attendance would have been unthinkable a few short years ago.

Just as we have since 1948, the United States and Israel will remain great allies. Here in America, and throughout the world the leaders of nations must follow the examples of Yitzhak Rabin's selfless determination and unfailing commitment. In doing so, we will begin the 21st century not in fear of war or hatred, but in the spirit of peace, progress and Hatikva: Hope.

Mr. HOLDEN. Mr. Speaker, it is with great sadness that I rise today to pay tribute to Yitzhak Rabin. Last Saturday was truly a sad day, because not only did Israel lose a fine Prime Minister, but the world lost a great leader. He began as a soldier fighting for his nation's freedom, and died as a soldier for peace.

The life of Yitzhak Rabin is the story of Israel. He was born in Jerusalem in 1922 and fought for Israel's independence. He worked his way through the ranks of the Israel Defense Forces, becoming Chief of Staff and the architect of the Israeli victory in the Six-Day War in 1967. He was first elected Prime Minister in 1974, and was again elected in 1992.

In a time when great leadership was needed, Yitzhak Rabin always stepped forward to serve his nation. He will be remembered as one of the greatest leaders of our century and as a man with the fortitude to lay down arms and embrace his enemy in the name of peace.

I had the great pleasure to meet Prime Minister Rabin in Jerusalem in May of this year and it was an experience that I will never forget. I still have a picture in my mind of him sitting in a conference room talking to us.

He was a man of great courage and vision. He had the foresight and bravery to fight for peace, to lead his country into a peace with people who had previously been bitter enemies.

I also had the privilege to be present on the White House lawn on September 13, 1993, when Prime Minister Rabin and Yasir Arafat signed a historic peace accord that has opened a new chapter of peace in the Middle East. It was the personal courage and leadership of Mr. Rabin that made the accord possible. Now the fight for peace continues, despite the loss of one of its finest soldiers.

The peace process must go on despite this tragic loss. The voices and acts of extremists cannot be allowed to stand in the way of progress. The greatest tribute which can be done for Yitzhak Rabin is continuing the peace process. He will not be forgotten, and his achievements will be memorialized in the future by the sight of Israelis and Arabs living together in peace.

Mr. GILMAN. Mr. Speaker, it is with deep sorrow and a sense of personal loss that I introduce legislation today that honors the life and legacy of Israel's slain Prime Minister. Yitzhak Rabin, who was gunned down on Saturday night by a lone assassin, was attacked by a killer who opposed Prime Minister Rabin's efforts at reconciliation and peace with the PLO, initiated 2 years ago with the signing of the Declaration of Principles between the parties.

The shocking circumstances of Prime Minister Rabin's death magnify the tragedy of his loss. I was honored to participate with the Presidential delegation that attended Prime Minister Rabin's state funeral yesterday. It was gratifying to see in attendance an extensive list of international dignitaries, including representatives of nations with which Israel does not have any diplomatic relations.

It was this gathering that mourned the life and legacy of Yitzhak Rabin, a soldier-statesman who became his nation's first native born Prime Minister. Born in Jerusalem in 1922, as a young man, Yitzhak Rabin fought for Israel's independence by defending the Tel-Aviv-Jerusalem highway. He distinguished himself repeatedly, and, as Chief of Staff of the Israel Defence Forces, was the architect of Israel's stunning victory in the Six-Day War of 1967, which saw Jerusalem, Rabin's birthplace, reunited as Israel's capital.

I came to know, to work with, and to respect General Rabin in his capacity as Ambassador to the United States, as Secretary of Defense, and as Israel's Prime Minister. He distinguished himself again and again, contributing heavily to the close U.S.-Israel partnership that exists today. His commitment to that relationship, as well as his personal and unstinting commitment to ''peace with security'', were evident throughout the remainder of his political career, whether as Minister of Defense or Prime Minister of Israel.

Israel's road to peace has been a difficult one. Yet, Prime Minister Rabin will forever be remembered as a man who not only led Israel to victory in war, but who also led her citizens in pursuit of peace. At this troubled time in Israel's history, we express our support for Israel's transition government, and reaffirm the congressional commitment to a lasting peace between Israel and her neighbors.

Our thoughts and prayers are with the Rabin family, with Acting Prime Minister Shimon Peres, and with all the people of Israel at this time.

Accordingly, Mr. Speaker, I request that the full text of our legislation, House Concurrent Resolution 112, be printed at this point in the CONGRESSIONAL RECORD.

H. CON. RES. 112

Whereas Yitzhak Rabin, a true hero of Israel, was born in Jerusalem on March 1, 1922;

Whereas Yitzhak Rabin served in the Israel Defense Forces for more than two decades, and fought in three wars including service as Chief of Staff of the Israel Defense Forces during the Six Day War of June 1967;

Whereas Yitzhak Rabin served the people of Israel with great distinction in a number of government positions, including Ambassador to the United States from 1968 to 1973, Minister of Defense from 1984 to 1988, and twice as Prime Minister from 1974 to 1977 and from June 1992 until his assassination;

Whereas under the leadership of Yitzhak Rabin, a framework for peace between Israel and the Palestinians was established with the signing of the Declaration of Principles on September 13, 1993, continued with the conclusion of a peace treaty between Israel and Jordan on October 26, 1994, and continues today;

Whereas on December 10, 1994, Yitzhak Rabin was awarded the Nobel Prize for Peace for his vision and accomplishments as a peacemaker;

Whereas shortly before his assassination, Yitzhak Rabin said, ''I have always believed

that the majority of the people want peace and are ready to take a chance for peace . . . Peace is not only in prayers . . . but it is in the desire of the Jewish people.'';

Whereas Yitzhak Rabin's entire life was dedicated to the cause of peace and security for Israel and its people; and

Whereas on November 4, 1995, Prime Minister Yitzhak Rabin was assassinated in Tel Aviv, Israel: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) condemns the heinous assassination of Israeli Prime Minister Yitzhak Rabin in the strongest terms;

(2) extends its deepest sympathy and condolences to the family of Prime Minister Yitzhak Rabin and to all the people of Israel in this moment of tragedy;

(3) expressed its admiration for the historic contributions made by Yitzhak Rabin over his long and distinguished career of public service;

(4) expresses its support for the government of Acting Prime Minister Shimon Peres; and

(5) reaffirms its commitment to the process of building a just and lasting peace between Israel and its neighbors.

Mr. TRAFICANT. Mr. Speaker, I rise in strong support of Senate Concurrent Resolution 31, which condemns the assassination of Israeli Prime Minister Yitzhak Rabin, and extends Congress' deepest sympathy to the family of Mr. Rabin and the Israeli people. The measure also expresses support for the government of Acting Prime Minister Shimon Peres and its commitment to the process of building a just and lasting peace between Israel and its neighbors.

Mr. Speaker, on the night of November 4, 1995, the world lost one of its great leaders. Yitzhak Rabin was a warrior who fought bravely to create the State of Israel, and who fought hard to defend Israel. Yitzhak Rabin knew war, he knew all the destruction and suffering that war causes. More than any Israeli leader, Yitzhak Rabin yearned for a lasting peace.

In the last years of his amazing life he achieved many of the goals he worked so hard for throughout his life. Perhaps it took a man of Yitzhak Rabin's strength, fairness, integrity, and immense courage to forge a meaningful peace with Israel's neighbors and the Palestinian people.

More than anything, Yitzhak Rabin was a man of peace and a man of courage. He devoted his entire life to the security and well-being of his country. Ultimately, Yitzhak Rabin gave his life for the cause of peace. All those throughout the world who cherish peace mourn this enormous loss. Yitzhak Rabin will be long remembered as one of the great men of the 20th century.

I join my colleagues in saluting this great man, and in extending our deepest and heartfelt sympathies to his family and the people of Israel.

I also join my colleagues in expressing my sincere hope that the historic peace process that Yitzhak Rabin worked so hard to put in place, continues. Indeed, I can't think of a more appropriate and lasting monument to Mr. Rabin than the establishment of a lasting peace agreement between Israel, the Palestinian people, and Israel's neighbors.

Mrs. MORELLA. Mr. Speaker, I rise today with my colleagues to support Senate Concurrent Resolution 31.

We join with the people of Israel in mourning the death of Prime Minister Yitzhak Rabin, a plainspoken man of eloquence and courage. He was his country's greatest war hero and he was its greatest peacemaker.

A soldier, father, and grandfather, he knew too well the terrible price all the people of the Middle East, Jews and Arabs alike, have paid for decades of war and he knew too well the inconsolable grief of parents for their slain children.

The tragic loss of this great man, who moved his country to make peace with its greatest enemies—for which he received the Nobel Peace Prize—must be met with unwavering determination to finish the march toward peace, the ''great and noble idea of peace,'' that he started. That must be the world's tribute to Yitzhak Rabin.

Mr. NEAL of Massachusetts. Mr. Speaker, I rise today to honor a renowned world leader. Yitzhak Rabin's unwavering commitment to the security and future of his people leaves a legacy worthy of emulation. He lead his country to victories on the battlefield and paved the way for peace with his former enemies. Just minutes before his death Prime Minister Rabin reminded his country of the momentous crossroads at which it stands. ''I was a military man for 27 years. I waged war as long as there was no chance for peace. I believe there is now a chance for peace, a great chance, and we must take advantage of it. * * *''

The Israeli democracy he crafted and protected so vehemently will continue to bring stability and peace to the land in his death. This is Israel's inheritance.

His courage and leadership proven in war and displayed in peace earned him global respect and admiration. The outpouring of leaders and friends to his funeral, many of them former enemies, is a testament to his leadership and accomplishments. He will be sorely missed.

Ms. WOOLSEY. Mr. Speaker, today we are pausing to remember Israel's courageous fallen leader, Yitzhak Rabin. Prime Minister Rabin was a rare leader, the kind the world sees once in a generation.

He was a valiant soldier who led the Israeli Army to victory in the Six-Day War. He united Jerusalem, and secured Israel's borders. He made it safe for Jews from around the world to pray at the Western Wall.

But it is for his tireless dedication to peace that he will always be remembered. As a former soldier, he knew all too well the price of war.

He made many sacrifices, and took many risks to make peace. He knew that his mission for peace was unsure and dangerous, but he also knew that peace for the Jewish State was a worthy and important goal.

In the fall of 1993, I had the privilege to meet Yitzhak Rabin in Israel, and was struck by his sincerity and humanity. Then, a month later, I was standing on the White House lawn the day that Prime Minister Rabin and Yasser Arafat took that enormous step toward peace. I remember the handshake, and the promise it held for a bright future for Jews and Arabs alike.

Now, an assassin's bullet has taken away one of the real visionaries of our time. And in a split second, the world became a great deal poorer.

Today,it is hard for us to make any sense of so tragic an act. But, we try by taking a minute to reflect on Prime Minister Rabin's enormous accomplishments, and by holding his life up as an example of courage, commitment, and dedication to peace.

As Representative of the Sixth Congressional District of California, I assure you that I will always make sure that the United States stays a strong and dependable ally of the State of Israel. We must stand by Israel always—but it is even more important at such a troubled moment. Further, we must all make sure that Prime Minister Rabin's heroic deeds are remembered forever—and that we give life to his dreams by dedicating ourselves to fulfilling his goal of a lasting peace for all.

Mrs. FOWLER. Mr. Speaker, as we heard in the eulogies at his funeral, Yitzhak Rabin was many things to many people—soldier, statesman, strategist, loyal friend, respected opponent, and beloved grandfather. The world, however, will remember him purely and simply as a hero—a hero in the one battle he said it was a pleasure to wage—the battle for peace.

Following Mr. Rabin's death, I went back and read a poem which I heard him quote before a joint session of Congress last year. The poem, by Archibald McLeish, is about soldiers who died to protect their homeland. Part of it goes like this:

They say, Our deaths are not ours; they are yours; they will mean what you make them * * * They say, We leave you our deaths. Give them their meaning.

It is up to all people of good will to give Mr. Rabin's death meaning, by carrying on the great work for which he gave his life.

Mr. RADANOVICH. Mr. Speaker, on the sad occasion of Yitzhak Rabin's tragic death, I convey my deepest condolences to the nation of Israel. Mr. Speaker, as you and other world leaders return from a mourning Israel, I am certain you appreciate that Yitzhak Rabin's sudden death must not overshadow his prosperous life. The fallen leader now rests peacefully alongside other greats in Israel's history, comforted by the cypress and pine of Mount Herzel Cemetery. As this and future generations visit the cemetery, I am hopeful they will be struck by the peace of the setting which befits his most enduring legacy. Mr. Speaker, I ask that the following letter written to Ambassador Rabinovich be included in the RECORD.

HOUSE OF REPRESENTATIVES,
Washington, DC, November 6, 1995.

HON. ITAMAR RABINOVICH,
Ambassador of Israel,
Washington, DC.

DEAR MR. AMBASSADOR: On behalf of those I have the honor to represent in the 19th District of California, I wish to express our most sincere sympathy to the people of Israel on the loss of your leader, Prime Minister Yitzhak Rabin.

There is little I can add to the expressions of mourning—many of them so movingly eloquent—that have been heard from around the world. Indeed, I find my own feelings voiced best by what two others have said.

''The best memorial for Yitzhak Rabin is to continue what he started, which is the peace process. Only through our unwavering commitment to this objective can we truly honor the memory of this fallen hero of peace.''—President Hosni Mubarak of Egypt.

''The Jewish people, who go back a long way, have always been inspired by fallen heroes like Yitzhak Rabin to reaffirm their faith.''—William Safire, New York Times columnist.

To the end that our world no longer shall experience the painful cost of war, let us keep always before us the example of

Yitzhak Rabin's courage, vision, and commitment to peace.

In sympathy,

GEORGE P. RADANOVICH,
Member of Congress.

Ms. FURSE. Mr. Speaker, Yitzhak Rabin was a great leader and a great peacemaker. He took tremendous risks for peace, including the ultimate sacrifice of losing his life.

In the aftermath of Mr. Rabin's assassination, there must be an international reckoning on violence and those groups who attempt to tear us apart. In my own State of Oregon, there are fringe organizations that employ inflammatory rhetoric and actions that are seeking to divide us. What we need instead are groups that are seeking to bring us together. Yitzhak Rabin was about bringing people together.

I concur with Leah Rabin, widow of the slain leader, who says we must speak out against acts of extremism. She asks of the radical groups' leaders to take responsibility for the effect of their extreme rhetoric.

In the case of our own Oklahoma City bombing, we learned that if our leaders are using radical rhetoric, it gives deranged individuals an opening to take extreme acts.

Across the world, violent talk leads to violent actions. I join my colleagues in mourning the loss of Yitzhak Rabin, and urge them to support this very important resolution.

Mr. MANZULLO. Mr. Speaker, as a Member of the U.S. Congress, I had the rare opportunity to meet Yitzhak Rabin in the recent past. I recall a man of great intensity, and as he spoke in his baritone voice, my colleagues and I were mesmerized. A photographer captured my meeting with Yitzhak Rabin, and that photo hangs proudly in my office in Washington. As you peered into his deep-set eyes, it was apparent he was the consummate warrior and the ultimate peacemaker.

Yitzhak Rabin was the warrior who helped Israel become a nation in 1948, the warrior who lead Israel against insurmountable odds in the Six-Day War, the warrior who knew he had to rely on God's strength to protect his tiny nation. He perservered only because he believed that the cause of Israel was greater than Israel itself; a cause for freedom for all people who had oppressed.

And Yatzhak Rabin was the peacemaker, the one who saw Israel's role in the world from the perspective of a lasting peace. The warrior was tired of fighting and turned his energies to making peace.

I met those whom he had touched deeply: King Hussein of Jordan and Hosni Mubarak of Egypt. They respected Rabin because of his strength. He was a strong man—strong at age 73—strong in his beliefs for free Israel and strong in his convictions for a lasting peace in the Middle East. They respected him becaue he respected them.

They're gone now: Moshe Dayan, Menachem Begin, Golda Meir, David Ben Gurion. Now, the only native-born Israeli Prime Minister, Yitzhak Rabin, has gone to rest.

At the funeral service Monday in Israel, King Hussein was visibly moved. Who would have thought we would have seen that happen in our lifetime, a once bitter enemy shaken by the loss of a comrade in peace?

And Rabin's granddaughter, who is preparing to go into the military, as do all young people in Israel, said, ''as a pillar of light led our people through the wilderness, my grandfather led me, and who will lead me now?''

His memory leads us now. The memory of one who fought for peace, and who died for peace.

We honor the warrior turned peacemaker, the one who had the courage to believe the sons of Hagar and Sara would someday reconcile, the one who believed Isaiah.

And he will judge between the nations, and will render decisions for many peoples. And they will hammer their swords into plowshares and their spears into pruning hooks. Nation will not lift up sword against nation, and never again will they learn war.

Mr. LAZIO of New York. Mr. Speaker, I rise to honor the memory of the late Prime Minister of Israel, Yitzhak Rabin, whose tragic murder shocked and saddened us all.

I saw him for the last time just 2 weeks ago in Washington, at a ceremony in the Capitol commemorating the 3,000th anniversary of the holy city of Jerusalem. On Monday, Prime Minister Rabin was buried in Jerusalem, the city of his birth.

Yitzhak Rabin served his country with great distinction, starting as a young soldier in Israel's fight for independence. As a soldier and a statesman, he always fought with tremendous bravery for the ideals to which he was committed.

In 1948, bravery meant leading the defense of Jerusalem. In 1967, as Army chief of staff, it meant defeating the combined enemies of Israel, which surrounded the country on every side. As Prime Minister in the 1970's, it meant sending Israeli commandoes across a continent to rescue a plane full of hostages at Entebbe. And as he resumed the office of Prime Minister in 1992, bravery meant taking heed of the commandment in the 34th Psalm to ''Seek peace, and pursue it.''

It took great courage to defend Israel from its enemies and perhaps even more courage to reach out his hand to those enemies in the cause of peace. Yitzhak Rabin was a very courageous man, a man dedicated to the cause of peace, which he saw as Israel's best chance for long-term security and prosperity.

Prime Minister Rabin knew, as it says in Ecclesiastes, ''There is a time to love, and a time to hate; a time of war, and a time of peace.'' Now, he said, was the time to put aside hate and war, and to pursue peace.

Yitzhak Rabin is gone, so it is up to us who survive him to pursue peace and to ensure that he did not die in vain. Israel and its neighbors are poised at a critical junction. The peace process can continue, or extremists on all sides can doom the Middle East to continued hatred and war. All who love peace must raise our voices to echo what Yitzhak Rabin said at the White House in 1993, ''Enough bloodshed and tears, enough!''

I am encouraged by the demonstration of support for Middle East peace from the more than 60 world leaders who flew to Israel to attend Prime Minister Rabin's funeral. Israel no longer is diplomatically isolated. In all, more than 86 nations were represented at the services in Jerusalem Monday.

The act of senseless violence that ended Prime Minister Rabin's life may well bring Israel together in support of further progress toward peace. How long that sense of unity will last is far from certain. Acting Prime Minister Shimon Peres said Monday that ''Peace is irreversible,'' but history suggests peace is not inevitable unless men and women of good will speak for peace and demand it. Those who support the peace process must speak out.

The U.S. Government, with strong bipartisan support, must continue its commitment to full support for Israel in this difficult time.

Pursuing peace is never easy and always will entail risks. But the risks of continued violence and instability in the Middle East are far higher. A bullet can kill a man, but not an ideal. People of goodwill must not allow an act of political terrorism to succeed in stopping the peace process. My hope is that with the help and encouragement of the United States, Israel will continue to seek a lasting peace for all the people of the Middle East.

Mr. Speaker, today we treasure the memory of Yitzhak Rabin. As it says in the Book of Matthew, ''Blessed are the peacemakers: for they shall be called the children of God.'' Let us pray that lasting peace will be Prime Minister Rabin's enduring legacy. May God bless the soul of Yitzhak Rabin, the people of Israel and the United States of America, and all those who seek peace.

Mr. FARR of California. Mr. Speaker, last July, Yitzhak Rabin addressed a joint session of Congress together with King Hussein of Jordan. He spoke of the many Israelis who had suffered from war, whose friends and family had died in violence. During his speech, he said:

Today, we are embarking on a battle which has no dead and no wounded, no blood and no anguish. This is the only battle which is a pleasure to wage: the battle for peace.

Alas, there is today both blood and anguish.

Yitzhak Rabin was a great man and a great leader. He was brave, wise, and he cared very deeply about his fellow countrymen and women.

Years ago, I had the opportunity to meet Mr. Rabin before he had become Prime Minister. I was struck by how much he cared about making the world a better place for his people. Indeed, it was his one goal, his only goal.

His whole life was spent in the service of Israel. He fought in many battles for Israeli independence, and later became Chief of Staff of the Israeli military. He held many posts in the government, including Ambassador to the United States, Defense Minister, and a previous term as Prime Minister.

During his final years, Yitzhak Rabin dedicated his life to an extraordinarily difficult journey: bringing peace to the Middle East. Difficult, because people have always found it is easier to solve differences through violence. Difficult, because there are always those who oppose negotiation, for in it they see their own concessions rather than the great good it brings to all.

In his same speech before Congress, Mr. Rabin quoted from the poet Archibald MacLeish:

''They say: We leave you our deaths. Give them their meaning.''

Today, it is our task to give meaning to Mr. Rabin's death. We cannot let his years of labor towards building a new and permanent peace in the Middle East come to nothing. The arduous journey to peace shall continue, and we must help Israel in fulfilling it.

Mr. LIPINSKI. Mr. Speaker, I rise to pay tribute to the memory of the distinguished Prime Minister of Israel, Yitzhak Rabin. His assassination on Saturday night following a peace rally in Tel Aviv was a tragedy for the citizens of Israel and people around the world.

We often speak of great leaders here, and I can think of none greater than Yitzhak Rabin. He was the essence of all that is good about Israel. Born in Jerusalem in 1922, Rabin was a military hero from the first days of Israel's existence. He fought in the 1948 siege of Jerusalem in an elite military unit, and served as Army Chief of Staff in the 1967 Six-Day War. Many say that it was because of Rabin's distinguished military career that he was able to move Israel so strongly toward peace.

Since he began his second term as Prime Minister in 1992, Rabin has led Israel toward a new era of Middle East peace. The Nobel Peace Prize he shared with PLO Chairman Yasser Arafat and Israeli Foreign Minister Shimon Peres in 1994 recognized the first important step toward achieving comprehensive peace, the 1993 agreement Rabin and Peres signed with the PLO. The next momentous occasion was the peace agreement between Israel and Jordan. Other milestones and honors for Rabin surely would have followed if not for this tragic event.

Yitzhak Rabin was a courageous man who built on his experience as a warrior to become a great peacemaker. I am optimistic that the other participants in the peace process will continue to work toward their goal. When Middle East peace comes, it will be a result of the legacy of Yitzhak Rabin.

It is traditional that when Jews mention the name of someone who has passed away, the name is following by an acronym representing the words ''may his memory be a blessing.'' I have no doubt that Yitzhak Rabin's memory will indeed be a blessing.

Mr. Speaker, Yitzhak Rabin was a great man who will be missed. We can all learn from his life, all that he accomplished, and all that he would have if his life had not been suddenly cut short.

Mr. SANFORD. Mr. Speaker, in Prime Minister Yitzhak Rabin's last words he eloquently stated his vision for the future. ''I believe there is now a chance for peace, a great chance, and we must take advantage of it for those who are standing here, and for those who are not here—and they are many. I have always believed that the majority of the people want peace and are ready to take a chance for peace. . . . Peace is not only in prayers . . . but it is the desire of the Jewish people.'' Rabin's life was dedicated to the state of Israel's rebirth, security, survival and freedom. It is only fitting that as we celebrate his life, we speak to what had become his vision—a democratic Israel at peace with its neighbors. His vision was for the future of the Jews, Israel, and the people of the Middle East. In a Joint Meeting of Congress in 1994 Rabin referenced the death of many young soldiers. ''I have come from Jerusalem in the name of our children. . . . Each year as I stand before the parents whose lips are chanting ''Kaddish,'' the Jewish Memorial Prayer, ringing in my ears are the words of [Archibald] MacLeish who echoes the plea of the young dead soldiers: 'They say: We leave you our deaths. Give them meaning.' '' It is my hope and prayer, and that of many, that Prime Minister Rabin's death will be given meaning.

Mr. LATOURETTE. Mr. Speaker, the world continues to mourn the loss of Yitzhak Rabin, the proud and gracious leader of Israel, a man of great courage, resolve and goodness. His deep and abiding love of Israel is beyond reproach. He was that rarity in history, a leader who was revered and admired not only by his citizens, but around the world. He was a man of great integrity and selfless almost to a fault. His devotion to his country was unwavering, from his participation in the Jewish underground army, to his command of the Six-Day War, to his election as Israel's youngest Prime Minister.

But his greatest devotion and his greatest contribution, not only to Israel, but also the Middle East and the entire world, was achieving a lasting peace. That lasting peace was something few thought possible. However, in the mind of Yitzhak Rabin, a thoughtful and reasoned man, it was not only a goal that was possible, but a goal that must be achieved if Israel was going to survive.

Rarely in history do we find examples of such integrity and loyalty. This was not a man concerned with politics or appearances or his own popularity, but instead one who chose to lead his country, as he had been asked, and to live up to whatever challenge might face him, no matter the consequences. In one of the greatest challenges of the 20th Century, he embarked on a dramatic plan toward achieving lasting peace with the Palestinians. Against every possible obstacle, his dream was realized on the South Lawn of the White House on September 13, 1993, when a peace accord few thought possible was signed.

Israel and the world continue to weep and grieve over the senseless taking of the life of Yitzhak Rabin. It is the cruelest of ironies that a man so committed to peaceful resolutions would meet his demise at the hands of another Jew; it was an act of such senseless violence. Yitzhak Rabin will be replaced, and the world is hopeful that his legacy of peace will continue, but his are shoes that truly cannot ever be filled.

Yitzhak Rabin's love of country, his will, his great intellect and sense of compassion cannot be duplicated. His was a greatness that will go unparalleled in history.

Henry Wadsworth Longfellow once said of greatness:

The heights by men reached and kept
Were not attained by sudden flight,
But they, while their companions slept,
Were toiling upward in the night.

Yitzhak Rabin toiled upward in the night his entire life, for seven decades. He toiled for a country and a people he deeply loved, a people who surrounded him with a great deal of affection at the time of his death. America, Israel and the world will never forget Yitzhak Rabin or his lasting contribution to the betterment of all mankind.

Like Longworth said, the truly great toil upward in the night to reach the greatest of heights. In that darkness, Yitzhak Rabin dreamt the sweetest of dreams, one of true, lasting peace.

Mr. SABO. Mr. Speaker, I rise today to add my voice to the chorus of members condemning this horrible crime and extending our sympathy to Mr. Rabin's family and to the people of Israel. I am proud to support this resolution.

In the last few days, many have spoken of Yitzhak Rabin's transformation from soldier to statesman. As I see it, however, Yitzhak Rabin did not change. Throughout his life, Yitzhak Rabin lived as a patriot devoted to the creation, defense, survival, and success of Israel and its citizens.

Yitzhak Rabin did not undergo a radical transformation. Rather, he lived his life in steadfast defense of his nation. When Israel's very survival depended on its military might, Yitzhak Rabin led its forces in defense of his homeland. When his nation's future depended on its quest for peace, Yitzhak Rabin led that charge with equal fervor and tenacity. Yitzhak Rabin did not change, but he recognized the changes that had occurred in his country and in the world.

Prime Minister Rabin could see that Israel's destiny was not to remain an armed camp, a nation in which nearly every family has lost a member to war and violence. He participated in every war his nation fought, and he knew that his people had seen enough war, enough death, enough tears. In a move that was perhaps more courageous than any he had taken in battle, he entered negotiations with the Palestinians. In doing so, he discarded dogma in favor of a very real opportunity for meaningful peace, partnership, and progress.

Mr. Rabin was not simply a lofty dreamer. He was a hard-headed pragmatist who did not merely hope for peace. He knew that attaining peace was the only way Israel would achieve true security and satisfaction, and he knew that it would not be easy. The final years of his life were consumed with this pursuit of peace. In a short time, he achieved peace with Jordan and several agreements with the Palestinians, and up to the very end he sought an agreement with Syria. All of this was accomplished in the face of personal vilification and extremist opposition. The presence at his funeral of dignitaries from Arab nations across the region, even some that do not yet have formal ties with Israel, demonstrated the success of his yet incomplete efforts.

I join my colleagues in expressing support for the government of Acting Prime Minister Peres and its commitment to building a just and lasting peace between Israel and its neighbors. I call upon our Nation and the entire world to learn from the wisdom of Yitzhak Rabin. when his people needed a soldier to protect them, he took up arms. When it needed a statesman to shepherd them to peace, he had the strength and courage to shake hands.

Mr. LANTOS. Mr. Speaker, I rise today to join my colleagues in paying tribute to the assassinated Prime Minister of Israel, Yitzhak Rabin. I knew the Prime Minister well and I have met with him frequently, most recently just 2 weeks ago when he was here in the great rotunda of this building to mark the 3,000 anniversary of Jerusalem as Israel's capital and to mark the adoption by the Congress of legislation that will move the United States Embassy in Israel to Israel's capital, Jerusalem.

I wish to express to Yitzhak's dear wife, Leah, my sincere and heart-felt sympathy at the tragic personal loss that she and her family have suffered as a consequence of this senseless and reprehensible political murder. I also want to acknowledge my deepest admiration and my sincere appreciation for the heroic role which Prime Minister Rabin played—first, as an outstanding warrior and military leader in fighting to bring security and safety to the people of Israel, and second, as a bold political leader who took great risks in the effort to bring peace to Israel and its neighbors.

Mr. Speaker, international leaders from numerous countries have paid eloquent and moving tribute to Prime Minister Rabin—in statements issued at the time the world

learned of the shocking and tragic death of the Prime Minister and in powerful eulogies to him on the occasion of his funeral in Jerusalem. I cannot add to those well-spoken phrases.

I do, however, wish to call the attention of my distinguished colleagues to the profound statements of others who have spoken of Prime Minister Rabin. Mr. Speaker, last Monday, I participated in the memorial service for Mr. Rabin that was held in Los Angeles at the Simon Wiesenthal Center. On that occasion, we heard the eloquent words of Rabbi Marvin Hier, Dean of the Holocaust Studies Center at the Simon Wiesenthal Center. I ask that his excellent statement be placed in the RECORD. I also ask that the wonderful statement by Israel's Consul General in San Francisco, Nimrod Barkan, be placed in the RECORD. Consul General Barkan's statement about Prime Minister Rabin was published in the San Francisco Chronicle in today's edition.

EULOGY DELIVERED BY RABBI MARVIN HIER MEMORIAL SERVICE IN MEMORY OF PRIME MINISTER YITZHAK RABIN—NOVEMBER 6, 1995

This is one of the saddest days in modern Jewish history. A day when the life of a courageous Prime Minister of Israel was snuffed out by one of our own. One supposedly schooled in law and morality, one versed in the Torah, in the Juridic principals of pluralism and democracy.

What shall we say. What words are there to comfort us in this dark hour when we are confronted by a killer who has the audacity to declare, ''I do not regret what I have done. G-D spoke to me and told me to do it''.

No, my friends. The G-D of Israel who commanded ''Thou shalt not kill'', the G-D of Israel who demanded of Cain . . . ''Where is Abel thy Brother?'' . . . ''His blood crieth to me from the ground''.

That G-D is much too clever to speak to such a fool. Much too humble to empower such arrogance and much too noble to dignify such deception.

No, it is not the words of the Almighty that the assassin heard that day, rather it is the cynical rhetoric of extremism. The anthem of fanatics that struck down Israel's Prime Minister.

A climate of going beyond the pale—beyond the parameters of legitimate criticism which is the sacred rite of every democracy. A climate that allows a man to hold up a placard showing Yitzhak Rabin dressed in an SS uniform, * * * justifying it by declaring—it's an expression of my opposition to his government's policies.

Such tyranny against a man who fought the Nazis when he was 19 years old during World War II when many others sat by silently.

Against a man who in 1945 launched a daring raid to rescue 200 holocaust survivors that the British had interred on a Greek island.

Such a placard against the deputy commander of the Palmach who kept the roads to Jerusalem open, enabling crucial supplies to get through during the War of Independence in 1948.

An SS placard against the Chief of Staff who brilliantly won the six-day war and who restored the Western Wall to the Jewish people for the first time in 2,000 years of exile.

A placard against a man who launched the raid on Entebbe * * * dealing a mortal blow to international terrorism.

And still the placards appeared and re-appeared and no one rose up to tear them down.

Such infamy breeds a climate of hatred. Such indignity gives birth to killers. Yes, even killers smart enough to work their way through law school.

What is especially painful, my friends, is that we are the people who walked away from the Holocaust and yet maintained our faith in G-D!

The people who walked away from the crematoria and still showed a capacity to love!

The people who moved away form the valley of the shadow of death to rebuild our lives in our communities without rancor! Fostering new dreams and singing new songs of hope for a better world and a better tomorrow, just as Yitzhak Rabin did only moments before he was gunned down.

Who can believe that this great leader in war and peace is no longer with us because he refused to believe that someone would open another front against him in an area where he was most vulnerable.

He had successfully fought a three-frontal war in 1967 and now he was engaged in an historic three-frontal effort for peace. But he never believed that someone from within would rise up and open a fourth front against him. One that would pit Jew against Jew and one in which 2,000 years ago was responsible for the destruction of Jerusalem and the burning of its temple.

My friends, Yitzhak Rabin is assured his place of honor in the rich history of the Jewish people. The bullet that killed him will not prevent future generations from learning the story of this noble warrior and this great man of peace who asked for nothing more than the right to bequeath his grandchildren and great-grandchildren a promised land free of war and want, rich in spirit and ideas where the words of the ancient prophet still ring true * * * righteousness, righteousness shalt thou pursue.

May the memory of Yitzhak Rabin be for a blessing and may the peace he gave his life for take hold and endure forever.

[From the San Francisco Chronicle, Nov. 8, 1995]

RABIN: STAR OF A HEROIC GENERATION

(By Nimrod Barkan)

I have cried many times during the past weekend and diplomats normally are not supposed to cry. I wept for the loss of Israel's and my personal political father figure. Yitzhak Rabin symbolized for me everything that was heroic in the generation that established and led the state of Israel, fighting his enemies while aspiring for a peace compromise.

It is said that old soldiers never die, and Yitzhak Rabin's legacy will never fade. He was always there as a soldier in the eye of the storm for the causes of Jewish history. He was a soldier for freedom from 1948 and a hard-nosed realistic soldier for peace ever since he participated in the Armistice Agreement negotiations in 1949.

I recall that when he became defense minister and prime minister, I was impressed, as were others in army planning and intelligence, at the fact that at every meeting they and their chiefs had with him, he was always more knowledgeable, more versed in details and more aware of grand-scale issues than any other participant.

Rabin was prime minister twice. From 1974 to 1977 and then again from 1992 until last Saturday. He dealt primarily with security and peace-making. Rabin's governments, however, were also governments of social reform. Under his guidance substantial social legislation was enacted. Rabin, the security leader, was also a major domestic reformer.

In 1987 he was faced with the ''intifada,'' or Palestinian uprising. This strategic dove who continuously called for separation between Jews and Arabs was also a tactical hawk.

Always aware of the depth of Arab enmity toward Israel, he believed that Palestinian success in the intifada would harden their position and would thus prevent progress in the peace talks. On the other hand, Rabin knew all too well the limits Israel had to establish while dealing with the civilian population in the West Bank and Gaza.

Rabin's life story is the story of the Jewish struggle for independence and is the story of Israel. The bullet that killed him, shot by a messianic terrorist, was aimed not only at him but at the whole concept of Zionism of the possible, and not nationalism of zealotry that already led once to the destruction of the Second Temple, the beginning of the diaspora.

Yitzhak Rabin, our father figure, together with Shimon Peres, believed that the Jewish state should invest its energy and resources in its citizens and in Jewish immigrants from all over the world. Thus Rabin is the Real Zionist—a pragmatic doer and a believing visionary. Soldier for independence, economic development and social reforms, he believed that peace is the vehicle for achieving these goals in a secure Israel—deferring Israel's enemies while uniting in peace with potential Arab partners.

Rabin was not a people person, however. His shy personality was generous, kind and outgoing in more private settings. Rabin's granddaughter's moving words at his funeral about his famous, warm half-smile were a manifestation of that, so were the tears of his close friends Henry Kissinger and Bill Clinton.

His warm real nature showed itself when Rabin died a happy man—his smiling face during the last hours of his life indicated his satisfaction from the benefits of peace and from seeing so many of his supporters rallying to the flag as never before.

His last public act was to sing the peace song, the first and, how tragically, the last time he ever sang in public.

Yitzhak Rabin—it is because of you and your generation that we have a Jewish state. Farewell and shalom to you. As we weep in parting we vow to persevere in implementing your legacy.

Mr. WARD: Mr. Speaker, I rise today to pay my respects to a man who taught us the invaluable lesson. Peace is always an option, always attainable, and always a worthy cause. I extend my sympathies, along with millions around the world, to his family and the people of Israel.

The assassination of Prime Minister Rabin has shocked the conscience of the world and silenced one of the great peacemakers of our time. This tragic event serves as a stark reminder to the fact that we, in the United States as well as throughout the world, must strive to accept differing ideologies, religious and political, from that of our own.

I have always seen the State of Israel as the ''can do'' nation. Against all odds they have grown a nation steeped in democracy, prosperous despite limited resources, and gallant in battle. It is, therefore, even more shocking that such an event occurred there.

A soldier, statesman, father, husband, and peacemaker, Yitzhak Rabin ultimately gave his life to the cause of peace. If a general, who as a result of his military successes doubled the size of Israel, later came to believe that territorial compromise was necessary for peace, then I believe that this lesson can be learned by all Israelis. I believe that Israel's legacy and the legacy of Yitzhak Rabin, that peace and reconciliation are always possible, is a lesson for the Middle East and people all over the world.

On Monday evening, I attended a memorial service at The Temple in Louisville with about

500 others. Rabin's life, Rabin's dream, and Rabin's death have touched many throughout the world. Many have likened his death to that of Abraham Lincoln's who died in pursuit of healing a divided nation. We are reminded of the assassination of Anwar Sadat, a price he paid for peace. Rabin's willingness to take the risky road toward peace in light of its personal dangers demands that we all commit ourselves to ensure that peace is his true legacy.

Mr. SLAUGHTER: Mr. Speaker, I rise today to add my voice to the many who have already paid tribute to Yitzhak Rabin, a courageous soldier and an irreplaceable leader.

We were all shocked and deeply saddened to hear the tragic news of the death of this great man—a man who overcame immense obstacles and accomplished what many have said could never happen. He paid the highest price a man can pay in his attempts to save the lives of his brethren in Israel, and across the Middle East.

In this time of sorrow and uncertainty, we must remember what Yitzhak Rabin stood for, and what he would want us to do. He was dedicated to peace—and we must continue that commitment. We must press forward with the implementation of the already signed agreements, and we must move on with the negotiations with other Arab nations. The last thing Yitzhak Rabin would want is for us to give up.

My heartfelt condolences go out to his family, his friends, and his nation. Yitzhak Rabin was, indeed, a great man. We will miss our friend, our hero—Yitzhak Rabin.

Mr. HOYER: Mr. Speaker, Woodrow Wilson in a speech about President Abraham Lincoln, while he was President of Princeton University, said, ''A great nation is not led by a man who simply repeats the talk of the street-corners or the opinions of the newspapers. A nation is led by a man who hears more than those things; or who, rather, hearing those things, understands them better, unites them, puts them into a common meaning; speaks, not the rumors of the street, but a new principle for a new age; a man in whose ears the voices of a nation do not sound like accidental and discordant notes that come from the voice of the mob, but concurrent and concordant like the united voices of a chorus, whose many meanings, spoken by melodious tongues, unite in his understanding in a single meaning and reveal to him a single vision, so that he can speak what no man else knows, the meaning of the common voice. Such is the man who leads a great, free, democratic nation.''

Such was the man called Yitzhak Rabin. Mr. Speaker, I rise to join my colleagues and this nation in expressing its sorrow and grief over the untimely and tragic death of Israeli Prime Minister Yitzhak Rabin. I also join in condemning the callous assassination of this true warrior for peace in the Middle East.

Prime Minister Rabin was one of those people throughout the world who looked beyond an immediate electoral victory and took risks to ensure that Israel's children could someday live without the immediate threat of war. His positions were at many times unpopular, yet the soldier in him continued the fight for peace. His continuous efforts for peace earned him the Nobel Peace Prize and the admiration of millions the world over. Unfortunately, his commitment to peace also made him countless enemies. And it was these enemies that took our friend, Yitzhak away from us.

Of all those who eulogized Prime Minister Rabin, none I believed moved us as much as Yitzhak's 17-year-old granddaughter, Noa Ben-Artzi Philosof, when she spoke of her grandfather, ''Your appreciation and your love accompanied us every step down the road, and our lives were always shaped by your values. You, who never abandoned anything, are now abandoned. And here you are, my ever-present hero, cold, alone, and I cannot do anything to save you. You are missed so much.''

Mr. Speaker, we will all miss Yitzhak Rabin—a courageous leader who gave his life to create not only a better life for Israel, but for the world over. An old Proverb states that ''Good men must die, but death cannot kill their names.'' Yitzhak Rabin's name will live on in the name of peace in the Middle East. Shalom Yitzhak. Shalom Israel.

Mr. BURTON of Indiana. Mr. Speaker, I rise in strong support of this resolution, and with a very heavy heart to join in the grief over the cruel death of a great hero of Israel, and a great friend of America.

Yitzhak Rabin epitomized all that we admire and appreciate about the state of Israel. He was a valiant and brave soldier who played a crucial role in Israel's war of independence in 1948. At that time, he commanded the brigade that protected the road to Jerusalem—Israel's very lifeline.

As chief of staff of the Israel defense forces during the Six-Day War in June 1967, General Rabin presided over a stunning victory in a war of self-defense that preserved Israel's very existence.

Yitzhak Rabin was Prime Minister of Israel in the mid-1970's, a period that saw the historic disengagement accords with Egypt and Syria, and the electrifying Entebbe rescue. He also helped to heal the national wounds in the aftermath of the 1973 Yom Kippur War.

When he became Prime Minister again in 1992, largely on the strength of his own personal popularity and credibility with the people of Israel, he courageously embarked on a search for peace and coexistence with Israel's Arab neighbors, a quest that is nothing less than a fulfillment of the Zionist dream. It was that brave quest which cost him his life.

Yitzhak Rabin's life story is a microcosm of the story of Israel—the fierce determination to persevere coupled with the tireless yearning for peace. As our hearts are broken over his passing, let us all determine to remember him, and to achieving what he strove for—a true peace with security for the people of Israel.

Mr. FRANKS of Connecticut. Mr. Speaker, I am deeply saddened by the assassination of Prime Minister Yitzhak Rabin and I wish to express my condolences to his family and to the nation of Israel.

Yitzhak Rabin was truly an extraordinary man. He was a war hero who won freedom and independence for the Israeli people and who was later called to defend and preserve that freedom and independence.

He was a great political leader who knew how to foster internal security and prosperity for his people while at the same time making sure the world knew that Israel would be a devastatingly effective adversary if attacked.

He knew that peace was the only route to true security and true prosperity. He overcame his instincts as a soldier and fighter and took up the olive branch. He sat, negotiated, agreed, and shook hands with a man and a people who had been his and his nation's mortal enemy. He did all of this because he felt that peace was the solution. Peace was the only way to create a meaningful future for, not only Israel, but for all in the Middle East. His reward was to be gunned down by an extremist who wished to fan the fires of hatred.

The extremists of this world, not only in the Middle East, but everywhere, must realize that hatred and divisiveness never foster well-being and prosperity. They destroy lives and the human spirit, they do not build them up. They must realize that the civilized world rejects their hate and warmongering and will not let them distract us from the goal of a peaceful world.

One of the most important tributes that can be made to Yitzhak Rabin, is for the peace process to continue, unimpeded. This is what Prime Minister Rabin fought and died for. We must not let extremists and assassins think for one moment that their methods will yield success. Any delay at all in moving forward with the peace process will provide these people with justification in their minds for their actions.

We must pick up where Prime Minister Rabin left off and work harder than ever to achieve our aim. We must let those who wish to kill peace know that there are not enough bullets to stop those who work for a more peaceful world.

I salute Prime Minister Rabin for his accomplishments and for his ultimate sacrifice to the cause of peace.

Mr. PAYNE of New Jersey. Mr. Speaker, I would just like to say that I was truly honored to be able to pay tribute to war hero and Nobel Peace Prize winner, Prime Minister Yitzhak Rabin. What I witnessed in Jerusalem on Monday by the people of Israel was a tremendous outpouring of love and affection.

I think I can say that I join the world in mourning the loss of a heroic leader who never wavered in his rule as peacemaker, who persevered in the face of danger and adversity, who chose hope over fear. In meetings that I attended with him both in Israel and Washington, I found him always to be thoughtful and deliberative, thorough and fair-minded. He most impressed me with his ability to weight all sides of controversial issues.

We can truly empathize with the people of Israel. The brutal slayings of President Kennedy in 1963 and Dr. King in 1968 are dramatic reminders of the lives that were lost in the struggles for peace.

We must continue the legacies that Rabin stood for—peace in the Middle East. We must show that our support for acting Prime Minister Shimon Peres, Rabin's partner in the long march Israel had undertaken toward peace with his Arab neighbors, will not waver. I would also like to say the support of the United States delegation to Israel was tremendous. The people of Israel expressed their gratitude.

The eulogies stated that the visionary had become a fighter for peace turned martyr for peace. Ultimately, we must remember that to us he was a hero and a true statesman but to Leah, his wife, his children, and grandchildren he was just a great man that they loved dearly. In their hour of mourning, let us be ever so mindful of their pain.

The fate of the Oslo Accord, signed in Norway by Rabin and Arafat in 1993, must be

carried on. They include provisions for military and paramilitary troops, the occupied territories the Gaza Strip, and the West Bank. The United States has a responsibility to help Israel on the long journey toward peace.

Ms. DUNN of Washington. Mr. Speaker, it is with great sorrow and a heavy heart that I rise today to pay tribute to Yitzhak Rabin, Prime Minister of Israel, whose life was tragically stolen from him on Saturday. He was a man of great courage, a man whose dedication to peace ultimately cost him his life.

In an ironic and fitting twist, the brief capsule of time it took to extinguish the life of Prime Minister Rabin—intended by his assailant to destroy the hard-fought peace process—will instead solidify Prime Minister Rabin's status as a legend. The outpouring of sympathy and love for Prime Minister Rabin by the world community is matched only by the expressions of condolence by his own beloved, grief-stricken countrymen.

The work of Yitzhak Rabin was pursued not just on behalf of the Nation of Israel and her citizens. Peace accomplished between Israel and the Palestinians is to all of humanity's advantage. Peace benefits Jews and Arabs living around the globe, and the region as a whole—a region which has experienced too many troubles over a span of thousands of years.

The grief-stricken people we have all seen on the news has left me stunned, but not without hope that continued vigilance in the pursuit of peace must be maintained. The violent outbursts of the man who would become Yitzhak Rabin's assassin, the poignant pictures of earth being placed over the flag-draped coffin, the moving remarks of Rabin's own granddaughter paying homage to her cherished hero, the shocking sight of those blood-stained long lyrics—all of these images are etched in my mind and will serve as a constant reminder that Prime Minister Rabin gave his life for a truly honorable goal: the Israeli-Palestinian peace accord.

At Saturday's event celebrating peace, Yitzhak Rabin eloquently stated, ''There are enemies of the peace process, and they try to hurt us. But violence undermines democracy and must be denounced and isolated.'' We must ensure that from him we inherit a legacy of peace, not violence.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BEREUTER). Pursuant to the order of the House of Tuesday, November 7, 1995, the previous question is ordered.

The question is on the Senate concurrent resolution.

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 416, nays 0, as follows:

[Roll No. 769]

YEAS—416

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
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
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
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
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
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
Istook
Jackson-Lee
Jacobs
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
Largent
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
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
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 (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
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
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—16

Abercrombie
Brewster
Fields (LA)
Foglietta
Geren
Jefferson
Lantos
Moakley
Myrick
Peterson (FL)
Portman
Ramstad
Thornton
Tucker
Vucanovich
Weldon (PA)

☐ 1335

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

So the Senate concurrent resolution was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ABERCROMBIE. Mr. Speaker, during rollcall vote No. 769 on Senate Concurrent Resolution 31 I was unavoidably detained. Had I been present I would have voted ''Aye''.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the Senate concurrent resolution just concurred in.

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

There was no objection.

CONFERENCE REPORT ON S. 395, ALASKA POWER ADMINISTRATION ASSET SALE AND TERMINATION ACT

Mr. MCINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 256 and ask for its immediate consideration.

The clerk read the resolution, as follows:

H. RES. 256

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 395) to authorize and direct the Secretary of Energy to sell the Alaska Power Administration and to authorize the export of Alaska North Slope crude oil, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. GOODLATTE). The gentleman from Colorado [Mr. MCINNIS] is recognized for 1 hour.

Mr. MCINNIS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 256 is a simple resolution. The rule simply makes it in order to consider the conference report to accompany the bill S. 395 which authorizes and directs the Secretary of Energy to sell the Alaska Power Administration, and to authorize the export of Alaska North Slope crude oil. All points of order against the conference report and against its consideration shall be waived. This resolution was reported out of the Committee on Rules by an unanimous voice vote.

The purpose of the underlying legislation, S. 395, is to lift the ban on the export of crude oil produced on Alaska's North Slope and to provide for the sale of the assets of the Alaska Power Administration. Additionally, the conference report contains a targeted royalty relief provision which, according to the Secretary of Energy Hazel O'Leary, will ''lead to and expansion of domestic energy resources, enhance national security, and reduce the deficit''. This legislation has broad bipartisan support, including the support of the Clinton administration. By lifting the ban on exports we will create thousands of new jobs in this decade, and we will generate millions in receipts to the Federal Government.

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

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

Mr. Speaker, I rise in support of the rule. This rule, as the gentleman from Colorado has explained, waives points of order against the consideration of the conference report on S. 395, a bill to lift the ban on exports of Alaskan oil and to privatize the Alaska Power Administration.

Mr. Speaker, this conference report also contains a provision which was not in the House-passed version of this legislation. This provision exempts oil and gas companies drilling under Federal oil and gas leases in deep waters offshore in the Gulf of Mexico, from paying royalties to the Federal Government. The inclusion of this provision is controversial in light of the instructions to conferees adopted by the House last July. That motion, offered by the gentleman from California [Mr. MILLER], instructed conferees to insist on the House position on this issue. The House bill, of course, deleted these provisions.

The conferees have, however, wisely included these provisions in the bill. Mr. Speaker, these exemptions will encourage exploration and drilling which will in turn increase the amount of available crude oil to U.S. markets. Mr. Speaker, increasing energy production in something our government should encourage and the provisions in this conference report do just that. I would encourage my colleagues to support the conference report and to oppose the Miller motion to recommit this conference report.

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

Mr. MCINNIS. Mr. Speaker, I yield 4 minutes to the gentleman from Louisiana [Mr. LIVINGSTON], chairman of the Committee on Appropriations.

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

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman from Colorado for yielding time to me, and I rise in support of the rule and in support of the bill.

Mr. Speaker, I am pleased to support this effort.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. STUDDS].

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

Mr. STUDDS. Mr. Speaker, I rise in support of this rule and of the substance of the conference report, although I shall support the efforts of the gentleman from California [Mr. MILLER] to strike an extraneous and controversial provision. This legislation is important because it is vital to preserving the independent tanker fleet and the cadre of skilled men and women who proudly sail today under our flag.

Mr. Speaker, I rise in support of the rule and the conference report on S. 395, legislation that authorizes exports of Alaskan oil carried in American-flag vessels. This bill will help enhance our national security by spurring energy production and by helping to preserve our domestic merchant marine. I urge my colleagues to vote in favor of the rule and to overwhelmingly support this legislation, as you did when it was on the floor in July.

According to recent press reports, a number of foreign governments continue to complain that the U.S.-flag requirement somehow violates our international obligations. As my colleagues may know, the U.S. Trade Representative has assured Congress that the bill does not violate our GATT obligations. To my knowledge, none of these governments complained when Congress enacted a comparable provision as part of the United States-Canada Free-Trade Agreement. In any event, for the benefit of those who persist in arguing without foundation that the bill poses a problem, let me lay out the case here.

This legislation is important because it is vital to preserving the independent tanker fleet and the cadre of skilled men and women who proudly sail today under the American flag. There can be little doubt that our Government has a compelling interest in preserving a fleet essential to national security, especially one transporting an important natural resource.

Specifically, section 201 of the conference report requires that, other than in specified exceptional circumstances, Alaskan crude exports must be transported by a vessel documented under the laws of the United States and owned by a U.S. citizen. As my colleagues know, current law already requires Alaskan oil to move to the lower 48, Hawaii, and Canada on so-called Jones Act vessels. When Congress authorized construction of the Trans-Alaska Pipeline system, it established export restrictions that had the effect of ensuring that North Slope crude would move to the lower 48 and Hawaii on U.S.-built, U.S.-owned, and U.S.-crewed vessels. Although the export restrictions have changed over time, there has been no change with respect to the requirement to use Jones Act vessels.

In 1988, when Congress passed legislation to implement the United States-Canada Free-Trade Agreement, it agreed to allow up to 50,000 barrels per day of ANS crude to be exported for consumption in Canada, subject to the explicit requirement that ''any ocean transportation of such oil shall be by vessels documented under [46 U.S.C.] section 12106.'' By insisting that exports to Canada move on Jones Act tankers—even though not required by the specific terms of the agreement—Congress established the principle that exports must move on U.S.-flag vessels.

Consider also that in negotiating the North American Free-Trade Agreement, the Mexican Government reserved to itself the ''transportation . . . [of] crude oil.'' The U.S. Government specifically agreed to this reservation in adopting article 602(3) of NAFTA. Additionally, in two major areas of commercial movements in foreign trade, the U.S. Government has long enforced preference for American vessels. Since 1934, the U.S. Export-Import Bank has reserved for American carriers 100 percent of all cargo the export of which it finances under various programs. The Cargo Preference Act of 1954 also reserves certain government-financed cargo to ''privately owned United States-flag commercial vessels, to the extent such vessels are available at fair and reasonable rates.''

There are plenty of other examples of cargo reservation world wide. Our Government has entered into bilateral treaties with Latin American countries that preserve ''government controlled'' cargoes for national lines. These intergovernmental agreements are supported by pooling agreements among the lines that effectively divide all cargo—not merely controlled cargo—on the UNCTAD 40–40–20

basis, with the 20 percent being accorded to such third-flag lines as are admitted to the pools. Similarly, the French Government reserves for French-flag vessels substantial cargoes. The act of March 30, 1928, for example, requires that, unless waived, two-thirds of France's crude oil needs be carried on French-flag vessels.

Mr. Speaker, it is quite clear that longstanding precedent supports the U.S.-flag requirement in this bill.

Now let me address specific U.S. international obligations and explain why the legislation does not violate the GATS ''Standstill Agreement,'' the General Agreement on Tariffs and Trade, or other of our international obligations.

GATS Standstill Agreement.—At the conclusion of the Uruguay Round of multilateral trade negotiations, the United States and other countries for the first time agreed to cover services, as embodied in the General Agreement on Trade in Services [GATS]. Maritime services were effectively excluded, however, because no commitments of any kind were made by the United States. Although a U.S. offer had been briefly tabled, it was withdrawn. Thus, the U.S. Government did not in any way restrain or limit its authority to maintain or promote an American-flag fleet.

The only commitment made by the U.S. Government was to continue negotiations until June 1996, with a view to determining whether to make any binding commitments at that time. The ''Ministerial Decision on Negotiations on Maritime Transport Services'' imposed this ''standstill'' commitment or ''peace clause'' for the period during which the negotiations would occur: ''[I]t is understood that participants shall not apply any measure affecting trade in maritime transport services except in response to measures applied by other countries and with a view to maintaining freedom of provision of maritime transport services, nor in such a manner as would improve their negotiating position and leverage.'' Some foreign governments are now arguing that the enactment of the proposed legislation would violate this commitment. They are incorrect.

In a letter to me at the time, the U.S. Trade Representative stated that the ''peace clause'' is:

> Strictly a political commitment by the Parties to the negotiations not to take measures to ''improve their negotiation position or leverage.'' In a worst case scenario, if one of the Parties to this negotiation were to conclude that the United States had taken a measure that contravenes the peace clause, their only remedy would be to leave the negotiating table.
>
> Let me assure you that there is nothing in the negotiations that would interfere with maritime reform legislation. . . . Discussion of promotional programs, including government subsidies, would, by no stretch of the imagination, be viewed as undermining these negotiations.

This understanding was confirmed by the Presidential Advisory Committee on Trade Policy and Negotiations. In filing its report at the conclusion of the Uruguay Round negotiations, the Committee said: ''[A]ll existing maritime promotional and support laws, programs and policies continue in full force and effect. The United States also may enact or adopt such new measures as it wishes including pending legislation to revitalize the maritime industry.''

GATT.—The General Agreement on Tariffs and Trade covers goods, not services. Under longstanding precedent, vessels in international commerce are not themselves ''products'' or ''goods'' subject to GATT. For purposes of GATT, the relevant ''product'' is ANS crude, which would be transported on American-flag vessels. Requiring that this product be carried on these vessels, as currently required under the implementing legislation for the United States-Canada Free-Trade Agreement, does not conflict with GATT.

Article XI of GATT proscribes ''prohibitions or restrictions other than duties, taxes or other charges whether made effective through quotas, import or export licenses or other measures'' by a contracting party ''on the importation of any product'' or ''on the exportation . . . of any product.'' These requirements apply to ''products,'' which do not include vessels in transit between nations. Moreover, these requirements are limited to ''products'' and not to their transportation. This is made clear by the exceptions listed in ¶2, such as (a) measures to prevent or relieve ''critical shortages of food stuffs or other [essential] products'' and (b) restrictions to facilitate ''classification, grading or marketing of commodities.'' Such exceptional restrictions are to be accompanied by public notice ''of the total quantity or value of the product permitted to be imported.'' Thus, the transportation requirements of the committee print are not ''prohibitions or restrictions other than duties'' on goods proscribed under article XI.

Article III, the national treatment article, forbids internal taxes or other charges or regulations, affecting, inter alia, the transportation of goods, that discriminate in favor of domestic production. Requiring U.S.-flag vessels for the carriage of certain cargoes in international trade is not an internal regulation of transportation that discriminates against foreign goods. As I said earlier, vessels are not considered goods. Moreover, by operation of the Jones Act, foreign-flag vessels may not today carry ANS crude oil to the lower 48 or Hawaii. Having no claim to carry this crude today, foreign governments can not claim under article III that they somehow will be denied opportunities tomorrow as a result of a change in current law.

Article V, the freedom of transit article, requires that member nations permit goods, and also vessels, of other member nations ''freedom of transit through the territory of each contracting party'' of traffic in transit between third countries. The proposed bill, however, is not an inhibition of such movement of foreign goods or vessels within the United States. Article V thus does not apply.

GATT Grandfather Clause.—GATT 1994 contains an explicit exemption for the Jones Act. Annex 1A to the agreement establishing the World Trade Organization contains an exception relating specifically to national flag preferences for shipping ''between points in national waters'' enacted before a member became a contracting party to GATT 1947. The exception becomes inoperative if ''such legislation is subsequently modified to decrease its conformity with Part II of the GATT 1994.''

On its face, however, the proposed bill would not operate in commercial applications ''between points in national waters,'' since it concerns the foreign trade. The proposed legislation would not amend the Jones Act and thus does not jeopardize the grandfathering of the Jones Act by Annex 1A. The conformity of the bill with international obligations of the United States does not depend on this exception, but on the terms of those obligations themselves. As I indicated earlier, the proposed bill does not conflict with articles III, V or XI of GATT.

OECD Code.—The OECD's Code of Liberalisation of Current Invisible Operations generally requires OECD member countries to liberalize trade in services, with certain specified exceptions. Note 1 to annex A, in defining invisible operations in the maritime sector, states in its first sentence that the purpose of the provision is ''to give residents of one Member State the unrestricted opportunity to avail themselves of, and pay for, all services in connection with international maritime transport which are offered by residents of any other Member States.'' The second sentence of the Note lists ''legislative provisions in favour of the national flag * * *'' as among measures that might hamper the enjoyment of those rights. The Note concludes, however, unambiguously: ''The second sentence of this Note does not apply to the United States.'' Whatever its applicability to the law of other nations, it would not apply with respect to the proposed legislation, which cannot therefore be contrary to it.

Thus, while some OECD members have subscribed to equating national flag requirements with disapproved ''invisible operations,'' it is clear that the United States has not.

FCN Treaties.—Some foreign governments have raised questions about the propriety of flag reservation in light of various treaties of Friendship, Commerce and Navigation. The treaty clause invoked is this: ''Vessels of either party shall be accorded national treatment and most-favored-nation treatment by the other party with respect to the right to carry all products that may be carried by vessel to or from the territories of such other party. * * *'' Whatever this clause may appear to convey literally, its application in practice has allowed numerous national flag preferences identical with or otherwise indistinguishable in principle from the proposed measure.

As I indicated earlier, the most prominent instance is embodied in the United States-Canada Free-Trade Agreement. But there are many other examples. In the 1960's and 1970's, for example, the United States concluded with the former Soviet Union agreements for the sale of grain that, initially, reserved all carriage to American ships so far as available, and later not less than 30 percent. Against protests filed by a number of maritime powers having either national-treatment or most-favored-nation treaties, the United States responded in congressional testimony that, although the fact that the Soviet Union as a government was the purchaser did not alter the character of the transaction as purely commercial, ''[t]he shipping arrangement worked out for the Russian wheat sale is a form of cargo preference involving a unique bilateral agreement between the U.S. and U.S.S.R. establishing a new trade where none existed before.'' This is the same reason the Department of State has advanced in defending preferences for government-financed cargo. So far as this may be considered a controlling factor, it is certainly applicable here, because the bill is clearly ''establishing a new trade where none existed before.''

In 1973, the President, by proclamation, instituted a system of licensing fees on imports of oil excess to prescribed quotas. Subsequently, however, the President in effect exempted products refined in American Samoa, Guam, the Virgin Islands or a foreign trade zone, if transported to the mainland on American-flag vessels. Like the present bill, the fee waiver was said not to reflect ''a general administration position on reducing licensing fees when U.S.-flag ships are used''. Although the stated purpose was to equalize refinery costs as between territories not subject to the Jones Act and the mainland, the administration suggested in congressional testimony that ''a positive incentive has been provided by the administration for the construction and use of additional U.S.-flag tankers.'' In recent testimony before the Resources Committee on which I sit, the Deputy Secretary of Energy similarly emphasized the importance of the U.S.-flag requirement of the pending legislation in preserving U.S.-flag tankers and the skilled mariners who operate them.

In summary, Mr. Speaker, the U.S.-flag requirement of this bill is supported by ample domestic and foreign precedent, does not represent an extension of cargo preference into a new area, and does not violate our international obligations. There is no reasonable basis for a challenge to the legislation before the World Trade Organization or in other international forums.

I urge my colleagues to join me in supporting this legislation, which is so vital to preserving a fleet essential to national defense.

Mr. MCINNIS. Mr. Speaker, I yield 3 minutes and 56 seconds to the gentleman from Louisiana [Mr. LIVINGSTON], chairman of the Committee on Appropriations.

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

Mr. LIVINGSTON. Mr. Speaker, the United States is now importing 50 percent of our energy needs.

The Department of Energy projects 60 percent import level by 2010.

The United States has lost 450,000 jobs in the oil and gas industry.

The temporary royalty relief in S. 395 will enable the private sector to risk its own funds to find and produce domestic oil and gas to enhance national energy security and create jobs.

CBO scored the deep water Gulf of Mexico royalty provisions as a revenue gain of $100 million over 5 years. The Minerals Management Service estimates even greater revenue gains.

The administration's Sustainable Energy Strategy stated:

> The Administration supports targeted royalty relief to encourage the production of domestic oil and natural gas resources in deep water in the Gulf of Mexico. This step will help unlock the estimated 15 billion barrels of oil-equivalent in the deepwater Gulf of Mexico, providing new energy supplies for the future, spurring the development of new technologies, and supporting thousands of jobs in the gas and oil industry and affiliated industries.

A letter from Hazel O'leary stated, ''The royalty relief provisions in S. 395 as adopted by the conference committee is a targeted deepwater royalty relief provision that the Administration supports.''

The letter concludes, ''The ability to lower costs of domestic production in the central and western Gulf of Mexico by providing appropriate fiscal incentives will lead to an expansion of domestic energy resources, enhance national security, and reduce the deficit. Therefore, the Administration supports the deepwater royalty relief provision of S. 395.''

The language in the conference report was changed in two important ways: First, it clarifies that the royalty incentives are applicable only to the western and central Gulf of Mexico west of the Alabama/Florida border. Second, the legislation has been amended to make it clear that it will not affect an OSC area that is under a pre-leasing, leasing, or development moratorium, including any moratorium applicable to the eastern planning area of the Gulf of Mexico located off the Gulf Coast of Florida.

The Minerals Management Service determined that the deepwater incentives will result in a minimum net benefit to the Treasury of $200 million by the year 2000.

These provisions will create thousands of jobs, enhance national security by reducing dependence on imported oil, and reduce the deficit. I urge my colleagues to support the conference report.

□ 1345

Mr. Speaker, I intend to vote for it, and I hope my colleagues will likewise vote for the rule, which I do support as well.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DOOLEY].

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

Mr. DOOLEY. Mr. Speaker, as an original cosponsor of the underlying Alaskan oil export legislation, which passed the House on July 24 by a 324 to 77 margin, I rise in strong support of the rule and also the conference report for S. 395. With enactment of this historic legislation we will have a chance to benefit small, independent oil producers throughout this country.

Current law may have made a great deal of sense in 1973. But like any other laws, it is having unintended consequences that were not foreseen by our colleagues. We therefore should repeal the Alaskan oil export ban and authorities exports carried in U.S.-flag vessels.

What this will allow is to free up oil refining capacity on the west coast of the United States, which will help to encourage oil production and oil exploration in the west coast of the United States, much of that done by the independent oil producers. The California independent oil producers state a compelling case. Like them I was pleased that the Department of Energy similarly concluded last year that the export ban was depressing production and, if lifted, would benefit California and the Nation as a whole. The Department of Energy's comprehensive June 1994 study provides a strong factual basis to support this legislation. Among others, the following study concluded production will increase by 100,000 barrels per day, up to 25,000 additional jobs will be created, State and Federal revenues will increase by hundreds and millions of dollars, and these benefits will be achieved with little, if any, effect on consumer prices.

We now have a unique opportunity in this Congress to spur additional energy production and to create jobs. With imports meeting over 50 percent of our domestic consumption because of falling production, we must do something quickly to increase energy production in this country.

This legislation, this conference report, will achieve those objectives, and I urge my colleagues to support the rule and the report.

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

Mr. ROHRABACHER. Mr. Speaker, I rise today and urge the support of the conference report which is of immense importance to California and to our Nation's economic and national security, as well as our well-being. This legislation will increase our domestic exploration and production of crude oil. It will mean that our reduced balance-of-payments deficit, the deficit in our balance of payments, will be reduced, and everyone agrees that the United States today is too reliant on the import of crude oil. This legislation will spur domestic production, thereby enhancing our national security. As I have just said, it will also affect in a positive way our balance of payments.

Mr. Speaker, this legislation lifts the ban on the export of Alaskan crude. This will contribute to reducing our trade deficit, and this legislation thus is good for job creation in the United States, and it is good for our economy in general.

My colleagues should not be swayed by side issues. This bill is not about side issues. It is about things that are fundamental to our economy. The legislation is about enhancing our economy and our national security. These things must be the overriding issues of importance, and we should not be sidetracked by some kind of fight over royalty holidays, holidays and other issues, that may be of importance in and of themselves, but coupled with this there is just no comparison. So today I suggest that we keep our eyes on the prize and we do not defeat this conference report on a side issue, and I would say that we should have a vote today for jobs, a vote for national security and thus I would suggest that we vote ''yes'' on the conference report and ''yes'' on the rule.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BENTSEN].

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

Mr. BENTSEN. Mr. Speaker, I rise in strong support of this conference report, which will create jobs and help American energy companies compete in the global marketplace.

Investment in domestic energy exploration and production is vital to America's economic stability and national security. This conference report encourages such investment by lifting the ban on exports of Alaskan oil and providing royalty relief for energy companies that risk exploration in the deep waters of the Gulf of Mexico. These provisions will create jobs in the energy industry and further limit our reliance on foreign oil, which continues to rise as a percentage of our balance-of-payments deficit.

We know the Gulf of Mexico contains large oil reserves. Royalty relief will help uncover the 15 billion potential barrels of oil in the gulf and will also spur the development of new offshore technologies and provide thousands of new jobs in the industry. Our energy industry needs these incentives to compete against innovative technologies and an increasingly skilled work force abroad. This policy is supported by Members of both parties in Congress and the Clinton administration.

I want to underscore that royalty relief is not the free ride as some in Congress have portrayed it—the energy industry still must pay a substantial upfront bonus and they must also pay royalties when production exceeds the royalty relief period. In essence, this targeted royalty relief will provide the financial incentives to increase domestic energy exploration and production and to protect our national security. In the long run, by spurring exploration and development, this bill will generate more tax revenues for the Federal Government, not less. This conference report is sound economic policy and smart energy policy, and I urge my colleagues to support it.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Speaker, I must say I think this is really offensive that we are being asked to consider this rule waiving points of order for this controversial conference report that will have a significant effect on our Nation's energy and fiscal policy.

There is no good reason at all for taking up this type of rule that waives, as it does, the very rules of the House that should be preventing the consideration of this controversial conference report in the first place.

We listened for years to arguments from our colleagues, harangues perhaps one could properly call them, who now constitute the majority about how irresponsible and reckless we Democrats were when we provided waivers of rules for even the most minor provisions or rules violations.

Yet here we are today being asked to waive a rule that should have prevented the conferees from including in their agreement a very controversial provision that not only is not germane to the House-passed bill, but which in fact the House voted not to include in the conference report.

I remind my colleagues that the bill passed by the House has one main purpose, to lift the ban on the export of Alaskan oil. One can properly question, I suppose, the wisdom of lifting that ban. It does mark a major change in the direction of our energy policy. I personally think it is probably a wise change for us to enact. But the House approved that change in our energy policy, and, as I said, I am not here to argue that point.

What the House did not approve—in fact, what the House voted 261–161 to prohibit—is granting royalty relief to U.S. petroleum producers operating in waters in the Gulf of Mexico. This controversial provision ought *not* to be a part of the conference report before us; we ought *not* to waive the rule requiring germaneness so that this controversial exemption for oil and gas producers—a provision the house voted to oppose—can become law attached to a much less controversial bill.

This royalty exemption is a giveaway that we will live to regret. We should not be taking actions that reduce the Government's revenues from large profitable industries especially at a time of great budgetary constraints, and for the leadership to permit the conferees to get away with including this exemption for certain oil producers in this conference report on an entirely different piece of legislation is, many of us believe, totally irresponsible.

Mr. Speaker, I urge our colleagues to join me in opposing this rule and in supporting the motion to recommit the conference report that will be ordered, I believe, by the gentleman from California [Mr. MILLER].

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. MILLER].

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, Members of the House, after we consider the rule on this legislation, we will get into general debate on a conference report, a conference report that comes back to us on the Alaska oil export bill of which there is relatively little controversy, but that bill has now been hijacked in the conference by a very controversial provision for a royalty holiday for the oil companies in this country that go into the Gulf of Mexico and drill in what this legislation calls deep water. Although I must tell my colleagues in the industry today and with the technology today where we give a royalty holiday under this bill it is no longer deep water. The technology, the investment, the risks, and the oil have all gone past this legislation. This legislation, the provision that is hijacking the Alaska oil export bill, was originally thought of around 1988 when the Gulf of Mexico was in an oil depression. Since that time the Gulf of Mexico has come roaring back. The oil companies are submitting record high bids in that region to compete for the right to drill out there, and it is, in fact, probably the hottest oil place in the world today.

□ 1400

That is not because I say so, that is because every oil and energy and gas periodical in the country says that, and all of the oil companies say this is where they are going. They have set forth their 5-year plan. They have set forth their 10-year plan. This is where they are going to make their investments, along with their other decisions.

What we do here is not going to change that. We are just going to decide whether or not we are going to give away the taxpayers' dollars to a lot of oil companies that do not need it, have not particularly asked for it, and understand that it is not going to change their decisions. They are going to the Gulf of Mexico because that is where the oil is. That is where the profitable oil is.

What you have here is you have, today you can be at the creation of corporate welfare because this does not exist today, but should you vote against the motion to recommit this conference report, you will be voting to create corporate welfare that CBO says will cost us $500 million.

Weigh that against the other decisions you are going to be asked to make later today: to increase Medicare premiums, to do all the things you are going to be asked to do in budget reconciliation, you will be asked to do in the continuing resolution, all the decisions this Congress has made about children's nutrition programs, about education, about science, about technology, about transportation; and in the middle of that, you are going to provide a royalty holiday to the oil industry of this country. I do not think that is what you want to tell your constituents.

There is no need for this. The problem with this is, it is mandatory. It is not that the oil company makes a showing that, but for this, they would have drilled the well, or that they need it. It is mandatory. When they sink the well, they get up to 72 million barrels of oil, royalty free, for simply being there, doing what they were already going to do. As I said, they have already bid on the lands. They have already made the investment calculations. They have already leased the rigs, they have already contracted to build new ones, all absent the royalty oil holiday.

This Congress should not be larding up, should not be larding up the budget of the United States with this kind of special privilege. That is what the motion to recommit is about. The motion to recommit is about, in the middle of when we are making the most difficult

budget decisions on both sides of the aisle, we find here a provision that CBO says will net out a $150 million loss to the Treasury of the United States, and $500 million between the year 2000 and 2020. We should not be doing that to the taxpayers, we should not be doing that to people who are asking us to put some balance in the balanced budget provision.

The last time we had this provision before us, 100 Republicans and 161 Democrats joined to instruct the conferees not to take this provision. The conferees decided otherwise. That is why this rule waives all points of order, because this is a nongermane provision. This is simply a highjacking of a bill that many of this Congress believe is very important, very important, to do that.

For those who think if they vote for the motion to recommit they will be bringing down the bill, let me inform them that there is a conference committee scheduled today on the assumption that the motion to recommit will pass so that we can go back to conference, redo this bill, and send it out here. I have told the sponsor of this bill I would let it go on unanimous consent, so they can have the bill and they can stop the creation of new corporate welfare that just in no way can be justified.

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

Mr. Speaker, I would like to point out to the gentleman from California that I was in the chair when we last heard these arguments. Frankly, I was convinced by what the gentleman said. In fact, I supported the gentleman from California, because, and I quote the gentleman's statement, he said it was simply a raid on the Treasury by the Senate and major oil companies.

Again today I hear the gentleman from California, and, in fact, I think he used the figure $500 million. After that vote, I had time to further examine the issue. In addition to that, I looked at what the CBO score did. I went through that accounting.

I can tell the Members that the representation by the gentleman is not the way that I interpret that particular statement. In fact, according to the Secretary of Energy, who has also assessed the CBO score, the deep water language will actually put the Federal Treasury $200 million ahead. Let me repeat that language:

> The Minerals Management Service has estimated that the revenue impacts of the new leasing under section 304 of Senate 395 for lease sales in the central and western Gulf of Mexico between 1996 and 2000, the deep water royalty relief provisions would result in an increased bonus of $485 million, $113.5 million in additional bonuses on tracts that would have been leased without relief, and $350 million in bonuses from tracts that would not have been leased until after the year 2000, if at all, without relief. This translates to a present value of $420 million if the time and value of money is taken into account.

However, the Treasury would forego, and I think this is the number that the gentleman from California is using, ''an estimated $5.53 million in royalties that would otherwise have been collected through the year 2018.'' But you have to complete the formula.

But again, taking into account the time value of the money, this offset in today's dollars is only $220 million. Comparing this loss with the gain from the bonus bids on a net present value basis, the Federal Government would be ahead by $200 million.

Mr. Speaker, I think we have to look at the CBO score. I intend to support that today. I think the rule is fair, but I think we have to look at that score accurately. We have to disclose all the numbers.

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

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I appreciate everything the gentleman from Colorado stated. CBO went through that exact analysis of the Department of Energy, of Mineral Management Services, and rejected that. I find it rather interesting that we now see the proponents of this royalty holiday relying on an agency that they do not trust to give them estimates in Alaska on reserves and costs, and on the Department of Energy, which they think should be abolished.

But they do not want to now look at what CBO, the agency they are relying on and we are all relying on to help us balance the budget, when they reject it and say flat out it is going to cost a net $150 million to the taxpayers. When you get through all of the offsets and you get through the leases that are going to be moved forward and the leases that are going to be moved backwards, what you have in fact is a $150 million net cost, $500 million gross costs in the years 2000 and 2020.

So CBO, the agency we are relying on, that you are relying on, that we have given credibility to, that has rejected the administration arguments in many, many instances, now says, ''This is a net cost to the taxpayers of this country.'' That is why we should not be providing a royalty holiday to companies that do not need it. I thank the gentleman for yielding to me.

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

Mr. Speaker, clearly the gentleman from California and I disagree as to the value to the Treasury, but I would stand by my comments, as I think the majority of the people on both sides of the aisle will stand by, and that is that this is a positive. This puts money into the Treasury. At a time when we are facing this deficit, I think we need to look at that. It encourages jobs. It is a win-win deal. We have got jobs, we have money for the Treasury. I think we are going to have support from both sides of the aisle, in addition, of course, to the support from the Clinton administration. The Clinton administration has come out and endorsed this theory, this issue, and the way it has been put on this bill.

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

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Speaker, I thank my colleague, the gentleman from Texas, for yielding me the time.

Mr. Speaker, I rise in support of the conference committee report in its entirety of Senate bill 395, based on three reasons. One, it is safe for offshore drilling. We are only dealing with new leases or expanded leases, and also the jobs and economic growth that my colleague, the gentleman from Colorado, talked about.

Let me explain. We are talking about the impact on the current budget and this resolution will help balance our budget. The agreement requires the Department of the Interior to exempt from royalties only new leases, or expanded production; it is production that may not be utilized. We may not receive one penny in royalty, but if they do expand it, if they do have new leases, we will see additional revenue. That is where I see the plus for our Treasury.

This resolution also talks about expanded production under existing leases, but it mandates some of the royalty exemptions if the Interior Secretary determines this production will not be economic without royalty relief. We are giving the Department of the Interior the ability to say, ''If you will do it, then we will give you that benefit.'' We are really just letting them say, ''OK, depend on the market, and if it will work, it will help the Treasury and also help in the creation of jobs.''

Let me talk about offshore drilling, because in Texas we do that a lot. I go to Galveston, TX, and see the wells out there and I am concerned, like everyone else, about the pollution in our waters. But, in the latest study I have, it shows that offshore oil production is responsible for only 2 percent of spills, whereas transportation is 45 percent of whatever pollution may be, and waste and runoff is 36 percent.

We can solve a lot of problems with pollution of our waterways and our bodies of water if we just clean up what we put into the sewers, but the offshore production is one of the safest, ways to produce energy. We have had production off our coasts, successful production. Again, this would benefit not only those of us who live along the Gulf Coast, but would also benefit the economic security of our Nation. That is why, Mr. Speaker, I encourage the adoption of the conference committee report.

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

Mr. Speaker, I would like to quote from a letter that we have just received from Citizens for a Sound Economy, and as we all know on both sides of the aisle, that is a very economically conservative organization. It

watches very carefully for any type of legislation that would be a drain on the Federal Treasury.

Their position on this, and I quote:

Providing some degree of royalty relief creates economic incentives to make such risky undertakings more feasible, while increasing the supply of a vital natural resource and providing increased employment opportunities. Moreover, the royalty relief is not corporate welfare. It does not place a burden on taxpayers or contribute to the deficit.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. ARCHER], chairman of the Committee on Ways and Means.

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

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

Mr. Speaker, I rise today in support of the rule and in opposition to the motion to recommit offered by the gentleman from California. Enactment of the OCS Deep Water Royalty Relief Act will generate substantial revenues over the next 7 years as companies bid more for deep water leases and risk investing in leases that are currently too marginal to even consider. The revenues received by the Treasury for oil and gas leases are the combination of bonus bids received at the time of lease sales and royalties paid in the event a lease is developed and brought into production. Since the Federal leasing program began in 1954, $56 billion in bonus payments have been generated versus $47 billion in royalty revenues. In other words, we have received more money from producers paying for the option to produce leases than from actual production royalties. This is especially true in deep waters where only one out of 16 leases ever produce and pay royalties.

The Congressional Budget Office has officially stated that this provision will not reduce the receipts to the Federal Government under the pay-as-you-go procedures. The only revenues scored for the provision have been in the context of budget reconciliation where revenues from non-routine asset sales are being counted for deficit reduction purposes. The bottom line is that CBO has conservatively estimated this provision would generate additional revenues of $130 million over seven years. I urge you to vote again the Miller motion to recommit.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. VENTO].

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

Mr. VENTO. Mr. Speaker, I rise in strong opposition to the rule, and believe it should be defeated. It is needed to circumvent the thorough consideration of this special interest's—oil interest's—benefits being placed into law.

Mr. Speaker, the Miller motion is our avenue to send this back to conference, as we did in August, or in July, by a vote of 261 to 155. We instructed conferees to reject the Senate language providing royalty holidays to companies drilling for oil and gas in federally controlled deep waters in the Gulf of Mexico.

The House voted against the Senate proposal because House Members saw this royalty holiday correctly for what it is. This policy is an unjustified giveaway, a tax break for big corporations at the expense of the American taxpayer. Unfortunately, House conferees completely ignored the wishes of the majority of the House and supported the corporate welfare approved by the Senate. This measure has not passed the House, but was slipped into the Senate measure and is being foisted upon the House through this conference measure, and facilitated by this rule, which I oppose.

The deep water royalty fails in terms of process and economics. Royalty holiday legislation has not been introduced in the House, and the committee process has been circumvented by those who want to push this giveaway through without complete consideration. If this is such good legislation, why not subject it to hearings and full debate? Why are we being asked to settle for a nongermane amendment to Alaskan oil export legislation? The reason is simple: that a royalty holiday will not stand up to the light of day.

□ 1415

Today, the big oil companies pay only a 17-percent tax rate, and the small independent companies pay almost nothing after deductions. That beats the rates paid by most American taxpayers and hardly suggests the need for further cutbacks.

Moreover, there is ample evidence that new technology has prompted a rush of bids in deep-water tracts in the gulf. The lease auction held last May was the fourth largest in gulf history, under the current tax and lease policies, and the American public would have lost an estimated $2 billion in future royalties if the proposed holiday had been in place then. Over the long haul, CBO estimates the royalty holiday will cost the taxpayers $420 million.

The claim that this measure is justified for economic growth should not be the basis for giveaway tax breaks. The fact is that when someone else gets a break in terms of the Tax Code or in terms of royalty, other taxpayers have to make it up. They have to pay for it. So the fact is that if we give this away fast enough, if we can burn dollar bills, that we can heat the house is not a very good justification for a tax policy or for an energy policy.

So I would suggest to my colleagues that we quit burning the dollar bills, we start dealing with the deficit by closing and not opening new loopholes, and that is what has happened throughout this Congress. The House tax bill that passed provided 75 percent of the benefits in 10 years went to corporations and to investors—to corporations and investors—not to individual taxpayers.

Mr. Speaker, I urge defeat of the rule and passage of the motion of the gentleman from California [Mr. MILLER] to recommit to conference this report.

Mr. MCINNIS. Mr. Speaker, I yield 3½ minutes to the gentleman from Oklahoma [Mr. BREWSTER].

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

Mr. BREWSTER. Mr. Speaker, I rise this afternoon to support this important rule.

This afternoon we will have an opportunity to cast a vote that will create jobs, increase domestic production of crude oil and natural gas, decrease our dependence on foreign oil, and raise at least $100 million for the Federal Government over 5 years.

Almost every day news stories report more layoffs, more downsizing, more jobs destroyed as companies cut their payrolls. The men and women of the Nation's oil and natural gas industry know those stories too well, because they have lived them. Oil and gas workers have experienced more job losses than workers in any other American industry.

Since 1982, 450,000 jobs were lost in just the exploration sector of the U.S. petroleum industry. That is almost half the number of jobs lost in the entire domestic manufacturing sector. More than one out of every two workers who searched for oil and natural gas, or helped recover it, lost their job.

But today, Mr. Speaker we can begin to make a difference for oil and gas workers, for those in related industries, and for their families and communities. I urge my colleagues to vote for job creation by voting in favor of the rule to the conference report on S. 395.

Congress must provide incentives for deepwater drilling in the central and western Gulf of Mexico.

Deepwater incentives, which encourage oil and gas companies to risk their capital on new exploration and production, will create 20,000 new jobs for every $1 billion in private sector investment. These incentives will result in the creation of many new jobs in my State of Oklahoma, a State hundreds of miles from the gulf.

There are 378 petroleum equipment supply facilities in my State alone. And nationally, there are 3,532 such facilities spread across 40 States.

Deepwater incentives mean jobs not only for oil and gas workers. It means jobs in steel, in machine tools, in heavy equipment and in the high technology industries that support oil and gas recovery. Deepwater incentives will create new jobs in the gulf region, in my State, and throughout our country.

We have been going the wrong way for too long. The United States has sent many oil industry jobs overseas. And we rely too much on foreign oil

suppliers, who now deliver over half the oil we use.

In just 15 years, the U.S. Department of Energy warns that we will rely on foreign sources for 60 percent of our oil.

Mr. Speaker, we must invest in American workers. It is time to turn this situation around, and rely on our own abundant oil and gas resources. And we must create the job opportunities that go with domestic oil and gas exploration and production.

Mr. Speaker, I urge my colleagues on both sides of the aisle to support the rule, and the conference report and say yes to jobs.

Mr. MCINNIS. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi [Mr. WICKER].

Mr. WICKER. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, I rise in support of the rule, in support of the bill, and particularly in support of the Outer Continental Shelf deep-water incentives legislation; and I will be asking my colleagues later on to vote against the Miller motion to recommit.

Mr. Speaker, I think this legislation is a good idea; and particularly, Mr. Speaker, I believe the OCS deep-water incentives provisions are good for business, they are good for job growth and, most importantly, they are good for the taxpayers.

Let us look at the facts. Right now, restrictive royalties have effectively shut down deep-water drilling. Only 6 percent of the deep-water leases are in production. That is compared to 50 percent of leases which are in production in shallow waters.

My colleagues should not be fooled by the opponents of this measure. I believe their goal is to shutdown deep-water drilling with restrictive taxes. While Americans have continually rejected this approach to governing for the nonsense that it is, opponents have decided to change their approach to the charge of corporate welfare. So let us look again at this charge of corporate welfare.

The Congressional Budget Office, the office that we rely on for our estimates, has determined that this bill will generate $100 million over 5 years in tax revenues. Is that corporate welfare?

The Congressional Budget Office says that this bill will reduce our national deficit. Is that corporate welfare?

This bill will create jobs. That is not corporate welfare, Mr. Speaker. This bill makes sense for the taxpayers, for the Federal budget and for our national security.

What our friends who oppose this bill are not saying is the fact that the taxpayer benefits only if deep-water oil and gas production occurs. If they do not drill, they do not pay taxes. The taxpayer and producers are business partners. They both benefit from deep-water drilling.

So who is being taken advantage of by this provision? It is not the offshore workers who sit idle by the drills. It is not the taxpayer who stands to make $100 million over the next 5 years. The only people being taken advantage of in this bill are those who fall for the basic theory of corporate welfare by the opponents of the bill today. This bill will expand domestic energy resources, enhance our energy security, create jobs and reduce the national deficit.

Mr. Speaker, this is a good rule, this is good legislation, and I urge its adoption.

Mr. MCINNIS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. GOSS].

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

Mr. GOSS. Mr. Speaker, I thank my friend the honorable distinguished gentleman from Glenwood Springs, CO [Mr. MCINNIS], for yielding me this time and for his management of this rule.

Mr. Speaker, I rise in support of this rule, and to thank the conferees on S. 395 for going the extra mile to address the concerns of the State of Florida with regard to the deep water drilling provisions contained in the conference report. I, along with many Members of the Florida Delegation, had reservations about the original Senate language that would have provided royalty relief for oil companies drilling in the deep waters of the Gulf of Mexico. The overwhelming majority of Floridians are opposed to taking risks with oil and gas exploration in our fragile coastal waters—risks that could jeopardize our tourism and housing industries. I am pleased that through the efforts of Mrs. FOWLER and others on the conference committee, the report now spells out in no uncertain terms that ''nothing in this title shall be construed to affect any offshore pre-leasing, leasing, or development moratorium, including any moratorium applicable to the eastern planning area of the Gulf of Mexico located off the gulf coast of Florida.'' This clarification is consistent with our efforts to provide long-term protection for Florida's valuable coastline, and I support it's inclusion in this conference report.

Mr. Speaker, I recognize there are many other issues in this particular report, and they have not all been attended to in exactly the way that is going to make everybody exactly happy. I have never seen a piece of legislation that I can recall that has made everybody happy in this body, and I do not think I will live that long. I think that everybody fees they can improve on it.

But for the rule that we have here, I think that is a good rule; and I think it is important to point out that there has been a change and an improvement for the Florida interests that involve the protection of the Florida coastal waters; and I think those involved.

Mr. MCINNIS. Mr. Speaker, I yield I minute to the gentleman from Florida [Mr. SCARBOROUGH].

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

Mr. Speaker, I am from Florida. This bill does not affect the State of Florida, does not affect drilling off of Florida. This does affect the taxpayers.

When I hear people get up and say that CBO has scored this one way or the other, that it is actually going to be $100 million plus, that is doublespeak that I have been hearing Democrats saying on the other side of the aisle, and how Republicans are saying this now for their own purposes shocks me.

The fact of the matter is, CBO has scored this, and in their scoring they said it would cost us $450 million. Now, how anybody can stand up after defending CBO numbers for a year and then stand up and say, ''OK, CBO is right on everything but this one,'' absolutely strains any credibility any speaker has. CBO says it. It costs the American taxpayer $450 million. When you take to the microphone and say that you are helping the American taxpayers by shoveling more corporate welfare to big oil, you are lying to the American people.

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

Mr. Speaker, I would hope the gentleman from Florida [Mr. SCARBOROUGH] stays on the floor long enough to hear some rebuttal, because the gentleman from Florida has very little basis, especially using the kind of strong language that he has used.

I think we may have an honest disagreement here. I do not think either side in this situation is lying, as the gentleman from Florida might put it, or telling an untruth. In fact, the CBO has been I think fairly clear on its scoring of this. This will add to the Federal Treasury.

Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

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

As a matter of fact, CBO did say this would yield $100 million to the Treasury in the next 5 years. Confusion has come up when CBO tried to go 25 years out and estimate income and revenue as opposed to losses under the program, and CBO did a classic economic mistake in that analysis. They failed to count the present value of money.

Minerals Management has done an analysis as well. Minerals Management, under the Secretary of Energy, has concluded that this bill will produce at least 630 additional leases which would be sold for a total increase in bonuses of $485 million over the next 5 years. Their analysis over the 25-year period is it not only reduces the deficit but it also adds, they believe, about $200 million to the Treasury.

Now, we can debate. Economists are arguing about what is going to happen 25 years from now. But one thing we cannot deny is that the 25-year outlook by CBO originally done, which has been

corrected by Minerals Management and the Department of the Interior, failed to take into account a very simple economic principle, the present value of money. When you do that, this is a net gainer for the Treasury. It is a net gainer for the Treasury in the first 5 years. It is a net gainer over the 25-year period, if the bill were extended beyond the first 5 years.

In fact, this is good for the Treasury. This produces jobs, economy. It produces income for Americans, and it does something even more vital than that. It produces oil and gas in regions that would not otherwise be produced in the Gulf of Mexico, only in an area where, in fact, economies of scale and deep-water drilling would not permit those drills to occur. This is good for the country.

Too many of our young men and women have gone to battle to defend oil products in somebody else's land. It is about time we produce on the leases we have authorized to be produced here in the Gulf of Mexico. I would urge support for this rule and to keep the oil and gas relief bill intact when we send it back to the President.

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Mr. MCINNIS. Mr. Speaker, I urge my colleagues to support the rule. I have no further speakers.

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

Mr. FROST. Mr. Speaker, we have no other requests for time at this point. As my colleagues can see, there is some degree of controversy on this matter. I personally support the rule and support the bill, and I urge adoption of the rule, though there is some opposition, obviously, on both sides of the aisle on this question.

Mr. Speaker, I yield back the balance of my time.

Mr. MCINNIS. Mr. Speaker, I too support the rule, and urge my colleagues to support the rule.

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

The SPEAKER pro tempore. The previous question was ordered.

The question is on the resolution.

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 361, nays 54, answered ''present'' 1, not voting 16, as follows:

[Roll No. 770]

YEAS—361

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
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
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHugh
McInnis
McIntosh
McNulty
Meehan
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Owens
Oxley
Packard
Parker
Paxon
Payne (VA)
Pelosi
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velázquez
Vucanovich
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—54

Becerra
Beilenson
Berman
Brown (FL)
Clay
Collins (IL)
Collins (MI)
Conyers
Coyne
Dellums
Deutsch
Evans
Fattah
Filner
Flake
Frank (MA)
Gejdenson
Gibbons
Gonzalez
Gordon
Gutierrez
Hastings (FL)
Hinchey
Kanjorski
Kildee
LaFalce
Markey
McHale
McKinney
Meek
Menendez
Mfume
Nadler
Olver
Pallone
Pastor
Payne (NJ)
Peterson (MN)
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Serrano
Slaughter
Stark
Stokes
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wynn
Yates

ANSWERED ''PRESENT''—1

Engel

NOT VOTING—16

de la Garza
Fields (LA)
Foglietta
McKeon
Moakley
Moran
Peterson (FL)
Ramstad
Rose
Skelton
Tejeda
Thornton
Tucker
Volkmer
Waldholtz
Weldon (PA)

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Ms. BROWN of Florida and Mrs. SCHROEDER changed their vote from ''yea'' to ''nay.''

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

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.

PERSONAL EXPLANATION

Mr. ENGEL. Mr. Speaker, on rollcall vote No. 770, I am recorded as having voted "present." I would like the RECORD to reflect that I was opposed to this resolution.

Mr. YOUNG of Alaska. Mr. Speaker, pursuant to House Resolution 256, I call up the conference report on Senate bill (S. 395) to authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and to authorize the export of Alaska North Slope crude oil, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MCINNIS). Pursuant to House Resolution 256, the conference report is considered as having been read.

The text of the conference report and the statement of managers is as follows:

CONFERENCE REPORT (H. REPT. 104–312)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 395), to authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and to authorize the export of Alaska North Slope crude oil, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

Amendment numbered 1:

That the Senate recede from its disagreement to the amendment of the House numbered 1, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be stricken by the House amendment, insert the following:

TITLE I—ALASKA POWER ADMINISTRATION ASSET SALE AND TERMINATION

SEC. 101. SHORT TITLE.

This title may be cited as the ''Alaska Power Administration Asset Sale and Termination Act''.

SEC. 102. DEFINITIONS.

For purposes of this title:

(1) The term ''Eklutna'' means the Eklutna Hydroelectric Project and related assets as described in section 4 and Exhibit A of the Eklutna Purchase Agreement.

(2) The term ''Eklutna Purchase Agreement'' means the August 2, 1989, Eklutna Purchase Agreement between the Alaska Power Administration of the Department of Energy and the Eklutna Purchasers, together with any amendments thereto adopted before the enactment of this section.

(3) The term ''Eklutna Purchasers'' means the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc. and the Matanuska Electric Association, Inc.

(4) The term ''Snettisham'' means the Snettisham Hydroelectric Project and related assets as described in section 4 and Exhibit A of the Snettisham Purchase Agreement.

(5) The term ''Snettisham Purchase Agreement'' means the February 10, 1989, Snettisham Purchase Agreement between the Alaska Power Administration of the Department of Energy and the Alaska Power Authority and its successors in interest, together with any amendments thereto adopted before the enactment of this section.

(6) The term ''Snettisham Purchaser'' means the Alaska Industrial Development and Export Authority or a successor State agency or authority.

SEC. 103. SALE OF EKLUTNA AND SNETTISHAM HYDROELECTRIC PROJECTS.

(a) SALE OF EKLUTNA.—The Secretary of Energy is authorized and directed to sell Eklutna to the Eklutna Purchasers in accordance with the terms of this Act and the Eklutna Purchase Agreement.

(b) SALE OF SNETTISHAM.—The Secretary of Energy is authorized and directed to sell Snettisham to the Snettisham Purchaser in accordance with the terms of this Act and the Snettisham Purchase Agreement.

(c) COOPERATION OF OTHER AGENCIES.—The heads of other Federal departments, agencies, and instrumentalities of the United States shall assist the Secretary of Energy in implementing the sales and conveyances authorized and directed by this title.

(d) PROCEEDS.—Proceeds from the sales required by this title shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to prepare, survey, and acquire Eklutna and Snettisham for sale and conveyance. Such preparations and acquisitions shall provide sufficient title to ensure the beneficial use, enjoyment, and occupancy by the purchasers.

(f) CONTRIBUTED FUNDS.—Notwithstanding any other provision of law, the Alaska Power Administration is authorized to receive, administer, and expend such contributed funds as may be provided by the Eklutna Purchasers or customers or the Snettisham Purchaser or customers for the purposes of upgrading, improving, maintaining, or administering Eklutna or Snettisham. Upon the termination of the Alaska Power Administration under section 104(f), the Secretary of Energy shall administer and expend any remaining balances of such contributed funds for the purposes intended by the contributors.

SEC. 104. EXEMPTION AND OTHER PROVISIONS.

(a) FEDERAL POWER ACT.—(1) After the sales authorized by this Act occur, Eklutna and Snettisham, including future modifications, shall continue to be exempt from the requirements of Part I of the Federal Power Act (16 U.S.C. 791a et seq.), except as provided in subsection (b).

(2) The exemption provided by paragraph (1) shall not affect the Memorandum of Agreement entered into among the State of Alaska, the Eklutna Purchasers, the Alaska Energy Authority, and Federal fish and wildlife agencies regarding the protection, mitigation of, damages to, and enhancement of fish and wildlife, dated August 7, 1991, which remains in full force and effect.

(3) Nothing in this title or the Federal Power Act preempts the State of Alaska from carrying out the responsibilities and authorities of the Memorandum of Agreement.

(b) SUBSEQUENT TRANSFERS.—Except for subsequent assignment of interest in Eklutna by the Eklutna Purchasers to the Alaska Electric Generation and Transmission Cooperative Inc. pursuant to section 19 of the Eklutna Purchase Agreement, upon any subsequent sale or transfer of any portion of Eklutna or Snettisham from the Eklutna Purchasers or the Snettisham Purchaser to any other person, the exemption set forth in paragraph (1) of subsection (a) of this section shall cease to apply to such portion.

(c) REVIEW.—(1) The United States District Court for the District of Alaska shall have jurisdiction to review decisions made under the Memorandum of Agreement and to enforce the provisions of the Memorandum of Agreement, including the remedy of specific performance.

(2) An action seeking review of a Fish and Wildlife Program (''Program'') of the Governor of Alaska under the Memorandum of Agreement or challenging actions of any of the parties to the Memorandum of Agreement prior to the adoption of the Program shall be brought not later than 90 days after the date on which the Program is adopted by the Governor of Alaska, or be barred.

(3) An action seeking review of implementation of the Program shall be brought not later than 90 days after the challenged act implementing the Program, or be barred.

(d) EKLUTNA LANDS.—With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

(1) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers—

(A) at no cost to the Eklutna Purchasers;

(B) to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals, or replacements; and

(C) sufficient for the operation of, maintenance of, repair to, and replacement of, and access to, Eklutna facilities located on military lands and lands managed by the Bureau of Land Management, including lands selected by the State of Alaska.

(2) Fee title to lands at Anchorage Substation shall be transferred to Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to, and selections of, those lands are invalid or relinquished.

(3) With respect to the Eklutna lands identified in paragraph 1 of Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey to the State, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85–508; 72 Stat. 339), and the North Anchorage Land Agreement dated January 31, 1983. This conveyance shall be subject to the rights-of-way provided to the Eklutna Purchasers under paragraph (1).

(e) SNETTISHAM LANDS.—With respect to the Snettisham lands identified in paragraph 1 of Exhibit A of the Snettisham Purchase Agreement and Public Land Order No. 5108, the State of Alaska may select, and the Secretary of the Interior shall convey to the State of Alaska, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85–508; 72 Stat. 339).

(f) TERMINATION OF ALASKA POWER ADMINISTRATION.—Not later than one year after both of the sales authorized in section 103 have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

(1) complete the business of, and close out, the Alaska Power Administration;

(2) submit to Congress a report documenting the sales; and

(3) return unobligated balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

(g) REPEALS.—(1) The Act of July 31, 1950 (64 Stat. 382) is repealed effective on the date that Eklutna is conveyed to the Eklutna Purchasers.

(2) Section 204 of the Flood Control Act of 1962 (76 Stat. 1193) is repealed effective on the date that Snettisham is conveyed to the Snettisham Purchaser.

(3) The Act of August 9, 1955, concerning water resources investigation in Alaska (69 Stat. 618), is repealed.

(h) DOE ORGANIZATION ACT.—As of the later of the two dates determined in paragraphs (1) and (2) of subsection (g), section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152(a)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (C); and

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

(2) in paragraph (2) by striking out ''and the Alaska Power Administration'' and by inserting ''and'' after ''Southwestern Power Administration,''.

(i) DISPOSAL.—The sales of Eklutna and Snettisham under this title are not considered disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the ''Surplus Property Act of 1944'' (50 U.S.C. App. 1622).

SEC. 105. OTHER FEDERAL HYDROELECTRIC PROJECTS.

The provisions of this title regarding the sale of the Alaska Power Administration's hydroelectric projects under section 103 and the exemption of these projects from Part I of the Federal Power Act under section 104 do not apply to other Federal hydroelectric projects.

And the House agree to the same.

Amendment numbered 2:

That the Senate recede from its disagreement to the amendment of the House numbered 2, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

TITLE II—EXPORTS OF ALASKAN NORTH SLOPE OIL

SEC. 201. EXPORTS OF ALASKAN NORTH SLOPE OIL.

Section 28 of the Mineral Leasing Act (30 U.S.C. 185) is amended by amending subsection (s) to read as follows:

''EXPORTS OF ALASKAN NORTH SLOPE OIL

''(s)(1) Subject to paragraphs (2) through (6) of this subsection and notwithstanding any other provision of this Act or any other provision of law (including any regulation) applicable to the export of oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652), such oil may be exported unless the President finds that exportation of this oil is not in the national interest. The President shall make his national interest determination within five months of the date of enactment of this subsection. In evaluating whether exports of this oil are in the national interest, the President shall at a minimum consider—

''(A) whether exports of this oil would diminish the total quantity or quality of petroleum available to the United States;

''(B) the results of an appropriate environmental review, including consideration of appropriate measures to mitigate any potential adverse effects of exports of this oil on the environment, which shall be completed within four months of the date of the enactment of this subsection; and

''(C) whether exports of this oil are likely to cause sustained material oil supply shortages or sustained oil prices significantly above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, including noncontiguous States and Pacific territories.

If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that such exports are consistent with the national interest.

''(2) Except in the case of oil exported to a country with which the United States entered into a bilateral international oil supply agreement before November 26, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

''(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), or Part B of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271–76) to prohibit exports.

''(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination, including any licensing requirements and conditions, within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

''(5) If the Secretary of Commerce finds that exporting oil under authority of this subsection has caused sustained material oil supply shortages or sustained oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused or are likely to cause sustained material adverse employment effects in the United States, the Secretary of Commerce, in consultation with the Secretary of Energy, shall recommend, and the President may take, appropriate action concerning exports of this oil, which may include modifying or revoking authority to export such oil.

''(6) Administrative action under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.''.

SEC. 202. GAO REPORT.

(a) REVIEW.—The Comptroller General of the United States shall conduct a review of energy production in California and Alaska and the effects of Alaskan North Slope oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast and in Hawaii. The Comptroller General shall commence this review three years after the date of enactment of this Act and, within twelve months after commencing the review, shall provide a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources and the Committee on Commerce of the House of Representatives.

(b) CONTENTS OF REPORT.—The report shall contain a statement of the principal findings of the review and recommendations for Congress and the President to address job loss in the shipbuilding and ship repair industry on the West Coast, as well as adverse impacts on consumers and refiners on the West Coast and in Hawaii, that the Comptroller General attributes to Alaska North Slope oil exports.

And the House agree to the same.

Amendment numbered 3:

That the Senate recede from its disagreement to the amendment of the House numbered 3, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be stricken by the House amendment, insert the following:

SEC. 203. GRANT AUTHORITY.

(a) IN GENERAL.—The Secretary of Transportation (''Secretary'') may make grants to the Multnomah County Tax Supervising and Conservation Commission of Multnomah County, Oregon (''Commission'') in accordance with this section, not to exceed the amount determined in subsection (b)(2).

(b) FINDING AND DETERMINATION.—Before making any grant under this section not earlier than one year after exports of Alaskan North Slope oil commence pursuant to section 201, the Secretary shall—

(1) find on the basis of substantial evidence that such exports are directly or indirectly a substantial contributing factor to the need to levy port district ad valorem taxes under Oregon Revised Statutes section 294.381; and

(2) determine the amount of such levy attributable to the export of Alaskan North Slope oil.

(c) AGREEMENT.—Before receiving a grant under this section for the relief of port district ad valorem taxes which would otherwise be levied under Oregon Revised Statutes section 294.381, the Commission shall enter into an agreement with the Secretary to—

(1) establish a segregated account for the receipt of grant funds;

(2) deposit and keep grant funds in that account;

(3) use the funds solely for the purpose of payments in accordance with this subsection, as determined pursuant to Oregon Revised Statutes sections 294.305–565, and computed in accordance with generally accepted accounting principles; and

(4) terminate such account at the conclusion of payments subject to this subsection and to transfer any amounts, including interest, remaining in such account to the Port of Portland for use in transportation improvements to enhance freight mobility.

(d) REPORT.—Within 60 days of issuing a grant under this section, the Secretary shall submit any finding and determination made under subsection (b), including supporting information, to the Committee on Energy and Natural Resources of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to carry out subsection (a), $15,000,000 for fiscal year 1997, to remain available until October 1, 2003.

And the House agree to the same.

Amendment numbered 4:

That the Senate recede from its disagreement to the amendment of the House numbered 4, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be stricken by the House amendment, insert the following:

TITLE IV—MISCELLANEOUS

SEC. 401. EMERGENCY RESPONSE PLAN.

(a) IN GENERAL.—Within 15 months after the date of the enactment of this Act, the Commandant of the Coast Guard shall submit a plan to Congress on the most cost-effective means of implementing an international private-sector tug-of-opportunity system, including a coordinated system of communication, using existing towing vessels to provide timely emergency response to a vessel in distress transiting the waters within the boundaries of the Olympic Coast National Marine Sanctuary or the Strait of Juan de Fuca.

(b) COORDINATION.—In carrying out this section, the Commandant, in consultation with the Secretaries of State and Transportation, shall coordinate with the Canadian Government and the United States and Canadian maritime industries.

(c) ACCESS TO INFORMATION.—If necessary, the Commandant shall allow United States nonprofit maritime organizations access to United States Coast Guard radar imagery and transponder information to identify and deploy towing vessels for the purpose of facilitating emergency response.

(d) TOWING VESSEL DEFINED.—For the purpose of this section, the term ''towing vessel'' has the meaning given that term by section 2101(40) of title 46, United States Code.

And the House agree to the same.

Amendment numbered 5:

That the Senate recede from its disagreement to the amendment of the House numbered 5, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be stricken by the House amendment, insert the following:

TITLE III—OUTER CONTINENTAL SHELF DEEP WATER ROYALTY RELIEF

SEC. 301. SHORT TITLE.

This title may be referred to as the ''Outer Continental Shelf Deep Water Royalty Relief Act''.

SEC. 302. AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT.

Section 8(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)), is amended—

(1) by designating the provisions of paragraph (3) as subparagraph (A) of such paragraph (3); and

(2) by inserting after subparagraph (A), as so designated, the following:

''(B) In the Western and Central Planning Areas of the Gulf of Mexico and the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, the Secretary may, in order to—

''(i) promote development or increased production on producing or non-producing leases; or

''(ii) encourage production of marginal resources on producing or non-producing leases;

through primary, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease(s). With

the lessee's consent, the Secretary may make other modifications to the royalty or net profit share terms of the lease in order to achieve these purposes.

''(C)(i) Notwithstanding the provisions of this Act other than this subparagraph, with respect to any lease or unit in existence on the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act meeting the requirements of this subparagraph, no royalty payments shall be due on new production, as defined in clause (iv) of this subparagraph, from any lease or unit located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, until such volume of production as determined pursuant to clause (ii) has been produced by the lessee.

''(ii) Upon submission of a complete application by the lessee, the Secretary shall determine within 180 days of such application whether new production from such lease or unit would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph. In making such determination, the Secretary shall consider the increased technological and financial risk of deep water development and all costs associated with exploring, developing, and producing from the lease. The lessee shall provide information required for a complete application to the Secretary prior to such determination. The Secretary shall clearly define the information required for a complete application under this section. Such application may be made on the basis of an individual lease or unit. If the Secretary determines that such new production would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph, the provisions of clause (i) shall not apply to such production. If the Secretary determines that such new production would not be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i), the Secretary must determine the volume of production from the lease or unit on which no royalties would be due in order to make such new production economically viable; except that for new production as defined in clause (iv)(I), in no case will that volume be less than 17.5 million barrels of oil equivalent in water depths of 200 to 400 meters, 52.5 million barrels of oil equivalent in 400–800 meters of water, and 87.5 million barrels of oil equivalent in water depths greater than 800 meters. Redetermination of the applicability of clause (i) shall be undertaken by the Secretary when requested by the lessee prior to the commencement of the new production and upon significant change in the factors upon which the original determination was made. The Secretary shall make such redetermination within 120 days of submission of a complete application. The Secretary may extend the time period for making any determination or redetermination under this clause for 30 days, or longer if agreed to by the applicant, if circumstances so warrant. The lessee shall be notified in writing of any determination or redetermination and the reasons for and assumptions used for such determination. Any determination or redetermination under this clause shall be a final agency action. The Secretary's determination or redetermination shall be judicially reviewable under section 10(a) of the Administrative Procedures Act (5 U.S.C. 702), only for actions filed within 30 days of the Secretary's determination or redetermination.

''(iii) In the event that the Secretary fails to make the determination or redetermination called for in clause (ii) upon application by the lessee within the time period, together with any extension thereof, provided for by clause (ii), no royalty payments shall be due on new production as follows:

''(I) For new production, as defined in clause (iv)(I) of this subparagraph, no royalty shall be due on such production according to the schedule of minimum volumes specified in clause (ii) of this subparagraph.

''(II) For new production, as defined in clause (iv)(II) of this subparagraph, no royalty shall be due on such production for one year following the start of such production.

''(iv) For purposes of this subparagraph, the term 'new production' is—

''(I) any production from a lease from which no royalties are due on production, other than test production, prior to the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act; or

''(II) any production resulting from lease development activities pursuant to a Development Operations Coordination Document, or supplement thereto that would expand production significantly beyond the level anticipated in the Development Operations Coordination Document, approved by the Secretary after the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act.

''(v) During the production of volumes determined pursuant to clauses (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for light sweet crude oil exceeds $28.00 per barrel, any production of oil will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $28.00. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

''(vi) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds $3.50 per million British thermal units, any production of natural gas will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clauses (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $3.50. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

''(vii) The prices referred to in clauses (v) and (vi) of this subparagraph shall be changed during any calendar year after 1994 by the percentage, if any, by which the implicit price deflator for the gross domestic product changed during the preceding calendar year.''.

SEC. 303. NEW LEASES.

Section 8(a)(1) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1337(a)(1)) is amended—

(1) by redesignating subparagraph (H) as subparagraph (I);

(2) by striking ''or'' at the end of subparagraph (G); and

(3) by inserting after subparagraph (G) the following new subparagraph:

''(H) cash bonus bid with royalty at no less than 12 and ½ per centum fixed by the Secretary in amount or value of production saved, removed, or sold, and with suspension of royalties for a period, volume, or value of production determined by the Secretary, which suspensions may vary based on the price of production from the lease; or''.

SEC. 304. LEASE SALES.

For all tracts located in water depths of 200 meters or greater in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any lease sale within five years of the date of enactment of this title, shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act, as amended by this title, except that the suspension of royalties shall be set at a volume of not less than the following:

(1) 17.5 million barrels of oil equivalent for leases in water depths of 200 to 400 meters;

(2) 52.5 million barrels of oil equivalent for leases in 400 to 800 meters of water; and

(3) 87.5 million barrels of oil equivalent for leases in water depths greater than 800 meters.

SEC. 305. REGULATIONS.

The Secretary shall promulgate such rules and regulations as are necessary to implement the provisions of this title within 180 days after the enactment of this Act.

SEC. 306. SAVINGS CLAUSE.

Nothing in this title shall be construed to affect any offshore pre-leasing, leasing, or development moratorium, including any moratorium applicable to the Eastern Planning Area of the Gulf of Mexico located off the Gulf Coast of Florida.

And the House agree to the same.

Amendment to title:

That the House recede from its amendment to the title of the bill.

For consideration of House amendment No. 1:

DON YOUNG,
KEN CALVERT,
TOM BLILEY,

For consideration of House amendment No. 2:

DON YOUNG,
KEN CALVERT,
WILLIAM THOMAS,
TOM BLILEY,
HOWARD COBLE,
LEE H. HAMILTON,
JIM OBERSTAR,

For consideration of House amendment No. 3:

FLOYD SPENCE,
JOHN R. KASICH,

For consideration of House amendment No. 4:

HOWARD COBLE,
TILLIE K. FOWLER,
JIM OBERSTAR,

For consideration of House amendment No. 5:

DON YOUNG,
KEN CALVERT,

Managers on the Part of the House.

FRANK H. MURKOWSKI,
PETE V. DOMENICI,
J. BENNETT JOHNSTON,
WENDELL FORD,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 395) to authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and to authorize the export of Alaska North Slope crude oil, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

House amendment numbered 1 struck title I of the Senate bill. House amendment numbered 2 struck sections 201 through 204 of the Senate bill and inserted the text of H.R. 70, as passed by the House. House amendment

numbered 3 struck section 205 of the Senate bill. House amendment numbered 4 struck section 206 of the Senate bill. House amendment numbered 5 struck title III of the Senate bill.

With respect to House amendment numbered 1, 2, 3, 4, and 5, and Senate receded from its disagreement to each House numbered amendment with an amendment.

The differences between the Senate bill, the House amendments, and the amendment agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—ALASKA POWER ADMINISTRATION ASSET SALE AND TERMINATION

SENATE BILL

Title I of the Senate bill provides for the sale of the Alaska Power Administration's (APA) assets, an the termination of the APA once the sale occurs. It also provides for the exemption of the two hydroelectric projects from the licensing requirements of Part I of the Federal Power Act.

HOUSE AMENDMENT NUMBERED 1

The House amendment struck Title I of the Senate bill.

CONFERENCE AGREEMENT

The House receded to the Senate with an amendment.

The Conference Report adopts the Senate language with minor changes. The APA's assets will be sold pursuant to the 1989 purchase agreements between the Department of Energy and the purchasers. The Snettisham hydroelectric project and related assets will be sold to the State of Alaska. the Eklutna hydroelectric project and related assets will be sold jointly to the Municipality of Anchorage, the Chugach Electric Association, and the Matanuska Electric Association. For both projects, the sale price is determined by calculating the net present value of the remaining debt service payments the Treasury would receive if the Federal Government retained ownership.

This provision and the separate formal agreements provide for the full protection of fish and wildlife. The purchasers, the State of Alaska, the National Marine Fisheries Service (NMFS), and the U.S. Fish and Wildlife Service (USFWS) have entered into a formal agreement providing for post-sale protection, mitigation, and enhancement of fish and wildlife resources affected by Eklutna and Snettisham. This provision makes that agreement legally enforceable.

As a result of the formal agreements, the Department of Energy, the Department of the Interior, and NMFS all agree that the two hydroelectric projects warrant exemption from the Federal Energy Regulatory Commission (FERC) licensing under Part I of the Federal Power Act. The August 7, 1991, formal purchase agreement states:

NMFS, USFWS and the State agree that the following mechanism to develop and implement measures to protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat) *obviate the need for the Eklutna Purchasers and AEA to obtain FERC licenses.* [Emphasis supplied.]

The Alaska Power Administration has 34 people located in the State of Alaska. The purchasers of the two projects have pledges to hire as many of these as possible. For those who do not receive offers of employment, the Department of Energy has pledged it will offer employment to any remaining APA employees, although the DOE jobs are expected to be in the lower 48 States.

The House-passed bill did not contain any comparable provisions. The Conference Agreement adopts the Senate-passed bill with two material changes.

First, section 104(a)(1) of the Conference Agreement provides an exemption for Eklutna and Snettisham only from Part I of the Federal Power Act (hydroelectric licensing), not from the entire Federal Power Act. That was intended by the Senate. By making this change, the Conferees do not intend to imply that the purchasers who are already exempt from other aspects of the Federal Power Act lose that broader exemption. Nor do the Conferees intend to imply that merely by reason of this provision the other parts of the Federal Power Act apply to Eklutna and Snettisham. They apply if they would have applied in the absence of this provision.

Second, new section 104(b) provides that upon sale or transfer of any portion of Eklutna or Snettisham from the purchasers to any person (i.e. a person other than a purchaser defined in section 102), the exemption from Part I of the Federal Power Act shall cease to apply to that portion of Eklutna or Snettisham. However, the exemption from Part I will continue to apply if the sale or transfer is from one purchaser to another purchaser, as defined in section 102. The elimination of exemption from Part I for a sold or transferred portion of Eklutna or Snettisham does not mandate the licensing of that portion, it only eliminates the exemption from the application of Part I. If licensing is not otherwise required under Part I of the Federal Power Act for that portion, it is not required by reason of section 104(b). The disposition of a portion of the Eklutna or Snettisham assets does not affect the remaining portions. The one exception to this rule is a subsequent assignment of interests in Eklutna by the Eklutna Purchasers to the Alaska Electric Generation and Transmission Cooperative Inc. pursuant to section 19 of the Eklutna Purchase Agreement will not result in the elimination of the exemption from Part I of the Federal Power Act for that interest.

Sections 104(d) and 104(e) address selection and transfer of Eklutna and Snettisham lands. It is the intent of these provisions that notwithstanding the expiration of the right of the State of Alaska to make selections under section 6 of the Alaska Statehood Act, the State may select lands pursuant to this provision and the Eklutna and Snettisham Purchase Agreements. Likewise, it is the intent of this legislation that the Secretary of the Interior shall convey lands selected by the State of Alaska, notwithstanding any limitations contained in section 6(b) of the Alaska Statehood Act.

The Conferees agree that the circumstances justifying exemption from licensing under Part I of the Federal Power Act for these two Federally-owned hydroelectric projects are unique, and that they would not justify a similar exemption for any other Federally-owned hydroelectric project if sold. The Conferees agree that if other Federally-owned hydroelectric projects whose generation is marketed by other Federal power marketing administrations are privatized, these circumstances would not justify an exemption from Part I. This is reflected in section 105 of the Conference Agreement.

TITLE II—EXPORTS OF ALASKAN NORTH SLOPE OIL

SENATE BILL

Sections 201 through 204 of Title II of the Senate bill authorized exports of Alaskan North Slope (ANS) crude oil; mandated the filing of additional information in an annual report under the Energy Policy and Conservation Act; and required a study by the General Accounting Office (GAO).

HOUSE AMENDMENT NUMBERED 2

The House amendment similarly authorized exports of ANS crude oil and provided for a GAO study.

CONFERENCE AGREEMENT

The Senate receded to the House language with an amendment.

Under section 201, Committee of Conference recommends authorizing exports of ANS oil under terms substantially similar to, and drawn from, both the Senate bill and the House amendment.

Paragraph (1) authorizes ANS exports, making inapplicable the general and specific restrictions on these exports in Section 7(d) of the Export Administration Act of 1979 (50 U.S.C. App. §2406(b)), Section 28(u) of the Mineral Leasing Act of 1920 (30 U.S.C. §185), Section 103 of the Energy Policy and Conservation Act (42 U.S.C. §6212), and the Short Supply regulations issued thereunder. However, the export of the oil can be stopped if the President determines (within five months of the date of enactment) that they would not be in the national interest. (Other statutory restrictions on the export of U.S. crude oil either inapplicable or superseded with respect to ANS exports are 10 U.S.C. §7430 and 29 U.S.C. §1354, restricting exports of crude oil from the Naval Petroleum Reserve and the outer continental shelf.)

Before making the national interest determination, the President must consider an appropriate environmental review (to be completed within four months of enactment). Consistent with the 1973 Trans-Alaska Pipeline Authorization Act, the President also must consider whether exports would diminish the total quantity or quality of petroleum available to the United States. The President must also consider whether exports are likely to cause sustained material oil supply shortages or sustained oil prices significantly above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, in particular in noncontiguous States and Pacific territories.

In a comprehensive report submitted to Congress, the Department of Energy found ''no plausible evidence of any direct negative environmental impact from lifting the ANS crude export ban.'' Based on this finding and the weight of the testimony, section 201 of the Conference Agreement directs, as the ''appropriate environmental review,'' an abbreviated four-month study. The environmental review is intended to be thorough and comprehensive, but in light of the prior Department of Energy findings and the compressed time frame, neither a full Environmental Impact Statement nor even a more limited Environmental Assessment is contemplated. If any potential adverse effects on the environment are found, the study is to recommend ''appropriate measures'' to mitigate or cure them.

In making the national interest determination, the President is authorized to impose appropriate terms and conditions, other than a volume limitation, on ANS exports. However, nothing in this section or Title IV of the Conference Agreement authorizes the imposition of new requirements for oil spill prevention and response in locations which would not be affected by ANS exports, such as the Strait of Juan de Fuca or within the boundaries of the Olympic Coast National Marine Sanctuary.

The Conference Agreement takes cognizance of the changed condition of national oil demand and available oil resources. Title II is intended to permit ANS crude oil to compete with other crude oil in the world market under normal market conditions. To facilitate this competition and in recognition that section 201 specifically precludes

imposition of a volume limitation, the President should direct that exports proceed under a general license. In further recognition that some information (such as volume and price) will be needed to monitor exports, the President may wish to impose after-the-fact reporting requirements as may be deemed appropriate by the Secretary of Commerce.

Given the anticipated substantial benefits to the Nation of ANS exports, the Conferees urge the President to make the national interest determination as promptly as possible. If the President fails to make the required national interest determination within the statutorily imposed deadline, ANS oil exports are authorized without intervening action by the President or the Secretary of Commerce.

Section 201 requires, with limited exceptions, that ANS exports be carried in U.S.-flag vessels. The only exceptions are exports to Israel under the terms of a specific bilateral treaty that entered into force in 1979 and exports to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency. The Committee of Conference concurs with the Administration's assessment that the U.S.-flag cargo reservation requirement is consistent with U.S. international obligations and is supported by ample precedent, including in particular a comparable provision in the U.S.-Canada Free Trade Agreement, as implemented under U.S. law.

Section 201 preserves any authority the President may have under the Constitution and the enumerated statutes to prohibit ANS exports in an emergency.

Section 201 also directs the Secretary of Commerce to issue any rules necessary to govern ANS exports within 30 days of the President's national interest determination. In light of the clear benefits to the Nation of ANS exports, the Conferees urge the Secretary of Commerce to promulgate any rules necessary to implement that determination, including any licensing requirements and conditions, contemporaneously with the determination.

Section 201 further provides that, if the Secretary of Commerce (after consulting with the Secretary of Energy) later finds that exports have caused sustained material oil shortages or sustained prices significantly above the world level and that the shortages or high prices have caused or are likely to cause sustained material job losses, the Secretary must recommend appropriate action, including modification or revocation of the authority to export ANS oil. The President has the discretion to adopt, reject, or modify any recommendation made by the Secretary. In recognition that prices fluctuate and supply patterns change under normal market conditions, the authority of the Secretary is limited to addressing activity that causes the specified sustained unanticipated price and supply effects.

Finally, section 201 provides that administrative action is not subject to notice and comment rulemaking requirements or other requirements of the Administrative Procedures Act.

Under section 202, the Committee of Conference recommends that a GAO report be submitted four years after the date of enactment. The report must contain a statement of principal findings and recommendations to address job loss in the shipbuilding and ship repair industry on the West Coast and Hawaii, if any, as well as adverse impacts on consumers and refiners on the West Coast and in Hawaii, if any, that the Comptroller General attributes to ANS exports. The Committee believes that the market should be given a reasonable period of time to operate before submission of the report. The Conferees want to be sure the Comptroller General has a solid basis on which to make his analysis and offer any recommendations for Congress and the President.

SENATE BILL

Section 205 of Title II provided for the retirement of certain costs incurred for the construction of a non-Federal publicly-owned shipyard.

HOUSE AMENDMENT

House amendment numbered 3 struck section 205 of the Senate bill.

CONFERENCE AGREEMENT

The Senate receded from its disagreement with an amendment (now designated as section 203).

Under section 203(a) of the conference amendment, the Secretary of Transportation is authorized to make grants to the Multnomah County Tax Supervising and Conservation Commission of Multnomah County, Oregon. The grants may be used only for the relief of port district ad valorem taxes that would otherwise be levied under Oregon law. In addition, at the conclusion of the grant payments under this section, any remaining funds (plus interest) would be transferred to the Port of Portland for making transportation improvements to enhance freight mobility.

Under subsection (b), before issuing any grant, the Secretary must find on the basis of substantial evidence that Alaskan North Slope oil exports are a contributing factor to the need to levy certain port district taxes. In addition, the Secretary must determine the amount of the tax levy attributed to the oil exports. The amount of the grants is limited to the amount of the tax levy attributed to the oil exports.

Before receiving any grant under this section, subsection (c) requires the Commission (by agreement with the Secretary) to establish a separate account for the funds, to use the funds as directed, and to terminate the account and transfer any remaining funds to the Port of Portland at the conclusion of the grants.

Under Subsection (d), the Secretary must report to the relevant Congressional Committees on any findings and determinations made under subsection (b) within 60 days of issuing a grant under this section.

Subsection (e) provides an authorization for appropriations of up to $15 million for fiscal year 1997, to remain available until October 1, 2003.

SENATE BILL

Section 206 of the Senate bill included a provision that would amend Title VI of the Oil Pollution Act of 1990 (OPA '90) by adding a new section 6005 that would impose a requirement for an additional towing vessel to be listed in, and available to respond under, vessel response plans developed in accordance with section 311(j) of the Federal Water Pollution Control Act (FWPCA), as amended by OPA '90, for tank vessels operating within the boundaries of the Olympic Coast National Marine Sanctuary or the Strait of Juan de Fuca near the coastline of the State of Washington. In particular, the provision would require an emergency response tugboat capable of towing tank vessels, initial firefighting, and initial oil spill response to be repositioned in the area of Neah Bay, the western-most harbor in the Strait.

HOUSE AMENDMENT

The House amendment numbered 4 struck section 206 of the Senate bill.

CONFERENCE AGREEMENT

The Senate receded from its disagreement with an amendment (now designated as Title IV of this Act). See explanation below.

TITLE III—OUTER CONTINENTAL SHELF DEEP WATER ROYALTY RELIEF

SENATE BILL

Title III of the Senate bill would provide royalty relief for leases on Outer Continental Shelf tracts in deep water in certain areas of the Gulf of Mexico.

HOUSE AMENDMENT

The House amendment numbered 5 struck title III of the Senate bill.

CONFERENCE AGREEMENT

The Senate recedes from its disagreement with the House with an amendment.

The amendment agreed to by the committee of conference is the text of Title III of S. 395 as passed by the Senate with several technical corrections and a new provision clarifying that nothing in this title shall be construed to affect any offshore pre-leasing, leasing, or development moratorium, including any moratorium applicable to the Eastern Planning Area of the Gulf of Mexico located off the Gulf Coast of Florida.

TITLE IV—MISCELLANEOUS

OPA '90 contemplates a comprehensive approach to oil spill prevention and response, with the Coast Guard given an instrumental role in implementing all aspects of that Act. In addition to establishing a new liability and compensation scheme for oil spills, OPA '90 amended existing law to broaden the Coast Guard's authority under the Ports and Waterways Safety Act (PWSA) regarding navigation and vessel safety and protection of the marine environment and the FWPCA regarding oil spill prevention and response. Under OPA '90 (as delegated by the President), the Coast Guard is the principal Federal agency charged with conducting Federal removal and prevention activities in coastal areas. Accordingly, the Committee of Conference believes that the Coast Guard is the most appropriate agency to evaluate emergency response services in the Olympic Coast National Marine Sanctuary and the Strait of Juan de Fuca.

Subsection (a) of title IV requires the Commandant of the Coast Guard to submit to Congress within fifteen months of enactment a plan on the most cost effective means of implementing an international private-sector tug-of-opportunity system to utilize existing towing vessels to provide emergency response services to any vessel (including a tank vessel) in distress transiting the waters within the boundaries of the Olympic Coast National Marine Sanctuary or the Strait of Juan de Fuca.

Subsection (b) provides that the Commandant, in consultation with the Secretaries of the State and Transportation, is to coordinate with the Canadian Government and with both Canadian and American maritime industries.

Subsection (c) provides that if necessary, the Commandant is to allow United States non-profit maritime organizations access to Coast Guard radar imagery and transponder information to identify and deploy towing vessels for the purpose of facilitating emergency response.

Subsection (d) provides for the definition of ''towing vessel'' as that term is defined under title 46, United States Code. Section 2101(40) of title 46, United States Code, defines towing vessels to mean ''a commercial vessel engaged in or intending to engage in the service of pulling, pushing, or hauling alongside, or any combination of pulling, pushing, or hauling alongside.'' The reference to this section ensures that, at a minimum, all commercial towing vessels are included in the definition and, therefore, are covered by the provisions of this section.

Section 206 of the Senate bill was developed to respond to a perceived threat to the

marine environment of Puget Sound and the Straits of Juan de Fuca from tank vessel traffic. The Committee of Conference believes that, absent convincing information to the contrary, the marine environment of Puget Sound is adequately protected under the existing vessel response plan requirement found in FWPCA, as amended by OPA '90. The Senate provision is therefore unnecessary because the Coast Guard's existing authority under OPA '90 to prevent and respond to oil spills, as well as under PWSA and FWPCA (particularly as those two statutes have been amended by the OPA '90), to evaluate and to impose vessel operating requirements to minimize the risks of navigation and vessel safety and risks to the marine environment is fully sufficient to address the needs of the waterways of the United States, including Puget Sound and the Strait of Juan de Fuca.

Accordingly, the Committee of Conference does not believe that the mandate implicit in the Senate provision is required nor is it related to any authorization to export Alaskan North Slope crude oil. The Committee believes that the more appropriate step is to require the Coast Guard to examine the most cost-effective method to use existing towing vessel resources in a tug-of-opportunity system within the authority of existing law to respond to any vessel (including a tank vessel in distress). Consequently, nothing in this section or in section 201 is intended to authorize the President or the Coast Guard to impose additional oil spill preventing and response requirements in the Strait of Juan de Fuca or within the boundaries of the Olympic Coast National Marine Sanctuary in excess of those in the relevant Area Contingency Plan for those areas as a result of requiring the Commandant to submit this plan to Congress nor to impose requirements under any national interest determination or implementing regulations regarding the export of Alaskan oil.

For consideration of House amendment No. 1:

DON YOUNG,
KEN CALVERT,
TOM BLILEY,

For consideration of House amendment No. 2:

DON YOUNG,
KEN CALVERT,
WILLIAM THOMAS,
TOM BLILEY,
HOWARD COBLE,
LEE H. HAMILTON,
JIM OBERSTAR,

For consideration of House amendment No. 3:

FLOYD SPENCE,
JOHN R. KASICH,

For consideration of House amendment No. 4:

HOWARD COBLE,
TILLIE K. FOWLER,
JIM OBERSTAR,

For consideration of House amendment No. 5:

DON YOUNG,
KEN CALVERT,
Managers on the Part of the House.
FRANK H. MURKOWSKI,
PETE V. DOMENICI,
J. BENNETT JOHNSTON,
WENDELL FORD,
Managers on the Part of the Senate.

The SPEAKER pro tempore. The gentleman from Alaska [Mr. YOUNG] and the gentleman from California [Mr. MILLER] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alaska [Mr. YOUNG].

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are short of time. We have many speakers who would like to speak. I will not read the statement I had made, but I am happy to bring the conference report on S. 395 to the floor today.

Mr. Speaker, it contains four provisions: Title I sells the Alaska Power Administration. Title II lifts the ban on the export of crude oil produced on Alaska's North Slope.

Title III provides incentives to producers operating in the deep waters of the central and western Gulf of Mexico. Title IV contains the provision dealing with emergency tug services in the mouth of Puget Sound, an authorization for a grant program for the Port of Seattle.

Mr. Speaker, the controversial part about this conference report is, in fact, the deep water drilling holiday. I will not address that issue to the extent I would like to at this time because there are many other speakers. I believe very frankly that this provision does and will create new jobs for America. It will produce oil for America and it is not corporate welfare.

I listened to the debate on the rule, and I heard many comments made on both sides about the CBO scoring. I am not going to question either one of these statements about what scores what. What I am going to ask the Members of this House to consider, those that are going to make the motion to recommit this conference report and why they are doing so and what it will possibly do to the industry that we are talking about today, we no longer have a domestic oil industry in the United States today. We are importing today over $1 billion a week into the United States of foreign-produced fossil fuels. We have heard many statements about this is not necessary. I can understand that statement but I cannot understand the rationale.

I am going to suggest if we want to try to reestablish some form of domestic production off our shores, an area that has been supported by the Clinton administration and many other departments within this administration, then we ought to take and vote against the motion to recommit.

On the part about exporting oil, we all know the jobs it will create, many jobs for America. It will create possibly 25,000 new jobs. I would like at this time to thank the gentleman from California [Mr. THOMAS] for his efforts in leading this bill over the years.

Mr. Speaker, I am pleased to bring before the House the conference report on S. 395. The Conference Committee worked very hard to ensure that all provisions were retained. What we have before us is a well-reasoned conference report which I hope will pass with broad bipartisan support.

I want to thank the gentleman from California [Mr. THOMAS] for his hard work and dedication on this issue. He has been the prime sponsor in the House of legislation to lift the ban on the export of Alaska crude for many years. I know he is just as happy as I am to see a final product come to the floor today.

The conference report contains four titles: Title 1 sells the Alaska Power Administration; title 2 lifts the ban on the export of crude oil produced on Alaska's North Slope; title 3 provides incentives to producers operating in the deep waters of the central and western Gulf of Mexico; title 4 contains a provision dealing with emergency tug services in the mouth of Puget Sound and an authorization for a grant program for the Port of Portland.

Title 1 authorizes and directs the Secretary of Energy to sell the Alaska Power Administration to entities within the State of Alaska, according to purchase agreements with the Department of Energy. The sale has strong bipartisan support, including the administration. I am not aware of any opposition.

The Alaska Power Administration consists of two hydroelectric projects which were built to encourage economic development in Alaska. To date, these projects have served their intended purpose well. The State of Alaska and local electric utilities are set to manage the projects in a manner consistent with Alaska's future energy and development needs.

The sale will relieve the Federal Government of the responsibility of owning and operating the projects. Taxpayers' interests will be served by recovering nearly all of the original investment in the projects. The sale also addresses consumers' concerns that hydropower will continue to be provided without a significant increase in rates. Finally, Mr. Speaker, the sale of this power marketing administration is in no way intended to set a precedent for the sale of any others.

This provision has been considered by the House before and passed with broad bipartisan support.

Title 2 of the conference report lifts the ban on exports of Alaska North Slope crude and requires the use of U.S.-flag, U.S.-manned vessels to carry those exports. Alaska is the only State presently subject to such a ban on the export of its resources.

Present law requires that all oil transported through the Trans-Alaska pipeline be consumed in the lower 48 States. Alaska crude is forced into the west coast market, creating a glut and artificially low prices. This glut has allowed the west coast refiners to enjoy huge profits and purchase crude at a discount which they historically have not passed on to consumers.

Mr. Speaker, this ban no longer makes sense. Rather than decreasing our dependence on foreign oil, it has discouraged domestic production and made us more reliant on imported oil.

In June 1994, the Department of Energy issued a study which stated that lifting the ban would: create 25,000 jobs; preserve 3,300 maritime jobs; and increase U.S. oil production by as much as 110,000 barrels a day; all by the year 2000.

With the support of the administration, this provision passed the House with strong bipartisan support on July 24 by a vote of 324 to 77.

It is high time we lift the ban. Lifting the ban will create jobs, increase domestic production and investment.

Title 3 contains the deep-water provision. The conferees adopted an amended offered

by Representative FOWLER to clarify that this inventive would in no way impact the Florida coast. This too is good policy that will create jobs, encourage domestic investment, and increase domestic production.

I urge support for this conference report which is long overdue.

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

Mr. MILLER of California. Mr. Speaker, I yield myself 4 minutes.

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, this debate today will not be about the underlying bill which is overwhelmingly supported in this House but, rather, it is about the hijacking of this bill by the Senate to include a royalty holiday for the major oil companies that drill in what the Senate says is deep water. That is a provision that we should not allow to stand because it simply cannot be justified. It cannot be justified because it is a raid on the taxpayers of this country to provide one of the wealthiest industries in this country help that they do not need.

They do not need that help because they are drilling in the gulf today. They are standing in line to drill in the gulf tomorrow. And they are putting many, many of their resources in the gulf. Why? Because they can make money. As one of them said, they can make serious money.

This has become of one of the hottest oil prospects in the entire world. Some of my colleagues have talked about 1982 and the loss of jobs in 1985. This is 1995. This is an area that is brimming with competition. The marketplace is working. People are competing. We have had record participation in the bids. They are looking to get their hands on these blocks so they can drill for oil and make money.

That is why we should not be providing a royalty holiday. A royalty holiday says, if you sink a well in 200 meters of water, which is not deep by today's technology or today's investment or today's activity, you get 17 million barrels of oil royalty-free. If you sink it in 800 meters of water, which by today's standard is not deep, you get a minimum of 85 million barrels of oil royalty-free. That means for those 85 million barrels of oil or more, each one of those barrels you dip into the taxpayers' pocket and you take out the royalty and give it to the oil company.

That should not be allowed. That should not be allowed because the marketplace is working. Yet we find people who say that this is what they do.

□ 1500

If my colleagues do not vote for the motion to recommit, what they are doing is creating new corporate welfare when in fact much of the debate in this Congress has been about how to eliminate some of that corporate welfare, and at the same time they are creating a new entitlement. This is an entitlement for the next 5 years because this is mandatory. This is not discretionary. It does not weigh the economic health of the lease, it does not weigh whether or not the lease will be drilled, it does not weigh the economic health of the company making that bid or drilling that oil. It is mandatory, when they sink the well into this water, that should not be allowed. That is an entitlement that the CBO tells us will cost us over $100 million.

Mr. Speaker, CBO has looked at all of the alternative ways that my colleagues want to talk about scoring this provision, present value, and leases forgone, and incentives and leases moved forward in time and backward in time. When they got all done with that scoring, CBO said,

> This costs the taxpayers in excess of $100 million. This is a big loser in the out years, in the out years when you're trying to keep the budget balanced, when you're trying to make up for some of the taxes, when you're trying to make up for those problems. We start to lose, and we start to hemorrhage, taxpayer dollars to the oil industry.

I would hope that my colleagues, the 261 who voted for the motion to instruct the conferees, would now say that they meant it that we do not want to create new welfare for the oil companies, we do not want to create an entitlement for the oil companies when we have all of the other budget decisions that confront us in the next 2 weeks.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Speaker, like many of my Republican and Democratic colleagues alike, I do not believe in the concept of corporate welfare, however I think it is important that we must enhance the domestic energy industry which for so long has been for hearing in contrast to foreign energy development. This royalty relief provision and this legislation, is only a prudent way to lower the barriers to commercial development for the greater good of a growing economy. I think it is important to note that today, only 6 percent of existing deep water leases are producing, whereas 50 percent of existing leases in shallow waters are producing. This needs to improve. And we need to clarify what this legislation actually says, it is not unbridled corporate welfare.

This is not a loss of income for all times, the energy companies will pay royalties to this Government after a reasonable period to allow the project to become commercially viable. It provides a real incentive to allow them to create the opportunity for jobs and to enhance the domestic energy industry, which I believe is vital for this Nation's national security.

This legislation helps create jobs. A recently completed deep water project in the Gulf of Mexico, a $1.3 billion project, employed 2,850 people in the United States. It also provided goods and services for 670 vendors, and it impacted 33 States economically, including my State of Texas.

This is a good bill. This is not corporate welfare. This is a bill we should support. The royalty relief provision can help create jobs.

Mr. Speaker, like many of my Democratic and Republican colleagues, I do not believe in the concept of corporate welfare, however, I do think that there are times when it is only prudent to lower barriers to commercial development for the greater good of society. The current issue of deep water royalty relief is such a case in point. Other Members of this body would have both us and the public believe that the royalty relief provisions of this bill force the Government to give away vast amounts of money to oil companies. I am here to refuse that claim and demonstrate that this assertion is patently incorrect and downright uninformed.

The economics of oil exploration and production are such that it may cost lessees anywhere from $75 to $200 million just to determine if oil or gas is present and up to $1 billion to bring production on line. Due to the expensive and speculative nature of deep water exploration and production, many deep water leases are not profitable enough under the current royalty system for production. Thus these royalties will never be realized as income for the Federal Government. As evidence, today, only 6 percent of existing deep water leases are producing, where 50 percent of existing leases in shallow waters are producing.

It is estimated, that this legislation will provide the Treasury with $200 million that it would not have realized if not for this bill. Not only does the Government come out ahead, but the citizens of this country do as well. According to the Bureau of Labor Statistics, each $1 million invested in the oil and gas sector creates 20 jobs throughout the economy. Thus, each deep water development project could generate an additional 20,000 jobs all over the Nation, jobs that would not have been created otherwise.

Let me clarify that this bill will not relieve companies from their royalty obligation, it will only mitigate that obligation enough so as to make the production commercially viable; we are not giving anything away by doing this. We are instead providing incentives aimed at offsetting the costs of developing leases in deep water until the capital costs are recovered, in order to spur increased domestic production.

Foreign countries have used this same royalty relief mechanism to stimulate deep water oil and gas development. Witness Britain and Norway which have done precisely this and as a result, have increased by 27 percent the first quarter 1995 production above 1993 levels.

Let me remind my colleagues that both the Clinton administration, and the Bush administration before it, support the deep water incentives legislation. And for clear, reasonable, and sound reasons so do I and so should you.

Mr. MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, we are back to the bargain basement fire sale because we have got to make the

next 7 years look good on revenue, and so we will do anything with the numbers that bring in a little cash up front, no matter how stupid it is long term.

Let me ask my colleagues one question: If you're confused about whether this brings in more money or less money, think about which side the oil companies are on. They're for the underlying bill. Why? Because they pay less. They would not be for a bill where they pay the Treasury more. They pay less.

And what are we doing? We have got this new Congress here that wants to run Congress like a business. I do not know anybody who has oil on their land that has oil companies lining up to buy the leases that says, ''Wait, stop. Before you knock me over I want to lower the price and get less money.''

Mr. Speaker, we are taking food away from children, we are taking health care away from senior citizens, so we can give a half a billion dollars to oil companies. If that is what is running this country like a business means, I am against it. This is wrong. It is ethically wrong. It robs the Treasury. We end up hurting children and young people so we can help oil companies.

A half a billion dollar switch from senior citizens and children to oil companies; if my colleagues want to stop that, vote for the motion to recommit. If my colleagues think the oil companies need the half a billion dollars more than the children and the old people, then vote for the underlying bill, and again, as to the question of which one gets more money back to the Treasury, the oil companies are for the underlying bill. They do not like the motion to recommit because the present program brings more money back to the taxpayers. It is a ripoff. My colleagues ought to be ashamed of themselves.

Mr. YOUNG of Alaska. Mr. Speaker, apparently the gentleman from Connecticut believes his President is a ripoff artist because his President supports this very strongly.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. CALVERT], a member of the subcommittee.

Mr. CALVERT. Mr. Speaker, I rise in strong support of this conference report. This bill is about creating jobs and stimulating our economy and I urge a yes vote on this rule and on final passage.

Over a year ago, over 100 Members of Congress wrote to the President about the alarming deterioration of our domestic oil and gas industry. All across the Nation, small businesses have been forced to close and hard-working Americans have been let go.

Over a year later, we still have not done nearly enough to spur domestic production and preserve these vital jobs. Last year, for the first time, we had to import over a half of our domestic oil requirements because of decreased production within the United States. The Department of Interior has estimated that Alaskan exports would increase production in Alaska and California by 110,000 barrels per day by the year 2000. In addition, these exports could help create up to 25,000 jobs over the same period.

In my State, the oil and gas industry has been devastated in recent years. These are real people losing good jobs. This bill will create jobs, stimulate our economy, and raise State and Federal revenues. I urge a vote on the rule on the conference report, which rule we already passed. In addition, I understand that the gentleman from California [Mr. MILLER] will offer a motion to recommit to strike the deepwater royalty incentive.

There has been much misinformation regarding the deep-water provision in this bill. Let me make this clear, this provision will generate $130 million of revenues to the Treasury over the next 7 years. In addition, and more importantly, it will help offset some of the $50 billion that the United States currently spends to import oil.

The deepwater royalty provision is important because it will increase production in the central and western Gulf of Mexico. This area accounts for a full 25 percent of the Nation's estimated oil and gas reserves. By increasing the incentive to produce oil and gas in the deepwater of the gulf, this measure will result in a significant increase in domestic energy production.

Why is this provision needed? It is simple. The costs and difficulties of exploration and production in deep water are immense. These costs frighten companies from even bidding on available leases. Last year, only 18 percent of the deepwater tracts received multiple bids. The taxpayers are not receiving the compensation they deserve in this no-competition bidding process.

Mr. Speaker, it is important that my colleagues know that this legislation does not apply to shallow water leases, where bids are numerous and prices strong, but only to deepwater leases where startup capital can reach upward of $1 billion and risks are great.

If we do not pass this conference report as we receive it today, we are losing a golden opportunity to create thousands of jobs and generate millions in revenue. Do not listen to false claims of corporate welfare. Look at the facts. They bear out the truth—this bill is good for the taxpayer and good for the country. I urge a ''no'' vote to this motion to recommit.

Mr. MILLER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

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

Mr. ABERCROMBIE. Mr. Speaker and Members, I am reluctant, and I am sorry, and the gentleman from Alaska knows this, that I am reluctant to have to get up on this bill and speak on the issue that the chairman of my Subcommittee on Minerals has just spoken on. In all honesty this was not the intention of the House, and I think the bill that we had before was something, while there were arguments back and forth, we could deal with. But this has been attached to the bill, to the original bill and the intent of the bill, and I want to be consistent on this.

I have, as the chairman of our subcommittee, the gentleman from California [Mr. CALVERT], knows, and the gentleman from Alaska [Mr. YOUNG] knows, taken a consistent position with respect to the royalty payment. I think it is fair, I think it is straightforward, I think the competition is there. I do not intend to remake all the arguments. I do not believe that the deepwater drilling is going to be inhibited in any way by having the royalty element with it, as it should. I am one who favors drilling for oil in the gulf. I think that the environmental questions have been answered that may have existed in the past. I have no difficulty with that.

That is why to see this kind of thing come up now when we have essential agreement about what is being done just to give a holiday when other people have seen their wages stagnate and all the rest of it just seems to me to be incomprehensible as to why we would be doing that. I believe the House is being shoved at this point into something that it is really reluctant to do, and I think the vote previously showed that.

So I think if we go with this recommittal, we are not undermining in any respect what the House did before on a bipartisan basis. So I hope this does not come down to, oh, this is Republicans versus Democrats and, as my colleagues know, there is a party line that has to be followed here because that would not accurately reflect either the tenor of our conversations in the Committee on Resources, nor in the House of Representatives, on a bipartisan basis. I think the gentleman from Alaska [Mr. YOUNG] and the gentleman from California [Mr. CALVERT] would agree, and I hope, by extension, the gentleman from California [Mr. THOMAS], although I have not spoken directly with him about it, that this bill, minus this provision, was fairly well agreed upon in the House by Democrats and Republicans and we came to a fair conclusion on it.

I think the Senate is taking advantage of us on this, and that is why I ask to support the recommittal, not to make arguments back and forth about the drilling or not drilling, but rather to assert ourselves as Members of the House who have come to a conclusion on a bill which now contains a provision from the Senate in which I think they are trying to take advantage of us. If we send it back to them with this recommittal, I think then the message will be clear that let us deal with the issues that the gentleman from Alaska [Mr. YOUNG] and the committee brought forward in the first place,

which I think will receive the favorable approbation of this House.

So I speak in favor of the recommittal, not as some kind of a contest, not as some kind of confrontation, but as a reassertion of the authority of the House and the Good sense of the original bill.

Mr. Speaker, on July 25 of this year, 261 of us expressed our opposition to the creation of a new form of corporate welfare—the deepwater royalty holiday—by voting to instruct the conferees to reject the nongermane rider to S. 395, the Alaska Oil Exports bill, added by the Senate.

Yet, today the conference report on that bill still includes the royalty holiday.

Why would the House conferees ignore our instructions? The royalty holiday would grant royalty-free oil and gas to corporations that bid on Federal leases in the Gulf of Mexico. The holiday's sponsors maintain that the royalty holiday will raise revenues for the Treasury even though the Congressional Budget Office [CBO] has repeatedly rejected this assertion.

The holiday's defenders argue that the earlier CBO cost estimate of a $500 million net loss to the Treasury is overly simplistic because it did not take into account the time value of money. However, in a November 2, 1995, letter, the CBO refuted the ''net present value'' analysis prepared by the holiday's proponents, and found that even using the discounting method preferred by the proponents, the royalty holiday would still be a net loss of about $150 million—not a net gain as asserted by Energy Secretary O'Leary and other defenders of the royalty relief proposal.

The CBO has carefully reviewed the royalty holiday several times this year and has remained steadfast in its position that the deepwater royalty will cost the Federal Government revenues in the long term, using either the standard cash basis or the net present value formula favored by the holiday's supporters. Either way it's a net loss.

On a cash basis—the holiday will cost taxpayers about a half billion dollars. Using discounted dollars, it will cost about $150 million.

So don't be fooled into thinking that this hand-out to the oil and gas industry will raise money.

It's a bad deal for the Federal Government and a bad deal for the taxpayers of this country.

Vote ''aye'' on the motion to recommit Mr. MILLER will offer when the conference report on S. 395 is brought to the floor.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. THOMAS], the sponsor of the bill, who has been a leader on this issue for many, many years.

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

Mr. THOMAS. I thank the gentleman fro Alaska [Mr. YOUNG], chairman of the committee, for this time and for his help over the years frankly.

I guess I am going to do something radical. I am going to talk about the legislation itself. I tell my colleagues I have to have a very high comfort level when the former chairman, the ranking member, says the underlying bill is not at issue, that it is, in fact, an item that was attached in the Senate that seems to be generating all of the debate. Well, I tell my colleagues that for a long time the underlying bill was the issue.

In the end of May 1986 I introduced a bill because I tried to understand the logic of having the No. 1 oil-producing State in the Union by Federal law required to ship all of its production to the lower 48 States, which meant by virtue of the west coast, the population, the consumption of the oil, that the vast majority of that oil would come to California. Since I have been in Congress I have represented Kern County. Kern County, if it were a State, would be the No. 4 State in oil production. Only Alaska, Texas, and Louisiana would produce more oil. By Government edict all of that Alaskan North Slope oil was required to come to the lower 48, the vast majority to California, depressing California oil prices.

Now I tried to understand the logic of those people who were here in the 1970's as to why you would require all of that production to be put in tankers, come down the coast of Alaska, the coast of Canada, the coast of Washington, Oregon, and California, in tankers jeopardizing that entire pristine coastline arguably to make sure that we were energy self-sufficient. When we depress a market, we do not get the production we would have gotten out of it, and in fact that California oil production has been depressed for years. So I introduced a bill that said let Alaska North Slope oil find its economic home. If it is California, bring it to California, but if it is someplace else, let it go someplace else.

□ 1515

In May of 1986, I introduced a bill with one sponsor: me. The gentleman from Connecticut, in one of the subsequent Congresses, was the chairman of a subcommittee which basically told me to take a hike. So it is with some pleasure that I come to the floor with a bill in the 104th Congress that had 75 cosponsors, two dozen of the Democrats, and the Clinton administration in support of allowing Alaskan North Slope oil to find its economic home.

Why? Because it will make us more energy independent if we allow our Alaskan North Slope oil to find its economic home. It will produce more jobs, not just in the oil patch but in other areas as well. It is more environmentally sound to allow Alaskan North Slope oil to find its economic home, and on and on and on, including the maritime unions supporting what we are doing.

Frankly, I take the floor with some degree of satisfaction, knowing that a number of myths are being destroyed today. I also take the floor with some satisfaction, knowing that if the new majority was not the majority in this House, I would probably be in a subcommittee, bumping up against a subcommittee chairman telling me to take a hike. So it is with great pleasure that I come to the floor in support of this conference report, which finally after more than 20 years has decided that perhaps, to a small measure, economics ought to dictate what we do in the oil industry.

Mr. Speaker, It seems to me if we allowed economics to dictate more of what we do in the oil industry, we, frankly, would be less energy dependent, we would have more jobs, it would be more environmentally sound.

Today, I think ought to go down as a red-letter day that we finally corrected one of the mistakes of more than 20 years ago. There is a series of legislation working its way through the Committee on Resources and other committees which revisit those ill-conceived positions from the 1970's, and I hope we are able, on a bipartisan basis, to correct those ill-conceived pieces of legislation as well.

Mr. Speaker, I would ask all my colleagues to support the underlying measure that we have before us in the conference report.

Mr. MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Speaker, first of all, I am one of those apparently few in this House who have some misgivings about the underlying bill itself. I continue to question the wisdom of allowing this precious resource of ours, located in Alaska, to be exported in this way when we know the price of oil is only going to go up, when we know that this is a finite resource, when we know that in the future we are going to have to be importing larger and larger quantities of oil from markets that are going to be, in all probability, more and more difficult.

That aside for the moment, however, the very idea that we are going to provide leases in the Gulf of Mexico to oil companies and not charge those oil companies the royalties, the 12½ percent royalty that they would under other conditions owe to the people of this country, is to my mind shocking.

There are people who come to these microphones and talk about the idea that we ought to let economics dictate, that the free market ought to dictate what we do, but when it comes to the special interests like the oil companies, they seem to forget their own words and their own advice. What are we doing in this particular case? We are giving away the patrimony of future generations, we are giving away the taxes of the people of the country.

At 12½ percent, it will amount to tens of millions, perhaps billions of dollars, by which we could reduce the deficit, by which we could fund Medicare, by which we could improve the quality of education, by which we could keep the earned income tax credit, by which we could improve investment in education and research and jobs and job training, you name it; for all the things we need in this country, we are going to give away millions, perhaps billions of dollars to oil companies because somebody says they will

not drill for the oil unless we give it to them. That is just absurd, totally absurd. They are salivating at the idea of getting at these leases.

This is the wrong thing to do. Let us vote for the motion to recommit and against this bill.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I suggest respectfully that those speaking, none of them support drilling in other areas, they have never supported drilling in any area to produce any oil for the domestic market. None of the speakers on that side of the aisle that have spoken in opposition to this conference report have ever supported any development of any oil field anywhere. I challenge them to show me that if I am wrong.

Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana [Mr. TAUZIN] who is very, very well acquainted with this issue.

Mr. TAUZIN. Mr. Speaker, I thank my friend, the chairman, the gentleman from Alaska, DON YOUNG, and I thank the chairman of the Committee of the Whole.

Mr. Speaker, I rise in opposition to the Miller motion to recommit this conference report to strike from it the deep water royalty relief provisions. I think it is important to understand what the provisions are.

Number one, they are temporary. They are a 5-year program. We authorize them again in 5 years, if in fact it has worked as well as our own Government believes it will work. Our President, the Secretary of the Interior, and the Secretary of Energy all support this provision.

Second, it applies both to new leases and existing leases. It is only eligible in existing leases if the Secretary determines that a drill will not occur unless there is some sort of new arrangement to encourage that, critical to drill, based on the economies of deep water drilling. I will explain that in a second.

Finally, it is not the same bill we voted on earlier. It has been amended now to say it only applies to the central Gulf of Mexico and the western Gulf of Mexico, not to any other area where moratoria or different laws apply to drilling offshore. It is not the bill you voted on earlier.

Finally, it is a bill that it likely, according to early CBO estimates and NMS refinements of later CBO estimates, to yield money to the Treasury of the United States. Why? Because we collect more money in this country in bonuses paid for the right to drill than we actually collect in royalties. If we can encourage people in fact to engage in more drilling, we are going to in fact ensure more money to the U.S. Treasury.

There is a bigger reason why this is essential. I want to show Members that big reason. The gentleman from California indicated we are not talking about deep drilling. This is a picture of what auger, the shell platform that costs $1.3 billion to build, looks like superimposed over Washington, DC. You say, ''Wait a minute, Washington, DC does not have any tall buildings.'' So we imposed auger over the city of Houston, which does have tall buildings. You can see how tremendously deep these projects are. The bill says about 1,800 feet, 1,800 feet or more before you are eligible to qualify under this program.

Number two, you have to prove that you would not drill it anyhow, unless you get some kind of relief, the sort of deal two business people would make by saying we are not going to take dividends out of the project until we prove it works, until there is income for all of us to share.

Let me tell you what auger did for the rest of the country. Auger, this $1.3 billion project, produced contracts across America, not just in the Gulf of Mexico. This is good economy for the country, not only producing oil, not only producing more revenues to the Treasury, but producing jobs, 20,000 jobs across America.

When we look at the reasons why this is necessary, I think it is important to understand what is happening in terms of offshore drilling. What is happening is that there are very few high-production drills left in the offshore. What is left are marginal areas with a limited amount of production, but you have to go real deep to find them, and the economies are such that oil companies would much prefer to go produce offshore in somebody else's country than take a risk in the Gulf of Mexico.

Most of the new fields are smaller production fields, but in deep water. That is the problem.

Second, the second problem is that in terms of cost, what it costs you to get a drill platform going, when you look at drills on the shelf in shallow water compared to drills in deep water as this bill provides, you can see a huge increase in the cost of actually putting the drilling rig out there and drilling the wells. Not only are the facilities and platform much more expensive than on-shelf drilling, but drilling the wells themselves is much more expensive, a much bigger risk, not only to those who go out and put capital out there, but, indeed, to the country, because we need those resources.

Finally, if you look at the production delay impact, what it costs, how much longer it takes to produce a barrel of oil at the deeper limits of the outer Continental Shelf, you will see that the present value of a barrel of oil is only 50 percent of what the present value of a barrel of oil is if you drill onshore in America. It is simply high cost, terrible economics, and yet we need those resources.

Why? Why do we need to drill deep offshore? Here is a comparison of U.S. net oil consumption, U.S. net imports as opposed to oil consumption, and the United States' oil bill for imported petroleum. We are now at over 50 percent dependence upon foreign sources. I took this mike at another year, in another Congress, to make a speech one day. It was right after the Persian gulf war, when we discovered that more young men and women in Louisiana per capita had served in that war than any other State, and we wondered why.

It suddenly dawned on us why. Because they could not work in the oil fields in America, they signed up with the Army Reserve, they had signed up with the National Guard, and they found themselves, all of a sudden, fighting over somebody else's oil in the Persian Gulf instead of working to produce oil here in America.

This incentive bill will put Americans back to work producing oil for Americans. That is why it makes sense. It makes sense because it is going to produce areas that would not be produced otherwise. It will produce income to America that would not be produced otherwise. It will give us some decent hold on our reserves that we have in this country, that we ought to produce for the sake of our country. I urge Members to reject the Miller motion to recommit.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, the gentleman from Louisiana has made the case why we do not need a royalty holiday. The rig that he is discussing is built. The decision to lease in the tracts has been made. The money has been invested. It was based upon decisions that the oil companies made 1 year ago, 2 years ago, and 3 years ago.

This may come as a surprise, but after many, many years of watching the Government make policy, whether it is tax policy or depletion policy or resource policy, one of the CEO's of the major oil companies in my district said to me:

> George, understand something. We do not make our decisions anymore based upon what you are going to do. The money is so great now, we do it based upon profit. We do it based upon going to our shareholders and telling them, ''This is the best decision we can make, whether it is to go to Russia or to Kazakhstan or to China or the deep Gulf.''

Right now what the oil companies are telling their shareholders is that it is the deep gulf. That is why, in this last May, we had record numbers of bids. We had over 800 bids for some 500 tracts. Why? Why? Because that is where the money is. That is where the profit is. That is where you can convince your shareholders to stick with the management decisions. That is what is going on in the oil industry. The market is working. The rigs are being built.

Yes, they are $1 billion. That calculation has already been made without the oil royalty. That, Mr. Speaker, is the definition of corporate welfare.

That is corporate welfare. The market does not demand it, the incentive is not needed, the industry is healthy, they are moving on their own, so there is no reason for a Government incentive, but you give it anyway. You give it anyway.

This plan was thought up back in the 1980's, when the gulf was in the doldrums, when the gulf was in a recession. That is not the Gulf of Mexico today. Listen to what they say in the Dallas Morning News:

The analysts are projecting third-quarter profit increases of 400 percent over the 1994 period. The large reason for Zonac's success is its emphasis on deep water drilling in the Gulf of Mexico, perhaps the hottest niche market in business today.

The Houston Chronicle: ''the demand for rigs now is so great that deep water rigs have been contracted out as far as 1998.'' No royalty holiday, long-term leases.

The Times Picayune:

Texas is among the major oil companies starting to heavily spend in deep water at depths of 1,000 feet or more. This is definitely an area of strong interest among major oil companies.

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The Oil and Gas Journal: A Texaco official says, ''The deep water in the Gulf of Mexico is not the next frontier, it is the now frontier.'' As they said, you can make real money in the Gulf of Mexico at 1,500 feet. At 1,000 feet, you can make serious money. That is why they are going to their shareholders; that is why they are going to their lenders and asking for money to go to the Gulf of Mexico; not because we decide that all of a sudden 200 meters is deep water, they blew by that years ago. Six hundred meters is deep water. They are there now, and they are looking to go far out, far out beyond that, because of new technology.

Go to your major oil company if you live near one and ask them to look at the technology. Look at what they combine in terms of the 3–D geophysical information. Look at Forbes magazine 2 weeks ago about the subsea platforms that they can use today to reduce the cost of drilling.

The fact is, technology, computerization has blown right by many of the cost barriers to deep-water drilling. That is why the oil companies are going there. We should not now take, we should not now take the Government's money and give it to them to do that which they are already doing.

The gentleman from Louisiana [Mr. TAUZIN] said we receive much more money in bonus bids than we do in royalty. No, we do not. It is a 10-to-1 ratio. That is why many countries do not provide bonus bids. The would rather have the royalties. It is the royalties where you make money, and it is the royalties that we forgive.

In fiscal year 1995 the Treasury received $2.4 billion in royalties and $200 million in bonus bids. The fact of the matter is, we should not even be charging a bonus bid. Why would we want them to put their nonproductive money into the Treasury? Why do we not let them put that into drilling and take it out when they find oil share in a royalty? But they have chosen not to do that.

Listen to what the business journals, listen to what the experts in the industry, listen to what the officers in the industry are saying. Listen to what Wall Street and the banking industry in this country are saying. They are saying, these boys have it calculated about right, and that is why they are lending them record amounts of money. That is why their stocks continue to soar, because they now have the potential to find what they think may be larger than Prudhoe Bay at far less expense than they ever, ever envisioned, and that is a smart play.

It is protected in the good old U.S. of A. They do not have to cut a deal with Iran or with Turkey or with Azerbaijan or with the Russians or with the Kazakhstans, nobody. It is right here. That is why it is so valuable. That is why the marketplace is working. We ought to let the marketplace go. We ought to put this money back into the Treasury of the United States or give it back to the taxpayers, but there is no, no compelling economic reason to provide this kind of largesse to this industry at this given time.

They have made the decision, they made it based upon the free market system. They do not need the Government help. There is little indication they want the Government help, but yet we are going to force ourselves into doing something that will be tragic for the taxpayers of this country.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the royalty relief provision of S. 395, as adopted by the Committee on Commerce, has targeted deep water relief provisions that the administration supports for existing leases. It targets relief for only those leases that would not be economic without the release, and that is the Clinton administration.

I include for the RECORD a letter from Secretary O'leary on this subject, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, October 19, 1995.

Hon. DON YOUNG, Chairman,
Committee on Resources, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Administration reiterates its support for the title providing deepwater royalty relief to the central and western Gulf of Mexico.

In the energy policy plan, Sustainable Energy Strategy: Clean and Secure Energy for a Competitive Economy in July 1995, the Administration outlined its overall energy policy stressing the goals of increased energy productivity, pollution prevention, and enhanced national security. To achieve these goals, ''the Nation must make the most efficient use of a diverse portfolio of domestic energy resources that will allow us to meet our energy needs today, tomorrow, and well into the 21st century. The Administration continues to promote the economically beneficial and environmentally sound expansion of domestic energy resources.'' (page 33) In furtherance of this objective, ''The Administration's policy is to improve the economics of domestic oil production by reducing costs, in order to lessen the impact on this industry of low and volatile oil prices.'' (page 35) One of the ways indicated to lower these costs is, ''providing appropriate tax and other fiscal incentives to support our domestic energy resources industries.'' (page 34) Finally, the Strategy specifically targets the opportunities in the Gulf of Mexico.

One of our best opportunities for adding large new oil reserves can be found in the central and western Gulf of Mexico, particularly in deeper water. Royalty relief can be a key to timely access to this important resource. The Administration supports targeted royalty relief to encourage the production of domestic oil and natural gas resources in deep water in the Gulf of Mexico. This step will help to unlock the estimated 15 billion barrels of oil-equivalent in the deepwater of Gulf of Mexico, providing new energy supplies for the future, spurring the development of new technologies, and supporting thousands of jobs in the gas and oil industry and affiliated industries. (emphasis in original, page 36)

The royalty relief provision in S. 395 as adopted by the conference committee is a targeted, deepwater royalty relief provision that the Administration supports. For existing leases, it targets relief for only those leases that would not be economic to develop without the relief. Few new leases, the provision is targeted for a specific time period for only a specific number of barrels of production, and could be offset by increased bonus bids.

The Minerals Management Service has estimated the revenue impacts of new leasing under section 304 of S. 395. For lease sales in the central and western Gulf of Mexico between 1996 and 2000, the deepwater royalty relief provisions would result in increased bonuses of $485 million—$135 million in additional bonuses on tracts that would have been leased without relief, and $350 million in bonuses from tracts that would not have been leased until after the year 2000, if at all, without the relief. This translates to a present value of $420 million, if the time value of money is taken into account. However, the Treasury would forego an estimated $553 million in royalties that would otherwise have been collected through the year 2018. But again, taking into account the time value of money, this offset in today's dollars is only $220 million. Comparing this loss with the gain from the bonus bids on a net present value basis, the Federal government would be ahead by $200 million.

It is important to note that affected OCS projects would still pay a substantial upfront bonus and then be required to pay a royalty when and if production exceeds their royalty-free period. A royalty-free period, such as that proposed in S. 395, would help enable marginally viable OCS projects to be developed, thus providing additional energy, jobs, and other important benefits to the nation.

In contrast, in the absence of thorough reform of the 1872 Mining Law, hard rock mining projects on Federal lands can be initiated without paying a substantial bonus and are never required to pay a royalty on the resources developed. The end result is that the public is denied its fair share of the benefits from the resources developed.

The ability to lower costs of domestic production in the central and western Gulf of Mexico by providing appropriate fiscal incentives will lead to an expansion of domestic energy resources, enhance national security,

and reduce the deficit. Therefore, the Administration supports the deepwater royalty relief provision of S. 395.

The Office of Management and Budget has advised that it has no objection to the presentation of these views from the standpoint of the Administration's program.

Sincerely,

HAZEL R. O'LEARY.

Mr. Speaker, I yield 1 minute to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, I rise in opposition to the motion to recommit this conference report on the issue of royalty relief.

As a conferee on another aspect of this bill, I have carefully studied the supporting documents and believe strongly that this does not represent corporate welfare as it has been characterized.

In addition to not being corporate welfare, this provision does not impact existing pre-leasing, leasing, or development moratorium, including any moratorium applicable to the eastern planning area of the Gulf of Mexico located off the Gulf Coast of Florida.

These incentives are very limited in that they only apply in water depths of 200 meters or greater. Further, I was able to work with my conferees to ensure that these royalties would only be available to the western and central areas of the Gulf of Mexico, west of the Alabama/Florida border.

Mr. Speaker, I support the royalty relief language contained in this conference report and urge my colleagues to do the same.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado [Mr. SCHAEFER] the subcommittee chairman.

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

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

Mr. Speaker, before I begin my remarks, I yield to the gentleman from Louisiana [Mr. TAUZIN].

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

Mr. Speaker, two corrections. Number one is that oil was drilled because it is a huge reserve, what is left of small reserves, which are uneconomical.

Second, we received, since OCS drilling began, $56 billion in bonus bids versus only $47 billion in royalties. We receive more money in bonuses than we do in royalties today.

Mr. SCHAEFER. Mr. Speaker, I thank the gentleman from Louisiana [Mr. TAUZIN] for bringing that out.

Mr. Speaker, I rise in strong opposition to the Miller motion to recommit and certainly in support of this legislation.

The Miller motion is a clear attempt to undermine this important legislation. Currently, as has been stated, America is importing more than half of its oil needs, now, I might add, at a cost of over $50 billion a year. By the year 2010, we will be importing over 60 percent of this Nation's oil needs. This legislation will help reduce U.S. reliance on foreign oil.

In recent years, domestic oil production has been declining. As oil fields become depleted, the domestic oil industry must find new ways and new sources of oil if they are going to stay in business.

The deep water area of the Gulf of Mexico is one of the few remaining areas left in the United States which holds a promise of significant oil and gas reserves. Estimates of this reserve range from 10 to 15 billion barrels of crude oil equivalent. However, without this legislation, it is unlikely that these minerals will ever be produced.

The Miller motion would significantly roll back the advances promoted by this legislation, placing America's energy security at risk. It would eliminate royalty incentive provisions specifically designed by the U.S. Department of the Interior to encourage natural gas and oil exploration in the deep water areas in the Gulf of Mexico.

During the past three decades, Americans have come to realize the danger of relying on oil imports. From the 1970's embargo to the recent Persian Gulf war, the consequences of foreign oil reliance are very clear: economic instability and national security vulnerability. Encouraging deep water oil exploration will go a long way toward correcting this problem. We can give Americans jobs and the country a big step towards energy security.

The subcommittee I chair, the House Committee on Commerce Subcommittee on Energy and Power, has worked with the Senate and with the House Committee on Resources on other portions of this bill. We have crafted legislation that addresses other important energy issues, including privatization, the Alaska Power Administration, and allowing the export of Alaskan North Slope oil.

Mr. Speaker, I urge my colleagues to vote against the motion to recommit and support the bill. It will move the United States toward a reasonable and long-term energy policy.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. Mr. Speaker, I rise in support of the bill and would urge rejection of the gentleman from California's motion to recommit.

To the gentleman from California I would say I would agree that this would be corporate welfare if it did not cost substantial millions of dollars to go out into the deep water to drill. To the gentleman from Connecticut that takes offense to oil companies, all I can say is, having being on the shores of Connecticut many times, I have never seen an oil rig out in their waters. So apparently he is not aware that my constituents and friends who work offshore do pay taxes and do, in fact, support senior citizens and children.

I would like to point out some of the inconsistencies that the gentleman from California [Mr. MILLER] has made in various statements about the cost.

On July 25, he told us that we stand to lose somewhere between $10 billion and $15 billion, and we have not even dealt with the issue of future leases. On October 12, he told us the royalty holiday would cost the Treasury more than $400 million. On October 13 he told us that the royalty holiday will cost the taxpayers nearly a half billion dollars in lost royalty revenues. On November 2, he told us that the CBO scores the royalty holiday as costing taxpayers at least $420 million and possibly much more, all inconsistent figures.

Then when you take into consideration the Secretary of energy, Hazel O'Leary's October 19, 1995 letter in which she states, comparing the gain from the bonus bids on a net present value basis, the Federal Government would be ahead by $200 million. So the Secretary of energy is telling us that this action we attempt to take here today in fact would be a net gain. Is this corporate welfare? The answer is no.

Mr. MILLER of California. Mr. Speaker, I yield myself 1 minute to respond to the gentleman from Texas.

Mr. Speaker, all of those figures that the gentleman from Texas referred to still stand. The first figure is a worst-case scenario. If everybody who is qualified for this in fact desires to take advantage of it, that is what the agency has told us. The other one is for the scoring of this legislation, and then the other one obviously is after they took a look at the MS figures and went back and forth on them, they still say it is a half a billion. So that is where we are.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. KLUG].

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

Mr. Speaker, what I would like to do is do something we have not done in this debate up to this point which is to focus on the underlying legislation. What we are about to do this afternoon is to sell off two hydroelectric projects in Alaska, projects originally established in the 1950's. Frankly, I think this is a transaction long overdue. In fact, we have another 130 hydroelectric projects in this country that I think the Federal Government should sell off as quickly as possible.

Today's sale will net the Federal Government about $73 million. If we manage to move those 130 other dams located and stretched across the country from the Tennessee Valley up to the Pacific Northwest, we can literally bring billions and billions of dollars into the Federal Treasury and also eliminate nearly one-third of the bureaucracy at the Department of Energy.

Now the great tragedy in this is that it took 20 years to do this and 14 different studies on the subject of the privatization. I would like to applaud the

gentleman from Colorado [Mr. SCHAEFER] and the gentleman from Alaska [Mr. YOUNG] for moving this legislation forward today, as well as our colleagues in the other House. But let me suggest with the Reagan, the Bush, and the Clinton administrations, the Alaska delegation, the State of Alaska, it should not take us long to sell the other dams as well.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. HALL].

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

Mr. HALL of Texas. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I, of course, rise today in support of the deep-water royalty relief provision. Basically, I am interested in that. This provision is good fiscal policy, it is sensible economic policy, and, most importantly, it is very sound energy policy. By supporting deep-water royalty relief, we are ensuring that this country can maintain a very healthy and robust domestic oil and gas industry.

One of our best opportunities for adding new oil reserves can be found in the Gulf of Mexico, particularly in the deep water, where only 1 in 16 deep-water leases is even producing. By reducing costs and providing appropriate tax and other fiscal incentives, we can speed the production of sorely needed oil and gas reserves.

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At the same time royalty relief will also generate revenue for the U.S. Treasury. Opponents who argue that deep-water royalty relief is a Government subsidy should know that which provides an increase in Government revenue cannot possibly be a Government subsidy.

In addition, deep-water royalty will also create thousands of good paying jobs that can be sustained well into the 21st century.

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MCKEON].

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

Mr. MCKEON. Mr. Speaker, I rise in strong support of the conference report on S. 395.

As a Member from the State of California, I particularly want to express my support for language to repeal the ban on the export of Alaska North Slope crude oil. While this prohibition seemed like the right thing to do during the 1970's, it violated free-market principles and inhibited domestic oil exploration in the western United States at a time when it should have been encouraged. The forced introduction of Alaskan oil to the west coast was particularly harmful to my own State of California.

Lifting the export ban will also increase revenue to the Treasury once the Elk Hills Naval Petroleum Reserve in California is sold by the Government. I have worked on the National Security Committee in support of this sale, and since repeal of the Alaska export prohibition will result in an increase in the price of California crude oil, the value of the price of California crude oil, the value of the reserve will also rise.

Mr. Speaker, the Clinton administration and Congress both agree that repealing the export ban is the right thing to do. I share this belief and urge support of the rule and the legislation before us today.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Speaker, I rise in support of this legislation and applaud Chairman YOUNG for the work that he has done, and against the motion to recommit offered by the gentleman from California.

There are two reasons: One is obviously energy independence is so important, and this is a provision I think that is well thought out and will certainly help us in that direction.

The other is domestic jobs. We have suffered greatly in western Pennsylvania over the years with the decline in the steel industry. The steel industry is now back on its feet. I have been deeply involved with the steel caucus for years trying to produce as many jobs as we can. This will take a lot of steel. It will create a lot of domestic jobs. We feel very strongly about it.

Western Pennsylvania at one time had as high as a 24-percent unemployment rate, and anything that helps bring it down, at the same time reduces our dependence on foreign oil, is a real asset to this country.

I applaud the gentleman from Alaska and am in strong support of his legislation and would ask the Members to oppose the gentleman from California's motion to recommit.

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. HORN].

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

Mr. HORN. Mr. Speaker, I rise in strong support of this legislation. Its passage is long overdue. In a recent study, the Department of Energy determined that lifting the ban on Alaskan oil from the North Slope would create 25,000 jobs on land and preserve 3,300 maritime jobs. Of particular interest to Californians is that the opening up of this part of Alaska in an environmentally sound way will increase American production by at least 110,000 barrels a day in Alaska and California combined.

With the export of Alaskan oil to the Far East, the trade deficit of the United States will be reduced. Instead of much of the Alaskan oil flowing into California, there will now be the opportunity for some of the very dormant California oil fields to come alive in meeting the needs of the western economy.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. SCARBOROUGH].

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

Mr. Speaker, let me just say I certainly have a great deal of respect for the chairman and, in fact, spoke with the chairman and also spoke with representatives from oil companies and others that said that this was good for America, after the first vote.

I said to them, if we come back with CBO estimates that show that this is revenue neutral, that it is not corporate welfare, I will write a letter to my colleagues whom I asked to oppose this royalty giveaway and tell them that I was wrong and to switch their position.

The fact of the matter is, and we have heard bantering going back and forth, but the bottom line is this: CBO has come back with an estimate, and it has said that this will cost the American taxpayer over $400 million. Cut it any way you want it. That is what CBO said.

Who did we have come in defending royalty relief? I am going to focus my remarks to Republicans, because I am speaking to you on some very sound Republican principles, and this is a great vote to put up or shut up.

Who did the oil companies go to get support? They went to Hazel O'Leary, Secretary of Energy. Their argument was, ''Don't trust CBO. Trust Hazel O'Leary. Trust Bruce Babbitt.'' My goodness, there is a defender of Republican ideals and values. ''Trust the Clinton administration. But, for heaven's sakes, don't trust CBO.''

If CBO says that we are going to be costing the American taxpayers $400 million and this money is going to go to oil companies that are going to be drilling in the Gulf of Mexico anyway, let us ignore CBO estimates and instead trust the Clinton administration. I do not understand that.

Let me say right up front, this has been framed by many as a Florida issue. It is not a Florida issue. This is not about protecting Florida's shores. Florida was exempted from this process. This has nothing to do with Florida. This has everything to do with American taxpayers.

Any Republican that has heard me speak from the beginning of this session this year knows that I am a strident fiscal conservative. I think I am one of the only Members in Congress who believed that the balanced budget amendment did not go far enough, that we needed to cut more. You do not get any more probusiness. You do not get any more progrowth.

But, at the same time, how do I explain to people back in my district that even though we are saying let us cut the budget, even though we are depending on CBO to give us our estimates, that now we need to give oil companies $400 million to drill in the Gulf of Mexico in areas where they are going to drill anyway? It makes absolutely no sense. Any way you want to cut it, paying oil companies to drill in areas where they are going to drill anyway is corporate welfare.

Second, as a Republican, how many times have I heard my fellow colleagues talk about letting the free market prevail? We have got people going around with Adam Smith on their ties, the invisible hand of capitalism. Today the invisible hand of capitalism must have oil money in it, because now they are saying we have got

to help oil companies go out and drill in an area where they would not drill anyway.

This is a kicker. This is from Citizens for a Sound Economy, a letter supporting this giveaway. They say here, ''In particular, providing royalty relief for oil and natural gas production in this region will, quote, promote economic activity.''

Is that not what we are fighting against? Is that not what this conservative revolution is fighting against, paying Federal money out to corporations to get involved in the free market and say we have got to pay these people off to stimulate growth?

I have heard other people talk about this being a Federal jobs program. We should know, as Republicans, as conservatives, for 30 years that the Federal Government throwing billions of dollars at job programs does not work. What works is letting the free market dictate what happens in the United States of America. Let the free market prevail, and if the free market will not support oil drilling off the coast of Louisiana, in Alabama, then what does that tell us as economic conservatives, as descendants of Adam Smith? That tells us that we as a Federal Government should not step in. We should let the market prevail. Yet I hear people talking out of both sides of their mouths.

If it makes good economic sense, go to it. Drill. If not, do not ask the taxpayers of America to spend $400 million so oil companies can go out there.

But the fact of the matter is, and this is not a dirty little secret, there is no secret at all to it, oil companies are lined up to go out and drill in the Gulf of Mexico. They are lined up stumbling over each other. That is the fact.

Read Business Week. Read the New York Times. Read the Wall Street Journal. They say the great oil rush of the 1990's is on, and it is occurring in the Gulf of Mexico, and oil companies that have left the Gulf of Mexico are now stumbling over each other to get back into the Gulf of Mexico.

Yet we are asking the American taxpayers in a year where we beat our chests in self-righteous indignation saying we have got to balance our budget, we are now asking them to divvy up almost another half billion dollars to oil companies to go drill in areas where they would drill anyway.

If they are not going to drill there anyway, then maybe that tells us that right now the free market does not support that economic activity.

It is a perversion of Republican ideas to push for this program; and, in the end, I understand the chairman has been put in a very difficult position and I have a great amount of respect for him, but in the end, this is a deal for Senator BENNETT JOHNSON. That is all it comes down to. The Clinton administration is trying to help BENNETT JOHNSON, so Hazel O'Leary and everybody else——

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCINNIS). The gentleman will suspend. Members shall refrain from personal references to U.S. Senators.

Mr. SCARBOROUGH. Mr. Speaker, I apologize.

The SPEAKER pro tempore. The gentleman's apology is accepted.

Mr. SCARBOROUGH. Mr. Speaker, this is a deal for some Senators. That is all it comes down to.

Unfortunately, it is messing up a very good bill. The chairman has a good bill. This thing has been tacked on. It makes no sense. But now we have got the Clinton administration stumbling over each other, throwing out numbers from Hazel O'Leary and from Bruce Babbitt that skew reality, skew budgetary reality.

CBO says it costs the taxpayers. Let us get this thing straight. Do we trust CBO or not? We have been throwing out CBO numbers all year. Let us be consistent. Let us be consistent with CBO. Let us be consistent being supporters of the free market. Let us be consistent fighting corporate welfare, and let us be consistent protecting and defending the rights of the American taxpayers.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

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

Mr. MILLER of California. I thank the gentleman for his comments. I want to just say that the gentleman makes an important point. CBO considered all of the alternative analysis, all of the suggestions. They have been besieged with people asking them to rescore this, from the Department of Energy, to Minerals Management had another way, Members of Congress have gone to them, but when it was all done, 6 days ago, CBO said, ''It loses $400 million,'' and that is the point I think the gentleman was making.

There are a lot of alternative ways to score it, but none of them as reliable as CBO. Most of them, the Members of Congress on both sides of the aisle would not accept in any other fight but they are accepting them for this fight, but the one that we have decided to trust for our scoring has said this is a $400 million loss to the taxpayers of this country.

Mr. Speaker, I include the following statement for the RECORD:

Mr. Speaker and my colleagues in the House, the integrity of the House, our responsibilities to the taxpayers, and our commitment to ending unnecessary spending and corporate welfare—all these reasons compel us to reject the conference report before us and to vote to recommit it to the conference committee.

Once again, the Senate has insisted that we accept a provision that is totally nongermane to the main subject of Alaskan oil exports. This is not the first time the Senate has sent us the deep water royalty holiday; we have rejected it each time in the past, and we should reject it here again today.

When the House considered this bill, we voted on a bipartisan basis to instruct our conferees to reject the royalty holiday in conference by an overwhelming vote of 261 to 161. Included in that 261-vote majority were Republicans and Democrats, liberals and conservatives—all in agreement that we should not spend hundreds of millions of taxpayers' dollars to encourage the oil industry to do what it is already doing: searching for oil in the deep water of the Gulf of Mexico.

Since that vote, oil company lobbyists have swarmed over the Hill. The oil corporations have hired Republicans, Democrats, anybody to plead their special interest case. And the lobbying has come from the Clinton administration, too, that cut a special deal with the oil industry.

It has been a massive lobbying effort. You'd spend a lot of money on well-connected lobbyists, too, if the prize was a half billion dollars for doing nothing more than you are doing right now. And I know what they're telling you: without a royalty holiday, no one will drill in the gulf; without a holiday, jobs will be lost; without a holiday, we will become more and more dependent on foreign oil.

And they tell you this holiday won't cost you anything; they show you estimates OMB whipped up.

Well, there's just one problem with their arguments: they are not supported by the facts.

We don't need to spend a half billion dollars to encourage deep water development in the gulf; we won't make money, we'll lose hundreds of millions of dollars; and most significantly, their own publications illustrate and confirm that deep water in the gulf is among the premier offshore leasing prospects in the world today.

They will deny all of the above today on the floor. But before you give into the pleas of the oil lobbyists, let's reexamine the facts.

FACT 1. THE ROYALTY HOLIDAY IS A BIG REVENUE LOSER

The holiday's proponents will recite MMS and OMB numbers asserting the holiday will make money. But CBO, the only official source of budget scoring, considered and rejected those same MMS and OMB assertions.

CBO definitively states that the royalty holiday will cost taxpayers—who own the oil and gas—at least $420 million, and possibly much more. Even using the specious accounting methods employed by OMB, but rejected as distorted by CBO, the royalty holiday loses over $150 million.

FACT 2. THE ROYALTY HOLIDAY WOULD BE MANDATORY FOR EVERY TRACT LEASED IN MORE THAN 200 METERS OF WATER FOR THE NEXT 5 YEARS

Proponents of the holiday, including Secretary of Energy Hazel O'Leary, have argued the Holiday is discretionary and would only be granted on tracts where the Secretary determines it is necessary to encourage development. This is absolutely false, as the legal division of the Congressional Research Service has advised. The Energy Department has admitted it erred in asserting that the holiday is discretionary.

Under the language of the conference report, all leases in more than 200 meters must be granted on a royalty-free basis for the next 5 years with no finding of need even though that need is the only rationale for granting the royalty holiday in the first place. Don't let anyone tell you the royalty holiday is discretionary for new leases. My amendment, offered in the conference, to make it clear the holiday is discretionary was voted down. So there should

be no doubt: this holiday is mandatory, regardless of need, regardless of facts, regardless of cost.

FACT 3. THE GULF OF MEXICO—INCLUDING DEEP WATER AREAS—IS ONE OF THE HOTTEST OIL PROSPECTING REGIONS IN THE WORLD

The royalty holiday was dreamed up years ago when the oil industry was not interested in the ''played out'' gulf and technology was not yet developed for deep water development. But recent lease sales in the gulf have been record-setters, with active bidding on tracts in as much as 3,000 meters. The royalty holiday mandates royalty-free oil for tracts in as little as just 200 meters.

Here is just a small sampling of what the oil press says about deep water leasing:

New technologies cut the cost of deep-sea production * * * armed with new technology, U.S. companies are venturing into ever deeper waters. (Business Week, October 20, 1995).

Sonat Offshore Drilling Inc. * * * analysts are projecting third quarter profits to increase more than 400 percent over the 1994 period. A large reason for Sonat's success is its emphasis on deepwater drilling in the Gulf of Mexico and elsewhere, perhaps the hottest niche market in the business these days. (Dallas Morning News, October 24, 1995).

The demand for rigs is now so great that deepwater rigs have been contracted out as far as 1998, [a stock analyst at] Simmons [& Co.] said. (Houston Chronicle, September 21, 1995).

Texaco is among the major oil companies starting to spend heavily in the deepwater at depths of 1,000 feet and more. This is definitely an area of strong interest among major oil companies (Times Picayune, New Orleans, LA, September 19, 1995).

Our activity level is based on our commitment to the strategy of developing oil and gas in deep water, Mobile said * * * Texaco said bidding at sale 155 sustained the trend into deepwater that is driving exploration success * * * New technology capabilities are leading the industry farther and farther out into the gulf, a Texaco official said, Deep water in the Gulf of Mexico is not the next frontier, it's the now frontier. (Oil and Gas Journal, September 18, 1995).

These are just a few of the candid remarks by those most familiar with leasing and development deep water trends in the oil industry. And I mean real deep water, not the 200 meters that S. 395 defines as deep. Let's remember that the Ursa project is located in 3,950 feet of water, and ''industry executives believe tension-leg platforms can be affordable in water as deep as 6,000 feet,'' according to the Wall Street Journal (January 25, 1995).

FACT 4. ALTERNATIVES TO THE ROYALTY HOLIDAY ALREADY EXIST TO PROVIDE THE INDUSTRY WILL INCENTIVES BUT WITHOUT COSTING TAXPAYERS HUNDREDS OF MILLIONS OF DOLLARS

In fact, I helped write the 1978 OCS law that allows use of bidding systems that forgive payment of a royalty until a tract is profitable. Unlike the royalty holiday, taxpayers would recoup the foregone royalty later in the production phase, as MMS originally proposed.

Proponents of the holiday are probably going to argue today that the conference accepted an amendment offered by Congresswoman FOWLER that addresses all of the environmental issues in the royalty holiday dispute by removing offshore Florida lands for coverage.

But the major objection to the royalty holiday has never been environmental: it is economic. The objection is not that offering leases will encourage offshore development near coastal communities. Indeed, CBO concludes that few leases that would not be leased anyway would be leased because of the royalty. They just might he bought sooner to qualify for royalty-free status.

The Fowler amendment fails to address a single one of the economic and subsidy objections I have raised or the House has voted on. It was an effort to defuse the opposition to the royalty holiday by appearing to fix the wrong problem. It should influence no one to change their vote on the motion to recommit.

The objection to the royalty holiday is not that it will damage the environment. The objection is that it will damage taxpayers to the tune of $450 million, and maybe much more, for no good reason whatsoever.

You may be told the Senate just voted for the royalty holiday in their reconciliation bill—because it's been stuck in there, too. But that is not true: the Senate never got to vote on the holiday because a parliamentary device was used to prevent a vote on the merits, just as we have been denied a chance here in the House, or in the Resources Committee, to consider this legislation on its merits.

Now, if this legislation is so important and so meritorious, why haven't we had a hearing on it? Why haven't its proponents in the House or the Senate put it before the committees and on the floor of both Houses and allowed a real debate and amendatory process to occur? Why does it always come to us, tucked into a nongermane bill, with no opportunity for testimony or examination?

The reason is because this proposal is an idea whose time has passed. Years ago, when leasing and drilling activity in the gulf was deteriorating, the industry and its friends cooked up the royalty holiday scheme. The world has changed, and the gulf—including the deep water gulf—is competitive and highly attractive. We have had two highly successful lease sales there in the past 6 months, including in the deep water.

So the issue here today is, having already voted 261 to 161 to reject the deep water scheme, are we going to cave into the oil lobbyists, are we going to cave into the phony financial projections that our own CBO rejects, are we going to cave into the Senate and let them cram this expensive, special interest, corporate welfare scheme down our throats?

Or are we going to say that this issue should be considered with deliberation and thoroughness by the Resources Committee and by the House of Representatives? Those who believe it is a good idea should come up here and testify for it and subject themselves to cross-examination instead of skulking around the Halls of Congress, lining up votes secretively, evading the public review that a half billion dollars in public money deserves.

The royalty holiday is bad policy and a terrible waste of taxpayer dollars. On those grounds alone, backed up by CRS, CBO, and the oil industry's own evidence, we should reject this provision and send this report back to the conference, where the royalty holiday will surely be stripped out. In fact, the conference has scheduled another meeting for this afternoon to strip it out if the House votes to do so.

But I believe there is another reason we should vote for the motion to instruct, and that is to stand up for the honor of this House. We voted to instruct our conferees to reject the royalty holiday, and those conferees ignored that direction. If this House will not reassert its position and again direct the conferees to reject the royalty holiday, we are giving up the powers of this House to the Senate and to a tiny number of senior Members who will make all the decisions for the rest of us, and that is not how decisions should be made.

Some Members have asked me why I care so much about this royalty holiday. Why am I so concerned about a scheme that will only cost us a few hundred million dollars at a time when tens of billions are being cut elsewhere?

Here is the reason: because this royalty holiday is wrong. It is the worst kind of special interest giveaway at a time when we are demanding that everyone in the country sacrifice. The oil industry already enjoys one of the lowest tax rates of any industry; they do not need more incentives to explore the Gulf of Mexico, and this House must have the courage to stand up to the international oil industry on behalf of the working men and women of this country who own that oil.

The evidence is overwhelming that we do not need the royalty holiday. I urge my colleagues to vote to recommit the conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 3½ minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, let me first correct the record. If anybody is trying to help the Senator who was mentioned in his reelection bid, he is not running for reelection.

Second, if anybody assumes that people are rushing to the Gulf of Mexico to drill in those deep waters, let me point out, we have lost 180,000 jobs in Louisiana alone, 400,000 jobs in America because of the fact that people are rushing to somebody else's waters, somebody else's lands to drill because we have made it uninviting to drill and produce in America. That is the truth.

If anybody is coming to the Gulf of Mexico, it is because my friend from California and others have led the charge to make sure you cannot drill anywhere else in America offshore but in the Gulf of Mexico and in Alaska. That is the only place you can go.

While we are discussing it, let us discuss the numbers. The gentleman from California said in response to the gentleman from Texas, who quoted him, then when he said on June 25 it would cost $15 billion, and when he said today on the floor that it would cost $400 million, that he was right both times, the numbers still stand. That is a little over a 3,000-percent discrepancy, 3,000-percent differences, but he asks us to trust those numbers.

On the other hand, Minerals Management Service, who estimated what it would raise and what it would cost, estimated that this amendment would save the American Treasury not just the $200 million extra it would raise in royalty bonuses but about $600 million in interest payments on the Federal debt because that $200 million would cost that much over that 25-year period that nobody seemed to pay much attention to—$600 million in addition to the $200 million.

It just so happens that Minerals Management has been doing this kind of estimation for 10 years. What is their record of failure? They have missed it over the 10-year period by not 3,000 percent but by 3 percent.

So we are asked today on this floor to take the advice of folks who are estimating numbers who are going to miss it by as much as 3,000 percent as opposed to Minerals Management who has been wrong only 3 percent in all of their estimates for 10 years. Minerals Management Service, the people that run the offshore program for our country, the people that lease the lands and collect the royalties and collect the bonuses, tell us this thing is going to win for us $485 million of new bonus royalties.

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It is going to save the American taxpayer $600 million in interest payments over this 25-year period.

Who do you want to trust, Minerals Management or someone who comes to the floor and admits that his numbers are 3,000 percent different from June 25 to November 8, and those numbers still stand?

I want to say again this bill has changed. It only affects the Gulf of Mexico. It is not the same bill we voted on earlier.

Second, it is limited to 5 years. Even CBO estimates that, in that 5-year period, it is going to make $100 million for this country.

And, finally, if you believe in this country as we all do, if you believe in the strength of this country and its workers and its productive capacity, why would you not want to incentivize an industry that is moving offshore rapidly because we make no room for it in this country, particularly an industry that is producing energy for our people? Why would you want to depend upon people, when we have to go to war to defend those oil reserves, when you could produce it at home? That is the choice today.

Let us produce oil for Americans, by Americans, here in this country. That is what this is all about.

Vote ''no'' on the recommittal by the gentleman from California [Mr. MILLER].

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

In closing, Mr. Speaker, I suggest voting ''no'' on recommittal.

We talk about a level playing field. There is no level playing field as long as the Federal Government is involved in leasing those lands.

This is an attempt by this administration, this Congressman and the rest of this Congress to give us the opportunity to take and further develop those areas that cannot be developed under the present system.

I urge a ''no'' vote on the motion to recommit.

Mr. Speaker, on this historic day for which the citizens of our great State have for so long waited, I am proud to bring before the House the conference report on S. 395. With adoption of this vital legislation, my State at long last will be authorized to export its most important resource, and thereby promote our national security, spur energy production, and create jobs.

Because of the gracious offer of the chairman of the Senate Energy and Natural Resources Committee, who along with our State's senior Senator has done so much to make this dream come true, I bring this bill before you as chairman of the conference committee. In that capacity, I rise to put title II in historical context and to describe in greater detail the substantive provisions of the bill, a discussion circumscribed by the more limited space available in the joint explanatory statement of the managers.

The ANS export restrictions were first enacted shortly after commencement of the 1973 Arab-Israeli war and the first Arab oil boycott. Many believed enactment of these restrictions would enhance our energy security. Following the second major oil shock in 1979, Congress went further and effectively banned exports.

Much has changed since then. In part due to significant conservation efforts and shifts to other fuel sources, total U.S. petroleum demand in 1993 actually was lower than in 1978. Net imports also were lower. Yet, for the first time, imports last year met more than half of our domestic demand—not because consumption had risen, but rather because domestic production had declined so significantly.

Even though imports are even higher today, they come from far more secure sources than in the 1970's. Over half of our imports now come from the Western Hemisphere and Europe. Mexico and Canada are among our largest suppliers. We have stopped buying crude from Iran, Iraq, and Libya. In addition, international sharing agreements are in place and the United States has filled the Strategic Petroleum Reserve with approximately 600 million barrels of crude oil. In short, our Nation is no longer vulnerable to the supply threats that motivated Congress to act in the 1970's.

While we have taken the steps necessary to reduce our vulnerability to others, we have not done enough to encourage domestic energy production. In fact, production on the North Slope has now entered a period of sustained decline, while production is falling in the lower 48 as well. My committee heard compelling testimony, for example, about the problems faced by small businesses in California, which have felt first hand the effects of the current ban. Small independent producers have been forced to abandon wells or defer further investments. Faced with glut-induced prices for their own crude, they have laid off workers. By precluding the market from operating normally, the export ban has had the unintended effect of discouraging further energy production. Through adoption of the conference report, we will at long last change that situation.

In addition to receiving testimony from small businesses hurt directly, my committee got advice from the experts as well. The Department of Energy, for example, provided Congress with a comprehensive study. The Department concluded that ANS exports would boost production in Alaska and California by 100,000 to 110,000 barrels per day by the end of the century. The Department also concluded that ANS exports could create up to 25,000 jobs. With the evidence now in, we know that the sooner we change current law, the sooner we can spur additional energy production and create jobs in Alaska and in California.

To achieve this objective, I bring before the House the conference report authorizing ANS exports under terms substantially similar to the underlying Senate and House bills. The conference report authorizes ANS exports, making inapplicable the general and specific restrictions in section 7(d) of the Export Administration Act of 1979, section 28(u) of the Mineral Leasing Act of 1920, section 103 of the Energy Policy and Conservation Act, and the Department of Commerce's short supply regulations, unless the President determines that they would not be in the national interest. This provision negates, as well, any other existing law, regulation, or executive order that might otherwise be interpreted to restrict ANS exports.

Before making his national interest determination, the President must consider an appropriate environmental review. We have given the President discretion to have a working group conduct the type of environmental review that would be appropriate under the circumstances. Because appropriate environmental review is not defined in the conference report or the National Environmental Policy Act, I think it particularly important to explain our intent in developing this term.

In its report, the Department of Energy found ''no plausible evidence of any direct negative environmental impact from lifting the ANS crude export ban.'' In fact, the Department concluded that, ''[w]hen indirect effects are considered, it appears that the market response to removing the ANS export ban could result in a production and transportation structure that is preferable to the status quo in certain respects.'' The Department found, for example, that ''[l]ifting the export ban will reduce overall tanker movements in U.S. waters.'' The weight of the testimony taken before my committee and the Senate Committee on Energy and Natural Resources was to the same effect.

Thus, the conference report directs, as the appropriate environmental review, an abbreviated 4-month study. The environmental review is intended to be thorough and comprehensive, but in light of the Department's findings and the compressed timeframe, neither a full environmental impact statement nor even a more limited environmental assessment is contemplated. If any potential adverse effects on the environment are found, the study is to recommend appropriate measures to mitigate or cure them. In fact, the procedure set forth in the conference report tracks the well-recognized procedure whereby an agency may forego a full EIS by taking appropriate steps to correct any problems found during an EA. Under current law, if an EA reveals some potentially adverse environmental effects, an agency may take mitigating measures that lessen or eliminate the environmental impact and, thereupon, make a finding of no significant impact and decline to prepare a formal EIS. Similarly, as long as potentially adverse impacts can be mitigated by conditions on exports included in the President's national interest determination, NEPA is satisfied.

In making his national interest determination, the President is authorized to impose appropriate terms and conditions, other than a volume limitation, on ANS exports. The conference report takes cognizance of the changed condition of national oil demand and

available oil resources. The conference report is intended to permit ANS crude oil to compete with other crude oil in the world market under normal market conditions. To facilitate this competition and in recognition that the conference report precludes imposition of a volume limitation, the President should direct that exports proceed under a general license.

Although crude oil exports historically have been governed through the use of individual validated licenses, this type of licensing procedure would not be appropriate here. The more appropriate model is the rule governing exports of refined petroleum products, which are permitted under a general license. First, the conference report explicitly negates the short supply regulations and the statutory authority underlying them as they relate to ANS exports. Our intent was to clear away two decades of accumulated obstructions to ANS exports. Second, the conference report specifically precludes the President from imposing a volume limitation. In almost every instance today, individual validated licenses on crude exports are necessary because of the need to deal with volume limitations, such as those imposed on exports of California heavy crude oil or ANS crude to Canada. Finally, it is our intent that the market finally be given an opportunity to operate. We do not want unnecessary paperwork to impede proper functioning of the market.

The conferees recognize that some information is needed to monitor exports. Again, petroleum products provides the proper model. Shippers of petroleum products, like all exporters, submit export declarations at the time of export. This information is compiled into trade statistics by the Department of Commerce. Similarly, exporters of ANS crude under a general license would routinely file export declarations. These filings will provide any information needed for monitoring.

Given the anticipated substantial benefits to the Nation of ANS exports, the President should make his national interest determination as promptly as possible. Of course, if the President fails to make the required determination within 5 months, ANS oil exports are authorized without intervening action by the President or the Secretary of Commerce.

As many Members of this body know, there has long been concern in the domestic maritime community that lifting the ban would force the scrapping of the independent tanker fleet and would destroy employment opportunities for merchant mariners. There can be little doubt that Congress has a compelling interest in preserving a fleet essential to our Nation's military security, especially one vital to moving an important natural resource such as my State's oil. In recognition of this, the conference report requires that ANS exports be carried in U.S.-flag vessels. The only exceptions are exports to Israel under a bilateral treaty and to others under the international emergency oil sharing plan of the International Energy Agency.

The U.S. Trade Representative has assured Congress that this provision does not violate our GATT obligations. Based on the testimony presented to my committee and the Senate Committee on Energy and Natural Resources, I concur with the administration's view that this provision is fully consistent with our international obligations. Moreover, it is supported by ample precedent, including in particular a comparable provision in the United States-Canada free trade agreement, as implemented under United States law.

The conference report also directs the Secretary of Commerce to issue any rules necessary to govern ANS exports within 30 days of the President's national interest determination. In light of the clear benefits to the Nation of ANS exports, the Secretary should promulgate any rules necessary contemporaneously with the determination.

In closing, let me emphasize that the current ban no longer makes economic sense. For too long, it has hurt the citizens of Alaska, it has damaged the California oil industry, and it has precluded the market from functioning normally. If left in place any longer, it will further discourage energy production, it will destroy jobs in Alaska and California, and it will ultimately hurt our seafaring mariners, the independent tanker fleet, and the shipbuilding sector of our Nation.

As chairman of the conference committee, I thus urge my colleagues to support this historic legislation. Through swift enactment and implementation of this legislation, Congress and the administration can demonstrate their ability to work together to promote our national security, to spur energy production, to reduce our net dependence on imports, and, above all, to create jobs.

Mr. RICHARDSON. Mr. Speaker, I urge the House to reject the attempt by the gentleman from California [Mr. MILLER] to recommit the conference report on S. 395 in order to strike the Outer Continental Shelf deepwater incentives provision.

This provision is urgently needed to provide incentives to produce more oil and natural gas in the very deep waters of the central and western portions of the Gulf of Mexico. Its enactment will strengthen U.S. energy security, bolster the economy, generate jobs for American workers, and help reduce the Federal deficit.

At a time when the United States is importing some 50 percent of its oil supplies, when oil industry jobs and investment are flowing overseas, and when the Congress is struggling to reduce the deficit, this is no time to reject such a critically needed provision.

Mr. Speaker, the Outer Continental Shelf currently produces about 14 percent of our oil and about 23 percent of our natural gas. The OCS contains approximately one-fourth of our estimated domestic oil and gas reserves. The deep waters of the Gulf of Mexico remain one of the most attractive areas for new oil and gas discoveries. But because of the extremely high cost of deepwater development, only about 6 percent of deepwater leases in the Gulf of Mexico have been developed. As a result, the Nation is not benefiting as much as it could from the large oil and gas resources of the Gulf—and the Federal Government is not earning as much as it could in bonus bids and royalty payments.

The deepwater incentives provision would temporarily reduce royalties on existing OCS leases in the central and western portions of the gulf, and delay royalty payments on new leases until a specified amount of production has occurred. The provision would have no effect in those areas covered by preleasing, leasing, or development moratoria.

Let me point out that the Congressional Budget Office officially scored the deepwater incentives provision as providing $100 million in additional Federal revenues over 5 years and $130 million over 7 years. And, on a present value basis, the administration has determined that the Federal Government would net as much as $200 million over 25 years as a result of this provision.

Mr. Speaker, I also favor the deepwater incentives provision because it will create jobs. According to the Bureau of Labor Statistics, each $1 billion invested in the oil and gas extraction industry generates 20,000 new jobs. These jobs are created primarily in industries which support and service the oil and gas exploration industry, including the steel, machine tool, heavy equipment, and high-technology industries. A healthy and productive offshore industry will mean new jobs in virtually every State of the Union. We cannot afford to throw these jobs away.

The deepwater incentives provision has bipartisan support. The Clinton administration strongly supports this provision. Secretary of Energy Hazel O'Leary had this to say in an October 19 letter to Senator BENNETT JOHNSTON:

> The ability to lower costs of domestic production in the central and western Gulf of Mexico by providing appropriate fiscal incentives will lead to an expansion of domestic energy resourcers, enhance national security, and reduce the deficit.

Mr. Speaker, there is no doubt in my mind that Secretary O'Leary is right. We do not have the luxury—in terms of energy, the economy, or U.S. jobs—to remove the deepwater incentives provision from S. 395. I urge you to defeat the motion to recommit the conference report.

There is a tendency to view the Gulf of Mexico as one oil and natural gas province. From an economic and technical viewpoint, however, the gulf should actually be seen as two hydrocarbon provinces: First, a developed but marginally economic shallow water shelf province and second, an undeveloped world-class frontier deep water province.

It is this deep water province that holds the potential for discoveries of large oil and gas reserves.

The deep water Gulf of Mexico offers a tremendous opportunity for the discovery and production of new world-class natural gas and oil fields. It is the only undeveloped domestic offshore area of high resource potential open for exploration and production today and can make valuable contributions to the country's energy and economic future.

Today, the Gulf of Mexico represents approximately 25 percent of this Nation's domestic natural gas and 13 percent of its domestic oil production.

While production from the mature shallow waters of the gulf is declining, the deep water is poised to sustain gulf production well into the next century. Without deep water production, Federal royalties, rents, and taxes from Gulf of Mexico production will continue to decline.

A report of the Department's OCS Policy Committee noted that there have been a number of deepwater discoveries but there are no plans for development ''because proceeding is not economic.''

The Department of Interior has estimated that in water depths of 200 meters or more there are more than 11 billion barrels of oil equivalent in the Gulf of Mexico.

The Gulf of Mexico is a significant contributor to U.S. natural gas supply, and continued

production from this prolific natural gas basin must be encouraged if this Nation's growing demand for natural gas is to be met.

Even with the most accelerated switch to alternative fuels domestic crude oil demand will clearly outstrip domestic supply. It is therefore incumbent upon the Congress and the administration to make a deliberate and conscious decision regarding how that demand will be met—by increased domestic production or by more imported oil.

Gulf of Mexico deepwater incentives are needed if this Nation is to take full advantage of the reserve potential of this significant new natural gas and oil province. The royalty relief provisions in S. 395 should be supported. The provisions encourage full development of this resource and the achievement of important national economic and environmental goals—namely job creation, economic stimulation, much needed natural gas and oil reserves, and reduced U.S. dependence on imported oil.

Mr. BAKER of California. Mr. Speaker, today the House is honoring the memory of one of this century's most courageous soldiers for peace, Yitzhak Rabin. His tragic death was a profound loss for the State of Israel, for the entire Middle East, and for all who believe in the peaceful resolution of international conflict.

I well remember meeting with Mr. Rabin when, as a first-term Member of Congress, I traveled to Israel and talked with him in his office. He was warm, cordial, and informative, and reaffirmed to me the importance of the United States-Israel relationship.

Just 2 weeks ago, I again met the Prime Minister when I joined in the ''Jerusalem 3000'' celebration here in the Capitol. This wonderful ceremony recognized three millennia of Jerusalem's history, and Mr. Rabin spoke passionately both about Israel's precious heritage and its need for a peaceful future.

And now he is gone. His passing was so swift and sudden that we are still in a state of shock as we consider a world without Yitzhak Rabin. Yet his remarkable example lives on. Tenacious in battle, resolute in peace, dedicated to his country and its future, his statesmanship will remain with us for generations.

It is rare to find a leader who harnesses the tide of history and redirects it for the good of the world. Yitzhak Rabin's gift was his willingness to, in the words of Theodore Roosevelt, ''dare greatly'' for the sake of a just peace. It is a gift that no assassin's bullet can ever take away, and a legacy that will endure through the ages.

Mr. POMEROY. Mr. Speaker, I rise today to support the conference report on S. 395, the Alaska Power Administration Sale Act. I believe this bill is an important part of reducing America's dependency on foreign oil. A provision to provide royalty relief for deep offshore drilling is still contained in the bill. I previously opposed the royalty relief due to uncertainty about its need. Since the last vote, I have heard from North Dakota oil and gas producers about the importance of this provision to ensuring domestic oil security. I have also received new information from the Department of Energy indicating the importance of retaining this provision. According to DOE, enactment of this royalty relief will reduce our reliance on foreign sources of crude oil by unearthing the estimated 15 billion barrels of oil in deepwater Gulf of Mexico. Additionally, it is estimated that through new leasing revenues, enactment of this provision will result in a minimum net benefit to the Treasury of $200 million by the year 2000.

Mr. THOMAS. Mr. Speaker, I applaud Congress' decision to conduct a comprehensive overhaul of an archaic export policy. Today I am speaking in support of S. 395, which includes provisions to end the ban on exports of Alaskan North Slope crude oil. This is an opportunity to enhance the ability of the U.S. energy industry to compete in the arena of international trade.

The ANS ban has been in effect for over 20 years, and was supposedly created to, among other things, ''safeguard our energy security.'' During this 20-year period, there has been no evidence to support this hypothesis. In fact, the evidence clearly demonstrates that our dependence on foreign oil has increased over this period. Domestic production is declining as a result of this export ban, while demand for oil continues to increase. The shortfall can only be met through increased imports, which helps to explain why we now import around 50 percent of all energy consumed in the United States. Perhaps the supporters of the ban could try to explain to the American people how a continued decline in domestic production, coupled with increasing consumer demand, has safeguarded our energy security?

It is critical that we recognize the importance of the ANS issue. Do we want to sell the naval petroleum reserves or increase its value? Do we want to help heavy oil producers maintain their economic viability through royalty relief proposals such as those offered by the Bureau of Land Management? Whatever options we choose with regard to these issues, we must repeal the ANS ban first, to ensure that we are dealing with the cause of the problems, and not just the symptoms.

This issue has been debated at length on the floor and in the Resources Committee. The Resources Committee passed the bill on a voice vote and the bill enjoyed wide bipartisan support in committee and on the floor, where it passed by a vote of 324 to 77. In addition, over 75 of my colleagues have already cosponsored H.R. 70, 23 Democrats and 55 Republicans, including 23 Californians.

Recently, there has been discussion in Congress of the possible sale of the naval petroleum reserves [NPR] at Elk Hills, CA. With the current price of crude artificially depressed due to the ban on the sale of ANS crude, eliminating the ban would greatly enhance the value of the facility and its return to the taxpayer would be subsequently enhanced. With the Defense bill resolution which included the sale of NPR having already passed the House and Senate, it is imperative that we move to reform this artificially distorted market to project the true value of this crude oil.

This bill truly has value in closing the deficit, for in addition to the $55 million in reduced Federal outlays which CBO has predicted over the next 5 years, the taxes payable on the 15,000 to 20,000 oil production jobs and increased oil production created through the repeal of the ban would be significant.

Government interference in this market has not worked and must be ended. Our economy is based on the operation of the market, and there is no economic argument that can be advanced to justify the continued market-distorting ban on exports of ANS crude. The market can and should dictate where this oil goes and the price for which it is sold.

Additionally, lifting this ban would lead to a reduction in the number of tankers, loaded with crude oil, traveling along nearly the entire Western coastline of the North American Continent. By allowing the export of ANS crude, some amount of this oil will be shipped to markets in the Far East. As a result, fewer tankers will make the trip along our coast to their current destinations in Washington and California, and it will eliminate movement of ANS crude oil to the gulf coast that involves multiple loading and unloading operations. This clearly translates into a reduced risk of oil spills, small and large, along both Canadian and United States coastlines.

For years, efforts to repeal the ban have been met with opposition from maritime unions, who were concerned that the repeal of the ban would adversely affect U.S. merchant fleet jobs. Now, a compromise has been reached which accomplishes the goal of lifting the ban while ensuring the interests of the maritime unions.

The unions now agree that ending of the ANS crude ban is consistent with the economic security and defense interests of the Nation in that it provides employment opportunities for American citizens and ensures the Nation a fleet of American-flag tankers.

Given the current declining North Slope production, the independent tanker fleet and the men and women who crew the vessels face a bleak future. By encouraging oil production, ANS exports can help secure their future and preserve jobs that otherwise would be lost.

On March 1, the administration announced that it was ''convinced that there are economic and energy benefits that can be gained from permitting exports of ANS crude.''

In setting forth requirements for inclusion in the final legislative language, the administration stated:

> All ANS oil must be exported in U.S.-flagged and U.S.-crewed vessels. Reforms should not transfer existing seafarer employment abroad. Legislation must provide substantial protection of seafarer employment opportunities for American workers.

As introduced, S. 395 satisfies this condition. Under the bill, ANS crude may be exported only if ''transported by a vessel documented under the laws of the United States and owned by a citizen of the United States * * *''

In addition, our government's own energy experts have recently confirmed the substantial benefits to be gained in lifting the ban; 10 months ago, the Department of Energy [DOE] released a report, outlining the effects of lifting the current Alaskan North slope (ANS) crude oil ban. The report confirmed:

> There would be a net increase in U.S. employment of up to 16,000 jobs. By the end of the decade, job increases could reach 20,000.
>
> Oil production in Alaska and California could be increased by as much as 100 to 110 thousand barrels per day by the end of the decade. Reserve additions in Alaska alone could be as large as 200 to 400 million barrels of oil.
>
> Increased federal receipts related to royalties and sales of oil would total between $99 and $180 million.
>
> All of these benefits would occur without any significantly negative environmental implications.

All of the issues have been settled: The unions have agreed that this legislation will ensure an independent tanker fleet; the trade

issues have been addressed, and the U.S. Trade Representative has noted that the U.S.-flag requirement does not present any legal problems to international trade; producers will benefit as increased revenues from marginal wells are realized.

Mr. Speaker, who can argue against national security, increased jobs, more domestic oil production, increased Federal revenues and reduced environmental danger? I urge my colleagues to give this issue careful consideration and not overlook the fact that our domestic oil industry is being harmed by this knee-jerk political reaction over 20 years ago. If we are truly serious about encouraging domestic production and exploration of our natural resources, we should pass S. 395 and end this market-distorting ban on the export of Alaskan oil.

Mr. RAHALL. Mr. Speaker, I noticed the other day that while it is still early November, Christmas decorations are already on the shelves at many stores. Each year, it seems, the holiday season begins earlier and earlier.

And with this in mind, it is perhaps fitting that today we are considering a bill that will grant a multibillion dollar royalty holiday, courtesy of the Republican majority, to some of the largest corporate conglomerates in the world.

As has already been explained, last July this body sent a bill over to the Senate that simply lifted the ban on exporting Alaskan oil.

But we were not blind to what the other body was contemplating. We also passed a motion to instruct our conferees not to accede to the Senate's desire to impose the deep water royalty holiday on the House.

The vote was taken on the motion to instruct, and is passed by a bipartisan 261 to 161. Yet, today we find that the majority will of this House has been ignored, in a very blatant fashion, and the royalty holiday crept its way into the pending legislation.

Today, when it is still questionable whether the Federal Government will be able to continue to operate after next Monday, I ask: Is it appropriate to pass legislation that will cost the Treasury nearly a half billion dollars in revenues?

Is it appropriate to grant a royalty holiday, at the taxpayer's expense, as an alleged incentive for these companies to do what they are already doing in the first place?

I would submit the answer is no.

We have copies of the vote taken last July on this issue here, and I would urge Members to be consistent. If you voted against the royalty holiday on July 25, there is no reason why you should not vote against it today.

I urge the adoption of the Miller motion to recommit this bill to conference so that the royalty holiday provisions can be deleted.

The SPEAKER pro tempore (Mr. MCINNIS). Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. MILLER of California. Mr. Speaker, yes; I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MILLER of California moves to recommit the conference report on the bill S. 395 to the committee of conference with instructions to the managers on the part of the House to insist on the provisions of the House amendment No. 5 which strike title III of S. 395.

The SPEAKER pro tempore. This motion is not debatable.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 160, nays 261, not voting 11, as follows:

[Roll No. 771]

YEAS—160

Abercrombie	Gutierrez	Pastor
Ackerman	Gutknecht	Payne (NJ)
Andrews	Hall (OH)	Payne (VA)
Baker (CA)	Hastings (FL)	Pelosi
Baldacci	Hilleary	Portman
Barrett (WI)	Hilliard	Rahall
Becerra	Hinchey	Rangel
Beilenson	Hoekstra	Reed
Berman	Horn	Regula
Blute	Jacobs	Rivers
Boehlert	Johnson (CT)	Roemer
Bonior	Johnson (SD)	Roukema
Borski	Johnston	Roybal-Allard
Brown (CA)	Kanjorski	Rush
Brown (FL)	Kelly	Sabo
Bryant (TX)	Kennedy (RI)	Sanders
Bunn	Kennelly	Sanford
Cardin	Kildee	Sawyer
Chabot	Kleczka	Scarborough
Clay	Klug	Schroeder
Clayton	LaFalce	Schumer
Clement	Lantos	Scott
Collins (IL)	Lazio	Sensenbrenner
Collins (MI)	Leach	Serrano
Conyers	Levin	Shays
Costello	Lewis (GA)	Sisisky
Coyne	LoBiondo	Skaggs
DeFazio	Lofgren	Slaughter
DeLauro	Lowey	Smith (MI)
Dellums	Luther	Smith (NJ)
Deutsch	Maloney	Spratt
Dixon	Manton	Stark
Doggett	Markey	Stokes
Durbin	Matsui	Studds
Ehlers	McCarthy	Stupak
Engel	McDermott	Thurman
Eshoo	McHale	Torres
Evans	McKinney	Torricelli
Farr	McNulty	Towns
Fattah	Meehan	Velazquez
Filner	Meek	Vento
Flake	Menendez	Ward
Foglietta	Mfume	Waters
Ford	Miller (CA)	Watt (NC)
Frank (MA)	Minge	Waxman
Franks (NJ)	Mink	Williams
Frelinghuysen	Moakley	Wise
Furse	Nadler	Woolsey
Ganske	Neal	Wyden
Gejdenson	Obey	Wynn
Gephardt	Olver	Yates
Gibbons	Orton	Zimmer
Gonzalez	Owens	
Gordon	Pallone	

NAYS—261

Allard	Forbes	Mollohan
Archer	Fowler	Montgomery
Armey	Fox	Moorhead
Bachus	Franks (CT)	Moran
Baesler	Frisa	Morella
Baker (LA)	Frost	Murtha
Ballenger	Funderburk	Myers
Barcia	Gallegly	Myrick
Barr	Gekas	Nethercutt
Barrett (NE)	Geren	Neumann
Bartlett	Gilchrest	Ney
Barton	Gillmor	Norwood
Bass	Gilman	Nussle
Bateman	Goodlatte	Oberstar
Bentsen	Goodling	Ortiz
Bereuter	Goss	Oxley
Bevill	Graham	Packard
Bilbray	Green	Parker
Bilirakis	Greenwood	Paxon
Bishop	Gunderson	Peterson (MN)
Bliley	Hall (TX)	Petri
Boehner	Hamilton	Pickett
Bonilla	Hancock	Pombo
Bono	Hansen	Pomeroy
Boucher	Harman	Porter
Brewster	Hastert	Poshard
Browder	Hastings (WA)	Pryce
Brown (OH)	Hayes	Quillen
Brownback	Hayworth	Quinn
Bryant (TN)	Hefley	Radanovich
Bunning	Hefner	Richardson
Burr	Heineman	Riggs
Buyer	Herger	Roberts
Callahan	Hobson	Rogers
Calvert	Hoke	Rohrabacher
Camp	Holden	Ros-Lehtinen
Canady	Hostettler	Rose
Castle	Houghton	Roth
Chambliss	Hoyer	Royce
Chapman	Hunter	Salmon
Chenoweth	Hutchinson	Saxton
Christensen	Hyde	Schaefer
Chrysler	Inglis	Schiff
Clinger	Istook	Seastrand
Clyburn	Jackson-Lee	Shadegg
Coble	Jefferson	Shaw
Coburn	Johnson, E. B.	Shuster
Coleman	Johnson, Sam	Skeen
Collins (GA)	Jones	Smith (TX)
Combest	Kaptur	Smith (WA)
Condit	Kasich	Solomon
Cooley	Kennedy (MA)	Souder
Cox	Kim	Spence
Cramer	King	Stearns
Crane	Kingston	Stenholm
Crapo	Klink	Stockman
Cremeans	Knollenberg	Stump
Cubin	Kolbe	Talent
Cunningham	LaHood	Tanner
Danner	Largent	Tate
Davis	Latham	Tauzin
de la Garza	LaTourette	Taylor (MS)
Deal	Laughlin	Taylor (NC)
DeLay	Lewis (CA)	Tejeda
Diaz-Balart	Lewis (KY)	Thomas
Dickey	Lightfoot	Thompson
Dicks	Lincoln	Thornberry
Dingell	Linder	Tiahrt
Dooley	Lipinski	Torkildsen
Doolittle	Livingston	Traficant
Dornan	Longley	Upton
Doyle	Lucas	Visclosky
Dreier	Manzullo	Vucanovich
Duncan	Martinez	Walker
Dunn	Martini	Walsh
Edwards	Mascara	Wamp
Ehrlich	McCollum	Watts (OK)
Emerson	McCrery	Weldon (FL)
English	McDade	Weller
Ensign	McHugh	White
Everett	McInnis	Whitfield
Ewing	McIntosh	Wicker
Fawell	McKeon	Wilson
Fazio	Metcalf	Wolf
Fields (TX)	Mica	Young (AK)
Flanagan	Miller (FL)	Young (FL)
Foley	Molinari	Zeliff

NOT VOTING—11

Burton	Ramstad	Volkmer
Fields (LA)	Skelton	Waldholtz
Meyers	Thornton	Weldon (PA)
Peterson (FL)	Tucker	

□ 1622

The Clerk announced the following pair:

On this vote:

Mr. Ramstad for, with Mr. Shelton against.

Messrs. METCALF, DE LA GARZA, EVERETT, and GOODLATTE changed their vote from ''yea'' to ''nay.''

Ms. BROWN of Florida and Mr. BUNN of Oregon 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. MCINNIS). The question is on the conference report.

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

Mr. YOUNG of Alaska. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 289, nays 134, not voting 9, as follows:

[Roll No. 772]

YEAS—289

Allard	Cremeans	Heineman
Andrews	Cubin	Hilleary
Archer	Cunningham	Hilliard
Armey	Danner	Hobson
Bachus	Davis	Hoekstra
Baker (CA)	de la Garza	Hoke
Baker (LA)	Deal	Holden
Baldacci	DeLay	Horn
Ballenger	Diaz-Balart	Hostettler
Barcia	Dickey	Houghton
Barr	Dicks	Hoyer
Barrett (NE)	Doggett	Hunter
Bartlett	Dooley	Hutchinson
Barton	Doolittle	Hyde
Bass	Dornan	Inglis
Bateman	Doyle	Istook
Bentsen	Dreier	Jackson-Lee
Bereuter	Duncan	Jefferson
Bilbray	Edwards	Johnson, E. B.
Bilirakis	Ehlers	Johnson, Sam
Bishop	Ehrlich	Jones
Bliley	Emerson	Kasich
Blute	English	Kelly
Boehlert	Ensign	Kennedy (RI)
Boehner	Everett	Kim
Bonilla	Ewing	King
Bono	Fawell	Kingston
Borski	Fazio	Klink
Boucher	Fields (TX)	Klug
Brewster	Flake	Knollenberg
Browder	Flanagan	Kolbe
Brown (OH)	Foley	LaFalce
Brownback	Forbes	LaHood
Bryant (TN)	Fowler	Largent
Bryant (TX)	Fox	Latham
Bunn	Franks (CT)	LaTourette
Bunning	Franks (NJ)	Laughlin
Burr	Frelinghuysen	Lazio
Burton	Frisa	Lewis (CA)
Buyer	Frost	Lewis (KY)
Callahan	Funderburk	Lightfoot
Calvert	Gallegly	Lincoln
Camp	Ganske	Linder
Canady	Gekas	Lipinski
Cardin	Geren	Livingston
Castle	Gilchrest	LoBiondo
Chabot	Gillmor	Longley
Chambliss	Gilman	Lucas
Chapman	Gonzalez	Manton
Chenoweth	Goodlatte	Manzullo
Christensen	Goodling	Martinez
Chrysler	Goss	Martini
Clinger	Graham	Mascara
Clyburn	Green	McCollum
Coble	Greenwood	McCrery
Coburn	Gunderson	McDade
Coleman	Hall (TX)	McHugh
Collins (GA)	Hamilton	McInnis
Combest	Hancock	McIntosh
Condit	Hansen	McKeon
Cooley	Hastert	McNulty
Cox	Hastings (WA)	Meyers
Cramer	Hayes	Mica
Crane	Hayworth	Miller (FL)
Crapo	Hefley	Molinari
Mollohan	Roberts	Stump
Montgomery	Roemer	Talent
Moorhead	Rogers	Tanner
Moran	Rohrabacher	Tauzin
Morella	Ros-Lehtinen	Taylor (MS)
Murtha	Rose	Taylor (NC)
Myers	Roukema	Tejeda
Myrick	Royce	Thomas
Nethercutt	Salmon	Thompson
Ney	Sanford	Thornberry
Norwood	Sawyer	Tiahrt
Nussle	Saxton	Torkildsen
Oberstar	Schaefer	Towns
Ortiz	Schiff	Traficant
Orton	Seastrand	Upton
Oxley	Shadegg	Visclosky
Packard	Shaw	Vucanovich
Parker	Shuster	Walker
Paxon	Sisisky	Walsh
Payne (VA)	Skeen	Wamp
Pickett	Skelton	Watts (OK)
Pombo	Smith (MI)	Weldon (FL)
Pomeroy	Smith (NJ)	Weller
Porter	Smith (TX)	Wicker
Portman	Solomon	Wilson
Poshard	Souder	Wolf
Pryce	Spence	Young (AK)
Quillen	Spratt	Young (FL)
Quinn	Stearns	Zeliff
Radanovich	Stenholm	Zimmer
Regula	Stockman	
Richardson	Studds	

NAYS—134

Abercrombie	Hastings (FL)	Payne (NJ)
Ackerman	Hefner	Pelosi
Baesler	Herger	Peterson (MN)
Barrett (WI)	Hinchey	Petri
Becerra	Jacobs	Rahall
Beilenson	Johnson (CT)	Rangel
Berman	Johnson (SD)	Reed
Bevill	Johnston	Rivers
Bonior	Kanjorski	Roth
Brown (CA)	Kaptur	Roybal-Allard
Brown (FL)	Kennedy (MA)	Rush
Clay	Kennelly	Sabo
Clayton	Kildee	Sanders
Clement	Kleczka	Scarborough
Collins (IL)	Lantos	Schroeder
Collins (MI)	Leach	Schumer
Conyers	Levin	Scott
Costello	Lewis (GA)	Sensenbrenner
Coyne	Lofgren	Serrano
DeFazio	Lowey	Shays
DeLauro	Luther	Skaggs
Dellums	Maloney	Slaughter
Deutsch	Markey	Smith (WA)
Dingell	Matsui	Stark
Dixon	McCarthy	Stokes
Dunn	McDermott	Stupak
Durbin	McHale	Tate
Engel	McKinney	Thurman
Eshoo	Meehan	Torres
Evans	Meek	Torricelli
Farr	Menendez	Velazquez
Fattah	Metcalf	Vento
Filner	Mfume	Ward
Foglietta	Miller (CA)	Waters
Ford	Minge	Watt (NC)
Frank (MA)	Mink	Waxman
Furse	Moakley	White
Gejdenson	Nadler	Whitfield
Gephardt	Neal	Williams
Gibbons	Neumann	Wise
Gordon	Obey	Woolsey
Gutierrez	Olver	Wyden
Gutknecht	Owens	Wynn
Hall (OH)	Pallone	Yates
Harman	Pastor	

NOT VOTING—9

Fields (LA)	Riggs	Volkmer
Peterson (FL)	Thornton	Waldholtz
Ramstad	Tucker	Weldon (PA)

☐ 1645

The Clerk announced the following pair:

On this vote:

Mrs. Waldholtz for, with Mr. Ramstad against.

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

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report to accompany S. 395.

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

There was no objection.

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

Miss COLLINS of Michigan. Mr. Speaker, during rollcall votes numbers 765, 766, 767, and 768 taken on November 7, 1995, and relating to House Joint Resolution 69, House Joint Resolution 110, House Joint Resolution 111, and House Joint Resolution 112, I was unavoidably detained due to the concellation of my scheduled air flight.

Had I been present, I would have voted ''aye'' on each of the said votes.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1996

Mr. DREIER. Mr. Speaker, by the direction of the Committee on Rules, I call up House Joint Resolution 257, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 257

Resolved, That immediately upon the adoption of this resolution the House shall without intervention of any point of order consider in the House the joint resolution (H.J. Res. 115) making further continuing appropriations for the fiscal year 1996, and for other purposes. The previous question shall be considered as ordered on the joint resolution and any amendment thereto to final passage without intervening motion except (1) one hour of debate on the joint resolution, which shall be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and (2) one motion to recommit, which may include instructions only if offered by the minority leader or his designee.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my good friend, the gentleman from Woodland Hills, CA, Mr. BEILENSON, pending which I yield myself such time as I may consume.

(Mr. DREIER asked and was given permission to revise and extend his remarks, and to include extraneous material.)

Mr. DREIER. Mr. Speaker, this rule provides for consideration of House Joint Resolution 115, a continuing resolution making appropriations for fiscal year 1996 through December 1, 1995.

This modified closed rule provides for consideration of the joint resolution in the House, any rule of the House to the contrary notwithstanding, with 1 hour of general debate divided equally between the chairman and ranking minority member of the Committee on Appropriations.

Finally, the rule provides for one motion to recommit with or without instructions. The motion to recommit may include instructions only if offered by the minority leader or his designee.

Mr. Speaker, it is clear that we do not need a poll or a focus group to know what the American people want from the Federal Government. As General Powell said just a few minutes ago, the American people want a government that lives within its means. Instead, just talk to people in any shopping mall or grocery store. They want the Government to balance the books and to stop burdening their children with debt.

Only the most out-of-touch Washington liberals do not agree that chronic deficit spending must come to an end.

Mr. Speaker, the American people should take heart in two facts. First, despite what the defenders of big Government claim, it is possible to spend $1.5 trillion in a manner that meets our national priorities while reaching a balanced budget in 7 years. It can be done without reducing spending on important programs.

Second, this Congress is dedicated to following through with its promises. Mr. Speaker, we promised to balance the budget. We promised to reform the welfare system. We promised tax relief to families with children. We promised to cut the capital gains tax rate to encourage job creation and increase wages. We promised to save Medicare for a generation of retirees.

Mr. Speaker, as you well know, this Congress will keep those promises. While we know what we have to do, the process does take time. Restoring fiscal sanity to Government is the most significant change in American politics in decades. We are dedicated to looking at every program to make improvements and reduce wasteful spending. We are listening to people throughout the country to learn different approaches that we need to meet the needs within the constraints of a balanced budget. This all does take time.

Mr. Speaker, I would note that one reason balancing the budget is taking so much time is that the Government bureaucracy is actively fighting the efforts of their boss, the American people, to balance the books.

The greatest example that I saw was in yesterday's Washington Times and other press reports which have indicated that the Secretary of the Department of Veterans Affairs is sending partisan, self-serving, big-government propaganda to VA civil servants using Department resources.

The most shocking example was that the Secretary has been taking the propaganda put together by the President's political hacks and printing it on VA employee's pay stubs. Does anyone wonder why the Department of Veterans Affairs did not print on the pay stubs that without the 7-year balanced budget plan passed by Congress, we will mortgage the future of American children with an additional $1.2 trillion in debt? This is a gross example of the pervasive practice of Government agencies lobbying to maintain the debt-ridden budget process.

The appropriations process is caught up in this historic budget confrontation. Two appropriations bills have been signed by the President. The remainder are at various stages in the legislative process, including some under a threat of veto. In September, the Congress passed a responsible continuing resolution to keep the discretionary operations of the Federal Government from shutting down at the start of the fiscal year. It is again our intention to keep things going as we work all of the spending bills through the full process.

Mr. Speaker, the American people can rest assured that this continuing resolution is fiscally responsible. Funding is at a lower level than the current continuing resolution and below fiscal year 1995 amounts. However, we are not replacing the regular appropriations process. It is still critical to pass those bills and reorder the priorities of the Federal Government away from outdated bureaucracies and in favor of working families.

Mr. Speaker, as we work to make all of the changes that need to be accomplished to make the Federal Government serve people rather than the other way around, we do not need unnecessary Government shutdown to complicate our task. Therefore, I urge my colleagues to support this rule and support the joint resolution.

Mr. Speaker, the sooner we get through this, the sooner we can get back to the critical work of balancing the Federal budget, saving the Medicare system from bankruptcy, ending welfare as we know it, and implementing a growth-oriented tax cut that will create more jobs and increase the take-home pay of American workers.

Mr. Speaker, I submit the following for the RECORD.

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

[As of November 7, 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	52	68
Modified Closed[3]	49	47	18	24
Closed[4]	9	9	6	8
Total	104	100	76	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 November 7, 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).

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

[As of November 7, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
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. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
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).
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	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	

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

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, October 12, 1995.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: From 1977 to 1987, it was common practice to include entire appropriations bills in full-year continuing resolutions. Listed below (by calendar and fiscal years) are those bills carried in continuing resolutions for the full year:

Calendar year 1977 for fiscal year 1978—1 bill—Labor-HEW.

Calendar year 1978 for fiscal year 1979—1 bill—Energy and Water.

Calendar year 1979 for fiscal year 1980—3 bills—Foreign Operations; Labor-HHS; and Legislative.

Calendar year 1980 for fiscal year 1981—4 bills—Labor-HHS; Legislative; Commerce-Justice; and Treasury-Postal.

Calendar year 1981 for fiscal year 1982—4 bills—Commerce-Justice; Labor-HHS; Legislative; and Treasury-Postal.

Calendar year 1982 for fiscal year 1983—6 bills—Commerce-Justice; Energy and Water; Foreign Operations; Labor-HHS; Legislative; and Treasury-Postal.

Calendar year 1983 for fiscal year 1984—3 bills—Agriculture; Foreign Operations; and Treasury-Postal.

Calendar year 1984 for fiscal year 1985—8 bills—Agriculture; Defense; District of Columbia; Foreign Operations; Interior, Military Construction; Transportation; and Treasury-Postal.

Calendar year 1985 for fiscal year 1986—7 bills—Agriculture; Defense; District of Columbia; Foreign Operations; Interior; Transportation; and Treasury-Postal.

Calendar year 1986 for fiscal year 1987—all 13 bills.

Calendar year 1987 for fiscal year 1988—all 13 bills.

Since 1988, bills have not been carried for a full year in a continuing resolution except for the Foreign Operations bill in fiscal year 1992. In addition to the above, in calendar year 1950, 10 bills were included in the ''General Appropriations Act, 1951. The only general bill not included was the District of Columbia bill.

Sincerely,

BOB LIVINGSTON, *Chairman.*

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

Mr. BEILENSON. Mr. Speaker, I thank my colleague from California [Mr. DREIER] for yielding the customary half-hour debate time to me.

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

Mr. Speaker, we strongly oppose this closed rule and the resolution it seeks to make in order. Let me begin by reminding my colleagues that we are debating this rule today for one reason and one reason only, and that is that Congress has not done its job.

Even though we are already 1 month into the new fiscal year, only 5 of the 13 appropriations bills have been passed by this Congress and sent to the President. Two have been signed into law. Two more await the President's signature, but the other nine bills are still being worked on in the Senate or in conference, and most have been delayed by the nongermane, extraneous, irrelevant legislative provisions that the majority has allowed to be included in appropriations bills despite the fact that they had to waive our rules to do so, and that now are causing intractable disagreements between Republican

Members of the other House and Republican Members of this House.

Mr. Speaker, what we ought to be doing today is voting on a continuing appropriations measure that is a clean, straightforward extension of funding for the Government until the remaining 11 regular appropriations bills are passed and signed into law.

Unfortunately, we will not have that opportunity if this rule is adopted. When the distinguished gentleman from Louisiana [Mr. LIVINGSTON], chairman of the Committee on Appropriations, appeared before the Committee on Rules last night, he said, quite correctly, that passage of a continuing resolution is necessary in order to expedite the business of the House. But the gentleman came to us burdened by his leadership with the so-called Istook provision that prohibits any recipient of a Federal grant from spending any Federal funds on political advocacy, and that limits the amount of private funds that Federal grantees may use for political advocacy.

The Istook proposal may or may not be something that this Congress should pass; a great many of us believe it is not. But that is not the point. The point is that this language, which is strongly opposed by many in both Houses of Congress, has no business being included in this continuing appropriations resolution. It should be voted on separately, in the normal course of legislative business, like any other legislative proposal.

Its inclusion here by the Republican leadership, in order to pacify some of its newly elected, is an unworthy and mischievous act, and one that is calculated to prevent either passage of this bill by the Senate or its signing into law by the President.

Mr. Speaker, I say to my Republican friends that this action of theirs does not make much political sense either. The public does not understand this kind of game playing. We Democrats learned that the hard way and my Republican colleagues would be well-advised to take note and learn from our mistakes.

All the public sees, and will see, is a Republican-controlled Congress that is incapable of doing Congress most basic work: Passing appropriations bills. My colleagues are failing in their responsibility of governing, because they are bowing to ideological pressures within their own caucus that are going to make it very, very difficult, if not impossible, for them to govern effectively.

We know the other body will not accept the Istook language. They made it clear that they will not agree to this language on a separate appropriations bill. Indeed, many of our colleagues in the majority in this body oppose the Istook amendment. They will oppose this rule because it does not allow a separate vote to strip the language out of this measure. They state, quite correctly, that Congress has no business restricting the ability of businesses, private universities, and charitable organizations to participate in national and community affairs.

Mr. Speaker, some of our colleagues may hope that, by including the Istook language in this critical funding bill, they will force the President to accept this proposal or else shut down the Government services and programs that Americans depend on. But we believe this bill will not even get to the President's desk and that all we are doing is unduly extending a process that can, and should, be expedited.

We also should not be including the provision affecting the Medicare part B premium increases in this bill. That is a matter that is being addressed in the budget reconciliation bill, and that is where this provision making permanent changes in the law belongs.

Mr. Speaker, we ought not be playing these political games while holding the entire Government hostage. If the majority is seriously interested in preventing a costly shutdown of the Government, and doing that in the most expeditious manner possible, it will reconsider its decision to bring this legislation to the floor under this closed rule.

What we should be doing today, as I said earlier, is voting on a clean, unencumbered continuing resolution. If one were before us,it would pass easily. Democrats would vote for it, as would a great many Republicans.

It would give our colleagues, the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY], and their colleagues on the Committee on Appropriations, time to resolve, with the President and with the Senate, most if not all of the remaining differences they have on the remaining appropriations bills.

Mr. Speaker, in the recent past, when Democrats were in charge around here, we usually did the right thing on these appropriations matters, at least. We did not attach partisan items to continuing resolutions. The House, as a matter of fact, passed 8 continuing resolutions in the last two Congresses, all of which were clean. Most did not even need a rule. They were considered under unanimous consent requests.

That is what we should be doing today if the majority really wants to get down to tending to the Nation's business. The country is obviously waiting for leadership, and for us to end these types of political games.

Mr. Speaker, I urge Members to turn down this rule and to turn, instead, to carrying out in a serious and responsible manner our duty to govern this great Nation.

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

□ 1700

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Glens Falls, NY [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Claremont, CA, for yielding time to me.

Mr. Speaker, I rise in support of this rule. The existing continuing resolution runs out at midnight next Monday, November 13. The President has actually signed only 2 of the 13 general appropriation bills. That is the military construction and the agriculture bill, I believe. Congress has completed action on three additional bills, energy and water, the legislative branch, and the transportation bill. The remaining eight are in earlier stages of the legislative process, thanks to perhaps a lack of rules over in the Senate. Therefore it is absolutely clear that the additional time will be needed to complete the remaining bills.

This rule provides for consideration of the continuing resolution which will provide that additional time. This joint resolution extends funding for those Government agencies which are not covered by an enacted appropriation bill until midnight on Friday, December 1. That is shortly after we get back from the Thanksgiving break.

In addition to providing time, this continuing resolution includes several other very important issues. Of special significance is the Simpson-Istook-McIntosh provision which is designed to restrict a particularly outrageous waste of taxpayers' dollars.

Mr. Speaker, there are a large number of organizations which apply for Federal Government grants and receive taxpayer dollars. Then those same organizations turn around and they spend large sums of money lobbying the Federal Government to support their particular interest and, even worse, to lobby for more money. More, more, more, and more, that is all we ever hear around here. That is how we got into this fiscal mess we are in today.

In some cases, those interests are not bad things. But it seems to me that each organization should have to make a decision. Either it is going to take Government grants to perform functions that the Government needs or it is going to be a lobbying organization, in which case it should be funded with private money and not taxpayer dollars.

Mr. Speaker, nobody's freedom of speech is being denied. Any citizen can express himself or herself. However, if an organization is going to pay money for lobbying, then it should not at the same time be deriving a large portion of its funds from the Federal taxpayers' dollars, some of which may be vehemently opposed to that particular agenda. Why should the taxpayers have to pay for somebody's point of view that they do not support?

Mr. Speaker, this rule before us today provides a fair procedure for consideration of the continuing resolution. To those who would argue that other amendments should be made in order on this bill, I would note that in the last Congress, controlled by the other

party, there were two rules on continuing resolutions and they were both closed rules.

In the previous Congress, also controlled by the other party, there was one rule on a continuing resolution and that was a closed rule as well. It is certainly true that we have in this Congress had more open rules than in previous Congresses, way more, almost double, but it seems to me that this one situation where a motion to recommit with instructions in sufficient to protect the rights of the minority.

For all those reasons, Mr. Speaker, I would ask my colleagues to support this rule and then come out here and vote for this continuing resolution.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I must say, every day I think I cannot hear anything more ridiculous but here we are. I am hearing things more ridiculous. Let me tell my colleagues what is happening. Imagine when you were in school showing up when your homework was 39 days late and asking for extra bennies. When the homework was due, only 2 out of 13 bills were done. Thirty-nine days later, you only have 5 of the 13 done, and I guess it is 4, I am corrected. We did not quite get to 5. So 4 out of 13 have been finished. It is only about 12 percent of the budget. And so the Gingrich Republicans have the chutzpah to say, just to continue Government going, we would like a few things put in here as like a bonus for not having done their homework.

No. 1, they would like the people who are on Medicare to pay about $11 more a month on their Medicare part B premiums. So Medicare part B goes up $11 a month because we did not get our homework done. That is nice. Then they would like to continue on the Istook gag-arama event, which says we have got to gag everyone in America. Heaven forbid people should be able to come here and petition their Government like the Constitution says. These people that wrote the Constitution must have gotten it wrong. We cannot let people in here.

If this Istook amendment goes through, it is going to be very serious. Let us talk about just Colorado. One little group, Project Safeguard, I worked very hard with them to find out what was going on in domestic violence issues and how well Government was out and enforcing different orders for battered women. They are not going to be able to come and talk anymore because they are going to be gagged.

Everybody is going to be gagged. I guess that will give us more time to sit around here and vote on things like who is going to be on the board of directors of the Smithsonian and avoid real homework.

This is unbelievable. Here we are, 39 days after we were supposed to have this done, we are nowhere close to done. Government is hanging by its fingernails and they want all these special things that they cannot get in the front doorway through the back door.

Please wake up. Please vote no against this rule. Bring up a clean continuing. I think we deserve a much better Government than that, and I think our young people deserve a much better example than that. Try and get your kids to do your homework, if you do not, Congress.

This is outrageous.

Mr. DREIER. Mr. Speaker, I yield 4 minutes to the gentleman from Oklahoma City, OK [Mr. ISTOOK], a member of the Committee on Appropriations.

Mr. ISTOOK. Mr. Speaker, I rise in support of the rule and of the underlying legislation.

Mr. Speaker, I am pleased that we have within this legislation what is now being referred to as the Simpson-Istook amendment. Trying to correct the difficulty that we have with some $39 to $40 billion each year in taxpayers' money that is being used for taxpayer-subsidized grants to groups that unfortunately too often use that to help them come to Congress and ask for more money lobbying at the expense of the public.

I am sorry that the gentlewoman from Colorado has fallen prey to misrepresentations that many people have made. For example, someone who has the audacity to call this a gag rule because you see, they do not want to have to use their own money without Federal subsidies. They want the freedom to dip into the taxpayer's pocket and extract money from the taxpayer to promote their activity, to promote their political agenda, to help them with lobbying political advocacy.

I say, Mr. Speaker, that is something that they should expect to do without expecting a subsidy from the taxpayer.

We have, for example, one group, the National Council of Senior Citizens. Mr. Speaker, they get $73 million each year from Uncle Sam, from the taxpayers of the United States. That is 96 percent of their budget. Yet it is this very same group that is currently bragging to its members saying, we are engaging in a multimillion-dollar TV campaign trying to affect what is going on in Congress, saying that we are getting hundreds of thousands of people to contact Congress and contact the White House and promote the political agenda of the National Council of Senior Citizens.

Mr. Speaker, this is a group that gets 96 percent of its budget from the taxpayers. And yet they are a major lobbying group in Washington, DC. This legislation does not prohibit anybody from petitioning the Government for redress of grievances or from carrying on a political agenda. But it says, if they expect to receive taxpayer subsidies, which they have chosen to ask for, which they have chosen to accept, then they should limit the scope of their political activity.

We have applied an existing Internal Revenue Service formula that has been used for nonprofits called the 501(h) rule that gives them a $1 million cap. I ask, Mr. Speaker, what group that is dependent upon the taxpayers thinks that they need to spend more than $1 million a year in lobbying?

In addition, Mr. Speaker, for groups that are heavily dependent upon the taxpayers that receive more than a third of their budget from the taxpayers, we have a lower cap.

I realize there are groups which are dependent upon taxpayers' money that have been trying to whip into a frenzy charities across America. But, Mr. Speaker, we have an exemption in this bill that exempts 96 percent of the charities in this country from any limitation. That is the provision which states that only if they expend more than $25,000 in political advocacy do they come within any of these percentage limitations whatsoever. Niney-six percent of the 501(c)(3)'s in the United States, according to their submissions to the IRS, do not spend that much. It is a smaller number that has been abusive, and we are trying to target that abuse.

Mr. Speaker, I hope that no one will believe the ridiculous lies and accusations that have surrounded this issue because so many groups are so desperate to retain their hold on the taxpayers' wallet. I, therefore, urge Members to support the rule and, of course, to support the underlying resolution.

Mr. BEILENSON. Mr. President, I yield 3 minutes to the gentleman from Florida [Mr. GIBBONS], the distinguished ranking member on the Committee on Ways and Means.

Mr. GIBBONS. Mr. Speaker, we are here tonight to transact business because the Republican Gingrich party has proven that it just cannot run this place. We are doing tonight what should have been done in July and August. One appropriation bill has become law. There are 12 floating around out there someplace that will, I hope, eventually become law. Maybe they will not. But we are doing more than just patching up that hole. We are out to, the GOP is out to get the old people again. The GOP is out to get the old people again.

The GOP is increasing their Medicare payments by $151 that they have got to pay every year or, for a small couple of Medicare beneficiaries, by over $300 per year in this resolution tonight. And all that really does is just reduce the Social Security benefit by that much money, because this money is automatically deducted before the Social Security payments go out from the Social Security beneficiaries. And to think that there are 8 million women, widows or single, that live on Social Security that get less than $8000 a year. But they are going to charge those 8 million women $151 a year more to get the same or less Medicare benefits than they get today.

The good old party is at it again, the get the old people party is at it again. I cannot believe that they have talked

all this time about trying to gag the Girl Scouts over there and have not even mentioned all of the 40 million people who are on Medicare who are getting stuck at least $151 a year in additional payments that they have got to make.

It is time to put an end to this stuff. I hope that the voters will go to the polls, Mr. Speaker, and throw you out of that chair. You cannot run this place. You have got no heart, and you have got no program that makes any human sense.

Mr. DREIER. Mr. Speaker, I yield 5 minutes to my friend, the gentleman from Bakersfield, CA [Mr. THOMAS], one of our GOP leaders, the chairman of the Subcommittee on Health.

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

Mr. THOMAS. Mr. Speaker, I thank my friend from California for yielding time to me.

I had not planned to talk during the rule debate. I will talk on the continuing resolution. But I do have to say that the continued outbursts from the gentleman from Florida have to be answered. What he did not mention, of course, in this continuing resolution was the fact that we discovered that Medicare does not pay for orally ingested drugs for certain types of breast cancer. If you inject it, it can be paid for. If it is taken orally, it does not. Why should we wait for a provision that fits it in a more general structure to move a decision and tell Medicare to provide those oral drugs for certain types of breast cancer? First, it will save lives. Second, it actually saves $157 million over 7 years. I will confess, that is on this CR. We thought it made sense.

□ 1715

In addition to that, for men who suffer from prostate cancer, and in fact it is incurable, there is a procedure, a medical procedure, which significantly eases the pain and prolongs life. It is a combination of injectable hormone drugs and orally taken hormone drugs. Medicare similarly will not pay for the orally taken drugs. Why? Because it is an old-fashioned system that needs to be updated.

Again we could wait for the updated procedure and have some people needlessly die. What we have done is included it on this CR so that we will tell the doctor that, if the program is a combination of injectable and orally taken hormone drugs to assist in easing the pain and prolonging someone's life who is suffering from prostate cancer, let us not wait around, let us move it on the first available product. That is in this CR.

In addition to that, we have said that it makes no sense whatsoever to blindly let law go forward, reduce the premiums to seniors, and then increase them later when we have to pay the piper. The argument that somehow Republicans are heartless because we have a program to save Medicare and part of the solution is asking seniors to stay with the current premium payment on part B; the seniors' groups themselves have said it is not an issue. As a matter of fact, in September in front of the subcommittee in many, many of the hearings, more than a dozen and a half that we had, the President of the AARP, Mr. Eugene Lerman, said:

> The House leadership proposal indicates that Medicare's part B premium would be set at 13.5 percent of the program costs. That's the current rate. Maintain the current rate. And the new affluence test premium would be imposed on higher income beneficiaries, meaning those people who can pay who are wealthy. This is a volunteer program, ought not to continue to be subsidized by young people who are paying taxes into the general fund, that if these people are wealthy enough to pay for this voluntary premium, they ought to pay for it.

He goes on to say—

> The outline goes on to say there would be no change in Medicare copayments and deductibles. We held the line. Just keep them at the current premium. That would be the fair-share responsibility of seniors in solving the bankruptcy question under Medicare.

What they said was, ''AARP is pleased that the proposal would limit these direct increases in beneficiary out-of-pocket costs.''

Now what the Democrats want to do is be irresponsible, and demagog the issue, and get people to believe that they can in their old-fashioned way tell seniors they can pay less and they can keep the program. The program is going bankrupt. We have got to change the way we do business. The way they did business has bankrupted the program. We have to change the way we do business. It makes no sense whatsoever to sit blindly by waiting for the right vehicle to lock in the current rate that the seniors themselves have said is an acceptable rate. Instead it will blindly go down, and no one believes that we can reduce the premium to seniors and save the program.

What we have said is it is a fair-share responsibility structure, no copayments, no increase in the deductibles, but hold the line. Even the seniors say this is reasonable, but the Democrats, looking for arguments, looking for issues, say this is unfair. What is unfair is the irresponsible way Democrats continue to pander to seniors thinking that somehow will put them back in the driver's seat. Do my colleagues not understand they wrecked the car when they were in the driver's seat?

Mr. Speaker, what we have got is a solution to the program, and the seniors are agreeing it is a fair-share responsibility.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. STARK].

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

Mr. STARK. Mr. Speaker, the gentleman who preceded me in the well began to sell the preposterous issue that they voted to protect seniors or they will in this bill. It is wrong. That gentleman that was in the well and all Democrats, save one, voted to cut out an increase in prostate cancer screening to the level required by the National Cancer—because they want the extra $3 billion to give to the doctors in a late-night payoff that Speaker GINGRICH was making to the AMA. They vote against giving women annual mammograms, as required, because they did not have the money, and they come here and tell us that in this CR they are going to help the seniors. Nonsense.

Pay the piper? They are paying off the rich Republicans in tax cuts. That is why they need to increase $300 a year in the part B premium to the average senior in this country, and it will happen on January 1, 1996. None of that increase goes to save the Medicare trust fund. It all goes to pay tax cuts for the rich. None of the part B premium increase goes into the trust fund.

Let us get it straight. This is a sneaky way to increase the part B premium on the seniors. It kicks up their premium to $104.30 a month. It is more than even in the House-passed Republican reconciliation bill. They did not have enough money at the last minute.

Mr. Speaker, they cannot add straight, they cannot get to 20 with their shoes and socks on, they cannot run the Government, and they do not understand Medicare, so when they fail, they stick it to the seniors once again, and they stick it to the poorest of the seniors unfairly. They cut out their cancer screening so they could pay off the doctors big time. They increase the amount that poor seniors will have to pay so they can give tax cuts to the rich. It has got to stop. We cannot let them get away with this in the dead of night, trying to sneak these increases through on a continuing resolution.

Vote down the rule. Make them run this place the right way. make them tell the seniors how they are gouging them up front, how they are cutting back on their cancer screening, and how they are raising this money for tax cuts for the rich, and let us see if they dare vote up front to raise the part B premium for tax cuts for the rich. They do not have the nerve to vote for that.

Vote down the rule.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. GOSS], my friend from Sanibel who is chairman of the Subcommittee on Legislative and Budget Process.

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

Mr. GOSS. Mr. Speaker, I thank my friend from greater San Dimas for yielding me this time. Mr. Speaker, as the Chairman of the Rules Subcommittee on the Legislation and Budget Process, I understand the concerns raised about coming to the floor with a second continuing resolution.

I know many people are confused about these procedures—perhaps even some of our Members. Our subcommittee is currently engaged in an examination of the entire budget process. There have been several helpful proposals on ways to improve and clarify the process, including the Barton-Stenholm-Cox package introduced today that would provide for an automatic mechanism to keep the Government running in these situations. But here and now, the fact is that we are facing two problems: first, spending for most agencies has not been given final approval. A stop-gap measure, a continuing resolution is needed to prevent a partial Government shutdown. Second, the Treasury is rapidly approaching the debt ceiling—a type of credit limit established by law. Unless this limit is extended, the Federal Government's ability to make payments on everything from Treasury bill interest to Social Security benefits will be limited.

The House is scheduled to address the debt limit tomorrow. It is our promise that in 7 short years we will no longer have to worry about increasing the Government's borrowing authority, because our budget will be balanced and the cash coming in will be equal to what is paid out.

But the important point to remember today is that unlike past years, Congress is considering a continuing resolution that is consistent with a balanced budget, not an ever-growing multibillion-dollar deficit.

But Mr. Speaker, this continuing resolution is certainly not a new phenomenon—indeed since the 1974 Budget Act became law we have seen many continuing resolutions. The last time Congress passed a reconciliation bill, in 1993, a total of four continuing resolutions were needed before the appropriations process was completed. In other years, entire appropriations measures have been funded simply through continuing resolutions. I commend Chairman Livingston and the Appropriations Committee members for the tremendous work that they have done in passing all 13 appropriations bills in the House, and in crafting this particular continuing resolution to meet the legitimate needs of the Federal Government, while taking steps to ensure that spending in this resolution stays well within the parameters to meet our balanced budget target in 2002.

Mr. Speaker, Congress faces a simple choice: pass this limited extension of the continuing resolution, or allow a partial and unnecessary shutdown of the Federal Government. The clear and responsible path is to approve this measure and get on with our pressing business. I urge my colleagues to support this rule. It fairly and timely brings this vital bill to the floor.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the 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 strong opposition to this rule. We are now 39 days into the new fiscal year, yet only 2 of 13 spending bills have been signed into law. Today, instead of moving the process along, we will again dawdle over unrelated issues such as the Istook amendment that has nothing to do with the budget and is unconstitutional and un-American. Because they can never get this legislation enacted because of its own demerits, the gentleman from Oklahoma [Mr. ISTOOK] and his supporters are willing to shut this Government down in order to shut the American people up.

But I do not want to be unfair. The Istook language says it is OK to speak if we follow generally accepted accounting principles, subject ourselves to a Federal audit, assume the presumption of guilt, and hold ourselves out to harassing lawsuits by individuals acting as private attorney generals. Then it is OK to speak.

I urge my colleagues strongly to vote against this rule. It represents everything bad in a closed and autocratic system.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida [Mrs. THURMAN].

Mrs. THURMAN. Mr. Speaker, I rise today to oppose both the Medicare premium increase and the Istook provision that were attached to the continuing resolution late last night. It is astounding that the Republicans believe they can double senior citizens' Medicare premiums in a must-pass bill. The Medicare increase has not even been signed into law, but the Republicans claim they need to force the President to approve it in order to get computers updated. This is outrageous. Are we going to force our seniors to pay for the tax break for the wealthy under the guise of updating computers?

Seniors know what is going on, but the Republicans are afraid of well-informed citizens. As if the Medicare provision was not bad enough, the continuing resolution also contains the so-called ''revised'' Istook amendment. Istook will sever a vital link between the people and their Government. Seniors and their advocates will have no opportunity to speak out on those matters that directly impact their lives. This is a clearly unconstitutional attempt to gag the voices of citizens who want to exercise the most basic American guarantee; the right to petition their Government. For our seniors and to preserve our basic rights as Americans, vote against the resolution.

□ 1730

Mr. BEILENSON. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, yesterday, as millions of Americans across this country were sending a message to this Republican Congress to reject the Medicare cut plan, the Committee on Rules was meeting here in the Capitol to approve this rule, to call up a bill to raise premiums for Medicare recipients in January of this coming year. Will one dime of that raise in premiums go into the Medicare trust fund? No, it will not. It will go to pay for tax breaks for those at the top of the economic ladder.

The Republicans simply do not want to hear the complaints of the American people who say, ''You broke your promise when you said you would not cut Medicare and Social Security. You are cutting it, you are raising our premiums. We will have to pay more and get less for health care.''

Of course, they have been accomplishing all of this through their secret task forces. Now they are meeting in secret here in the Capitol. We even had bloodhounds out this afternoon trying to sniff out their secret meetings, because they do not want to do it in the bright light of day.

There is a direct connection with this so-called Istook amendment. Which lobby groups in America did they go after? The loophole lawyers? The people who put all the pork barrel in these appropriations bills? No, they are after the Girl Scouts and the Red Cross, those very dangerous groups like the Girl Scouts; and in this case, the National Council of Senior Citizens, because they had the courage to speak out against these Medicare cuts, and they just happened to administer a program with Federal money to help provide jobs for our seniors, the same people that are going to need these jobs after these Medicare cuts go into effect.

Mr. BEILENSON. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from California [Mr. WAXMAN].

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

Mr. WAXMAN. Mr. Speaker, I take this time to comment on the incompetent management of this House by the Republican leadership. We have had bills pushed through without hearings, without an opportunity for debate, without a chance to offer amendments.

Today we have before us a continuing resolution, because the regular appropriations bills have not been passed in the regular order of the process in the Congress. Attached to this continuing resolution are two very offensive amendments. One is the Istook amendment, which would deny the opportunity for groups to lobby their own Government with their own funds. The second is the Medicare premium increase. This is an increase of premiums from $46.10 a month to $55, an increase of almost 20 percent of monthly payments by the elderly. Why this increase? It is certainly not to reform Medicare, it is not to protect the solvency of the hospital trust fund. It is, pure and simple, a way to take more

money out of the pockets of the Medicare beneficiaries.

Mr. Speaker, I find this whole way of conducting business unprecedented. The Istook amendment is tremendously offensive. We will have no opportunity to offer amendments to this intrusion into the first amendment rights of American citizens. I urge opposition to the rule, I urge opposition to the underlying continuing resolution, and I would hope the Republican leadership would try to get their act together, get the bills on the floor, give people a chance to debate them, and move through a regular, normal process.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise in strong opposition to the rule and in particular to the provisions in the continuing resolution which would enact one of the largest Federal regulatory structures in our history. I am disappointed that the Istook amendment was included in this resolution. The Silence America amendment is the most excessive, intrusive government regulation ever proposed. Republicans ran on a platform of less government, and now they want to impose a regulation that would affect more than just nonprofits, it goes so far as to regulate individuals and organizations which get something directly or indirectly from the Federal Government.

Mr. Speaker, this provision will prevent charities and organizations like Mothers Against Drunk Driving, and the YMCA from conducting their charitable mission. The Istook amendment is government overregulation at its worst.

And while this continuing resolution would allow government to interfere with the work of worthy charities and nonprofits, it tells millions of working families that government will barely lift a finger to help pay for heating.

Winter is fast approaching in my part of the country, but by cutting LIHEAP, the low-income heating program, we would force families to choose between paying for heat and paying for basic necessities.

Mr. Speaker, this continuing resolution does not represent basic fairness, and it certainly does not show good commonsense. I urge my colleagues to oppose this resolution and oppose this rule.

Mr. DREIER. Mr. Speaker, we have been listening to some pretty vitriolic attacks which have really obfuscated the issue.

To clarify it, I am happy to yield 2½ minutes to the gentleman from Metairie, LA [Mr. LIVINGSTON], chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Speaker, I thank my friend, the gentleman from California, for yielding time to me.

Mr. Speaker, I love to hear the other side talking about how the process is not working. My goodness, you would think that they had never heard of a continuing resolution. When you look at the historical record of appropriations activities and find out that between 1977 and 1987, for example, when they controlled the House of Representatives, the Government operated on something like about 35 to 40 continuing resolutions. In some years, 1987 and 1988, the total appropriations process operated under continuing resolution for both entire years. It is ironic that we would hear some of these arguments.

For the folks on my side, I would have to say that if Members listen to them, they can find reason why they might not like this continuing resolution. But remember, it is only for 2 weeks, for crying out loud. The world is not going to come to an end if this continuing resolution passes. In fact, quite the contrary. This keeps Government business going. This continuing resolution is important to keep Government business going, and if the Members on our side vote against this rule, they give the other side ammunition for the argument that we cannot govern.

We are governing. The President, for some unforeseen and unknown reason, vetoed one of our bills. We decided we are not going to give him any more cheap vetoes. We have all of our bills working through the process, and within a very short period of time, perhaps within the next 2 to 3 weeks, we will have all the bills to him and he can sign them or he can exercise his right to veto them. But the process is moving. If this rule does not pass and if this continuing resolution does not pass, then the process stops, and then there will be a break in our work, but that is what the other side wants.

We have to show that we are governing. We need a little bit more time. We need another continuing resolution, and in order to get that continuing resolution we need this rule to pass.

Mr. Speaker, I just want to tell my friends, stop looking for every piece of legislation to be perfect. There is no such thing as perfect legislation. With a little bit of give on either side, we will get 90 percent of what we want. We will govern, we will balance the budget, we will stay on the glide path toward putting America back toward fiscal responsibility that the other side abdicated for 40 years, but we need to pass this rule. We need to pass this continuing resolution. We need to govern.

Mr. BEILENSON. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Wisconsin [Mr. OBEY], the ranking member on the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, this bill has been described as a bill to continue the Government. In fact, it is just the opposite. It is a bill to bring the Government to a halt. If indeed this bill was intended to continue the Government, it would not come before us slashing education, cutting veterans' benefits, tying up every charity in the country, virtually, in red ink, jacking up Medicare premiums, and increasing the differences between the parties. It would, instead, be trying to bridge those differences.

Eighty-nine percent of the appropriations, which are supposed to be passed before the beginning of the year, have not yet become law. We have only 11 percent of the appropriations which have passed so far. That is not the fault of the President. This bill ratchets up the pressure on the President because he has not signed bills that Congress has not sent him yet. That is a legislatively impossible act, yet that is what they are asking him to do.

There are only four bills which have passed the finish line and gotten to the White House. Two have been signed, two more will be signed. This gap for every other major appropriation bill, representing 89 percent of the total appropriated items, is the fault of the Congress, not the President, because you have had fights between the Republicans in the Senate and Republicans in the House over abortion language, over environmental language, over the Istook language. That is what is holding us up.

This bill ought to be a simple continuing resolution for 1 month, rather than having all of these bells and whistles which will just cause problems.

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

Mr. Speaker, I would simply ask of the gentleman in the well, I would ask what percentage of the appropriations bills has the President indicated he will veto, having not participated in this process at all?

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

Mr. DREIER. I yield to the gentleman from Wisconsin.

Mr. OBEY. The President has the right to review every bill, once he gets it.

Mr. LIVINGSTON. Has he threatened to veto every appropriation bill so far?

Mr. OBEY. You are trying to blame the President for not signing bills you have not been able to send him yet.

Mr. LIVINGSTON. He certainly has not given any indication whatsoever that he wants to participate in this process.

Mr. OBEY. How can the President decide ahead of time what he is going to sign?

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. MCINTOSH].

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

Mr. MCINTOSH. Mr. Speaker, let me say, I rise in favor of the rule and in favor of the underlying legislation, and address one of the particularly important aspects of this legislation. That is the amendment that will be offered by the gentleman from Oklahoma, Mr. ISTOOK, Mr. SIMPSON in the Senate, the

gentleman from Maryland, BOB EHRLICH, and myself to end welfare for lobbyists.

First, let me say this is real lobbying reform. For once we are going to say we are going to cut off the taxpayer dollars going to the big lobbying groups here in Washington. We are going to end the money laundering scheme that lets them take that money and come back and lobby us to spend more money.

Second, this reform is absolutely critical for us to reach the balanced budget. It is unbelievable, at a time when we are working to balance the budget, that people are saying we should allow $39 billion, billion with a B, in grants to go to groups who then turn around and hire lobbyists here in Washington to ask us to spend more money.

I think this proposal will allow us to balance the budget and will end the conflict of interest that has prevented Congress from doing that for 40 years. This proposal also is a reasonable compromise with Senator SIMPSON. It says we are going to screen out real charities who are doing real work and not have them be covered by these limitations, because they are already covered by the limitations in the IRS Code. But the lobbying groups back here in Washington, they will not like it, because they are going to be limited, and they are going to have a limit on using taxpayer funds to fund their lobbying operations.

Ultimately, what we need to do is to make it very, very clear that if you want to lobby, you need to do it on your own time, and with your own dime, rather than go to the taxpayer and say, ''We want grants to subsidize our lobbyists in Washington, D.C.''

Mr. BEILENSON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida [Mrs. MEEK].

(Mrs. MEEK of Florida asked and was given permission to revise and extend her remarks.)

Mrs. MEEK of Florida. Mr. Speaker, I rise in strong opposition to this particular rule, which defies seniors and defies the nonprofits back home.

Mr. Speaker, I rise in strong opposition to the Istook provision.

One of the major supporters of this provision, Mr. MCINTOSH, said at a recent subcommittee hearing that his constituents are, and I quote, ''shocked and outraged'' when he tells them how, in his words, ''tax dollars are being used to subsidize special interest's lobbying activities.''

My constituents, Mr. Speaker, are not shocked by the activities of groups like the Red Cross, the YMCA, and Mothers Against Drunk Driving. They don't consider them a special interest. But the Red Cross, the YMCA, and MADD all oppose the Istook provision because it would force them to spend time filling out Government forms instead of helping people. It would force them to defend against harassing lawsuits by people who don't like what they're doing.

Mr. Speaker, I represent a lot of farmers. My farmers may receive crop insurance payments from the Federal Government. But the Istook provision would prevent farmers from getting these grants unless they could prove that during the previous 5 years they had spent less than 20 percent of their own funds on political advocacy.

Let me tell you, Mr. Speaker, what my constituents are telling me about this provision.

One of my constituents is a trustee of the Miami Museum of Science. I have here a letter he recently wrote to me opposing the Istook provision because it would make it more difficult for the museum to obtain funds from local governments. Why are we making it harder for local charities to get funding from local governments?

Another of my constituents is chairman of the Florida Association of Nonprofit Organizations. He wrote to me that the Istook provision would require 13,000 charities in Florida to maintain detailed records on how they spend their own money—not Federal money—their own money.

But let me tell you, Mr. Speaker, what really shocks my constituents. Hurricanes! Yes, hurricanes. Under the Istook provision my constituents—such as hospitals and private schools—might not be able to get emergency grants from the Federal Emergency Management Agency to repair their facilities after they're destroyed by a hurricane. Why? Because they spend their own funds on political advocacy with State and local governments. Even if they do get the FEMA grant, they'll have to keep detailed records on how much of their own funds they spend on political advocacy.

In conclusion, Mr. Speaker, I urge those Members who come from areas which have farmers, or local charities, or natural disasters—such as floods, hurricanes, or earthquakes—to join me in opposing this shocking and outrageous provision.

Mr. BEILENSON. Mr. Speaker, I yield 4 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, I oppose this rule and this bill. As Members know, the rule includes the so-called Istook provision, an extremist idea to restrict the ability of all types of organizations to use their own funds to participate in community and national affairs. It would restrict the Red Cross, Mothers Against Drunk Driving, the YMCA, the Heart Association, and hundreds of other charities in carrying out their mission of helping folks across this Nation.

The rule denies the House the chance to strike this ugly and un-American provision from the continuing resolution. Its 22 pages are stunningly irrelevant to any continuing resolution.

It is already, illegal to use Federal funds to lobby. What this provision is really about is regulating and restricting the way charities and other groups use their own private money to speak to their elected officials about what their communities need.

□ 1745

There are many reasons to oppose it: The massive redtape and bureaucracy forced on all of the tens of thousands of affected organizations as they have to file their annual political activity reports with the Federal Government. The audits that can be imposed on all grantees, individuals, small and large charities, businesses of all sizes. This provision's incredibly broad definition of political advocacy which goes way beyond traditional lobbying to include every conceivable kind of contact with any level of government, trying to inform the public about legislation, and, if you can believe this, a definition that even attributes to one organization the political advocacy activities of another with which it does business, if the other organization exceeds these silly limits on free speech.

The bounty hunter lawsuits that this provision encourages against all of those affected: individuals, businesses, churches that are swept up by this net. And the unreasonable shifting of the burden of proof to all of those individuals, churches, charities, businesses, to prove their innocence, to prove their compliance, not by the usual burden of proof of preponderance of the evidence, but by a very much higher standard, clear and convincing.

Finally, the broad definition of ''grant,'' including not just funds, but anything of value that anyone receives from the Federal Government, again affecting literally millions of Americans.

At a time when we are asking more of charities in America, why in the world do we want to force the American Red Cross to limit its ability to work with local governments in emergency preparedness and making sure the blood supply is safe? Why in the world do we want to restrict the ability of Mothers Against Drunk Driving to work with State legislatures for safer highways? Why in the world do we want to gag the YMCA in its efforts in our local communities to improve daycare facilities and to fight the gang problem? Why, indeed?

Mr. Speaker, for these and many, many other reasons, we should defeat this closed rule, force a clear and separate vote on this misguided proposal. It is certainly the most egregious attack on the basic values of this democracy that we have seen in a long, long time.

Mr. DREIER. Mr. Speaker, I yield 30 seconds to a hardworking new colleague, the gentleman from Langley, WA, Mr. METCALF.

(Mr. METCALF asked and was given permission to speak out of order.)

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT ON H.R. 2126, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

Mr. METCALF. Mr. Speaker, pursuant to the provisions of rule XXVIII, clause 1(c), I am announcing tomorrow that I will offer a motion to instruct the House conferees on the bill H.R. 2126, to insist on sections 8102 and 8111 of the House-passed bill.

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

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

Mr. Speaker, I rise in opposition to the rule and particularly to the so-

called Istook language that is in this bill. The reputation of an excellent nonprofit company in California has been sullied because of the inflammatory and the inaccurate information being circulated by proponents of the Istook amendment. There is an organization called HANDSNET which operates in California, which was supported heavily by Governor Deukmejian and operates a national on-line electronic communication network of 5,000 human service organizations. It is entirely supported by member fees and foundation and corporate grants. They recently received a $200,000 competitive grant from the Department of Commerce on the national infrastructure issues to support the training of national human service organizations to become more computer literate. The grant was matched by $200,000 additional foundation and corporate grants.

What is being lost in this rhetoric is that HANDSNET is a carrier, a conduit vehicle, for distribution of information, not a publisher. Do not shoot the messenger; in this case, HANDSNET, just because they are delivering a message that you do not like. I ask for defeat of the rule.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to our hardworking, thoughtful new Member, the gentleman from Timonium, MD, Mr. EHRLICH.

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

Mr. Speaker, they say timing is everything in life, and certainly that applies to what I have to say today. I rise in support of the rule.

HANDSNET receives Department of Commerce grant, Mr. Speaker, $100,000. HANDSNET in turn funds calls to action. I happen to bring these calls to action to the floor today because they are the essential element of this initiative. HANDSNET receives NTIA grant, Mr. Speaker, and then we get to the calls to action. Urgent: Save child nutrition programs, block Republican block grants. Oppose dismantling affordable housing, Mr. Speaker. Victory over Istook gag rule, Mr. Speaker. Slaughter resolution recording false document, Mr. Speaker. Stop English-only proposals in Congress, Mr. Speaker. Budget bill bad for family farms, Mr. Speaker. Istook amendment status update, stop budget reconciliation bill. Istook amendment, call your representatives. Efforts to kill Istook amendment are paying off.

Folks, these are your tax dollars used by one organization. It is exactly why this element is on the floor today; it is exactly why the majority feels as it does. Mr. Speaker, this is all about taxpayer-funded lobbying, it is all about writing this dirty little secret in this town. Mr. Speaker, it is all about accountability, and Mr. Speaker, at a bottom line, it is all about restoring the sense of mission that true charities, not this one, Mr. Speaker, but true charities who are truly interested in helping those in need in our society today.

Mr. BEILENSON. Mr. Speaker, I yield 2½ minutes to the gentleman from Montana [Mr. WILLIAMS].

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

Mr. Speaker, it is clear from some of the speeches today on the Istook amendment, including the previous speaker, that many new Members of Congress simply do not understand that lobbying with taxpayers' funds is now illegal in the United States. When citizens come to Washington and they walk around these buildings that house their Member of Congress, they are struck by the fact that the doors to the office of Members of Congress are all wide open, all wide open. In the Rayburn Building, in the Cannon Building, in the Longworth Building, you walk down the halls and your Congressman's door is open. It is a long tradition in this Congress, and it is in keeping with the unblemished access that this Congress has assured for the citizens to reach their elected officials. America has a 200-plus-year tradition of unhindered right of the citizen to petition their government.

Republicans ran for office saying they wanted Government off of our back. It turns out they want the citizens out of their offices. That is what the Istook amendment is all about.

Now, who are there groups, these awful, terrible groups that they would silence, and whose membership they would silence? American Red Cross, the YMCA, the American Heart Association, the Girl Scouts of America, the League of Women Voters, the American Lung Association. Are those groups so terrible that if they receive a pittance of public funding from the taxpayer that their right to petition the Government on behalf of their Members should be stricken for the first time in American history? It is outrageous. People should be allowed to reach us unhindered. That is why all of those congressional doors have been opened. Do not close them today with the Istook amendment.

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

Mr. Speaker, almost 3 yours ago, General Powell made the announcement that he was not going to run for the President of the United States. But he said he is a Republican because he is convinced that the Republicans have the energy and ideas to move us towards a balanced budget. The real tragedy is that if we look over the last 40 years, unfortunately, the Democrats have driven us to this point of a horrendous, nearly $5 trillion national debt. We have the responsibility to govern. It is obvious that what is today the minority party will not, because they have not been able to. We have a responsibility to balance the budget; they have not been able to do it, and we are stepping up to the plate now and doing that. And, most important, we have a responsibility to be honest with senior citizens.

The Government is going to be paying 68.5 percent of part B premiums. There is a sense that we are somehow pulling the rug out from under senior citizens. Everyone recognizes that the system is headed toward bankruptcy. On April 3 of this year, three members of the President's Cabinet joined in recognizing that fact. We now are dealing responsibly with that issue.

This continuing resolution is very important, it is for a short period of time; the Democrats have used them for years and years and years, and sometimes the CR has governed for the entire year. Let us go with this very short period of time; let us responsibly deal with this. We are doing it as the majority party. I urge my colleagues to support this resolution to support the continuing resolution when it comes forward.

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

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. YATES].

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

Mr. YATES. Mr. Speaker, I oppose the rule and I oppose the bill. I want to associate myself with the remarks of the gentleman from Colorado [Mr. SKAGGS] and the gentleman from Montana [Mr. WILLIAMS] especially in opposition to the rule and the bill.

Mr. DREIER. 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. GOODLATTE). The question is on the resolution.

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

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

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

The Sergeant at Arms will notify absent Members.

the vote was taken by electronic device, and there were—yeas 216, nays 210, not voting 7, as follows:

[Roll No. 773]

YEAS—216

Allard	Bonilla	Coble
Archer	Bono	Coburn
Armey	Brownback	Collins (GA)
Bachus	Bryant (TN)	Combest
Baker (CA)	Bunn	Cooley
Baker (LA)	Bunning	Cox
Ballenger	Burr	Crane
Barr	Burton	Crapo
Barrett (NE)	Buyer	Cremeans
Bartlett	Callahan	Cubin
Barton	Calvert	Cunningham
Bass	Camp	Davis
Bateman	Canady	Deal
Bereuter	Chabot	DeLay
Bilbray	Chambliss	Diaz-Balart
Bilirakis	Chenoweth	Dickey
Bliley	Christensen	Doolittle
Blute	Chrysler	Dornan
Boehner	Clinger	Dreier

Duncan	Kim	Radanovich
Dunn	King	Regula
Ehlers	Kingston	Riggs
Ehrlich	Klug	Roberts
Emerson	Knollenberg	Rogers
English	Kolbe	Rohrabacher
Ensign	LaHood	Ros-Lehtinen
Everett	Largent	Roth
Ewing	Latham	Royce
Fawell	LaTourette	Salmon
Fields (TX)	Laughlin	Sanford
Flanagan	Lazio	Saxton
Foley	Lewis (CA)	Scarborough
Forbes	Lewis (KY)	Schaefer
Fowler	Lightfoot	Seastrand
Fox	Linder	Sensenbrenner
Franks (CT)	Livingston	Shadegg
Franks (NJ)	LoBiondo	Shaw
Frelinghuysen	Longley	Shuster
Frisa	Lucas	Skeen
Funderburk	Manzullo	Smith (MI)
Gallegly	Martini	Smith (NJ)
Ganske	McCollum	Smith (TX)
Gilchrest	McCrery	Smith (WA)
Gillmor	McDade	Solomon
Gingrich	McHugh	Souder
Goodlatte	McInnis	Spence
Goodling	McIntosh	Stearns
Goss	McKeon	Stockman
Graham	Metcalf	Stump
Gutknecht	Meyers	Talent
Hancock	Mica	Tate
Hansen	Miller (FL)	Tauzin
Hastert	Molinari	Taylor (NC)
Hastings (WA)	Moorhead	Thomas
Hayes	Myers	Thornberry
Hayworth	Myrick	Tiahrt
Hefley	Nethercutt	Vucanovich
Heineman	Neumann	Waldholtz
Herger	Ney	Walker
Hilleary	Norwood	Walsh
Hobson	Nussle	Wamp
Hoekstra	Oxley	Watts (OK)
Hoke	Packard	Weldon (FL)
Hostettler	Parker	Weller
Hunter	Paxon	White
Hutchinson	Petri	Whitfield
Hyde	Pombo	Wicker
Inglis	Porter	Wolf
Istook	Portman	Young (AK)
Johnson, Sam	Pryce	Young (FL)
Jones	Quillen	Zeliff
Kasich	Quinn	Zimmer

NAYS—210

Abercrombie	Dicks	Hoyer
Ackerman	Dingell	Jackson-Lee
Andrews	Dixon	Jacobs
Baesler	Doggett	Jefferson
Baldacci	Dooley	Johnson (CT)
Barcia	Doyle	Johnson (SD)
Barrett (WI)	Durbin	Johnson, E. B.
Becerra	Edwards	Johnston
Beilenson	Engel	Kanjorski
Bentsen	Eshoo	Kaptur
Berman	Evans	Kelly
Bevill	Farr	Kennedy (MA)
Bishop	Fattah	Kennedy (RI)
Boehlert	Fazio	Kennelly
Bonior	Filner	Kildee
Borski	Flake	Kleczka
Boucher	Foglietta	Klink
Brewster	Ford	LaFalce
Browder	Frank (MA)	Lantos
Brown (CA)	Frost	Leach
Brown (FL)	Furse	Levin
Brown (OH)	Gejdenson	Lewis (GA)
Bryant (TX)	Gekas	Lincoln
Cardin	Gephardt	Lipinski
Castle	Geren	Lofgren
Chapman	Gibbons	Lowey
Clay	Gilman	Luther
Clayton	Gonzalez	Maloney
Clement	Gordon	Manton
Clyburn	Green	Markey
Coleman	Greenwood	Martinez
Collins (IL)	Gunderson	Mascara
Collins (MI)	Gutierrez	Matsui
Condit	Hall (OH)	McCarthy
Conyers	Hall (TX)	McDermott
Costello	Hamilton	McHale
Coyne	Harman	McKinney
Cramer	Hastings (FL)	McNulty
Danner	Hefner	Meehan
de la Garza	Hilliard	Meek
DeFazio	Hinchey	Menendez
DeLauro	Holden	Mfume
Dellums	Horn	Miller (CA)
Deutsch	Houghton	Minge
Mink	Reed	Stupak
Moakley	Richardson	Tanner
Mollohan	Rivers	Taylor (MS)
Montgomery	Roemer	Tejeda
Moran	Rose	Thompson
Morella	Roukema	Thurman
Murtha	Roybal-Allard	Torkildsen
Nadler	Rush	Torres
Neal	Sabo	Torricelli
Oberstar	Sanders	Traficant
Obey	Sawyer	Upton
Olver	Schiff	Velazquez
Ortiz	Schroeder	Vento
Orton	Schumer	Visclosky
Owens	Scott	Volkmer
Pallone	Serrano	Ward
Pastor	Shays	Waters
Payne (NJ)	Sisisky	Watt (NC)
Payne (VA)	Skaggs	Waxman
Pelosi	Skelton	Williams
Peterson (MN)	Slaughter	Wilson
Pickett	Spratt	Wise
Pomeroy	Stark	Woolsey
Poshard	Stenholm	Wyden
Rahall	Stokes	Wynn
Rangel	Studds	Yates

NOT VOTING—7

Fields (LA)	Thornton	Weldon (PA)
Peterson (FL)	Towns	
Ramstad	Tucker	

□ 1818

Mr. HALL of Texas changed his vote from ''yea'' to ''nay.''

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.

Mr. LIVINGSTON. Mr. Speaker, pursuant to House Resolution 257, I call up the joint resolution (H.J. Res. 115), making further continuing appropriations for the fiscal year 1996, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. DREIER). Pursuant to the rule, the House will now immediately consider the joint resolution.

The text of House Joint Resolution 115 is as follows:

H.J. RES. 115

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

TITLE I

CONTINUING APPROPRIATIONS

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1995 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 701 of the United States Information and Educational Exchange Act of 1948, and section 53 of the Arms Control and Disarmament Act;

The Department of Defense Appropriations Act, 1996, notwithstanding section 504(a)(1) of the National Security Act of 1947;

The District of Columbia Appropriations Act, 1996;

The Energy and Water Development Appropriations Act, 1996;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, notwithstanding section 10 of Public Law 91–672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Department of the Interior and Related Agencies Appropriations Act, 1996;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1996;

The Legislative Branch Appropriations Act, 1996, H.R. 2492;

The Department of Transportation Appropriations Act, 1996;

The Treasury, Postal Service, and General Government Appropriations Act, 1996;

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996:

Provided, That whenever the amount which would be made available or the authority which would be granted in these Acts is greater than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of the date of enactment of this joint resolution, is different from that which would be available or granted under such Act as passed by the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lower, under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: *Provided,* That where an item is not included in either version or where an item is included in only one version of the Act as passed by both Houses as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 111 or 112 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

(c) Whenever an Act listed in this section has been passed by only the House or only the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: *Provided,* That where an item is funded in the applicable appropriations Act for the fiscal year 1995 and not included in the version passed by the one House as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 111 or 112 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 102. No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for new production of items not funded for production in fiscal year 1995 or prior years, for the increase in production rates above those sustained with fiscal year 1995 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P–1 line item in a budget activity within an appropriation account and an R–1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1995: *Provided*, That no appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 105. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) December 1, 1995, whichever first occurs.

SEC. 107. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. No provision in the appropriations Act for the fiscal year 1996 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 106(c) of this joint resolution.

SEC. 110. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 111. Notwithstanding any other provision of this joint resolution, except section 106, whenever an Act listed in section 101 as passed by both the House and Senate as of the date of enactment of this joint resolution, does not include funding for an ongoing project or activity for which there is a budget request, or whenever an Act listed in section 101 has been passed by only the House or only the Senate as of the date of enactment of this joint resolution, and an item funded in fiscal year 1995 is not included in the version passed by the one House, or whenever the rate for operations for an ongoing project or activity provided by section 101 for which there is a budget request would result in the project or activity being significantly reduced, the pertinent project or activity may be continued under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 by increasing the rate for operations provided by section 101 to a rate for operations not to exceed one that provides the minimal level that would enable existing activities to continue. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366. For the purposes of the Act, the minimal level means a rate for operations that is reduced from the current rate by 40 percent.

SEC. 112. Notwithstanding any other provision of this joint resolution, except section 106, whenever the rate for operations for any continuing project or activity provided by section 101 or section 111 for which there is a budget request would result in a furlough of Government employees, that rate for operations may be increased to the minimum level that would enable the furlough to be avoided. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366.

SEC. 113. Notwithstanding any other provision of this joint resolution, except sections 106, 111, and 112, for those programs that had high initial rates of operation or complete distribution of funding at the beginning of the fiscal year in fiscal year 1995 because of distributions of funding to States, foreign countries, grantees, or others, similar distributions of funds for fiscal year 1996 shall not be made and no grants shall be awarded for such programs funded by this resolution that would impinge on final funding prerogatives.

SEC. 114. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 115. The provisions of section 132 of the District of Columbia Appropriations Act, 1988, Public Law 100–202, shall not apply for this joint resolution.

SEC. 116. Notwithstanding any other provision of this joint resolution, except section 106, the authority and conditions for the application of appropriations for the Office of Technology Assessment as contained in the Conference Report on the Legislative Branch Appropriations Act, 1996, House Report 104–212, shall be followed when applying the funding made available by this joint resolution.

SEC. 117. Notwithstanding any other provision of this joint resolution, except section 106, any distribution of funding under the Rehabilitation Services and Disability Research account in the Department of Education may be made up to an amount that bears the same ratio to the rate for operation for this account provided by this joint resolution as the number of days covered by this resolution bears to 366.

SEC. 118. Notwithstanding any other provision of this joint resolution, except section 106, the authorities provided under subsection (a) of section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) shall remain in effect during the period of this joint resolution, notwithstanding paragraph (3) of said subsection.

SEC. 119. Notwithstanding any other provision of this joint resolution, except section 106, the amount made available to the Securities and Exchange Commission, under the heading Salaries and Expenses, shall include, in addition to direct appropriations, the amount it collects under the fee rate and offsetting collection authority contained in Public Law 103–352, which fee rate and offsetting collection authority shall remain in effect during the period of this joint resolution.

SEC. 120. Until enactment of legislation providing funding for the entire fiscal year ending September 30, 1996, for the Department of the Interior and Related Agencies, funds available for necessary expenses of the Bureau of Mines are for continuing limited health and safety and related research, materials partnerships, and minerals information activities; for mineral assessments in Alaska; and for terminating all other activities of the Bureau of Mines.

SEC. 121. Notwithstanding any other provision of this joint resolution, except section 106, funds for the Environmental Protection Agency shall be made available in the appropriation accounts which are provided in H.R. 2099 as reported on September 13, 1995.

SEC. 122. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations for projects and activities that would be funded under the heading ''International Organizations and Conferences, Contributions to International Organizations'' in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, shall be the amount provided by the provisions of sections 101, 111, and 112 multiplied by the ratio of the number of days covered by this resolution to 366 and multiplied further by 1.27.

SEC. 123. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations of the following projects or activities shall be only the minimum necessary to accomplish orderly termination:

Administrative Conference of the United States;

Advisory Commission on Intergovernmental Relations (except that activities to carry out the provisions of Public Law 104–4 may continue);

Interstate Commerce Commission;

Pennsylvania Avenue Development Corporation;

Land and Water Conservation Fund, State Assistance; and

Office of Surface Mining Reclamation and Enforcement, Rural Abandoned Mine Program.

TITLE II

SEC. 201. WAIVER OF REQUIREMENT FOR PARCHMENT PRINTING.

(a) WAIVER.—The provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of any of the following measures of the first session of the One Hundred Fourth Congress presented to the President after the enactment of this joint resolution:

(1) A continuing resolution.

(2) A debt limit extension measure.

(3) A reconciliation bill.

(b) CERTIFICATION BY COMMITTEE ON HOUSE OVERSIGHT.—The enrollment of a measure to which subsection (a) applies shall be in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment.

SEC. 202. DEFINITIONS.

As used in this joint resolution:

(1) CONTINUING RESOLUTION.—The term ''continuing resolution'' means a bill or joint resolution that includes provisions making further continuing appropriations for fiscal year 1996.

(2) DEBT LIMIT EXTENSION MEASURE.—The term ''debt limit extension measure'' means a bill or joint resolution that includes provisions increasing or waiving (for a temporary period or otherwise) the public debt limit under section 3101(b) of title 31, United States Code.

(3) RECONCILIATION BILL.—The term ''reconciliation bill'' means a bill that is a reconciliation bill within the meaning of section 310 of the Congressional Budget Act of 1974.

TITLE III
TAXPAYER SUBSIDIZED POLITICAL ADVOCACY

PROHIBITION ON SUBSIDIZING POLITICAL ADVOCACY WITH TAXPAYER FUNDS

SEC. 301. (a) LIMITATIONS.—Notwithstanding any other provision of law, the following limitations shall apply to any taxpayer subsidized grant that is made from funds appropriated under this or any other Act or controlled under any congressional authorization, until the enactment of specific exceptions in subsequent Acts:

(1) No taxpayer subsidized grantee may use funds from any taxpayer subsidized grant to engage in political advocacy.

(2) No person or organization may transfer funds from any taxpayer subsidized grant, in whole or in part, in the form of a taxpayer subsidized grant, to any person or organization that under this subsection would not be eligible to receive such funds directly from the Federal Government.

(3) No taxpayer subsidized grantee may use funds from any taxpayer subsidized grant for any purpose (including but not limited to extending subsequent taxpayer subsidized grants to any other individual or organization) other than to purchase or secure goods or services, except as permitted by Congress in the law authorizing the taxpayer subsidized grant.

(4) No restrictions are placed upon the use of an individual's non-Federal funds by this title.

(5) An organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engaged in lobbying activities during the organization's previous taxable year shall not be eligible for the receipt of Federal funds constituting a taxpayer subsidized grant. This paragraph shall not apply to organizations described in such section 501(c)(4) with gross annual revenues of less than $3,000,000 in such previous taxable year, including the amounts of Federal funds received as a taxpayer subsidized grant.

(6) An organization shall not be eligible for the receipt of Federal funds constituting a taxpayer subsidized grant if, in the previous Federal fiscal year, such organization—

(A) received more than one-third of its annual revenue in the form of taxpayer subsidized grants; and

(B) expended on lobbying activities an amount equal to or exceeding whichever of the following amounts is less:

(i) $100,000; or

(ii) the amount determined by the formula set forth in paragraph (7)(B).

(7) No taxpayer subsidized grant applicant or taxpayer subsidized grantee, except an individual person, may receive any taxpayer subsidized grant if its expenditures for political advocacy for any one of the previous five Federal fiscal years exceeded its substantial political advocacy threshold. For purposes of the application of this paragraph in the five-year period following the date of the enactment of this Act, only the previous Federal fiscal years beginning after September 30, 1995, shall be considered. For purposes of this title, the substantial political advocacy threshold for a given Federal fiscal year shall be whichever of the following amounts is less:

(A) $1,000,000.

(B) The amount determined by the following formula:

(i) Calculate the difference between the taxpayer subsidized grant applicant's total expenditures made in a given Federal fiscal year and the total taxpayer subsidized grants it received in that Federal fiscal year.

(ii) For the first $500,000 of the amount calculated under clause (i), multiply by 0.20.

(iii) For the portion of the amount calculated under clause (i) that is more than $500,000, but not more than $1,000,000, multiply by 0.15.

(iv) For the portion of the amount calculated under clause (i) that is more than $1,000,000, but not more than $1,500,000, multiply by 0.10.

(v) For the portion of the amount calculated under clause (i) that is more than $1,500,000, but not more than $17,000,000, multiply by 0.05.

(vi) Calculate the sum of the products described in clauses (ii) through (v).

(8) During any one Federal fiscal year in which a taxpayer subsidized grantee, except an individual person, has possession, custody or control of taxpayer subsidized grant funds, such taxpayer subsidized grantee shall not use any funds (whether derived from taxpayer subsidized grants or otherwise) to engage in political advocacy in excess of its substantial political advocacy threshold for the prior Federal fiscal year.

(9) No taxpayer subsidized grantee may use funds from any taxpayer subsidized grant to purchase or secure any goods or services (including dues and membership fees) from any other organization whose expenditures for political advocacy for the previous Federal fiscal year exceeded whichever of the following amounts is greater:

(A) $25,000.

(B) 15 percent of such other organization's total expenditures for such previous Federal fiscal year.

(10) The limitations imposed by paragraphs (5), (7), and (8) shall not apply to any taxpayer subsidized grant applicant or taxpayer subsidized grantee for any Federal fiscal year if, during the preceding Federal fiscal year, its total expenditures for political advocacy were less than $25,000.

(11) For purposes of applying the limitations imposed by this subsection (other than paragraph (4)), the members of an affiliated group of organizations (other than any member that does not receive a taxpayer subsidized grant) shall be treated as one organization.

(b) ENFORCEMENT OF TAXPAYER PROTECTIONS.—The following enforcement provisions apply with respect to the limitations imposed under subsection (a):

(1) Each taxpayer subsidized grantee shall be subject to audit from time to time as follows:

(A) Audits may be requested and conducted by the General Accounting Office or other auditing entity authorized by Congress, including the Inspector General of the Federal entity awarding or administering the taxpayer subsidized grant.

(B) Taxpayer subsidized grantees shall follow generally accepted accounting principles in keeping books and records relating to each taxpayer subsidized grant and no Federal entity may impose more burdensome accounting requirements for purposes of enforcing this title.

(C) A taxpayer subsidized grantee that engages in political advocacy shall have the burden of proving, by clear and convincing evidence, that it is in compliance with the limitations of this title.

(D) Audits pursuant to this subsection shall be limited to the utilization, transfer, and expenditure of Federal funds and the utilization, transfer, and expenditure of any funds for political advocacy.

(2) Violations by a taxpayer subsidized grantee of the limitations contained in subsection (a) may be enforced and the taxpayer subsidized grant may be recovered in the same manner and to the same extent as a false or fraudulent claim for payment or approval made to the Federal Government pursuant to sections 3729 through 3812 of title 31, United States Code.

(3) Any officer or employee of the Federal Government who awards or administers funds from any taxpayer subsidized grant to a taxpayer subsidized grantee who is not in compliance with this section shall—

(A) for knowing or negligent noncompliance with this section, be subjected to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office; and

(B) for knowing noncompliance with this section, pay a civil penalty of not more than $5,000 for each improper disbursement of funds.

(c) DUTIES OF TAXPAYER SUBSIDIZED GRANTEES.—Any individual or organization that awards or administers a taxpayer subsidized grant shall take reasonable steps to ensure that the taxpayer subsidized grantee complies with the requirements of this title. Reasonable steps to ensure compliance shall include written notice to a taxpayer subsidized grantee that it is receiving a taxpayer subsidized grant, and that the provisions of this title apply to the taxpayer subsidized grantee.

(d) DEFINITIONS.—For purposes of this title:

(1) AFFILIATED ORGANIZATIONS.—Any two organizations shall be considered to be members of an affiliated group of organizations if the organizations meet any one or more of the following criteria:

(A) The governing instrument of one such organization requires it to be bound by decisions of the other organization on legislative issues.

(B) The governing board of one such organization includes persons who—

(i) are specifically designated representatives of the other such organization or are members of the governing board, officers, or paid executive staff members of such other organization; and

(ii) by aggregating their votes, have sufficient voting power to cause or prevent action on political advocacy issues by the other such organization.

(C) The organizations—

(i) either use the same name or trademark, or represent themselves as being affiliated; and

(ii) coordinate their lobbying activities or political advocacy.

(2) AGENCY ACTION.—The term ''agency action'' includes the definition contained in section 551 of title 5, United States Code, and

includes action by State, local, or tribal government agencies. Such term does not include any agency's action that grants an approval, license, permit, registration, or similar authority, or that grants or recognizes an exemption or relieves a restriction, on a case-by-case basis.

(3) AGENCY PROCEEDING.—The term ''agency proceeding'' includes the definition contained in section 551 of title 5, United States Code, and includes proceedings by State, local, or tribal government agencies.

(4) INFLUENCE LEGISLATION OR AGENCY ACTION.—

(A) GENERAL RULE.—Except as otherwise provided in subparagraph (B), the term ''influence legislation or agency action'' includes—

(i) any attempt to influence any legislation or agency action through an attempt to affect the opinions of the general public or any segment thereof; and

(ii) any attempt to influence any legislation or agency action through communication with any member or employee of a legislative body or agency, or with any government official or employee who may participate in the formulation of the legislation or agency action.

(B) EXCEPTIONS.—The term ''influence legislation or agency action'' does not include—

(i) making available the results of nonpartisan analysis, study, research, or debate;

(ii) providing technical advice or assistance (where such advice would otherwise constitute the influencing of legislation or agency action) to a governmental body or to a committee or other subdivision thereof in response to a request by such body or subdivision, as the case may be;

(iii) communications between the taxpayer subsidized grantee and its bona fide members with respect to legislation, proposed legislation, agency action, or proposed agency action of direct interest to the taxpayer subsidized grantee and such members, other than communications described in subparagraph (C);

(iv) any communication with a governmental official or employee, including any such communication required to apply for, administer, or execute a taxpayer subsidized grant; other than—

(I) a communication with a member or employee of a legislative body or agency (where such communication would otherwise constitute the influencing of legislation or agency action); or

(II) a communication the principal purpose of which is to influence legislation or agency action;

(v) official communications by employees of State, local, or tribal governments, or by organizations whose membership consists exclusively of State, local, or tribal governments; and

(vi) participating in a particular activity that is specifically and explicitly directed and sanctioned by an Act of Congress, and is specifically and explicitly approved in the contract or other agreement under which the taxpayer subsidized grant is made, except that such exception shall not apply to any such contract or other agreement that is first entered into after the date of the enactment of this Act, is renewed after such date, or is terminable or amendable after such date at the option of the government entity awarding or administering such grant, unless such activity is specifically and explicitly directed and sanctioned by an Act of Congress enacted after January 1, 1995.

(C) COMMUNICATIONS WITH MEMBERS.—

(i) A communication between a taxpayer subsidized grantee and any bona fide member of such organization to directly encourage such member to communicate as provided in subparagraph (A)(ii) shall be treated as a subparagraph (A)(ii) communication by the taxpayer subsidized grantee itself.

(ii) A communication between a taxpayer subsidized grantee and any bona fide member of such organization to directly encourage such member to urge persons other than members to communicate as provided in either clause (i) or (ii) of subparagraph (A) shall be treated as a communication described in subparagraph (A)(i).

(5) LEGISLATION.—The term ''legislation'' includes the introduction, amendment, enactment, passage, defeat, ratification, or repeal of Acts, bills, resolutions, treaties, declarations, confirmations, articles of impeachment, or similar items by the Congress, any State legislature, any local or tribal council or similar governing body, or by the public in a referendum, initiative, constitutional amendment, recall, confirmation, or similar procedure.

(6) LOBBYING ACTIVITIES.—The term ''lobbying activities'' means political advocacy (as defined in paragraph (8)), other than political advocacy relating to any judicial litigation or agency proceeding described in subparagraph (C) of such paragraph.

(7) ORGANIZATION.—The term ''organization'' means a legal entity, other than a government, established or organized for any purpose, and includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, society, union, or any other association of persons that operates in or the activities of which affect interstate or foreign commerce.

(8) POLITICAL ADVOCACY.—Except as otherwise provided in paragraph (4)(B), the term ''political advocacy'' includes—

(A) carrying on propaganda, or otherwise attempting to influence legislation or agency action, including, but not limited to, monetary or in-kind contributions, preparation and planning activities, research and other background work, endorsements, publicity, coordination with such activities of others, and similar activities;

(B) participating or intervening in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office, including, but not limited to, monetary or in-kind contributions, preparation and planning activities, research and other background work, endorsements, publicity, coordination with such activities of others, and similar activities;

(C) participating in any judicial litigation or agency proceeding (including as an amicus curiae) in which agents or instrumentalities of Federal, State, local, or tribal governments are parties, other than litigation in which the taxpayer subsidized grantee or taxpayer subsidized grant applicant is a defendant appearing in its own behalf; is defending its tax-exempt status; or is challenging a government decision or action directed specifically at the powers, rights, or duties of that taxpayer subsidized grantee or taxpayer subsidized grant applicant; and

(D) allocating, disbursing, or contributing any monetary or in-kind support to any organization whose expenditures for political advocacy for the previous Federal fiscal year exceeded 15 percent of its total expenditures for that Federal fiscal year.

(9) TAXPAYER SUBSIDIZED GRANT.—The term ''taxpayer subsidized grant'' includes the provision of any Federal funds, appropriated under this or any other Act, or other thing of value to carry out a public purpose of the United States, except the following: the provision of funds for acquisition (by purchase, lease or barter) of property or services for the direct benefit or use of the United States; the payments of loans, debts, or entitlements; the provision of funds to or distribution of funds by an Article I or III court; nonmonetary assistance provided by the Department of Veterans Affairs to organizations approved or recognized under section 5902 of title 38, United States Code; and the provision of grant and scholarship funds to students for educational purposes.

(10) TAXPAYER SUBSIDIZED GRANTEE.—The term ''taxpayer subsidized grantee'' includes any recipient of any taxpayer subsidized grant. The term shall not include any State, local, or tribal government, but shall include any recipient receiving a taxpayer subsidized grant from a State, local, or tribal government.

DISCLOSURE REQUIREMENTS

SEC. 302. (a) IN GENERAL.—Not later than December 31 of each year, each taxpayer subsidized grantee, except an individual person, shall provide (via either electronic or paper medium) to each Federal entity that awarded or administered its taxpayer subsidized grant an annual report for the prior Federal fiscal year, certified by the taxpayer subsidized grantee's chief executive officer or equivalent person of authority, and setting forth—

(1) the taxpayer subsidized grantee's name and grantee identification number;

(2) a statement that the taxpayer subsidized grantee agrees that it is, and shall continue to be, contractually bound by the terms of this title as a condition of the continued receipt and use of Federal funds; and

(3) either—

(A) a statement that the taxpayer subsidized grantee did not engage in political advocacy; or

(B) a statement that the taxpayer subsidized grantee did engage in political advocacy, and setting forth for each taxpayer subsidized grant—

(i) the taxpayer subsidized grant identification number;

(ii) the amount or value of the taxpayer subsidized grant (including all administrative and overhead costs awarded);

(iii) a brief description of the purpose or purposes for which the taxpayer subsidized grant was awarded;

(iv) the identity of each Federal, State, local, and tribal government entity awarding or administering the taxpayer subsidized grant, and program thereunder;

(v) the name and taxpayer subsidized grantee identification number of each individual or organization to which the taxpayer subsidized grantee made a taxpayer subsidized grant;

(vi) a brief description of the taxpayer subsidized grantee's political advocacy, and a good faith estimate of the taxpayer subsidized grantee's expenditures on political advocacy; and

(vii) a good faith estimate of the taxpayer subsidized grantee's substantial political advocacy threshold.

(b) OMB COORDINATION.—The Office of Management and Budget shall develop by regulation one standardized form for the annual report that shall be accepted by every Federal entity, and a uniform procedure by which each taxpayer subsidized grantee is assigned one permanent and unique taxpayer subsidized grantee identification number.

FEDERAL ENTITY REPORT

SEC. 303. Not later than May 1 of each calendar year, each Federal entity awarding or administering a taxpayer subsidized grant shall submit to the Bureau of the Census a report (standardized by the Office of Management and Budget) setting forth the information provided to such Federal entity by each taxpayer subsidized grantee during the preceding Federal fiscal year, and the name and taxpayer subsidized grantee identification number of each taxpayer subsidized grantee to which it provided written notice under

section 301(c). The Bureau of the Census shall make this database available to the public through the Internet.

PUBLIC ACCOUNTABILITY

SEC. 304. (a) PUBLIC AVAILABILITY OF TAXPAYER SUBSIDIZED GRANT DOCUMENTS.—Any Federal entity awarding a taxpayer subsidized grant shall make publicly available any taxpayer subsidized grant application, audit of a taxpayer subsidized grantee, list of taxpayer subsidized grantees to which notice was provided under section 301(c), annual report of a taxpayer subsidized grantee, and that Federal entity's annual report to the Bureau of the Census.

(b) ACCESSIBILITY TO PUBLIC.—The public's access to the documents identified in subsection (a) shall be facilitated by placement of such documents in the Federal entity's public document reading room and also by expediting any requests under section 552 of title 5, United States Code, the Freedom of Information Act as amended, ahead of any requests for other information pending at such Federal entity.

(c) WITHHOLDING PROHIBITED.—Records described in subsection (a) shall not be subject to withholding, except under the exemption set forth in subsection (b)(7)(A) of section 552 of title 5, United States Code.

(d) FEES PROHIBITED.—No fees for searching for or copying such documents shall be charged to the public.

SEVERABILITY

SEC. 305. If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons and circumstances shall not be affected thereby.

FIRST AMENDMENT RIGHTS PRESERVED

SEC. 306. Nothing in this title shall be deemed to abridge any rights guaranteed under the First Amendment of the United States Constitution, including freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

EXPEDITED CONSIDERATION AND APPEAL OF CERTAIN ACTIONS

SEC. 307. (a) DISTRICT COURT CONSIDERATION.—Any action challenging the constitutionality of this title shall be heard and determined by a panel of three judges in accordance with section 2284 of title 28, United States Code. The United States District Court for the District of Columbia shall have exclusive jurisdiction over such action, without regard to the sum or value of the matter in controversy. It shall be the duty of the district court to advance on the docket, and to expedite the disposition of, any action brought under this subsection.

(b) APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order entered in any action brought under subsection (a). Any such appeal shall be taken by a notice of appeal filed within 20 days after such judgment, decree, or order is entered. The Supreme Court shall, if it has not previously ruled on the question presented by such appeal, accept jurisdiction over the appeal, advance the appeal on the docket, and expedite the appeal.

CONSTRUCTION AND EFFECT

SEC. 308. Nothing in this title shall be construed to affect the application of the internal revenue laws of the United States.

TITLE IV—MEDICARE

SEC. 401. DETERMINATION OF MEDICARE PART B PREMIUM.

(a) Any percentage reference in subsection (e)(1)(A) of section 1839 of the Social Security Act for months in 1996 is deemed a reference to the amount described in subsection (e)(1)(B)(v) of such section, expressed as a percentage of the monthly actuarial rate under subsection (a)(1) of such section for months in 1995.

SEC. 402. MEDICARE COVERAGE OF CERTAIN ANTI-CANCER DRUG TREATMENTS.

(a) COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS.—Section 1861(s)(2)(Q) of the Social Security Act (42 U.S.C. 1395x(s)(2)(Q)) is amended—

(1) by striking ''(Q)'' and inserting ''(Q)(i)''; and

(2) by striking the semicolon at the end and inserting '', and''; and

(3) by adding at the end the following:

''(ii) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an anticancer nonsteroidal antiestrogen or nonsteroidal antiandrogen agent for a given indication;''.

(b) UNIFORM COVERAGE OF ANTICANCER DRUGS IN ALL SETTINGS.—Section 1861(t)(2)(A) of such Act (42 U.S.C. 1395x(t)(2)(A)) is amended by adding (including a nonsteroidal antiestrogen or nonsteroidal antiandrogen regimen)'' after ''regimen''.

(c) CONFORMING AMENDMENT.—Section 1834 (j)(5)(F)(iv) of such Act (42 U.S.C. 1395m(j)(5)(F)(iv)) is amended by striking ''prescribed for use'' and all that follows through ''1861 (s)(2)(Q))'' and inserting ''described in section 1861(s)(2)(Q)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs furnished on or after the date of the enactment of this Act

The SPEAKER pro tempore. Under the rule, the gentleman from Louisiana [Mr. LIVINGSTON] will be recognized for 30 minutes, and the gentleman from Wisconsin [Mr. OBEY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which, to revise and extend their remarks on House Joint Resolution 115, and that I may include tabular and extraneous material.

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

There was no objection.

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

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

Mr. LIVINGSTON. Mr. Speaker, I am very pleased to bring to the House this joint resolution that would provide authority for most of the government to continue operations beyond November 13, the date the current continuing resolution expires.

The House and Senate Committees on Appropriations are continuing to work on the remaining regular funding bills in a manner that will allow us to present them to the President for his signature in the coming days. However, it is clear that many of the budget decisions will extend past November 13. Therefore, we need to continue to provide spending authority for those portions of the Government which are not covered by signed bills.

The following are key elements of the resolution before us: The resolution continues Government funding through December 1 or whenever a regular bill is enacted into law, whichever is sooner. The resolution provides temporary funding for the programs covered under 11 bills. Since two bills have been signed into law, military construction and agriculture, they have been omitted from this resolution.

All the projects and activities in the remaining 11 bills operate under a restrictive formula that provides rates that do not exceed the lower of the House-passed bill, the Senate-passed bill, or the fiscal year 1995 current level. The resolution provides that for programs that are proposed for termination in either the House or Senate version of the regular bill or are significantly reduced in these bills, they may continue, but at a minimum level not to exceed 60 percent of the current rate of operations. This is down from the 90 percent level provided for in the first continuing resolution.

All programs continued will be under the fiscal year 1995 terms and conditions.

This resolution contains the ''no furlough'' language that was contained in the first resolution. Early year distributions for programs that have historical high initial fund distributions are prohibited. This resolution contains the Simpson-Istook-McIntosh language regarding political advocacy, and no new initiatives can be started under the terms of this bill.

Section 123 of the resolution provides for the orderly termination of six specific Federal programs, which include the Administrative Conference of the United States, the Advisory Commission on Intergovernmental Relations, the Interstate Commerce Commission, the Pennsylvania Avenue Development Corporation, the State Assistance Grants from the Land and Water Conservation Fund, and the Rural Abandoned Mine Program. These are in addition to the elimination of the Office of Technology Assessment as well as the downsizing of the Bureau of Mines, which were contained in the first CR and included in this version as well.

There are two additional items that are in this resolution that are under the jurisdiction of the Committee on Ways and Means, and we heard them discussed during the debate on the rule. They deal with Medicare part B and funding for breast cancer treatment.

Mr. Speaker, this second continuing resolution maintains the 4 principles that we have used when we developed the first continuing resolution. In fact, this resolution provides funding at levels that are below the section 602 allocation provided for in the budget resolution. This is our part of the glide path to get us to a balanced budget by the year 2002. It prevents costly government furloughs and inappropriate

program terminations, and it does not prejudice funding decisions for the remainder of the appropriations bills except for a limited number of program terminations that are agreed to by the President.

Finally, it provides a climate that is an incentive for all involved to conclude action on the regular appropriations bills. This is because as we move appropriations conference agreements and as the appropriations bills are signed into law by the President, all of the programs and agencies and departments contained within the jurisdiction of those appropriations bills are taken off the table and they are no longer subject to the terms and conditions of this restrictive continuing resolution.

Mr. Speaker, this second continuing resolution is necessary to keep a large part of the government operating for a very short period of time. It is restrictive, and it will keep the necessary pressure on both the Congress and the President to work out our differences on the remaining regular bills and get them enacted into law, and I urge the adoption of the resolution.

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

Mr. OBEY. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, about 5 weeks ago when we had neared the end of the fiscal year, the gentleman from Louisiana [Mr. LIVINGSTON] and I brought to the House a bipartisan proposal which had been worked out with the leadership of both parties in both houses, as well as the White House, which extended the business of the Government so that the Congress could complete its work. That was made necessary because, for the first hundred days of this session, the majority party proceeded with its so-called contract, and that meant that, in contrast to the previous year when we had finished all 13 of our appropriation bills before the end of the fiscal year, the Congress was left with an immense amount of work yet to be done, and we worked out a bipartisan way to keep the Government going so that innocent people would not be hurt.

□ 1830

Now we are in need of a new extension, and the majority is proposing that we extend this conference report to the December 1. I think this is a big mistake, because this resolution, instead of building bridges and trying to overcome differences, it exacerbates the differences, it widens them and it puts everyone further apart, because it is a much more confrontational document. it is as though it were designed to fail.

It provides a 30-percent clobbering of programs such as low-income heating assistance, veterans benefits, some education items. It contains the controversial Istook language which would tie up every major charity in the country in red tape. It appears designed to ratchet up pressure on the President, because people are unhappy that the President has not signed bills which have not yet been sent to him.

We are now 11 percent into the fiscal year, and we have exactly 11 percent of this year's fiscal budget passed. We have two bills here, military construction and agriculture, which have crossed the finish line, represented by this red line, and they have been signed into law. Two others have crossed the legislative finish line. They are awaiting the President's signature at the White House, and it is my understanding they are going to be signed.

The leaves us with nine remaining horses that have yet to cross the finish line in the appropriations process. Now, those are not lagging behind because the President would not sign the bills. They are lagging behind because the Congress did not get its work done.

For instance, we have the Treasury-Post Office bill here, hung up by the same Istook language which is being placed in the continuing resolution. It is the Republican majority in the Senate which is refusing to accept the Republican majority language in the House on the Istook amendment. It is not the President.

The Interior Department, that appropriation bill is stuck in the Congress because we still do not have agreement between the two houses on extraneous legislative language that has nothing whatsoever to do with dollars in the bill.

The foreign operations bill went through both houses of Congress, but it is hung up because there is a difference between the Republicans in the House and the Republicans in the Senate on the issue of abortion and the Mexico City language. The VA–HUD and Commerce conferences have yet to meet.

The Defense conference has not met in some 3 weeks since its original product was voted down on the floor of this House. The President did not beat that bill. This House did.

The Labor-HEW appropriation bill, passed by the House, was so extreme that the Republican-controlled Senate will not even take the bill up.

So that is why 89 percent of our appropriations work is still not completed, far short of the finish line. Yet, instead of trying to recognize that this is a congressional failure, instead we have an effort to ratchet up the heat on the President because people are frustrated by the fact that the Congress itself has not been able to do its work. That makes no sense whatsoever.

In addition, we have another problem. This continuing resolution would extend the Government's ability to function for the remainder of November, down to December 1. It will have taken us from November 6 through about November 13 to get this done.

Now, you would think this would give us enough time to get our work done. But there is a little problem. That little problem is that Congress is scheduled to be out during these days, so the congressional recess cuts a huge hole in the extension provided under the continuing resolution.

There will be only 6 days in which the Congress can complete action on nine of the appropriation bills, if you take the 3 days before we go out next week and the 3 days afterward.

Does anybody really believe that the majority party is going to make enough progress in resolving the fights within their own caucus to complete action on these appropriation bills during that period of time? I do not know anyone that really believes that is going to happen.

So, we are going to be forced to be back here with yet another resolution. That makes no sense. We ought to be able to focus our energies on passing the appropriation bills that have not yet passed, rather than having to work 5 or 6 days to simply pass another continuing resolution because this one is so short it does not really mean anything.

I would simply suggest that we do not have to raise Medicare premiums in order to deal with this problem. You do not have to add the inflammatory Istook language, which we know the Republican majority in the Senate will not swallow. You do not need to widen the differences between people in this building.

We ought to be trying to bridge those differences and close those gaps in opinions. We ought to be trying to sit down and work out another simple extension.

That is why in my motion to recommit I will offer that. I will offer a simple 1-month extension without any additional bells and whistles, without any ideological gimmicks, just a simple, straight, neutral extension for 1 month so that we do have a realistic timeframe during which the majority party can resolve its intra-party differences, and we can also, in the process, send more of these bills down to the President so that we have a chance of closing out the appropriations cycle before we deal with the reconciliation matter, which is still likely to tie up the Government for a good long time.

I urge you to accept that recommit motion and not to go down this road.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH], a very distinguished member of the Committee on Appropriations and the chairman of the Subcommittee on Military Construction.

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

Mr. Speaker, I rise in support of House Resolution 115 because it is the right thing to do. We have all heard the pleas from men and women who have said keep our Government alive and well.

Beyond keeping our Government alive, it will help keep our Nation's men and women alive. Under this resolution we are expanding Medicare coverage to include oral hormonal drugs

for treating breast and prostate cancer. For too long, Medicare has not paid for drugs like Tamoxifen, which are effective in treating breast cancer and are cost efficient. In fact, preliminary estimates show that oral cancer treatments for breast cancer could save up to $156 million over the next 7 years.

This is a win-win situation for the men and women in our country and a win-win situation for the American taxpayer. It is time to respect the men and women of our Nation and vote for this continuing resolution. American lives depend on it.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I hope we do not fall for the smokescreen which suggests that we have to pass this continuing resolution in order to take care of the breast cancer problems and the prostate cancer problems cited in the debate today. In my view, those are simply here in order to cover the tracks of people who are intending at the same moment to raise Medicare premiums by $9 or more a month.

If you want to deal with the prostate cancer and breast cancer problems that are dealt with in the continuing resolution, it is very simple. You can put this bill, which I will introduce today, on the suspension calendar. You can pass it in 20 minutes and send it to the other body, and you can resolve those problems without going this charade, which in my view is designed to cover the fact that those who vote for this resolution today are really simply trying to raise Medicare premiums by $9 or more per month.

I invite anyone in the House who would like to cosponsor this measure with me to put their names on the bill before I introduce it this afternoon.

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

Mr. LIVINGSTON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Oklahoma [Mr. ISTOOK].

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

Mr. Speaker, this continuing resolution, of course, is important to enable the Government to remain in business with the things that means to many people, but I am glad to say it does not mean business as usual; that the language in the legislation that is compromise language between proponents in the House and the Senate is in the bill to try to stop the problem of those who have an iron grip on what they believe is their vested right to take the taxpayers' money and use it for their own political lobbying activities.

The provisions in this bill have been much talked about; and, frankly, most of the things that I have heard from those opposing it are outlandish and outrageous and simply not true.

No one, and the U.S. Supreme Court has made this explicit, no one has a vested right to get gifts and handouts and subsidies from the taxpayers so that they can use that to assist them in lobbying activities. In fact, in a case in 1983, the U.S. Supreme Court said, ''Congress is not required by the first amendment to subsidize lobbying.'' It is that simple, Mr. Speaker.

Groups that choose, that make a voluntary decision to come to Washington with their hands out asking for millions and millions and millions of dollars in grants from the Federal Government should expect that they should not have their money either directly or indirectly applied to lobbying or political advocacy activities.

Ninety percent of the charities in this country, Mr. Speaker, 90 percent of them, are exempted from this provision because they are not engaged in heavy-duty lobbying activity. But for those which are, still this does not prevent them from speaking out. It does not prevent them from voicing their concerns. It merely says if they want taxpayer subsidies, then there is a limitation on the amount that they can spend for lobbying activities.

That is it. That is all. It is straightforward. It is direct. It is what the U.S. Supreme Court has said. Congress is not required by the first amendment to subsidize lobbying. If groups want to operate without taxpayer money, there is no restriction on them whatsoever. But the moment that they come asking for a grant, for a handout from the Federal Government, then we merely ask them to comply with some commonsense limitations on what they do with it.

I certainly encourage support for this bill.

Mr. OBEY. Mr. Speaker, I yield 4½ minutes to the gentleman from Maryland [Mr. HOYER].

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

Mr. HOYER. Mr. Speaker, I thank the distinguished ranking member for yielding me this time.

Mr. Speaker, there was a discussion about keeping our government alive by the gentlewoman from Nevada who chairs one of our subcommittees. The gentlewoman is right. That is what this is intended to do.

At the beginning of this Congress and throughout the course of this Congress, we have had a discussion about the Contract With America. Two of the first three items in the contract talk about responsibility, fiscal responsibility and personal responsibility. I suggest that every Member of this House ought to reject this continuing resolution, because I suggest to you it is fiscally irresponsible and personally irresponsible.

Now, why do I say that? Historically, both sides of the aisle have agreed that when the Congress could not accomplish its work in a timely fashion that it then should keep the Government running, because no one in this Congress or in this country intends to shut down all of government. They may not want all of it, but they do not intend to shut it down. Therefore, as a result of us not doing our work, we pass a continuing resolution which says we want the government to continue.

Usually, we agree that it ought to be a clean CR. What does that mean? That means that there should not be extraneous, non-appropriation, additional matters added to that continuing resolution. Why? Because all we are saying is we have not done our work. Government, you stay in operation at a certain level, 90 percent below what you did last year or some figure as that, while we continue in the democratic political process to debate the issues, to contend with one another as to our priorities, to level the funding and to matters that ought to be included in those bills.

□ 1845

Now, the fact of the matter is the gentleman from Oklahoma [Mr. ISTOOK], who just spoke about his amendment, speaks of it as an amendment that, gee, just ought to be done because we are giving taxpayers' money to lobbyists. That is not true, of course. That is a crime if they use money that the Federal Government gives them to lobby the government.

The chairman, the distinguished chairman, the gentleman from Louisiana [Mr. LIVINGSTON] is a former prosecutor. I suggested that he bring to the attention of the appropriate U.S. Attorney any instances that he knew of where that was occurring. To my knowledge that has not yet been done.

Mr. Speaker, the chairman of this committee, the same gentleman from Louisiana [Mr. LIVINGSTON], said some months ago we ought not to put extraneous legislative matters on appropriation bills. We ought not to put these on. Why did he say that? Because he thought that would impede the legislative process, and, indeed, it has.

There is only one Republican on the conference committee that agrees with the Istook-Ehrlich amendment. Forget about the Democrats. They do not have a majority of their own party in the Senate on this amendment. And the Republican leadership knows that the President has said he will veto this bill if this is attached.

This is a blatant irresponsible attempt to bulldoze the President of the United States into signing something that he vigorously disagrees with, and he will not do it, but that does not seem to matter. The Treasury-Postal bill has been pending, ladies and gentlemen, for 50-plus days, and the President says he will sign it, but the Republicans cannot agree on the Istook amendment so it has not been added.

As a result, Mr. Speaker, the Treasury-Postal bill sits stuck in the mud of political partisanship. That is unfortunate. I do not think my chairman wants that to happen. I will not ask him to comment on that. If we want to be fiscally responsible and personally responsible, we will adopt the Obey legislation, which says pending our getting our work done in the Congress of

the United States we will pass a clean continuing resolution to make sure the government continues to operate. I urge my colleagues to follow that responsible path.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 30 seconds so that I might point out to the gentleman that if this bill passes, and it passes the Senate, the gentleman will get his Treasury-Postal bill right away because the Istook amendment will no longer be a problem.

Mr. HOYER. A small advantage, but not enough.

Mr. LIVINGSTON. Mr. Speaker, I yield 3 minutes to the gentlewoman from Wyoming [Mrs. CUBIN].

Mrs. CUBIN. Mr. Speaker, I stand in support of the continuing resolution, and I admit I am a freshman, but I cannot help but be amazed at what I am hearing here tonight. I am hearing that the Republicans are being irresponsible because we do not have these bills to the President already, while I have heard that there are two separate years while the other side was in control that we operated on a continuing resolution for an entire year, and that happened twice.

I do not understand why they are so worried that we are not going to get our work done. We are certain we are going to get our work done. We are offering this continuing resolution because we want the Government to stay in business. We do not want the lives of the employees, the Federal employees, to be turned upside down, not to mention that of the recipients.

Mr. Speaker, another thing I have heard tonight, and I really just cannot believe I heard it right, is that we have to dismiss the issue of breast cancer and we have to dismiss the issue of prostate cancer as smoking mirrors; that it is not important. Well, I want to tell my colleagues something, Mr. Speaker. It is important to me. My aunt died of breast cancer. I have five friends who have died of breast cancer. And in this continuing resolution we are offering Tamoxifen, an oral anticancer drug, for women to be able to take. It works in about 50 percent of the breast cancer cases.

Again, I am absolutely appalled that we cannot consider this issue any time. It has already been told to us tonight that it will save $156 million. It will save lives. There is a statistic I would like to point out to Members, Mr. Speaker, and I think it is very startling and it will open everyone's eyes. In the 12 years of the Vietnam war about 58,000 Americans died. During those same 12 years 426,000 women died of breast cancer and nobody noticed. 426,000.

I do not care what bill we offer this cancer drug on. I am going to support it. It is important. We are not trying to twist the President's arm. Karen Curtis, Trudy Wilson, Freda McCoy, Barbara Clare, and Chris Linn, my friends who are dead from breast cancer and their families, would all want us to support this so that we can offer this life saving drug to patients of breast cancer that are now on Medicare.

Mr. Speaker, I urge everyone to support this continuing resolution.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, this continuing resolution is but the latest manifestation of the Republican Congress' all-out assault on Medicare. It will raise Medicare part B premiums on America's seniors by over $150 in 1996. Some politicians may not think that is a whole lot of money. Let me tell you, to people living on fixed incomes, that is a lot of money. For some older Americans, these cuts may mean choosing between medicine and food. I think that's wrong.

But I am not the only one alarmed by the radical agenda the Republican majority is ramming through this House. As Republican David Gergen observed in this week's U.S. News & World Report, ''Congress now seems intent on imposing new burdens upon the poor, the elderly and vulnerable children while, incredibly, delivering a windfall for the wealthy.'' This extreme agenda goes too far, and the American people know it.

Mr. Speaker, I call on my colleagues to reject this latest raid on Medicare to finance tax breaks for the wealthy. Vote against this radical agenda. Vote against this continuing resolution.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. THOMAS], a distinguished member of the Committee on Ways and Means.

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

Mr. THOMAS. Mr. Speaker, I take the well only to try to keep some semblance of factualness to the discussion that we have here. That is the second or third Member of the minority party that has taken the well and said that we will increase the cost on seniors on the part B premium in the continuing resolution. Somebody has to get a calculator.

First of all, at a 25-percent premium under the President's program, the cost in 1995, $46. Current program, under our program, $46. What this does is increase it to $53.

Now, during the rule I went into the explanation that the seniors have agreed that keeping the premium where it is is a reasonable share of the seniors' responsibility in trying to fix Medicare. AARP testified in front of my subcommittee, the Subcommittee on Health of the Committee on Ways and Means, that that was a reasonable compromise. They are not opposed to what we are doing.

If we take a look at what the President proposed at a 25-percent premium, that 1996 figure, President Clinton's fiscal year 1996 budget submission on page 108 would make the difference $9. I do not care how many times you multiply 12 times 9, it does not come out $150.

The gentlewoman from Connecticut [Ms. DELAURO] is wrong. Those who have used that figure before are wrong. It is not my inclination to come to this well every time they misstate or try to create the impression different than what is in this bill. If that were the case, unfortunately, I would be on the floor every other speaker.

Mr. OBEY. Mr. Speaker, I yield 30 seconds to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, under current law the part B premium would drop from $46 to $24.50. That is an increase of $11 per month under current law. If we multiply that by 12 months, it is a $132 increase that seniors will be faced with come January. It is a New Year's present for the seniors in this country.

Mr. OBEY. Mr. Speaker, may I inquire how much time is remaining on both sides?

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. OBEY] has 15 minutes remaining, and the gentleman from Louisiana [Mr. LIVINGSTON] has 16 minutes remaining.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I have in my hand all the continuing resolutions when the Republicans were in the minority and I would like to submit it for the RECORD. CR, after CR, after CR involved a tactic of spinning their will, and I want to submit this for the RECORD.

The information referred to follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES, COMMITTEE ON APPROPRIATIONS,
Washington, DC, October 12, 1995.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: From 1977 to 1987, it was common practice to include entire appropriations bills in full-year continuing resolutions. Listed below (by calendar and fiscal years) are those bills carried in continuing resolutions for the full year:

Calendar year 1977 for fiscal year 1978—1 bill—Labor-HEW.

Calendar year 1978 for fiscal year 1979—1 bill—Energy and Water.

Calendar year 1979 for fiscal year 1980—3 bills—Foreign Operations; Labor-HHS; and Legislative.

Calendar year 1980 for fiscal year 1981—4 bills—Labor-HHS; Legislative, Commerce-Justice; and Treasury-Postal.

Calendar year 1981 for fiscal year 1982—4 bills—Commerce-Justice; Labor-HHS; Legislative; and Treasury-Postal.

Calendar year 1982 for fiscal year 1983—6 bills—Commerce-Justice; Energy and Water; Foreign Operations; Labor-HHS; Legislative; and Treasury-Postal.

Calendar year 1983 for fiscal year 1984—3 bills—Agriculture; Foreign Operations; and Treasury-Postal.

Calendar year 1984 for fiscal year 1985—8 bills—Agriculture; Defense; District of Columbia; Foreign Operations; Interior, Military Construction; Transportation; and Treasury-Postal.

Calendar year 1985 for fiscal year 1986—7 bills—Agriculture; Defense; District of Columbia; Foreign Operations, Interior; Transportation; and Treasury-Postal.

Calendar year 1986 for fiscal year 1987—all 13 bills.

Calendar year 1987 for fiscal year 1988—all 13 bills.

Since 1988, bills have not been carried for a full year in a continuing resolution except for the Foreign Operations bill in fiscal year 1992. In addition to the above, in calendar year 1950, 10 bills were included in the ''General Appropriations Act,'' 1951. The only general bill not included was the District of Columbia bill.

Sincerely,

BOB LIVINGSTON,
Chairman.

Mr. Speaker, I would truly like to work in a bipartisan way, but when we talk about the real smokescreens before us, the minority has fought tooth, hook, and nail to delay, to gridlock every single appropriations bill we had. They fought against every one and they want to spend and increase in every one except one, and, of course, that is national security and defense, in which the Constitution specifically says we are $200 billion below the bottom-up review, which is the bare bones minimum to fight two conflicts. And, of course, the liberal left wants to attack that even more.

The real smokescreen is we want to balance the budget and have welfare reform, but not a single Republican or Democrat voted for the President's package. If we want to take a look at the real meaning of Medicare, we want to positively come out and seek help, but yet it is Mediscare because of the 1996 elections. If we want to see a smokescreen, we should take a look at the President, who said I raised taxes too much. But the liberal left said, oh, do not say that. Please do not say we raised taxes too much, because they increased the rate on the middle class with the tax rate when they said they were going to give a tax break for the middle class.

They increased the tax on Social Security. They cut out the COLA of the military and they did everything opposite from what they promised that they would do. Now, we are quite on the opposite side. We are going to balance the budget, we are going to resolve Medicare and save it and preserve it. We are going to have a welfare reform package that helps America get off and out of slavery instead of this cruel system and we are going to give a tax package back to the people because their own President said we tax too much.

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

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Wisconsin [Mr. OBEY] for yielding time, and also for his leadership in putting together this motion to recommit, as well as his leadership on many other issues in this Congress.

Mr. Speaker, there are many, many reasons to vote against this continuing resolution and to support the sensible motion to recommit. But I tell my colleagues it takes my breath away to think that our colleagues on the Republican side of the aisle as they vote for the continuing resolution today will be voting to increase the Medicare part B premium that senior citizens will have to pay for Medicare starting January 1.

By the admission of our colleague from California, Mr. THOMAS, the premium will be increased at least over $100 a year. Further to that, this continuing resolution makes a $13-per month increase in the premium. How can we do that to our seniors who are living on the margins? How can we given a tax break to the wealthiest Americans at the same time as we are increasing the premiums over $100 per year starting January 1 for our senior citizens?

In addition to the increase in Medicare, there is the famous redtape Istook amendment which places onerous regulatory burdens on Americans striving to exercise their right of freedom of speech to petition their Government. Others have spoken eloquently to that point. I point out that it is still present in its un-American form in this bill.

In addition to that, it is important for our colleagues to know what else is cut very seriously in this legislation: Low-Income Home Energy Assistance Program, Goals 2000 school reform programs, the President's AmeriCorps National Service program, Community Development Bank Initiative, National Biological Survey, Advanced Technology Program, drug courts and crime prevention block grants.

In addition to all of that, we are faced with this decision because the Republicans have not done their work. I commend our colleague for offering this motion to recommit as well as his anticancer-drug legislation.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS], a veteran of foreign wars and domestic, as I breathlessly take in some of the misstatements that were just made.

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

Mr. GEKAS. Mr. Speaker, I rise to speak in favor of the continuing resolution which is before us, but I must say I do so more in sorrow than I do in enthusiasm.

Mr. Speaker, first of all, I voted against the rule because it did not provide for an opportunity for my pet project, an instant replay proposition that would end continuing resolutions and the train-wreck possibilities for all time. I will try again; every time the Committee on Rules meets on a continuing resolution, I will try to convince them that we ought to have an automatic resurgence of the previous continuing resolution until the negotiators come up with a final budget, so that we will never have that lapse, that gap that comes too often in these negotiations.

Mr. Speaker, I also rise in sorrow because as a proponent of increased funding for NIH, just for example, the continuing resolution causes gaps where everybody might agree on increased appropriations, it causes gaps of reduced funding because of the formulas that are being applied to keep the lowest common denominator of funding viable through the temporary periods. Thus, if it is 6 weeks or 8 weeks, the increases that we all agree should go to NIH are not forthcoming, thereby slowing down vital research in new remedies and preventive medicine for our populace, and thus creating an unintended danger to the fulfillment of our biomedical research and NIH capacities.

This is why I will, of course, have to support the continuing resolution, because if we do not, we have that very same train wreck which I am trying to avoid by my type of legislation. So, let us go on with it. Let us pass this continuing resolution. I, for one, will continue to work for a no-train-wreck-possibility instant replay.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, the majority is very touchy when we raise the Medicare part B issue, and for good reason.

Mr. Speaker, I would like the facts to be clear. They do not need to be embellished. The premium is now $46.10. There is no reference in the law now to 31.5 percent. It works out that the $46.10 comes out at 31.5 percent, because the costs of health care were less than expected.

Under current law, the premium next year would go down to $42.50, because 25 percent is written into the law. There is no 31.5 percent. My Republican colleagues change current law and write into the bill 31.5 percent. That will raise the premium to $55.10, under their language in the continuing resolution; under the reconciliation bill, $53.40. Those are the facts.

What this is is the first step toward embodying what is in the Republican reconciliation bill, in the bill that has previously passed here, that would practically double the part B premium by the year 2002. The estimate is $88. It is now 46.10. Those are the figures.

Mr. Speaker, my colleagues on the other side are sensitive to it, they throw up all kinds of smoke screens, but those are the facts. They say, by the way, AARP supported 31.5 percent. I challenge them to find that anywhere. They have not done that.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana [Mr. MCCRERY].

Mr. MCCRERY. Mr. Speaker, I thank the gentleman for coming back to the well. We are talking about the part B premium. Is the gentleman aware that part B Medicare costs are escalating at a very high rate; 10, 12 percent per year?

Mr. LEVIN. Mr. Speaker, if the gentleman will yield, it depends what year we take. And the gentleman from Louisiana [Mr. MCCRERY] can argue whether or not they are increasing. They are. But the gentleman should not deny that what the gentleman and his colleagues are doing is raising the part B premium. They are doing that.

Mr. MCCRERY. Mr. Speaker, reclaiming my time, I appreciate the gentleman wanting to obfuscate the issue, but the fact is that part B costs of Medicare are escalating at an unsustainable rate. The President's own trustees say that in their trustees report this year.

Mr. Speaker, what the gentleman is suggesting is that in the face of escalating costs that are unsustainable, we drop, we reduce the premium. That is the very type of thinking that has gotten this Nation in the trouble that it is in. And so, yes, we are trying to stay at 31.5 percent of program costs.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. MCINTOSH].

Mr. MCINTOSH. Mr. Speaker, I wanted to further address the issue of ending welfare for lobbyists, which I think is a critical part of this bill.

Mr. Speaker, first let me say that I think the gentleman from Louisiana [Mr. LIVINGSTON] has done an excellent job of crafting a temporary continuation of the current spending levels at the lowest levels, which will create an incentive for us to get our job done and for the President to step to the table and sign these bills so that we can go back to the American people and say that we have delivered a balanced budget.

Mr. Speaker, I think the provision on ending welfare for lobbyists is absolutely critical to reaching that balanced budget. My very first weekend in office, I went back home to my district in Indiana and went around and held town meetings in six of the towns there. People were elated. This new Congress was going to keep its promises and deliver on the Contract With America and balance the budget.

In the midst of that, several people came up to me and said, ''When you balance the budget, do everything you can to everybody's program, but keep my special spending program intact.'' And, unfortunately, when we add that one after another, it makes it impossible to make the spending reductions necessary to balance the budget.

Mr. Speaker, as a result of that type of lobbying by groups who are benefited from the $50 million of grants that we give out each year, it becomes increasingly impossible to actually deliver on our promise to balance the budget.

Mr. Speaker, our bill is very simple. It says if person or group benefits from taxpayer subsidies, then we are going to ask that they restrict their lobbying activities to what any charity does, and limit the amount of money that they spend on hiring lobbyists in Washington, on trying to influence Congress to spend more money on their program. If those individuals or groups do not accept any money from the taxpayers, there is no gag rule, there is no limit. They can come and petition Congress. They can hire lobbyists. They can do whatever they want to further their position.

Mr. Speaker, I urge my colleagues to vote for this bill. Vote to end welfare for lobbyists.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, it is clear that the Republican majority is intent on continuing its crusade to lock out those without assets, without money, from the political process. Once again, the Istook amendment takes direct aim at the poorest, those with the least power in society, to make sure that their voices cannot be heard.

It seems to me, from the very first day, they have made a mockery of their ''openness in government'' arguments. They came here arguing that we did not have enough open rules on the floor, and the first thing they did was virtually shut out all amendments. They came here complaining that there was not enough opportunity for hearings. They have moved major pieces of legislation without hearings and, in reality, they cannot even agree with their own majority in the other body to bring these bills to the President in the normal fashion.

Mr. Speaker, worst of all, today in this bill that is ostensibly set up to keep the Government running, they want to sneak in the last ax to make sure that seniors and the poor are unable to speak on their own behalf. Yes, earlier in the day we protected oil companies to make sure they get an extra half billion dollars, and tonight we are squelching seniors from speaking.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. THOMAS], because there have been so many misstatements about the Medicare inclusion in this bill.

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

Mr. THOMAS. Mr. Speaker, I guess we really do have to go back and take a look at history, because frankly it is irresponsible to pander to seniors, as the minority seems to need to do, without a truth-in-packaging.

Mr. Speaker, it is true, this year it is a $46.10 amount. That is because in 1990, Democrats said over the next 5 years there would be a fixed-dollar amount. The program, beginning in 1965, was a 50–50 split. In 1974, my colleagues on the other side would not do what they should do, and that was begin to reform the program to reflect the commitment of equal share.

Mr. Speaker, they let it slide at the Social Security inflation rate down to a 25 percent contribution, versus a 75 percent contribution of government money by young people who are also paying taxes. Now, what they are doing is after this agreement which produces the 31.5 percent figure, which is the $46.10, when everybody knows the program in Part A is going bankrupt and the program in Part B is going sky high, they honestly think they can take the floor continuing to pander to seniors and say the way to solve the problem is to have the premium go down next year.

Mr. Speaker, that is absurd. I will tell my colleagues, and I will repeat, all of the senior groups that came before us said: We are not opposed to holding the line on premiums. It makes no sense, at a time when we need to begin solving the problems, to go back to the old way my Democrat colleagues tried to maintain their majority. That is, pandering to seniors. That is why we are in the problem we are in today.

Mr. Speaker, it is minimally responsible to say to the seniors we are going to hold the line on the premium that is their fair share of responsibility as we reform the program. My colleagues on the other side do not seem to get it. People are not buying the idea that we will charge them less and they can keep the program. That is why it is going bankrupt.

Mr. Speaker, we are honest. We say, ''Hold the line on premiums. That is your fair share responsibility.'' We will restructure the rest of the program to let the market forces that are reducing the cost of health care in the private sector into the government-run program.

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Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. FATTAH].

Mr. FATTAH. Mr. Speaker, I rise in opposition to the continuing resolution and in support of the motion of the gentleman from Wisconsin [Mr. OBEY]. I think that all of us, particularly the new majority in the Congress, should try to think about our responsibility to this nation.

First of all, this continuing resolution is not a continuing resolution. It is not going to become the law of the land. The President has said he is going to veto it, especially with the Istook amendment. It is not going to become the law. So we are going through motions again.

The appropriation bills that we were blamed for by one of the previous speakers, that the liberal left were holding up, the truth is, the facts are that the Republicans have the majority. They should pass those bills, in that there is not a conference committee that is in the majority of Democrats' hands.

You can move those bills over to the President so that we can move this process along. If you really want a continuing resolution, a clean one would in fact see the light of day and would be signed into law. Then the negotiations could move forward. I think that

we are going through these motions but it should be clear to all of us, I think it is clear to people around this country, at least the ones who went to the polls yesterday, that they are not buying this story. I would hope that we would soon—and very soon—get to the point at hand.

Mr. LIVINGSTON. Mr. Speaker, how much time remains on both sides?

The SPEAKER pro tempore (Mr. DREIER). The gentleman from Louisiana [Mr. LIVINGSTON] has 7 minutes remaining, and the gentleman from Wisconsin [Mr. OBEY] has 9 minutes remaining.

Mr. OBEY. Mr. Speaker, I yield myself 3 minutes. Mr. Speaker, we have had a lot of side debates on a lot of issues that do not belong here today, but the main question facing us today is whether or not we are going to be able to pass a new continuing resolution which keeps the Government going because the majority party in this Congress has been unable to pass 89 percent of the appropriated portion of the budget.

They do not make that more likely by putting extraneous legislation in this proposal, which they know will be vetoed, which puts us on the path to virtually doubling Medicare premiums. What they are trying to do is to use this device to get this House to again endorse the majority party decision to virtually double Medicare premiums. We are not going to do that and neither is the President of the United States.

Second, they do not make it easier to pass a continuing resolution when they add the Istook redtape amendment to it, which would tie up virtually every charity in this country in massive redtape, language which has already tied up one appropriation bill for 51 days. That is not the way you solve an immediate crisis.

Now, the Istook amendment is masqueraded by its sponsor as being aimed at lobbyists. Baloney. What the Istook amendment would say to the Farmers Union, who we have asked to run the National Green Thumb senior jobs program so that we do not have to build up a bureaucracy in the Federal Government, what that would say to the Farmers Union is, ''Because you are performing that service to the taxpayers, you cannot open your mouth to comment on what you think farm policy ought to be.''

It also says to the National Council of Senior Citizens, who are being asked to run the senior aides program so we do not have to establish another Federal bureaucracy, they are being told: ''Sorry, if you are going to perform that public service, then you cannot lobby and tell the Congress how you feel about Medicare.'' That is authoritarian and it is wrong and that is why the President opposes it and why we oppose it.

What we ought to be doing is very simply meeting the task before us, which is to find some way to bridge the differences between the Senate and the House and pass an extension of the budget so that we can continue to have some time to do our work. That is what we ought to do.

Instead we are being asked to add a bunch of ideological bells and whistles which are most assuredly going to bring this package down. They know the Senate will not accept the Istook amendment. Their own party will not accept the Istook amendment. And they know that the President will not accept doubling the Medicare premium.

This is not an effort to solve a problem; this is an effort to exacerbate it.

We ought to reverse course before it is too late and it hurts innocent people.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the debate is coming to a close, and I think that the Members should understand this is a very simply bill. It is simply a continuing resolution to keep Government operating for up to 2 weeks between November 13 and December 1.

It provides for the lowest level of funding in any particular program between the House, or the Senate, or fiscal year 1995 levels. For those programs that have been terminated or significantly reduced in either bill, it provides that levels can be raised to 60 percent of the amount that was appropriated last year. Yes, it has the Simpson-Istook-McIntosh language, which simply says that one cannot take tax dollars and come back to the Congress and lobby for more tax dollars. It is a very simple and straightforward amendment.

We have heard the gentleman from California [Mr. THOMAS] discuss the Medicare part B provision. All of the hysteria on the other side is just a smokescreen to keep from understanding that this body is trying to work its way toward a balanced budget and also provide for those who really are in need and keep the programs that we have available to senior citizens not only today but in the future.

It provides for Medicare payment for another medicine for breast cancer treatment and prostate cancer treatment. It is a good bill. It has been endorsed by the Citizens Against Government Waste. Mr. Tom Schatz has given us a letter, which I would like to make a part of the RECORD, that says, on behalf of their 600,000 members they endorse the continuing resolution for fiscal year 1996. We should be applauded, they say, for meeting the targets set by the budget resolution saving taxpayers $24 billion in this fiscal year. And they also support the inclusion of the Simpson-Istook-McIntosh compromise in this resolution.

They say the reforms in this proposal would end welfare for lobbyists, preventing tax dollars from being used by nonprofit groups to push a political agenda.

This is a good bill, and I urge its adoption.

Mr. Speaker, I include for the RECORD the following correspondence:

COUNCIL FOR CITIZENS AGAINST GOVERNMENT WASTE,
November 8, 1995.

Hon. ROBERT LIVINGSTON,
Chairman of the Committee on Appropriations, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the 600,000 members of the Council for Citizens Against Government Waste (CCAGW), I endorse the Continuing Resolution for FY 1996 (H.J. Res. 115). This resolution is crucial to put federal spending on a seven-year glide path toward a balanced budget.

Mr. Chairman, you and the other members of the committee should be applauded for meeting the targets set by the budget resolution, saving taxpayers $24 billion in FY 1996, and for crafting this legislation.

H.J. Res. 115 will set spending limits at levels approved in the budget resolution and in the appropriations bills passed by the House for FY 1996. More importantly, this resolution allows the process of shutting down unnecessary programs and departments targeted for elimination to go forward.

We also support the inclusion of the Simpson-Istook compromise in this resolution. The reforms in this proposal would end ''welfare for lobbyists,'' preventing tax dollars from being used by non-profit groups to push a political agenda. Lobbying should be voluntary, not coerced. CCAGW opposes any attempt to strip this language from the bill.

We urge all members of the House to support this legislation and keep the promise that Congress made to taxpayers.

Sincerely,

THOMAS A. SCHATZ,
President.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute and 30 seconds.

Let me simply say, I think that the gentleman from Louisiana misspoke. This proposal does not make it illegal for lobbyists to use taxpayers' money to lobby. That is already in the law. That is a red herring. It is a phoney argument.

No group who receives Federal money under a grant from the Government of the United States can use one dime of that money to lobby and the gentleman knows it and ought not to imply otherwise.

Let me simply say that my motion to recommit will do what the committee ought to have done today. It will simply bring a simple 1-month extension to the floor of this House, stripped of any ideological bells and whistles on either side of the philosophical aisle. It will simply provide for a 1-month extension so that we do not hurt innocent people because the Congress has not been able to fulfill its work.

The President has not prevented these bills from becoming law. This Congress' own mismanagement has prevented these bills from becoming law.

Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Michigan [Mr. BONIOR], the minority whip.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 4½ minutes.

Mr. BONIOR. Mr. Speaker, my friend from Louisiana spoke just a second ago, and he said, in a modulated voice,

that this was just basically a very simple bill.

Well, it is not a simple bill, if you are a struggling senior citizen and you are worried about the increases in part B of your Medicare. I would remind my friend from Louisiana that 60 percent of the seniors in this country have incomes of $10,000 a year or less, 60 percent. This bill is the first step on the way, as the gentleman from Wisconsin [Mr. OBEY] has indicated, to doubling those premiums over a period of years.

Now, all across the country, Mr. Speaker, yesterday in some of the most conservative areas of the country, the American people rejected Republican cuts to Medicare. They rejected Republican cuts to student loans. They rejected these tax breaks the Republicans are putting forward for the wealthy in our country. Yet here we are on the floor today, 24 hours after the polls have closed out in the East, considering a bill that raises the Medicare premiums for every senior citizen in America.

Under this bill, as of January 1, Medicare premiums for every senior citizen in America will go up. They just could not wait, they had to pull their Medicare premium increases out of their Medicare bill so they could make sure that on New Year's Day every senior citizen in America will get a surprise from Speaker GINGRICH, an increase in their Medicare premium. What a New Year's present. Of course, we were not told that this bill raises Medicare preimums. Senior citizens were not told. The American people were not told.

But last night, late in the evening, when most Americans had gone to sleep, I had been watching the TV looking at the election results and watching Democrats win all over this country, I happened to flip on to C–SPAN and I saw the Committee on Rules put in this increase for our seniors.

Did you really think that you would get away with this? Did you really think that nobody would notice?

Mr. Speaker, why are Gingrich Republicans so addicted to secrecy? It has been 2 weeks now since Republicans in the House and the Senate voted to cut Medicare in order to pay for tax breaks for the wealthy. In the House, Gingrich Republicans voted to double premiums and abolish nursing home protections. And over in the Senate where the Republicans control, they voted to double Medicare deductibles. Now it is time for both Houses to work out the details, but instead of holding public hearings, instead of holding public meetings, instead of letting the public see what you are up to, no one can even find your closed door meetings.

Now we see the evidence of your work on the floor this evening. Well, you can hide all you want to, and you can try to put one over on the American people. But you are not going to get away with it. Yesterday's election proved the American people know the truth.

I urge my colleagues to support the Obey motion to recommit. Vote against this bill and say no to cutting Medicare.

Mr. LIVINGSTON. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Texas [Mr. ARMEY], the majority leader.

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARMEY] is recognized for 5 minutes.

Mr. ARMEY. Mr. Speaker, just a couple of program notes. First, we should be reminded that seniors in poverty have their Medicare premiums paid by the government. Second, I would ask my colleague from Michigan, the gentleman from Michigan, the distinguished whip, if in fact the actions to which he referred to as such secret actions were so secret, how is it he was in his home watching them on television?

Those points being made, Mr. Speaker, let me remind ourselves, and if I may, addressing my colleagues on the Republican side of the aisle with this reminder that it was just a year ago, on November 8, 1994, the American people turned to us and said, we would choose you to be the majority in the House of Representatives. We would choose you to take this nation in a new direction. We would choose that we would have a smaller, less intrusive government, a government that had the decency to know the goodness of the American people and the discipline to respect that. And they set us on a course of change.

Change is a difficult business. And change, quite frankly, is an unnerving business. In those first heady days of this session of Congress, when things always seemed to go so swimmingly well, I think we became convinced that perhaps we could do everything without much difficulty.

□ 1930

I might take a moment to just mention, Mr. Speaker, that just a week or so ago I was musing with my wife about how difficult it has become to make this change, and I said, ''Well, honey,'' I address my wife that way, ''Honey'' I said, ''Do we think that the forces of opposition, the defenders of the status quo, the proponents of big government, would not fight back?'' Yes, they are fighting back, and unhappily they are fighting back, it seems, without a great deal of regard for the accuracy of what the characterizations of their statements are, and, yes, change is an unnerving business. The process of change is scary because as we even leave those things which we know are failed policies and turn in a new direction, we must be concerned about what will be the outcome of this new direction, but when we know for sure things have not worked well in our lives, it is time to make that change, and we worked hard, and I have to tell my colleagues we have not gotten much help in the effort.

Mr. Speaker, we have had more hours in session in this Congress than any session I have ever seen. We have had more votes, and we have had more dilatorious procedural votes designed to do nothing other but throw sand in the gears of change of the American people's Congress in the process of making law to give change to the American people. No other purpose whatsoever except to stall, delay, obstruct, and obscure; so, yes, we are doing it, and we are unhappily, my colleagues, doing it on our own. And not only that, we do it each day with a gun to our head.

The President of the United States, who has disdained any invitation we have had to join the effort, to involve himself in the process, has sat comfortably in the White House or on the campaign trail and said, ''Whatever you send me I will veto,'' and the last time we sent him a bill, and he vetoed it, he gave us not even a reason for his veto, and so, yes, we continue to work, and we are working hard, and we are staying on course toward a balanced budget.

Now we have had one continuing resolution, and it was a continuing resolution that was very stable, and still the President and his team did not involve themselves, and now we are at a point where we are offering another continuing resolution so we continue the work, and this continuing resolution is a continuing resolution that is designed to get the President's attention and have the President and his party respond to the continuing resolution. Come join the effort. Let's get this job done. Let's get a mark on the budget this year that moves us towards that balanced budget in 7 years. Let's make the reforms, let's make the revisions, let's change the programs, let's improve the programs, and in some dire cases of distress let's save the programs. Benign neglect is not good enough for those programs precious to our seniors, and those programs that are failing our children are no longer programs that we ought to be continuing, so it is time for change.

Mr. Speaker, tonight we are asking our Members to step up to the plate and to take this bill, this bill that makes a downpayment on our trip to the balanced budget and provides the invitation to the President to once again get involved, Mr. President, with the making of public policy. The Presidency of the United States is too important to just sit on the outside and not being involved, and then when we get to this point we will ask ourselves when we are asked to make this vote, ''Will you vote to leave our children with the American dream or to leave our children with the American debt?'' I will tell my colleagues on both sides of the aisle that I vote for the American dream, and I ask my colleagues to do the same. I ask my colleagues to vote ''yes'' and move this process forward, get everybody with responsibilities involved in this process. Let us give the American people the kind of government, the kind of programs, the

kind of assistance that mixes understanding with compassion and knows, and understands, and responds to who they really are and what are their real needs.

I say, ''Let's do it tonight, and, Mr. President, if you happen to be home watching us do this in secret, again I would address you and your administration. Get involved. It is time to get involved. Respond to the American people, exercise your responsibilities.''

I say vote ''yes.''

The SPEAKER pro tempore (Mr. DREIER). All time has expired.

Pursuant to House Resolution 257, 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. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the joint resolution?

Mr. OBEY. I think that is safe to say, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OBEY moves that the joint resolution H.J. Res. 115 be recommitted to the Committee on Appropriations with instructions to report the joint resolution back to the House forthwith with the following amendment:

Strike all after the resolving clause and insert the following:

''That section 106(c) of Public Law 104–31 (109 Stat. 280) is amended by striking ''November 13, 1995'' and inserting ''December 13, 1995''.''

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. OBEY] is recognized for 5 minutes in support of his motion to recommit.

Mr. OBEY. Mr. Speaker, what this motion tries to do is to simply recognize we have a serious problem on our hands. It recognizes that the Congress has been unable to finish 89 percent of its appropriations work, and so what it attempts to do is to simply continue funding for the Government for another 30 days without any extraneous legislative riders whatsoever. It attempts not to raise new arguments or open new wounds so that we have a chance of getting the Senate to pass the same language that is passed by the House and, therefore, so that we have a chance to send something to the President which he will sign.

Mr. Speaker, it is our view simply that by adding the language of the Istook amendment, which has already tied down one bill for over 50 days, that we go in the opposite direction of the direction that we have to proceed in if we want to solve this immediate problem. We certainly do not believe that this is an appropriate vehicle to begin the process by which we double or virtually double Medicare premiums, and so that item is also stripped out of the motion to recommit.

This is an effort to bridge differences rather than create new ones. It simply continues the same language that the gentleman from Louisiana [Mr. LIVINGSTON] and the majority party brought to this House about 5 weeks ago. This is what we ought to do if we want to avoid innocent people being hurt with the Government shut down, and I would urge Members to adopt it.

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

The SPEAKER pro tempore. Under the rule, the gentleman must consume the entire 5 minutes.

Mr. OBEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON] for 5 minutes.

Mr. LIVINGSTON. Mr. Speaker, I doubt I will use all of my time, either. I appreciate the tenor of the gentleman's argument. I just happen to disagree with him, and I certainly urge the defeat of his motion to recommit, and I urge passage of this continuing resolution.

This is a continuing resolution that keeps Government working for 2 weeks. Two weeks. Nothing more than that. It keeps government going. It does include other issues, the Istook language and the Medicare part B language and the breast cancer and prostate cancer treatment language which is nothing more than spending money on cancer drugs to keep people alive. It would send those, because they are important, over to the Senate and asks them to take a look at these issues and to deal with them. but otherwise this bill simply provides a formula to keep government operating for 2 weeks.

Yes, it is more restrictive than the last continuing resolution because the idea is to encourage both the Members of this body, the Members of the other body, to pay attention to the appropriations bills that have already passed the House of Representatives and to also encourage the President to pay attention to those bills when they come to him and not frivolously veto them like he did the legislative branch bill.

Mr. VOLKMER. Mr. Speaker, I demand that the gentleman's words be taken down.

The SPEAKER pro tempore. The gentleman from Missouri has demanded that words be taken down.

□ 1945

The Clerk will report the words.

The Clerk read as follows:

. . . Yes, it is more restrictive than the last continuing resolution because the idea is to encourage both the Members of this body, the Members of the other body, to pay attention to the appropriation bills that have already passed the House of Representatives, and to also encourage the President to pay attention to those bills when they come to him and not frivolously veto them like he did the legislative branch bill.

The SPEAKER pro tempore. Does the gentleman from Missouri [Mr. VOLKMER] withdraw his demand?

Mr. VOLKMER. Of course not.

The SPEAKER pro tempore. Does the gentleman insist on his demand?

Mr. VOLKMER. I insist on my demand, because by using the word ''frivolous'' he has characterized the motive of the President in vetoing the legislation.

The SPEAKER pro tempore. In the opinion of the Chair, the words were not a personal affront to the President, and are not considered inappropriate.

The gentleman from Louisiana [Mr. LIVINGSTON] will proceed.

Mr. LIVINGSTON. Mr. Speaker, if I might continue where I was before I was so frivolously interrupted, the fact is that this House is completing its action on the glidepath toward a balanced budget. All of the appropriations bills that we have passed this year, plus the rescissions bills that preceded them in the spring of this year, have reaped the American taxpayer some $44 billion in savings. That is not frivolous. Those are real savings, savings under what would have been appropriated by the other side, had they acted as they did under their plans for some 40 years of frivolous misrule.

Mr. Speaker, we are trying to be logical, realistic, nonfrivolous here. We are about real things. We are about real things. We are about keeping the Government going. For the next 2 or 3 weeks we need to keep the Government operating. That is why we need this continuing resolution.

If we can keep the continuing resolution on track, if we pass it tonight, if the Senate passes it, if we can send it to the President, we can keep the Government operating and we can stay on that glidepath toward a balanced budget.

If we get that balanced budget, by even the chairman of the Federal Reserve, Mr. Greenspan's accounts, we will lower interest rates, we will increase productivity, we will create incredible opportunity for growth and jobs and wealth for ourselves, for our children, and our grandchildren.

We are getting this country back on the track of nonfrivolous economic sanity, and this bill is just one step in the process. I urge my colleagues, don't be frivolous, don't vote ''no.'' Vote ''aye'' on the continuing resolution, send it to the Senate, and let us send it to the President so he cannot be frivolous, and sign the bill.

Mr. VISCLOSKY. Mr. Speaker, I rise in strong opposition to this rule and the irresponsible way the Republican leadership has decided to deal with our Nation's finances. The Constitution gives Congress the power of the purse. This is one of our most fundamental and basic responsibilities. It is essential that we meet it. We are now 39 days into the new fiscal year, yet only 2 of 13 spending bills have been signed into law.

Today, instead of moving the process along, we will again dawdle over unrelated issues such as the Istook gag amendment, which has nothing to do with the budget, and is unconstitutional and un-American.

Since they cannot get this legislation enacted because of its demerits, Mr. ISTOOK and

his supporters are willing to shut this government down in order to shut the American people up.

The Istook language says it's okay to speak if you follow ''generally accepted accounting principles,'' subject yourself to a Federal audit, assume the presumption of guilt and hold yourself out to harassing lawsuits by individuals acting as private attorney generals.

I urge my colleagues to vote against the rule. I represents everything bad in a closed and autocratic system.

Mr. MCINTOSH. Mr. Speaker, I would like to clarify a concern raised in the past by some Members about the scope of the exclusion for loans in the Istook-McIntosh-Ehrlich provision to end welfare for lobbyists. As you know loans made by the government are expressly excluded from the definition of grant in the bill. Some Members of Congress have expressed concern about whether this exclusion touches on those who service or administer such loans. The sponsors of the bill intended this exclusion for loans to include compensation paid to those who provide services related to the making and administering of loans. I hope that this clarifies any confusion and resolves those concerns.

Ms. DUNN of Washington. Thank you, Mr. Speaker, I rise today to express my support of House Joint Resolution 115. Mr. Speaker, with House Joint Resolution 115 we are saying ''No more excuses. No more Washington gimmicks. It's time to do the right thing for America's future.'' With our actions, today, we are making a downpayment on our promise to balance the budget in 7 years and build a brighter future for our Nation.

I also want to take this opportunity to express my strong support of a provision in this measure that is a down-payment on the lives of over 40,000 women annually. A provision that not only will save millions of lives but millions of dollars at the same time. Specifically, this bill includes a provision to expand Medicare coverage for oral hormonal cancer drugs for breast and prostate cancer victims. While Medicare currently provides coverage for some oral cancer drugs, it does not cover oral hormonal therapies which are used in the post-surgical treatment of approximately 50 percent of all breast cancer patients, as well as the thousands of men whose cancer has spread beyond the prostate.

Mr. Speaker, breast cancer strikes approximately one in eight women in their lifetime and is the second leading cause of deaths among women. In 1995 alone, an estimated 182,000 new cases of breast cancer are expected to be diagnosed, with almost 60 percent of those cases diagnosed in women over the age of 65. Medicare coverage of post-surgical treatment of estrogen receptive positive tumors is the next logical step in fighting both breast cancer and prostate cancer. The only drug to treat these breast cancers post-surgically is a chemostatic drug that deprives the tumor of the estrogen it needs to grow. Due to a technicality in the law, such drugs are not covered by Medicare because it was never previously available in intravenous or injectable form. It simply does not make sense that millions of lives should be left hanging in the balance because of a technicality in the law.

I commend all of my female colleagues, particularly Congresswoman NANCY JOHNSON and Congresswoman BARBARA VUCANOVICH, with whom I have worked to ensure an end to this discrimination. Mr. Speaker, when a nation prepares for war it sends in its most powerful armaments into battle. I would think every Member of this body would agree that breast cancer and prostate cancer patients deserve nothing less.

Mr. HASTERT. Mr. Speaker, the American people have spoken. A strong majority of Americans do not believe that special interest groups who receive funding from the Federal Government should, in turn, be using these funds, either directly or indirectly, to lobby the government.

During the week of September 26–30, the Luntz Research Companies conducted a national study of 1,000 adults on a variety of important national issues. Included among these questions were two questions relating to the issue of public funding of special interest groups who lobby the government.

By a margin of 70 percent to 26 percent, Americans agree that tax dollars shouldn't be used to fund groups to lobby government. In addition, the data clearly demonstrates that opposition to special interest group funding for lobbying knows virtually no party, ideological, gender, age, or attitudinal boundaries.

However, Mr. Speaker, I have saved the best for last. Over half of the people polled, 56 percent, would be less likely to support a Member of Congress for reelection if he or she opposed measures to stop such uses of taxpayers' funds.

Mr. Speaker, the message of the American people is clear: End taxpayer subsidized lobbying. I urge my colleagues to support the McIntosh-Istook-Ehrlich reforms.

The SPEAKER pro tempore. All time has expired.

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. OBEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 198, nays 227, not voting 7, as follows:

[Roll No. 774]

YEAS—198

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

NAYS—227

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
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
Cremeans
Cubin
Cunningham
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
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
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
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Regula
Riggs
Roberts

Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
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
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—7

Farr
Fields (LA)
Peterson (FL)
Ramstad
Thornton
Tucker
Weldon (PA)

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Mr. YOUNG of Florida changed his vote from ''yea'' to ''nay.''

Messrs. HOYER, KENNEDY of Massachusetts, and DAVIS, and Mrs. MORELLA 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. BILBRAY). The question is on passage of the joint resolution.

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

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote. A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 230, noes 197, not voting 6, as follows:

[Roll No. 775]

AYES—230

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
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
Cremeans
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
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
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
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—197

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Houghton
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
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
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—6

Fields (LA)
Peterson (FL)
Ramstad
Thornton
Tucker
Weldon (PA)

☐ 2025

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 359

Miss COLLINS of Michigan. Mr. Speaker, I ask unanimous consent to have my name removed from the list of cosponsors of H.R. 359.

The SPEAKER pro tempore (Mr. BILBRAY). Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present last night because my plane was late for the four rollcall votes taken on November 7, 1995.

Had I been present, I would have voted ''yea'' on rollcall votes 765, 766, 767, and 768.

PERSONAL EXPLANATION

Mr. HOKE. Mr. Speaker, last night I was unavoidably detained by a late plane for three of the first four rollcall votes.

Had I been present, I would have voted ''yea'' on rollcall votes 765, 766, and 767.

CONTINUATION OF NATIONAL EMERGENCY REGARDING PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–131)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed.

To the Congress of the United States:

On November 14, 1994, in light of the dangers of the proliferation of nuclear, biological, and chemical weapons (''weapons of mass destruction'') and of the means of delivering such weapons, I issued Executive Order No. 12938, and declared a national emergency under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). Under section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), the national emergency terminates on the anniversary date of its

declaration, unless I publish in the *Federal Register* and transmit to the Congress a notice of its continuation.

The proliferation of weapons of mass destruction continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. Therefore, I am hereby advising the Congress that the national emergency declared on November 14, 1994, must continue in effect beyond November 14, 1995. Accordingly, I have extended the national emergency declared in Executive Order No. 12938 and have sent the attached notice of extension to the *Federal Register* for publication.

As I described in the report transmitting Executive Order No. 12938, the Executive order consolidated the functions of and revoked Executive Order No. 12735 of November 16, 1990, which declared a national emergency with respect to the proliferation of chemical and biological weapons, and Executive Order No. 12930 of September 29, 1994, which declared a national emergency with respect to nuclear, biological, and chemical weapons, and their means of delivery.

The following report is made pursuant to section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), regarding activities taken and money spent pursuant to the emergency declaration. Additional information on nuclear, missile, and/or chemical and biological weapons (CBW) nonproliferation efforts is contained in the annual Report on the Proliferation of Missiles and Essential Components of Nuclear, Biological and Chemical Weapons, provided to the Congress pursuant to section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190), also known as the ''Nonproliferation Report,'' and the annual report provided to the Congress pursuant to section 308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Public Law 102–182).

The three export control regulations issued under the Enhanced Proliferation Control Initiative (EPCI) are fully in force and continue to be used to control the export of items with potential use in chemical or biological weapons or unmanned delivery systems for weapons of mass destruction.

In the 12 months since I issued Executive Order No. 12938, 26 additional countries ratified the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC) for a total of 42 of the 159 signatories; the CWC must be ratified by 65 signatories to enter into force. I must report my disappointment that the United States is not yet among those who have ratified. The CWC is a critical element of U.S. nonproliferation policy and an urgent next step in our effort to end the development, production, stockpiling, transfer, and use of chemical weapons. As we have seen this year in Japan, chemical weapons can threaten our security and that of our allies, whether as an instrument of war or of terrorism. The CWC will make every American safer, and we need it now.

The international community is watching. It is vitally important that the United States continue to lead the fight against weapons of mass destruction by being among the first 65 countries to ratify the CWC. The Senate recognized the importance of this agreement by adopting a bipartisan amendment on September 5, 1995, expressing the sense of the Senate that the United States should promptly ratify the CWC. I urge the Senate to give its advice and consent as soon as possible.

In parallel with seeking Senate ratification of the CWC, the United States is working hard in the CWC Preparatory Commission (PrepCom) in The Hague to draft administrative and implementing procedures for the CWC and to create a strong organization for verifying compliance once the CWC enters into force.

The United States also is working vigorously to end the threat of biological weapons (BW). We are an active participant in the Convention on the Prohibition of the Development and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction (BWC) Ad Hoc Group, which was commissioned September 1994 by the BWC Special Conference to draft a legally binding instrument to strengthen the effectiveness and improve the implementation of the Convention. The Group convened its first meeting in January 1995 and agreed upon a program of work for this year. The first substantive meeting took place in July, making important progress in outlining the key issues. The next meeting is scheduled for November 27 to December 8, 1995. The U.S. objective is to have a draft protocol for consideration and adoption at the Fourth BWC Review Conference in December 1996.

The United States continues to be active in the work of the 29-member Australia Group (AG) CBW nonproliferation regime, and attended the October 16–19 AG consultations. The Group agreed to a United States proposal to ensure the AG export controls and information-sharing adequately address the threat of CBW terrorism, a threat that became all too apparent in the Tokyo subway nerve gas incident. This U.S. initiative was the AG's first policy-level action on CBW terrorism. Participants also agreed to several amendments to strengthen the AG's harmonized export controls on materials and equipment relevant to biological weapons, taking into account new developments since the last review of the biological weapons lists and, in particular, new insights into Iraq's BW activities.

The Group also reaffirmed the members' collective belief that full adherence to the CWC and the BWC will be the only way to achieve a permanent global ban on CBW, and that all states adhering to these Conventions have an obligation to ensure that their national activities support these goals.

Australia Group participants are taking steps to ensure that all relevant national measures promote the object and purposes of the BWC and CWC, and will be fully consistent with the CWC upon its entry into force. The AG considers that national export licensing policies on chemical weapons-related items fulfill the obligation established under Article I of the CWC that States Parties never assist, in any way, the acquisition of chemical weapons. Moreover, inasmuch as these measures are focused solely on preventing activities banned under the CWC, they are consistent with the undertaking in Article XI of the CWC to facilitate the fullest possible exchange of chemical materials and related information for purposes not prohibited by the CWC.

The AG agreed to continue its active program of briefings for non-AG countries, and to promote regional consultations on export controls and nonproliferation to further awareness and understanding of national policies in these areas.

The United States Government determined that two foreign companies—Mainway Limited and GE Plan—had engaged in chemical weapons proliferation activities that required the imposition of sanctions against them, effective May 18, 1995. Additional information on this determination is contained in a classified report to the Congress, provided pursuant to the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.

The United States carefully controlled exports which could contribute to unmanned delivery systems for weapons of mass destruction, exercising restraint in considering all such proposed transfers consistent with the Guidelines of the Missile Technology Control Regime (MTCR). The MTCR Partners continued to share information about proliferation problems with each other and with other possible supplier, consumer, and transshipment states. Partners also emphasized the need for implementing effective export control systems.

The United States worked unilaterally and in coordination with its MTCR partners in multilateral efforts to combat missile proliferation by nonmembers and to encourage nonmembers to export responsibly and to adhere to the MTCR Guidelines. Three new Partners were admitted to the MTCR with U.S. support: Russia, South Africa, and Brazil.

In May 1995, the United States participated in an MTCR team visit to Kiev to discuss missile nonproliferation and MTCR membership criteria. Under Secretary of State Davis met

with Ukraine's Deputy Foreign Minister Hryshchenko in May, July, and October to discuss nonproliferation issues and MTCR membership. As a result of the July meeting, a United States delegation traveled to Kiev in October to conduct nonproliferation talks with representatives of Ukraine, brief them on the upcoming MTCR Plenary, and discuss U.S. criteria for MTCR membership. From August 29–September 1, the U.S. participated in an informal seminar with 18 other MTCR Partners in Montreux, Switzerland, to explore future approaches to strengthening missile nonproliferation.

The MTCR held its Tenth Plenary Meeting in Bonn October 10–12. The Partners reaffirmed their commitment to controlling exports to prevent proliferation of delivery systems for weapons of mass destruction. They also reiterated their readiness for international cooperation in peaceful space activities consistent with MTCR policies. The Bonn Plenary made minor amendments to the MTCR Equipment and Technology Annex in the light of technical developments. Partners also agreed to U.S. initiatives to deal more effectively with missile-related aspects of regional tensions, coordinate in impeding shipments of missile proliferation concern, and deal with the proliferation risks posed by transshipment. Finally, MTCR Partners will increase their efforts to develop a dialogue with countries outside the Regime to encourage voluntary adherence to the MTCR Guidelines and heightened awareness of missile proliferation risks.

The United States has continued to pursue my Administration's nuclear nonproliferation goals with success. Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) agreed last May at the NPT Review and Extension Conference to extend the NPT indefinitely and without conditions. Since the conference, more nations have acceded to the Treaty. There now are 180 parties, making the NPT nearly universal.

The Nuclear Suppliers Group (NSG) continues its efforts to improve member states' export policies and controls. Nuclear Suppliers Group members have agreed to apply technology controls to all items on the nuclear trigger list and to adopt the principle that the intent of the NSG Guidelines should not be undermined by the export of parts of trigger list an dual-use items without appropriate controls. In 1995, the NSG agreed to over 30 changes to update and clarify the list of controlled items in the Nuclear-Related Dual-Use Annex. The NSG also pursued efforts to enhance information sharing among members by establishment of a permanent Joint Information Exchange group and by moving toward adoption of a United States Department of Energy-supplied computerized automated information exchange system, which is currently being tested by most of the members.

The increasing number of countries capable of exporting nuclear commodities and technology is a major challenge for the NSG. The ultimate goal of the NSG is to obtain the agreement of all suppliers, including nations not members of the regime, to control nuclear exports in accordance with the NSG guidelines. Members continued contacts with Belarus, Brazil, China, Kazakhstan, Lithuania, the Republic of Korea (ROK), and Ukraine regarding NSG activities. Ambassador Patokallio of Finland, the current NSG Chair, led a five-member NSG outreach visit to Brazil in early November 1995 as part of this effort.

As a result of such contacts, the ROK has been accepted as a member of the NSG. Ukraine is expected to apply for membership in the near future. The United States maintains bilateral contacts with emerging suppliers, including the New Independent States of the former Soviet Union, to encourage early adherence to NSG guidelines.

Pursuant to section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), I report that there were no expenses directly attributable to the exercise of authorities conferred by the declaration of the national emergency in Executive Order No. 12938 during the period from May 14, 1995, through November 14, 1995.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 8, 1995.*

OMISSION FROM THE RECORD

(The following is a reprint of the consideration of H.R. 2589 from the CONGRESSIONAL RECORD of Tuesday, November 7, 1995, at page H11807, at which time the bill was not printed.)

MIDDLE EAST PEACE FACILITATION ACT OF 1994 EXTENSION

•••••••§¶x•—ContinuedH 11907

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the bill (H.R. 2589) to extend authorities under the Middle East Peace Facilitation Act of 1994 until December 31, 1995, and for other purposes, and I ask for its immediate consideration in the House.

The Clerk read the title of the bill.

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

There was no objection.

The text of H.R. 2589 is as follows:

H.R. 2589

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORITIES.

(a) IN GENERAL.—Section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), as amended by Public Law 104–30, is amended by striking ''November 1, 1995'' and inserting ''December 31, 1995''.

(b) CONSULTATION.—For purposes of any exercise of the authority provided in section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) prior to November 14, 1995, the written policy justification dated June 1, 1995, and submitted to the Congress in accordance with section 583(b)(1) of such Act, and the consultations associated with such policy justification, shall be deemed to satisfy the requirements of section 583(b)(1) of such Act.

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

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

Mr. Speaker, H.R. 2589 temporarily extends the Middle East Peace Facilitation Act of 1994 which expired on November 1, 1995. That act was previously extended by Public Law 104–17, by Public Law 104–22, and by Public Law 104–30. H.R. 2589 extends the act until December 31, 1995, and includes the transition provision to permit the President to immediately exercise the authorities granted him by this extension.

Mr. Speaker, I ask my colleagues to support the measure.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

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SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BILBRAY). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

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

[Mr. RIGGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

REMEMBER THE COMMITMENT OUR NATION OWES TO OUR VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Mrs. THURMAN] is recognized for 5 minutes.

Mrs. THURMAN. Mr. Speaker, on Saturday, November 11, Americans will once again pause to honor the brave men and women who proudly carried the American flag in conflicts great and small, and places famous and obscure. On Veterans' Day it is important that those who protected the freedoms and liberties we so cherish as a Nation be remembered for their service, their valor and dedication to duty.

Many times we have asked our veterans to interrupt their lives, to leave

their homes, their families and their jobs so that our Nation might be protected. Some faced hardships most of us cannot even imagine. Many died so that our cherished national ideals of democracy and freedom might live on, and live they have.

While we celebrate Veterans' Day in thousands of ceremonies across America, I believe it is also important to remember that our Nation owes a commitment to our veterans every day of the year. We owe our veterans the security of knowing that the programs created for them are not weakened or destroyed. On that account, I am afraid we stand on the brink of failure.

The Republican budget recently passed by the House and Senate will cut veterans' programs by about $6.4 billion over the next 7 years, including increasing veterans' copayments for prescription drugs.

The severe strains this budget will place on the Nation's 26 million veterans was one reason I strongly opposed it on the floor of the House.

The second way veterans will be harmed is the budget bill contains $270 billion in cuts to the Medicare Program, $27 billion in Florida alone. Medicare cuts will force the 8.8 million veterans on Medicare, one-third of all veterans in the United States, to pay increased premiums for low quality care. This includes more than 4.3 million veterans with combat experience and 1.2 million veterans with disabilities connected to their service. In Florida, 648,133 veterans on Medicare would be affected.

Veterans will also be harmed by another provision in the Republican budget cuts in Medicaid totaling $170 billion. Florida will lose almost $10 billion as a result, and approximately 12,700 veterans in Florida will likely lose their Medicaid coverage in 2002.

Republican proposals to block grant and cut Medicaid would deny Medicaid coverage to as many as 171,900 veterans nationwide just in the year 2002, including 103,600 elderly veterans and 68,300 disabled veterans under the age of 65. Where will these veterans who lose their health coverage go?

Well, most veterans who lose their Medicaid coverage under the Republican budget simply cannot afford private health insurance. Seventy-eight percent of Medicaid-eligible veterans have incomes of less than $20,000.

The bottom line is this: Because of budget proposals that cut veterans' programs, Medicare and Medicaid, the Veterans' Administration estimates more than 400,000 veterans who have no private health insurance may find it necessary to seek health care in VA hospitals. However, due to financial limitations of the VA health system, many of these deserving veterans would find themselves left out in the cold.

Mr. Speaker, even as we seek ways to reduce the budget deficit, we cannot allow the burden of our efforts to fall hardest on those least able to carry it. In the name of fairness and equity and on behalf of the 26 million veterans of America, I believe we can achieve our budgetary goals without breaking faith with those who have already placed their lives and livelihood on the line in order to keep America strong and free.

REPUBLICANS ARE FAINT-HEARTED

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

Mr. SMITH of Michigan. Mr. Speaker, the Republicans are faint-hearted. You know, we talk about balancing a budget. We are in the throes now of trying to say in 7 years we will balance the budget of the United States. That means we are going to quit borrowing money from what our kids and our grandkids have not even earned yet.

Here is why Republicans are faint-hearted. Number one, we are talking 7 years to do it.

Number two, after we finish this 7 years and brag that we have a balanced budget, Mr. Speaker, I wonder if the people of America know that we are still borrowing, in the year 2002, $100 billion from the Social Security Trust Fund and the other trust funds, and yet we see people apologizing.

Mr. Speaker, did you know that out of the 7 years, this first year is the easiest spending cut year? And you hear the whining and moaning about the big spending cuts this first year. How do you think we are going to go for the fifth year and sixth year and seventh year if we cannot get through this first year?

We have been calling the President of the United States and saying, ''Look, at least agree to balancing this budget in 7 years, even if we continue to borrow $100 billion a year from the trust funds.'' He suggested that maybe 10 years is okay, but yet the budget that he sent to Congress, the budget he sent to Congress does not even balance ever. It continues to overspend $200 billion a year into infinity.

Guess, guess how much taxes a child born today is going to pay just to cover his or her share of interest on the public debt if we do not end up balancing the budget. $180,000, that is what, $187,000. That is what is going to be deducted from their paycheck.

There is a generation gap. You know, we have environmental checks. We should have a generation gap check for legislation that this body passes.

How many more burdens do we want to put on our kids and our grandkids? And it is not just the $4.9 trillion that we have in overspending. Look what we are doing in Medicare. In Medicare, we have now said that we are going to have an unfunded liability, and actuary debt, that amounts to another $5 trillion; social security, we have made promises over what we are going to be bringing in in the FICA tax. There is another $3.2 trillion.

Our obligation, now unfunded, to civil service retirees is another half a trillion. Guess what we just did in the last few years? We promised every private pension fund in the country that the Federal Government would make it whole.

Mr. Speaker, ladies and gentleman, it is time that we start getting tough. It is time we stopped apologizing and started living within our budget.

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

[Mr. MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

TOBACCO MARKETING PRACTICES TOWARD CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. WAXMAN] is recognize for 5 minutes.

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to revise and extend by remarks.

We have all seen the full-page advertisements being published by the R.J. Reynolds tobacco company in major newspapers around the country. I have brought one with me. It says:

> Actions speak louder than words. . . . R.J. Reynolds Tobacco Company does not, under any circumstances, want kids to smoke. . . . R.J. Reynolds' policy, like that of all American tobacco manufacturers, prohibits the distribution [of cigarettes] to anyone underage.

Those are RJR's words. Let us look at its actions.

Last Friday, the TV news magazine, ''A Current Affair,'' showed the results of its investigation of RJR marketing practices at stock car races. This investigation showed that as recently as last month, RJR employees were giving free packs of cigarettes to 16- and 17-year-old girls.

The ''Current Affair'' investigation also showed that RJR brings a kid's ride, called ''Camel's Smokin' Joe Ride,'' to each race. This ride, which simulates a stock car race, is very popular with young kids. During the ride, cigarette advertisements for Camel and Winston cigarettes flash across the screen and are viewed by the children.

Mr. Speaker, I believe RJR's actions speak louder than words. At the very same time that RJR has been running advertisements that say children should not smoke, its own employees have been giving free cigarettes away to children, as well as showing cigarette advertisements to children.

Mr. Speaker, I submit a transcript of the ''Current Affair'' investigation for the RECORD.

[From ''A Current Affair,'' November 3, 1995]

RACE SMOKES

Narration by reporter Mike Salort: You may have been these national ads from R.J.

Reynolds and probably heard their reassuring executives.

Lynn Beasley, senior vice president in charge of marketing Winston and Camel cigarette brands, R.J. Reynolds. I hope no kid ever smokes, ever. I don't want kids to smoke.

But at three of the company's famous Winston cup races in their own backyard—North Carolina—we found thrills, spills, and the company appearing to break its word.

Christine Coltellaro, 16, Northern Virginia high school student, accepting cigarettes from a cigarette marketer: Do I keep these?

Marketer. Yeah.

Christine Coltellaro. Thanks.

Our hidden cameras caught marketers hired by the company handing out Winston and Camel cigarettes to underage smokers—two girls 16 and 17 years old, who simply said they were over 21.

Undercover video shots of the two girls getting cigarettes.

It's a major embarrassment for tobacco giant R.J. Reynolds, maker of Camel and Winston brands.

R.J. Reynolds on site marketing manager Jimmy Holder, as he covers the camera lens. Can we just stop this and talk of camera?

ACA Reporter Salort. No, absolutely not.

Why does he want our camera's off? This manager's company, R.J. Reynolds, has been caught at the worst possible time. President Clinton is trying to ban tobacco promotions from sports events because he feels they convince kids to smoke. The cigarette giveaway appears to be a graphic example of why the President is worried.

Christine Coltellaro. Compared to getting them at gas stations or 7-Elevens, or quickie marts, it was pretty easy.

Christine Coltellaro and Margie Bailey are underage smokers. We hired them to see if they could obtain promotional cigarettes at Winston Cup Races this fall.

Christine Coltellaro. They said, ''Well, we need identification.'' I said, Well I don't really have any on me. They said ''Don't worry about it.''

In fact, listen close, this man says he's kidding.

Cigarette marketer, handing cigarettes to Christine: I need to see a major credit card and a license.

Christine. I don't have any major credit cards or license on me.

Marketer. I'm kidding.

ACA Reporter Mike Salort confronts marketer who has given cigarettes to the two girls. What are you told by the company that hires you. What you need to do before you give out——

Marketer. We're supposed to check ID.

Salort. You are. Then you're supposed to have a picture ID checked.

Marketer. Yes sir.

Salort. You do that in every case?

Marketer. If they look under 30, yes sir.

Salort, pointing at the two girls. Would you say these two look under 30?

Marketer. No sir.

Salort. They don't look under 30?

Marketer. I wouldn't say so.

So he says these kids look like women in their thirties! We asked the same question of the R.J. Reynolds boss for the race.

Salort, pointing at the girls. Would you say they look under 30?

Jimmy Holder, RJR manager. Yes sir, I would.

Salort. So, what's your policy here?

Holder. Our policy is, we've told 'em all, we stress for everyone to card people who look under age.

That's the official Reynolds policy anyway. Only who can produce a pack of their own, 21 and older are supposed to get the handouts. That's three years more than the legal age of 18, and it's true when we brought 13 year olds to the races, they were turned down. But it was a rare occasion when cigarette marketers refused our 16 year olds.

ACA Reporter Mike Salort interviewing Rep. Henry Waxman, D-Calif. Salort, handing Rep. Waxman three plastic bags filled with cigarettes. Ok, you've seen the tape, and this was their haul from three separate races. What's your reaction to that Congressman?

Waxman. There's a lot of cigarettes in this haul. The R.J. Reynolds company has run ads all over the country saying actions speak louder than words, and I think their actions on these tapes speak louder than words.

As much as the cigarette giveaway makes him burn, Congressman Henry Waxman of California suspects it's part of a larger scheme to get kids to start smoking.

Waxman. I just feel that the cigarette companies are hypocrites.

R.J. Reynolds Senior Vice President Lynn Beasley. I am really deeply, deeply upset by it.

She's Lynn Beasley, senior V.P. in charge of selling Camel and Winston brands. But flawed as she says her giveaway program was, Beasley denies it's part of a bigger scheme to expose kids to cigarettes. She says the sample smokes, the colorful booths, and the fancy merchandise are all for adults, and what about this . . . It's Camel's Smokin' Joe Ride, hauled to every Winston Cup stock car race. Inside that ride, on a screen in front, kids will tell you—

Young race fan, waiting in line for the camel ride: ''It's a simulator. You start out on a rollercoaster and you go to, like, different rides.''

Like an exciting car race video, jam packed with cigarette logos.

Shot of Winston and Camel logos flashing across screen, Audio from ride; ''thank you for your support of Winston motor sports.''

And when it's over, step outside and find yourself conveniently close—to one of those cigarette booths.

Lynn Beasley. We are not trying to appeal to kids.

ACA Reporter Mike Salort. So who does this ride appeal to?

Beasley. Adults. Ninety-seven percent of the people at these events are adults.

Salort standup. Even so there are still hundreds of kids at these events being exposed to that colorful Camel campaign. It's emblazoned on sweatshirts, banners, even pins. It's a sponsorship the government wants to ban because it believes the campaign pushes kids to smoke.

While R.J. Reynolds says giving cigarettes to kids was wrong, the company's Lynn Beasley makes no apologies for the festive tobacco marketing at sports events.

Beasley. Advertising does not cause kids to smoke, it doesn't. Look at the facts. Every study that has been done, study after study, shows the reason kids smoke is because of peer pressure and family influence.

Salort. Every study?

Beasley. Yes!

Incredibly Beasley says she hasn't even heard of a paper unveiled for the press just weeks ago, and published in the prestigious Journal of the National Cancer Institute. That report says promotions like these may well affect kids. It even says the number of kids smoking Camel's jumped after the introduction of the Joe Camel ad campaign, which Beasley worked on.

Salort. Does it disturb you that there's a study out there that says that what you're saying is absolutely wrong?

Beasley. I will take a look at it. I'm telling you, what I have seen is that the overwhelming evidence is that advertising does not cause kids to smoke.

And for that reason, Beasley says her company will still sponsor sports events. But after seeing our footage, she plans big changes for her cigarette giveaway.

Beasley. I think where we went wrong was not in absolutely requiring ID for everyone, regardless of what age they looked.

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

[Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

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

[Ms. DELAURO addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

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

[Mr. ROHRABACHER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

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

[Mr. KIM addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

AN INCREASE IN MEDICARE PREMIUMS

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

Mr. PALLONE. Mr. Speaker, I wanted to address the fact that today, once again, but this time in the context of the continuing resolution, the Republican leadership has imposed the increase in Medicare part B premium payments under Medicare. As we know, when the Medicare bill that was sponsored or that was advocated by Speaker GINGRICH and also by the Republican leadership came to the House floor a couple weeks ago, it actually doubled part B premiums under Medicare. That is, the Medicare Program that covers physician care, over the next 7 years would essentially double for Medicare recipients and those who participate in the Medicare Program.

We know that at this point the legislation, both the budget and the Medicare bill, are in conference. It was also included in the Budget Act, and the Senate and the House have yet to meet on the budget which includes those Medicare provisions.

But while that is pending, today in the context of the continuing resolution, the Medicare premium increase

was included. Essentially under current law, as of January 1, the part B premium drops from 31 percent, 31.5 percent of the cost, down to 25 percent of the cost, which is what was scheduled under current law.

But the continuing resolution today would put the 31.5 percent back into law as of January 1, which is essentially an increase for millions of senior citizens who simply cannot afford to pay for that increase that would occur if this continuing resolution ultimately becomes law, which I hope it does not.

I wanted to point out—that so far the conferees on the budget—which includes the Medicare part B increases as well as the tax cuts for the wealthy that will be offset for the cuts in Medicare—so far the budget conferees have not met, and what we believe is happening is that the Republican leadership is essentially making Medicare deals in secret, meeting behind the scenes to see how they are going to implement this tax cut for wealthy Americans in order to offset the cuts in Medicare that are going to devastate the Medicare Program.

I was actually appointed by the Democratic leadership to be one of the conferees, but we have yet to have a public session. I think the reason for that is obvious, that they would rather meet behind the scenes. The Republican leadership would rather meet behind the scenes to see how they are essentially going to destroy and make these severe cutbacks in both Medicare care and Medicaid without the public and the media really knowing what is going on.

One of the things I am most concerned about as a conferee, and I hoped was going to take place, is we find some way, when we bring the two budget bills together between the House and the Senate, to continue entitlement status for Medicaid, for disabled people, for children, and also for pregnant women.

□ 2045

Right now, if an individual meets certain income requirements under Medicaid, they are entitled to Medicaid and they do have their health insurance coverage. Well, the House bill, the House budget bill basically eliminates that entitlement status and just gives money in block grants to the States and hopes that the States will provide Medicare health care coverage for various indigent people. But the Senate bill, fortunately, does continue to provide entitlement status, guaranteed health care coverage for children for the disabled and for pregnant women.

Mr. Speaker, today in the Washington Post there was an article that basically summarized what was in the Journal of the American Medical Association that pointed out that Medicaid has been a significant factor in guaranteeing health care coverage for children. Over the last few years, the number of children that have been provided with health care coverage, because their parents worked, through additional private insurance, has actually decreased and Medicaid has taken up the slack. The Federal Government has provided for the expansion of Medicaid and given money to the States so that they can provide that coverage for children.

Without the entitlement status, which is what we have in the House bill, without the guarantee that children would be covered, which is in the Senate bill, if for some reason the conference comes together and does not provide that guarantee for children, we are going to see that safety net for children, where they have the guaranteed health insurance, probably continue to be whittled away. Because States with the limited amount of block grant money they get from the Federal Government would not be able to continue to cover all the children that will continue to lose health insurance as the numbers continue to decrease of those who are covered by private insurance.

Mr. Speaker, I want to say lastly that yesterday in New Jersey we had elections at the State as well as the county and local level. It was abundantly clear that the message that Democrats have been trying to make, that Republican Medicare cuts and Medicaid cuts are really going to hurt people, we got that message, because a number of Democrats were elected yesterday because they made the point on the Medicare message and the fact that the Republican leadership is cutting Medicare.

AMERICAN WEST SEEKS TO REDRESS WRONGS PERPETRATED AGAINST ITS CITIZENS

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

Mr. HAYWORTH. Mr. Speaker, I rise this evening on behalf of an oft misunderstood segment of our society, those who live in the American West. I bring before this House tonight a document signed by many of my constituents. The document, on parchment, was taken off the No. 2 liner board machine, which is now out of commission at Stone Container in Snowflake, AZ.

The document starts, in its preamble, with a quotation from our Declaration of Independence and then, in the main portion of this document, a statement of concerns about our freedoms issued October 6 of this year, the following is stated:

In this year 1995, we again find a need to petition our government to redress wrongs being perpetrated against its citizens:

1. Congress has passed laws establishing Federal agencies, then has not monitored the severe impact of regulations put forth by the agencies which go far beyond the intent of the Congress. This represents a usurpation of power by agencies not delegated by Congress nor established by a vote of the people.

2. Congress has passed laws which are severe and inflexible, causing major economic and social damages to our citizens and to our communities. The Endangered Species Act is one such law.

The Endangered Species Act is being used to stop all natural resource development; mining, oil, timber, farming and ranching. Destroying the wealth of our Nation and breaking economic hardship upon Americans.

The Endangered Species Act is being used to close our forests, denying access to all people in Arizona for wood products necessary to sustain their families. Leaving our forests without the tools necessary to thin and maintain forest health.

The Endangered Species Act is being used to deny citizens the right to protect their property from flooding.

The Endangered Species Act is being used to take patented water rights and to stop development on private property.

The Endangered Species Act is being used to close land to livestock use.

At every stage of these oppressive actions we have petitioned for redress in the most humble of terms. Our repeated petitions have been answered by repeated injury. We, therefore, the undersigned citizens of the United States of America, appealing for the rectitude of our problems, do solemnly publish and demand that our rights be restored and that the abusive power of the numerous Federal agencies be curtailed and brought into conformity with the law; that severe and inflexible laws such as the endangered Species Act be reformed.

We do declare this day that we the people will use every lawful means to bring our elected officials to accountability.

As one of those elected officials, Mr. Speaker, I was pleased to sign this document, because I believe it resonates with the freedoms outlined in this document, the Constitution of the United States, a document sacred in the ayes of many which is a document of limited and enumerated powers. And this Congress must stand, as we prepare to face a new century, to recognize the fact that, as this document outlines, quite often regulatory agencies have overstepped their bounds, especially in the western United States.

Mr. Speaker, I said at the outset that the citizenry of the western United States is oft misunderstood; that their intent is often maligned. It comes as no great surprise. Indeed, one such person, once called an advocate for Arizona, has become a disciple of the District of Columbia. The Secretary of Interior has told the American people at least on two occasions, once at Tufts University, he said and I quote, ''Those holding opinions of the environment different from ours'', and he was addressing people who felt as he did about the environment, and this is a direct quote, ''are guilty of the worst sneak attack upon America since Pearl Harbor''.

Mr. Speaker, that type of extremist rhetoric has no place in this debate. Good people can disagree, but there is no sneak attack being launched by the citizenry of the western United States. Instead, by regulatory fiat self-appointed legislators, both in the regulatory agencies and, indeed, on the Federal bench, have stepped forward to declare a war on the way of life, to declare a war on the hard working law

abiding citizens of the western United States.

Friends, this is not about extremism, at least not from the standpoint of rural westerners. This is about what is reasonable and what is rational, not what is radical. Indeed, the radical talk comes not only from the Secretary of Interior but from the President of the United States, who, in his radio address last Saturday, used the most demagogic of terms to mischaracterize the plight of westerners.

Friends, what we seek is balance. Economic balance, environmental balance, and true conservation for the United States of America.

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

[Mr. FOLEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

SAFETY IN OUR SKIES

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

Mr. MASCARA. Mr. Speaker, as a new Member of Congress I sought a seat on the important Committee on Transportation and Infrastructure and was fortunate to be appointed to the committee in July by my Democratic colleagues. I pursued the committee because I believed that a strong transportation system is the first step to a positive and sound economic growth. In fact, many studies around the world have shown a strong correlation between infrastructure and economic development and sustained economic growth.

I was on the board of county commissioners in Washington County, Pennsylvania, and was a proud participant of the Southwestern Pennsylvania Regional Planning Commission, which played an integral role in developing seriously needed infrastructure projects in southwestern Pennsylvania. I am working with my colleagues on the committee, including the gentleman from Pennsylvania [Mr. SHUSTER], the chairman, to promote vital transportation projects in my State, including the Mon-Fayette Expressway and other such programs around the country.

But, Mr. Speaker, I rise today to address the House on a matter which is of extreme importance to thousands of Americans who fly in this country everyday, safety in our skies. Safety is and should be the No. 1 concern of all who oversee the management of our Nation's air transportation services, the Federal Aviation Administration; namely, the FAA.

Recently, I had the opportunity to visit the air traffic control tower at Greater Pittsburgh International Airport, which is in the 20th Congressional District. What at first was a tremendous opportunity to see the activities at such a busy FAA site and to meet the dedicated people who man the tower soon turned into an eye-opening experience. A very scary experience.

I was struck first by the age of some of the equipment, certainly not state-of-the-art by any stretch of the imagination. Although the airport is a new facility, with close to $900 million in investment, some of the equipment in the tower is from the old Pittsburgh tower.

We have all heard recently of the problems experienced at several air traffic control towers around the country, such as power failures, equipment breakdowns, and computer outages. Unfortunately, while I was in the Pittsburgh tower observing the radar room, the system experienced a brief but serious power outage. The back-up system kicked in, but for several seconds the controllers lost visual contact on their monitors and scrambled to establish verbal contact with each plane in the sky to try to determine their altitude and their speed.

Mr. Speaker, while power problems are not new to air traffic controllers around the country, the Pittsburgh tower has experienced roughly six power interruptions of various lengths over the last few months. Unfortunately, I am told this is not an isolated problem.

I have sent a letter to Secretary of Transportation Pena requesting that Pittsburgh receive funding to install a UPS system, an uninterrupted power supply system, which would eliminate any visual suspension of radar. I will also work with my colleagues on the Transportation Committee, Mr. Speaker, to remedy other problems at air towers around the country. Remember, a problem at Los Angeles causes a problem in Chicago, which, in turn, forces backlogs in New York and Pittsburgh.

Though the system is in a partial fix mode for some of the problems experienced by the FAA system, we need a long-term solution to the problem. We know there is a problem with some major radar systems in this country and they still use, remember, vacuum tubes to keep their screens operating. Some towers actually are using new ground radar systems which have yet to be authorized, even after several years of testing and millions of dollars in cost. These pieces of equipment are used simply to detect fog on the ground.

I am pleased that the FAA Administrator, David Hinson, has recently restated his commitment to providing modern equipment and computers to the busiest air traffic centers in the Nation. This is a step in the right direction. We need to continue those efforts which will lead to increased public confidence in our air traffic controller system.

The FAA procurement system must be revamped and reformed. We must work together, Congress, the FAA, and the airline industry. We must all work together to solve these problems, both Republicans and Democrats, on a bipartisan basis. The money is there. A 10-percent surcharge is assessed on all tickets purchased by airline passengers and is dedicated to the aviation trust fund. Funds amounting to approximately $4 or $5 billion are available, and I urge the Congress to correct the errors associated with the radar in the air traffic control system.

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

[Mr. FALEOMAVAEGA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

DEATH OF YITZHAK RABIN A TRAGEDY FOR AMERICANS AS WELL AS ISRAELIS

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

Mr. FOX. Mr. Speaker, the death of Israeli Prime Minister Yitzhak Rabin is a tragedy, not only for Israelis, but indeed for Americans and all those who strive for peace throughout the world.

The United States and Israel are partners in world affairs. As partners, we have built a foundation based on years of mutual respect and trust. Together, we share risks, rewards and losses as we strive to make this world a better, safer place.

One of the rewards came just a month ago when Israel and the Palestinians signed the second phase of the Oslo accord. That document was the direct result of the hard work and dedication to peace that was the hallmark of Prime Minister Rabin. Now, sadly, we must share the loss of having him taken from us so prematurely and so violently.

In the long run, I believe those who resort to violence will find that it accomplishes little. Often, it spurs people on to completion of the task at hand—in this case, peace in the Middle East. Dr. Martin Luther King, Jr. once said:

> The ultimate weakness of violence is that it is a descending spiral, begetting the very thing it seeks to destroy. Instead of diminishing evil, it multiplies it * * *

Like others, I found the Prime Minister to be brilliant man whose compassionate nature was tempered by the fire of battle, tested by the trials of leadership and, ultimately, expanded by the promise of peace.

Prime Minister Rabin spent his life strengthening the State of Israel. He fought heroically in Israel's war of independence in 1948 and led Israel to victory in the Six-Day War in 1967. Yet despite his background on the battlefield, his vision of peace and security for Israel brought him to Washington 2

years ago to sign an historic accord with the Palestinians.

On Monday, I was witness to the burial of a great statesman and a man of peace. But I was also struck by the fact that Yitzhak Rabin was a husband, a father, a grandfather and a friend to many. I share Leah Rabin's grief and was moved by the words of her granddaughter, Noa Ben Artiz. When she looked at Yitzhak Rabin, she did not see the warrior. She did not see the statesman. She did not see the world leader. She saw only her gentle and loving grandfather who, despite his busy schedule and the demands made on his time, always made time for his family.

Accordingly, we must build upon the outstanding legacy of Yitzhak Rabin so that peace will be assured.

□ 2100

HOUSE JOINT RESOLUTION 115 PLACES PARTISAN POLITICS ABOVE THE BEST INTERESTS OF THE NATION.

The SPEAKER pro tempore (Mr. BILBRAY). Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, I rise today to express my concerns about House Joint Resolution 115, the continuing appropriations bill that passed the House of Representatives today. First we short change the process by having the resolution end on December 1, 1995, rather than December 13, 1995, which would allow time for reasoned solutions to this crisis.

First of all, the House Rules Committee provided for a closed rule on this bill. Since this bill involves temporary funding for the Federal Government, it has a significant impact on all Americans. With this closed rule, Members were not allowed to offer any amendments to the important bill.

Secondly, the bill includes many provisions that are inappropriate for a continuing appropriations bill. For example, one provision would place severe restrictions on political advocacy by certain groups. This provision would extend beyond prohibiting a recipient of a federal grant from spending any federal funds on political advocacy but would also limit the amount of privately raised funds that federal grantees could use for political advocacy.

An organization receiving more than one-third of its funds from Federal grants could spend no more than $100,000 of privately raised funds on lobbying.

Furthermore, this bill even prohibits grantees from using federal funds to purchase goods or services from other organizations that spent at least $25,000 on political advocacy.

Federal grantees would also be required to report to the Federal Government on whether they engaged in political advocacy and describe the type of advocacy and list the amount of funds spent on such advocacy.

These restrictions on political advocacy are un-democratic and un-American. It is shameful that this House is trying every maneuver by attempting to attach these restrictions to any bill before the House so that such provisions can become law.

The bill keeps the Medicare Part B premium in 1996 at 31.5 percent of costs instead of allowing the premium to automatically drop to 25 percent, as it would occur under current law. Millions of Americans depend upon Medicare Part B for physician and out-patient services.

This bill is also damaging because it contains a provision that would fund agencies scheduled to be eliminated in the 1996 appropriations bills at only 60 percent of their funding in fiscal year 1995.

These agencies include: The Low-income Home Energy Assistance Program; Goals 2000 Education Program; Americorps National Service Program; Community Development Financial Institutions Initiative; Commerce Department's Advanced Technology Program; and National Biological Survey.

These agencies are critically important to the quality of life for millions of Americans. This bill should have been more carefully considered by the House.

Again, Mr. Speaker, I must express my concerns about the extraneous material that has no place in this bill. In the future, I hope that on critical legislation, such as this continuing appropriations bill, we will put the best interests of the Nation above partisan politics.

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

[Mr. HOKE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

TEN COMMANDMENTS FOR COMMITTING U.S. COMBAT FORCES

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

Mr. DORNAN. Mr. Speaker, I was going to spend all of my 5 minutes on one of the more offensive stories ever to appear in an American paper on foreign policy, and that is Robert Strange McNamara. That truly is his mother's name, ''Strange.'' Robert Strange McNamara arrived in Hanoi yesterday, first time he has been back there since he was the architect of a no-win war, struggle, against communism that took the lives of 8 American women and over 58,600 American men, about 47,000 of those in combat against a tough Communist enemy. The story in today's Washington Times says McNamara looks for lesson in Vietnam, that he returns to ask Hanoi for documents.

Unbelievable. I will probably do a much longer special order on this war criminal. That is spelled w-a-r c-r-i-m-i-n-a-l, war criminal, Robert Strange McNamara, the most disgraceful Cabinet officer, and that includes some pretty bad financial scandals in the entire 206-year history of this country since the Father of our country, George Washington, was sworn in in April of 1789.

Before I talk about Bosnia, which is the main reason I am speaking tonight, let me just make mention of another ghastly footnote in American history.

The U.S. Senate sent to committee the infanticide bill, what some people call the partial-birth abortion, but it is infanticide of a living human body that is totally outside of the mother's birth canal except for its head. I watched one Senator slaughtered last night by both Ted Koppel and another Senator on ''Nightline,'' and my friend, BOB SMITH of New Hampshire, is a stalwart and flying with the angels again on the floor of the Senate yesterday. But this is incredible, we cannot get this bill against infanticide out of this Congress. But we have not stopped fighting, and we will prevail.

Mr. Speaker, today to three distinguished panelists at a hearing at the National Security Committee, I gave them 10 commandments that should be followed before we commit U.S. combat forces to anywhere in the world, and then I analyzed each one of these commandments. I have submitted them for the RECORD maybe 10 times here on the House floor over the last 3 or 4 years, particularly since the slaughter of our fine young Delta Force rangers, helicopters pilots and Delta Force snipers in the filthy alleys of Mogadishu. I put an analysis to each one of these 10 commandments. The first 6, as I have said many times on the floor, are conceived, crafted, by a great Secretary of Defense, the antithesis to a McNamara; that is ''Cap'' Weinberger, and I added the other 4 in counsel with ''Cap'' Weinberger about these other 4, and I put it in Mosaic language, 10 ''thou shalt nots.'' I will put them in the RECORD, and I will beg all million people, 1,300,000 that watch the proceedings of the world's greatest legislative body. I had asked them to write their Congressman and ask out of today's RECORD, the 1-year anniversary of the big upset election last year, ask for the RECORD of November 8, 1995, and get these commandments and my analysis of why we are violating each one, and in my remaining time I will read the Weinberger-Dornan commandments:

[From the Washington Times, Nov. 8, 1995]

MCNAMARA LOOKS FOR LESSON IN VIETNAM

RETURNS TO ASK HANOI FOR DOCUMENTS

HANOI.—Robert McNamara returned to Vietnam yesterday for the first time since the end of the war he helped escalate in the 1960s, and he hopes to persuade the country to open its archives on the conflict.

''We're here, obviously, for one reason—to see if Vietnam and the United States can draw lessons from what was a tragedy for

both sides,'' Mr. McNamara told reporters after arriving in the Vietnamese capital.

The former U.S. defense secretary wrote in memoirs published in the spring that American participation in the Vietnam War was ''terribly wrong.'' His current trip to the former enemy capital is to propose a conference of war-era decision-makers from both countries.

Mr. McNamara, who was defense secretary from 1961 to 1968 under Presidents Kennedy and Johnson, came as part of a delegation from the New York-based Council on Foreign Relations and Brown University.

Council Vice President Karen Sughrue said the group hopes Vietnamese leaders will release new archival materials and answer questions about their perceptions of American wartime policy.

''We want to understand the Vietnamese actions,'' she said. ''The majority of the American writing on this subject is completely uniformed about Vietnamese decision-making.''

The delegation plans closed meetings today and tomorrow with Vietnamese diplomats, historians and officials, including Deputy Prime Minister Phan Van Khai and Vice President Nguyen Thi Binh. A meeting also is tentatively planned with Gen. Vo Nguyen Giap, architect of Vietnam's victories over France and the United States.

Mr. McNamara was an ardent proponent of U.S. support for South Vietnam against the communist North, causing the war to be nicknamed by some ''McNamara's War.'' But by 1964, he was privately advising Johnson that the South Vietnamese leadership was badly divided and the communist hold on the countryside too strong.

He resigned in 1968 but kept public silence until earlier this year, when he acknowledged in his memoirs that U.S. war policy was ''gravely flawed'' and the war unwinnable.

The belated assessment touched off bitter criticism in the United States, where many said he should have tried to halt the fighting and save lives. Vietnam's government, however, said simply that Mr. McNamara's assessment ''squares with reality.''

Ms. Sughrue said Mr. McNamara did not plan to discuss the war or his book with Vietnamese leaders, but simply to promote the proposed conference.

A council news release said conference topics might include why opportunities to prevent or shorten the war were missed. Mr. McNamara identified several missed opportunities in his book, ''In Retrospect: The Tragedy and Lessons of Vietnam.''

Vietnam has joined U.S. experts in several academic discussions of wartime strategies. But it has shown no interest in publicizing doubts or disagreements among its leaders during the war.

Vietnamese officials, more interested now in trade and investment than past battles, view war history as useful chiefly in contributing to the party's image of invincible leadership. They welcome Mr. McNamara because his memoirs echo their view that the United States' involvement was wrong and its defeat inevitable.

TEN COMMANDMENTS FOR COMMITTING U.S. COMBAT FORCES

[Developed by Congressman Robert K. Dornan and former Secretary of Defense Caspar Weinberger]

1. Thou shall not commit U.S. combat forces unless the situation is vital to U.S. or allied national interests.

2. Thou shall not commit U.S. combat forces unless all other options already have been used or considered.

3. Thou shall not commit U.S. combat forces unless there is a clear commitment, including allocated resources, to achieving victory.

4. Thou shall not commit U.S. combat forces unless there are clearly defined political and military objectives.

5. Thou shall not commit U.S. combat forces unless our commitment of these forces will change if our objectives change.

6. Thou shall not commit U.S. combat forces unless the American people and Congress support the action.

7. Thou shall not commit U.S. combat forces unless under the operational command of American commanders or allied commanders under a ratified treaty.

8. Thou shall not commit U.S. combat forces unless properly equipped, trained and maintained by the Congress.

9. Thou shall not commit U.S. combat forces unless there us substantial and reliable intelligence information including human intelligence.

10. Thou shall not commit U.S. combat forces unless the commander in chief and Congress can explain to the loved ones of any killed or wounded American soldier, sailor, Marine, pilot or aircrewman why their family member or friend was sent in harm's way.

ANALYSIS

1. Thou shall not commit U.S. combat forces unless the situation is vital to U.S. or allied national interests.

What vital interests are at stake? We already are preventing the spread of conflict with troops elsewhere in the Balkans such as Macedonia.

2. Thou shall not commit U.S. combat forces unless all other options already have been used or considered.

What about lifting the arms embargo? What about tightening trade sanctions? What about further air strikes?

3. Thou shall not commit U.S. combat forces unless there is a clear commitment, including allocated resources, to achieving victory.

Are 25,000 U.S. troops enough? Are there enough European forces?

4. Thou shall not commit U.S. combat forces unless there are clearly defined political and military objectives.

What are the political objectives—protect small ''enclaves'' in the middle of a civil war? What are the military objectives—seize and hold specific terrain or stand and become targets for all warring sides?

5. Thou shall not commit U.S. combat forces unless our commitment of these forces will change if our objective change.

Will we realistically be able to withdraw U.S. forces after a year if peace is not achieved, even if these forces are directly engaged in combat?

6. Thou shall not commit U.S. combat forces unless the American people and Congress support the action.

Neither Congress nor the American people support this operation. A recent CBS/New York Times poll indicated only 37% of Americans support the President's position on Bosnia. Further, 79% believe he should seek approval from Congress before sending any troops.

7. Thou shall not commit U.S. combat forces unless under the operational command of American commanders or allied commanders under a ratified treaty.

The command structure for U.S. troops involved in this operation seems confused at best with U.S. ground troops serving under deputy European commanders and a NATO council of civilian representatives from member states. Will France and Denmark have to approve U.S. combat requests for M–1 tanks and AC–130 gunships?

8. Thou shall not commit U.S. combat forces unless properly equipped, trained and maintained by the Congress.

Why has the President nearly doubled the defense cuts he promised in his campaign and under funded his own ''Bottom Up Review'' defense plan by as much as $150 billion? Shouldn't he restore spending if he plans to use our military as world policemen in Bosnia, Haiti, and elsewhere?

9. Thou shall not commit U.S. combat forces unless there is substantial and reliable intelligence information including human intelligence.

What reliable intelligence sources do we have in Bosnia? Will our sources be compromised through intelligence sharing agreements with non-NATO countries such as Russia?

10. Thou shall not commit U.S. combat forces unless the commander in chief and Congress can explain to the loved ones of any killed or wounded American soldier, sailor, Marine, pilot or aircrewman why their family member or friend was sent in harm's way.

Can we honestly make this case? American lives are at stake!

And this resolution, Mr. Speaker, was passed by the Republican Conference with only 5 dissents:

Whereas President Clinton has stated that he is prepared to deploy American forces on the ground in Bosnia-Herzegovina to enforce a settlement for as long as a year without prior Congressional authorization, and

Whereas the House of Representatives on October 30, 1995 adopted by a bipartisan vote of 315 to 103 a resolution stating that there should be no presumption that enforcement of any settlement in Bosnia will involve deployment on the ground of U.S. forces, and that no such deployment should occur without prior authorization by Congress, and

Whereas the President has publicly stated that he believes that this resolution would not have ''any effect'' on the settlement negotiations in Dayton, and

Whereas Representative Hefley has introduced legislation that would prohibit the use of Defense Department funds to deploy U.S. forces on the ground in Bosnia as part of any peacekeeping operation or implementation force unless funds for such deployment are specifically appropriated by Congress,

Now *therefore be it Resolved,* That the House Republican Conference supports prompt enactment of legislation providing that no Defense Department funds may be spent for the deployment on the ground of U.S. forces in Bosnia as part of any peacekeeping operation, or as part of any implementation force, unless funds for this purpose are specifically appropriated by Congress, and further urges that the leadership consider all appropriate vehicles for the implementation of this policy, including H.R. 2550, the Defense Appropriation conference report, and any continuing resolution that may be approved pending enactment of reconciliation.

☐ 2115

SUPPORT THE BIPARTISAN EFFORT TO PROTECT AMERICAN PENSIONS

The SPEAKER pro tempore (Mr. BILBRAY). Under a previous order of the House, the gentleman from Texas, Mr. GENE GREEN, is recognized for 5 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, later tonight my colleague, the gentleman from North Dakota, EARL POMEROY, will come before the House on a special order for an hour, and talk about his concern and his experience as a former insurance commissioner in his State on the effort to

support and protect American pensions. I rise tonight to talk about that and congratulate my colleague in his effort.

About 2 weeks ago—October 27—the Senate, by an overwhelming vote of 94 to 5, agreed to drop the pension reversion provision from the budget reconciliation legislation. In a bipartisan show of support for the working people of this country, the Senate said no to allowing companies to pilfer the savings of Americans.

Today, I join my colleagues in urging the chairman of the Ways and Means Committee to delete the House pension reversion provision from the budget reconciliation legislation. This type of provision does not belong in reconciliation. This provision should be addressed separately and the committees with jurisdiction and substantial interest should have time to hold hearings on the proposal.

This Republican proposal will allow companies to take money from employee pension plans that they say are more than 125 percent funded. These excess pension assets—the funds not needed to pay immediate pension benefits—can be used freely for purposes that are certainly not in the interest of retirees.

Allowing companies to strip so-called surplus pension assets from employee pension plans will take us back to the 1980's, when companies took away more than $20 billion from over 2,000 pension plans, covering nearly 2.5 million workers and retirees.

HISTORY OF PENSION REVERSIONS

Prior to the 1980's, the reversions of pension assets to employers were almost nonexistent. Pension assets were returned to employers only after the plan had been terminated, and after all benefits to plan participants were paid. However, as pension assets grew with the rising stock market in the 1980's, corporations began to take the excess pension funds.

In 1983, the Reagan administration issued guidelines making pension reversions easier. From 1982 to 1990, over $20 billion was taken from 2,000 retirement plans covering 2.5 million workers and retirees. From 1982 to 1985, the size and the number of reversions grew rapidly: $404 million reverted in 1982 to $6.7 billion reverted in 1985.

As retirees were left without an adequate retirement, Congress took strong action to stem the tide of pension reversions. Beginning in 1986, Congress imposed a series of excise taxes: a 10-percent excise tax on the amount of the reversion in the Tax Reform Act of 1986; a 15-percent excise tax in the Technical and Miscellaneous Revenue Act of 1988; and, in the Omnibus Reconciliation Act of 1990, and 20 percent tax when the employer established a successor pension plan with similar benefits, or a 50 percent tax if no successor plan was established. With these congressional measures, the number and size of reversions fell substantially.

EFFECT OF REVERSION ON THE AMERICAN WORKER

This Republican proposal will encourage employers to take billions of dollars out of pension plans, leaving them with insufficient funds to protect current and future retirees. Money previously set aside for workers' retirement will now be pocketed by corporations and used for almost any purpose. The removal of these funds from pension plans increases the risk of loss to workers, retirees and their beneficiaries just at a time when the need for a strong private pension system is great.

Pension funds are not the employers' money. Workers pay for pension fund contributions with lower wages. Under current pension and tax regulations, pension funds are in trust to be used only for the exclusive benefit of workers and retirees, and should not be considered as employer piggy banks. This irresponsible provision encourages employers to take workers' pensions. This proposal is bad public policy.

A pension plan with excess assets today, can quickly become underfunded if those assets are taken away. Because most pension plans are tied to the stock market, any downward turn will have a negative effect on the plan. In addition, a reduction in the interest rate of 1 percentage point together with an asset reduction of 10 percent reduces the funding level from 125 to 96 percent.

CONCLUSION

The American people have spoken. Taking money away from pension plans is wrong. Let's not permit companies to take pension assets from the American worker. Let's ensure that pensions will be safe and available for those who saved for their retirement. I urge the reconciliation conferees to delete this dangerous provision.

THE 7-YEAR BALANCED BUDGET RECONCILIATION ACT, 1995

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

Mrs. SEASTRAND. Mr. Speaker, it is an exciting time in my estimation to be a Member of this House of Representatives, because 25 years or so have passed since we talked about balancing a budget for our Nation. I would just like to remind people why we need a balanced budget for America.

I have two children. My son Kurt is 25. He graduated from college. He is a new entry into the job market, concerned about perhaps getting married, having a family and buying a home. My daughter Heidi is going to be graduating from college this semester, and she is very concerned about entering into the job market. Will there be opportunities for her, as there have been perhaps in the past for our graduates from college?

Sometimes we talk in terms I think in this House that really do not address the concerns of people back home. I would just like to remind Californians back home that overall, American taxpayers pay almost $3,300 billion just to service the debt we have already accumulated, and that every child born in America today will be greeted with a tax bill of $187,000 just to service the debt over his or her lifetime, an amazing amount of money.

The national debt as of 2 days ago, and as we know it is ticking away, was $4,984,737,460,958.92. Now, I do not know about people who are home on the central coast of California. All I can say is my checkbook, my personal checkbook, does not go up to those figures. Sometimes it is hard to relate with these figures. Sometimes it is hard to relate with these figures, but I would like to remind the people, especially on the central coast of California, when we talk about why it is important to balance the budget and to achieve a balanced budget so we can pay off the creditors of our Nation, and perhaps bring down the interest rates. The experts tell us we are going to see a drop of 2 percent in interest rates.

I would like to tell Californians that that means 497,000 new private sector jobs in California. We have suffered very much in California. We have been in the doldrums. I know what it means for people looking for jobs. It is very disappointing to know that in the past, the moving vans were leaving California, and not many people were using those vans to move back into California. But that is going to mean that the taxes of California families are going to be reduced by $23.8 billion over the next 7 years.

What does it mean to, perhaps, families looking at a home in Santa Barbara County, one of my counties in my district? A 2-percent drop in interest rates means that an average 30-year home mortgage will save families, as I said, in Santa Barbara County, my southern constituents, $111,000 over the life of a loan for a $225,000 home.

People might say, ''My gosh, $225,000.'' I might remind people that in Santa Barbara, this is an average type cost for a home.

In San Luis Obispo, the median price for a home in 1995 was $163,000. Again, if we were to look at a 30-year home mortgage, we are going to save people with a 2-percent reduction in mortgage rates nearly $100,000 on a 30-year home mortgage, so it is very important for our families.

We have two big universities, Cal Poly in San Luis Obispo and the University of Santa Barbara in Santa Barbara. I know our students are looking at student loans. Let me tell you, a 2-percent drop in interest rate on an average 10-year student loan of $11,000 means that a graduate is going to save $2,160 over the life of the loan. Maybe there are some people out there that think, ''Well, these are 10- and 30-year type loans we are talking about.'' On

an average 4-year car loan of $15,000, a 2-percent reduction in interest rates will save families $9,300 over the life of that loan.

I would just say that, overall, we are going to save dollars in our Republican balanced budget plan, and I would remind my home State of California that total Federal spending in the Republican balanced budget plan will increase, and I want to underline that, increase, a plus sign, from $177 billion in the fiscal year of 1995 to $215 billion in the year 2002, an increase of 22 percent.

Over the past 7 years, the Federal Government's spending in California was $1.1 trillion. Under our plan, the total Federal spending in California will be $1.46 trillion, an increase of 31 percent. So while we hear a lot about cuts of this budget, what we are trying to do is slow that growth, the rate of growth down.

And Social Security payments to my senior citizens? In California we are going to see an increase of $15.9 billion over the next 7 years. Medicare payments to Californians will increase $9.2 billion over the next 7 years.

All of this is important to a State that, as I had mentioned earlier suffered, and we want to see California yet again become the Golden State. I am just looking forward in the next few weeks to discuss the balanced budget and to see that we do vote for a balanced budget in the next 7 years.

Why the need for a balanced budget?

Each year American taxpayers pay almost $300 billion just to serve the debt we have already accumulated.

Without the Seven Year Balanced Budget Reconciliation Act, the share of the $1.2 trillion in additional new Federal debt placed directly on the backs of California's children over the next 7 years will be $140 billion. Each child born in America today will be greeted with a tax bill for $187,000 just to service the debt over his or her lifetime.

The national debt as of November 6, 1995, was $4,984,737,460,958.92.

EFFECTS OF SPENDING CUTS OF THE SEVEN YEAR BALANCED BUDGET RECONCILIATION ACT

Although the doomsayers will have you believe otherwise with their false scare tactics, the Congress is not imposing draconian cuts; we are just curbing the amount of wasteful spending Congress has been in the habit of authorizing over the past 40 years.

Our Medicare Preservation Act saves Medicare from bankruptcy, keeping our Government's commitment to traditional Medicare. It increases the average per beneficiary spending from $4,800 in 1996 to $6,700 in 2002. The Preservation Act simply slows the rate of growth of Medicare.

Under the Republican balanced budget plan, total Federal spending in my home State of California will increase from $177 billion in fiscal year 1995 to $215 billion in 2002, an increase of 22 percent. Over the past 7 years, the Federal Government spending in California was $1.1 trillion. Under the Republican balanced budget plan, total Federal spending in California will be $1.46 trillion, an increase of 31 percent.

Breaking these costs down.

Social Security payments to Californians will increase $15.9 billion over the next 7 years.

Federal welfare spending for food stamps, child care, cash welfare, child protection, school nutrition, and other such programs will increase $40 billion over the next 7 years.

Medicare payments to Californians will increase $9.2 billion over the next 7 years.

Medicaid payments to California will increase $3.4 billion over the next 7 years.

LONG-TERM EFFECTS OF THE SEVEN YEAR BALANCED BUDGET RECONCILIATION ACT

The balanced budget legislation will put our financial house in order while, it is estimated, creating 6.1 million new job opportunities in the early part of the 21st century. Income per family will rise by $1,000 a year and interest rates will decline by up to 2 percent, making loans for homes, cars, education, and start-up businesses more accessible. Most important of all, a balanced budget will give our children and children's children a higher standard of living, more job opportunities, and a country free from ever-increasing debt.

Again, breaking down the long-term benefits of this measure:

A drop of 2 percent in interest rates will create 497,000 new private sector jobs in California; in addition, it will reduce the taxes of California families by $23.8 billion over the next 7 years.

A 2-percent drop in interest rates means that an average 30-year home mortgage will save families in Santa Barbara County, CA, my southern constituents, $111,000 over the life of the loan for a $225,000 home. This is the median price for a home in that county in 1995; my northern constituents in San Luis Obispo County where the median price of a home in 1995 and $163,000 would save nearly $100,000 from a 2-percent reduction in mortgage rates.

On an average 10-year student loan of $11,000, a 2-percent reduction in interest rates means graduates will save $2,160 over the life of the loan.

On an average 4-year car loan of $15,000, a 2-percent reduction in interest rates will save families $900 over the life of the loan.

Lastly, I would like to elaborate on Chairman of the Federal Reserve, Alan Greenspan's thoughts on the GOP goal of balancing the budget by 2001.

In a speech earlier this month to the Concord Coalition, Greenspan said he believes that ''progress this year in coming to grips with the budget deficit has been truly extraordinary.'' He attributes falling long-term interest rates with this recent progress.

In addition, Chairman Greenspan stated that ''Unless the budget deficit is brought down before foreign funds become increasingly costly, domestic investment will be impaired, economic growth will slow, and pressure on monetary policy to inflate could re-emerge.''

With such rosy predictions of the economic effects of our plan, I ask the doomsayers what are the true draconian effects of our plan to balance the budget over the next 7 years? Are your concerns legitimate or are they simply false scare tactics motivated by envy for not having your own legitimate plan? I tend to believe the latter.

In summary, the Seven Year Balanced Budget Reconciliation Act incorporates the most dramatic changes in Washington in more than 40 years. It balances the budget in 7 years, provides significant tax relief to American families, preserves, protects, and strengthens Medicare and replaces the current welfare bureaucracy with compassionate solutions that restore the dignity of work and strengthen families. This legislation provides a better future for our Nation's children. Thank you, Mr. Speaker.

PROVISION IN BUDGET RECONCILIATION BILL ALLOWS CORPORATIONS TO REMOVE EXCESS PENSION FUNDS

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

Mr. NEAL of Massachusetts. Mr. Speaker, we are here tonight to discuss a provision that was included in budget reconciliation. This provision would allow corporations to remove excess funds from overfunded pension plans for any reason. There is only one way to describe this provision and that is the raiding of pension plans.

Ten years ago we were faced with a similar situation. Let me read a quote from the Nov. 3, 1985 edition of the New York Times. The article was entitled ''Raking in Billions from Company Pension Plan.''

At an increasing pace, some of the most familiar names incorporate . . . have already withdrawn or are trying to withdraw, $8 billion in surplus pension money. They are diverting this money to other corporate use, such as take over financing and capital investments and offering their employees substitute pension plans . . . Workers across the country are growing increasingly concerned that the stream of retirement income generated under the present pension system might disappear by the time they retire . . . Some blue-chip companies have been accused of cynically using pension funds bank accounts and tax exempt savings account.

It is almost eerie how this quote from 10 years ago applies today. This quote could have been in today's New York Times.

During the 1980's, approximately $20 billion in pension funds were drained by companies. Congress acted responsibly and passed legislation to protect pensions.

The pension provisions in the House budget would undo all the good Congress had done in one fell swoop. It has been estimated that this provision could result in $40 billion leaving pension funds.

Once again corporations are looking to take money from pension plans to use for their own whims. We cannot allow pension funds to be used as tax free corporate checking accounts.

I have been reviewing the newspaper clippings on this issue and all across the country it is perceived as a bad idea. I want to share with you some of these headlines.

''Leave Those Pension Funds Alone'' Business Week October 23, 1995.

''The GOP Had Better Get Business Off The Dole, Too'' Business Week October 16, 1995.

''Pension Pirates'' New York Times, October 27, 1995.

''The Great Pension Fund Raid, Part II'' Los Angeles Times, October 17, 1995.

''An Unconscionable Raid on Pensions'' Chicago Tribune, October 2, 1995.

''Keep Paws Off Pension Fund Assets'' Chicago Tribune, September 25, 1995.

''The New Tax-Free Corporate Checking Account'' Newsday, September 21, 1995.

''Cut Now, Pay Later'' Plain Dealer, Cleveland Ohio, October 3, 1995.

''Protect Pension Fund Assets'' Sunday Patriot, Harrisburg, PA, October 1, 1995.

I could go on and on but I think I have made my point. Congress should protect pension plans. The Senate has heard this message. The Senate voted overwhelmingly by a vote of 94 to 5 to delete their more restrictive corporate reversion provision.

Mr. Speaker, why has the House not yet heard this message? The headlines have made it clear. This provisions is an unconscionable provision.

Why is this provision needed? The House budget provides a huge tax cut to the wealthy and tax benefit to corporations at the expense of the middle class.

Our No. 1 economic problem is our low national savings rate. We have to encourage individuals to save for retirement. This provision does the opposite.

One of the main reasons for the Republican tax reform proposals is to increase the national savings rate. Our decline in savings can be attributed to declining private-sector contributions to employee pension plans. The provision in the budget is contradictory. This provision will allow corporations to immediately suck money out of pension funds.

The proponents of this provision argue this provision will free up money and put it to work for job creation. An analysis done by the General Accounting Office [GAO] shows that most pension money is invested such as stocks and bonds that yield a financial return and provide capital to other companies.

Plan fiduciaries are required by law to invest plan assets for the exclusive benefit of participants and to seek the highest rate of return for a given level of risk. The provision in budget regulation has no such safeguard.

I served on the Banking Committee during the S&L crisis and this is the ghost of the S&L crisis. We cannot afford to put the Pension Benefit Guaranty Corporation [PBGC] at risk. We cannot afford a taxpayer bailout of the PBGC.

I cannot think of one logical reason to include this provision in reconciliation. We cannot have a provision that is bad retirement policy. This provision does not belong in budget reconciliation. We have to protect the pensions of hard working Americans. We cannot let corporations siphon pension funds.

I have with me several editorials, letters to the editor, and articles about the corporate pension reversion which I will place in the RECORD.

The information referred to is as follows:

[From the Arizona Republic, Nov. 1, 1995]

PROPOSAL BENEFITS IRS, WALL STREET, NOT PENSION PLANS

No better time than right now for pension-dependent retirees to contact Senators McCain and Kyl about a House-passed measure that would permit employers to withdraw ''excess'' assets from pension plans. The measure is prompted by the taxes that will be due on the monies withdrawn from pension plans by employers encouraged to do so by the prospect of plump after-tax windfalls to strengthen their balance sheets.

This revenue-raising idea starts with today's high-flying financial markets: plan asset valuations are looking fatter than needed to meet future benefit obligations. This, however, assumes that the stock market will continue to fly high. Returning today's paper-value cushion to employers transfers the risk of tomorrow's market-value loss to pensioners.

Botton-line-driven corporate managers will be hard-pressed not to regard an immediate balance-sheet windfall as more important than a potential pension shortfall. It is naive to think that these decision makers, pressured by the demands and expectations of Wall Street, are likely to forego a windfall in deference to the best interests of a constituency of powerless retirees, when management can order up from its CFOs conveniently rosy, asset-value prognostications to justify its actions.

Dependent as I am on my pension, I am loath to accept the risk of this high-flying market crashing and burning just so my former employer can enjoy that one-shot balance-sheet windfall.

The (transitory) budget benefits gained through taxation of pension-asset drawdowns is an incipient threat to the financially weak Pension Benefit Guaranty Corporation, a federal insurance fund that protects pensioners from plan failures.

This ill-advised House measure—as shortsighted as all the past careless measures that have placed the Medicare and Social Security trust funds in jeopardy today—awaits Senate approval. Now is the time to write.—Arnold E. Buchman, Scottsdale.

[From the New York Times, Oct. 19, 1995]

DON'T LET COMPANIES SKIM PENSION FUNDS

To the Editor:

''A Hard-Hearted Tax Bill'' (editorial, Oct. 12) neglects to mention one provision of the Republican tax bill that needs to be eliminated or modified: the proposal that makes it easy for companies to take ''excess'' assets out of employee pension plans, with little or no penalty, and to use those funds for nonpension purposes.

The Joint Committee on Taxation has estimated that the proposal would cause $40 billion of assets to be taken out of plans over the next five years. This could be disastrous for both taxpayers and retirees with private pensions.

Taxpayers would be at risk because a taxpayer bailout of underfunded pension plans would be more likely in an economic downturn. Retirees would be hurt because they would be less likely to receive cost-of-living increases in the future and because they would experience less security in their basic pensions.

The Pension Benefit Guaranty Corporation has indicated in a study the extent to which a plan that is overfunded can quickly become underfunded. A plan that is 125 percent funded could become underfunded with a 10 percent drop in the stock market, coupled with a 1 percent drop in interest rates.

Giving companies the right to extract $40 billion would only exacerbate that situation.

The main justification of House Republicans for this piece of corporate welfare is that it would raise an estimated $10 billion or more in corporate income tax revenues over seven years, thus helping to reduce the deficit. This is false economy, since it raises the possibility of another savings and loan association-type bailout and of retirees losing all or part of the pension they have earned.

Congress should either eliminate the provision from the tax bill, or modify it to allow employees and retirees to share a portion of whatever ''excess'' assets a company chooses to take out of its pension plan.—Charles Londa, Houston, Oct. 12, 1995.

[From the Valley Independent, Oct. 6, 1995]

TELL CONGRESS TO LET OUR PENSIONS ALONE

The outcry from the public should be loud enough to rattle the halls of the Capitol. The message should be don't mess with our pensions.

The House Ways and Means Committee has approved a measure that could endanger the retirement security of 13 million Americans.

At least that's the claim of three Cabinet members—Labor Secretary Robert Reich, Treasury Secretary Robert Rubin and Commerce Secretary Ronald Brown, who serve on the board overseeing the federal Pension Benefit Guaranty Corp.

By permitting companies to make withdrawals from pension plans at any time and for any purpose, Republicans expect the plan to raise $9.5 billion for the government because companies would pay corporate income taxes on the withdrawals. Currently, withdrawals are permitted only if the money is used for retirees' health benefits. The proposal is part of a bill intended to reduce the budget deficit by $38 billion over seven years.

The Cabinet trio say this measure would trigger the withdrawal of up to $40 billion from pension plans in the next five years—twice what was removed by companies during the corporate takeover frenzy of the 1980s.

''We are going to see raids on pension assets that will make the train robberies during the days of Jesse James pale in comparison,'' Reich said.

Ways and Means Chairman Bill Archer, R-Texas, calls these charges by Cabinet members a politically motivated attempt to scare people and claims the measure will give workers more retirement protection by encouraging employers to fund pensions at a higher level. He said the legislation would require corporations making withdrawals to leave an ample cushion of 25 percent more than needed to meet current liabilities.

But according to an analysis by the pension benefit agency, 20 to 50 plans on an underfunded watch list suffered withdrawals in the 1980s of what were then considered excess assets.

Also, the agency said an examination of 10 large plans shows the Ways and Means limit on withdrawals isn't enough to protect pension plans if the companies go bankrupt and their pension plans are terminated. Such plans would be left with less than 90 percent of the money needed to meet its obligations, the agency said.

Referring to the pension raids in the '80s, Brown said: ''We know what happened when the barn door was open. We closed the barn door. This would reopen the barn door. It's illogical.''

More than illogical, it is a violation of trust—the American workers' trust that the money for their pension will be there when they are eligible to retire.

Along with attempts to cut Social Security and Medicare, this threatens the ability of workers to afford retirement in the near future. If people reaching retirement age must keep working, this means less jobs will

be available for the young. This is what's really illogical. It will be just another reason unemployment and welfare rolls will rise.

Don't let that barn door be reopened. Protect your future by letting your congressman know how you feel.

You can write Rep. Frank Mascara, D-Charleroi, at 1531 Longworth House Office Building, Washington, D.C., 20515.

[From the USA Today, Sept. 22, 1995]

TODAY'S DEBATE: PENSION PROTECTION—ATTEMPT TO TRIM DEFICIT PUTS PENSIONS IN DANGER

Is your company's pension plan solid? If so, it may soon be ripe for picking—by your boss.

A proposal moving toward passage in Congress would allow corporate raids on business-financed pension funds. At risk—$80 billion in savings in those funds plus billions more in taxpayers' money because the funds are federally insured.

The technicalities of what House Republican tax-writers are doing sound safe enough. New rules would merely eliminate a 50% tax penalty on money withdrawn from pension accounts in excess of 125% of that needed to meet current liabilities.

Only the 125% cushion is bogus.

A study by the Pension Benefit Guarantee Corp. found that even such supposedly healthy funds, if terminated suddenly by, say, a business bankruptcy, could pay less than 90% of promised retiree benefits.

On top of which, even the surplus can quickly disappear if stocks go south or interest rates decline.

That's what's happened to a lot of pension plans that companies raided for their surpluses in the 1980s. For example, ASI Holding took $120 million from a supposedly overfunded plan in 1988. It's now $86 million underfunded. Enron Corp. took out $232 million in 1986 and is now $82 million underfunded. If either company goes out of business, taxpayers will pick up the bill.

Indeed, taxpayers are now liable for $71 billion from such underfunded plans. A bear stock market, and the GOP proposal could up that by $80 billion. And along with taxpayers, a lot of once comfortable pensioners will be at risk, too. Federal insurance only picks up $30,000 in annual benefits.

So, why are Republicans racing to take this gamble? To raise money to pay off hundreds of billions in tax breaks and yet balance the budget by 2002. Funds withdrawn from pensions are subject to corporate taxes. Authors estimate they'll raise $10.5 billion from them.

That misses the whole point of deficit cutting—to stop the government from draining away private savings needed for investment and growth. For every $1 this plan cuts from the deficit, $4 in pension savings and potential investment go out the window.

Still, such pension raids for deficit cutting aren't new. Reforms in 1982, 1986, 1987, 1993 and 1994 put limits on pension contributions, and even penalized companies for overfunding their plans, all in the name of deficit-reduction. The result: a steady decline in national savings—the key to growth—and a rise in underfunding of pension plans.

Now, the nation has little savings left. Congress should try to reverse the process, not exacerbate it.

[From Business Week, Oct. 23, 1995]

LEAVE THOSE PENSION FUNDS ALONE

Who ''owns'' the $100 billion in surplus money in Corporate America's pension plans, the retirees or the companies? Either way, Congress' proposal to allow corporations to tap surplus pension funds is a bad idea. It's a short-term policy that will generate quick tax bucks to help balance the budget at the expense of overall savings in the nation. It may be good for companies, it may not even hurt retirees, but it is bad government policy.

Virtually all U.S. retirement plans are shaped by the government's need for revenue rather than the family's or the economy's need for savings. Employee contributions to 401(k) plans are capped by the government at $9,240. This year, Congress actually cut the 401(k) contribution by not compensating for inflation. It needed more tax income to make up for a cut in revenues that occurred when trade tariffs were reduced. That's ridiculous, given that if people with 401(k)s could sock away more money for retirement, more capital would be available for economic growth and jobs.

The limits on individual retirement accounts are even tighter—$2,000 if you are not in another pension plan. Self-employed people with Keoghs get a much better deal: They can save up to $30,000 or 15% of their income annually tax-free. If entrepreneur can save that much for the future, why not corporate employees? Washington should be encouraging all to put more money into pension plans, not less.

[From Business Week, Oct. 16. 1995]

THE GOP HAD BETTER GET BUSINESS OFF THE DOLE, TOO

(By Mike McNamee)

Christmas came early on K Street. Washington's business lobbyists awoke one morning in late September to find a $40 billion present from Ways and Means Chairman Bill Archer (R-Tex.): a proposal to let companies reclaim and spend massive assets locked away in overfunded pension plans. The loophole was designed mainly to help budget-cutting Republicans, who will garner $10.5 billion in taxes if companies pull out $40 billion in assets, as expected. But Archer's gift was a big hit in Corporate America—and like the very best presents, it was pretty much a surprise. ''We didn't ask for it,'' says a pension lobbyist, ''but you can bet we're defending it now.''

So much for ending ''corporate welfare'' as we know it. Early this year, Republican radicals swore they would erase the GOP's image as the Skybox Party. House Budget Chairman John R. Kasich (R-Ohio) targeted $30 billion in special corporate tax breaks for elimination. Strategists warned of a public-relations disaster if Republicans slashed the social safety net while leaving a cocoon of $86 billion in subsidies and breaks for Big Business.

UNCHALLENGED

Did the majority of Republicans get the message? No. Some have learned to talk the talk: Archer, for example, portrays his pension-raid plan as the centerpiece of ''corporate tax reform.'' But in reality, ''corporate welfare continues unchallenged,'' complains former Bush aide James P. Pinkerton. Even the GOP's struggle to carve $1 trillion from the budget over the next seven years can't shake its reflexive urge to shower business with federal largesse. If they can't repress that instinct, Republicans will never convince voters that they have been reborn as the champions of the middle class.

Most of the biggest corporate breaks were never in peril. Oil drillers and timber companies didn't lose any sleep over their loopholes—not with Texan Archer and, until recently, Oregon Senator Bob Packwood in charge of tax policy. Republicans who had long denounced the ''socialism'' of the Tennessee Valley and Bonneville Power authorities ''got real quiet when their party started winning seats in the Northwest, the land of cheap electricity,'' says Robert J. Shapiro of the Progressive Policy Institute, a Democratic think tank. Big exporters will continue to enjoy sales help from the Export-Import Bank and the Agriculture Dept.'s marketing-promotion programs.

Even where budget-cutters did propose small nicks in corporate welfare, lobbyists have come roaring back. Iowa Republicans reminded House Speaker Newt Gingrich (R-Ga.) that they're hosting the first event of the 1996 primary season—and persuaded him to eliminate the Ways & Means panel's cap on tax breaks for ethanol, a boon to corn farmers and agribusiness giant Archer-Daniels-Midland Co. Home-state shipping interests prevailed over ideological purity for Senate Majority Whip Trent Lott (R-Miss.), who forced $46 million in maritime subsidies back into the budget.

Budget pressures ultimately may doom some subsidies. The imperative to cut $13 billion from farm programs, for example, may guarantee that something like the Freedom to Farm Act—a 7-year reduction in price supports—will prevail. The pork that's packed into the Pentagon's appropriation will certainly be trimmed in hard negotiations between Capitol Hill and the White House. And tax breaks for pharmaceuticals markers' Puerto Rican plants, long under assault, may slowly wither away.

That's a start—but it's not enough. A GOP that believes social welfare breeds personal dependency can't go on pretending that corporate welfare builds a strong economy. The party that's bold enough to reform health care for the elderly ought to show the same fortitude when tackling oil drillers and airplane manufacturers. If Republicans can't wake up to the glaring disparity in their positions, they can be sure the voters will.

[From the New York Times, Oct. 27, 1995]

PENSION PIRATES

By James H. Smalhout

Congress is playing politics with pensions and ignoring the financial risk to workers and taxpayers. A proposal in the House budget reconciliation bill, passed yesterday, would let any company with a strong pension fund take money out of it for any reason as long as the plan maintained a cushion of 25 percent more than the cost of paying current benefits. The Senate is debating a similar proposal.

Letting companies dip freely into pension funds is a bad idea. Federal pension laws understate the costs of keeping plans afloat, so even a 50 percent cushion might not be enough to withstand volatility. And the country already has a serious pension problem: about 25 percent of private plans together come up short of their current obligations by $71 billion.

Still, this flawed proposal, written by Bill Archer, chairman of the Ways and Means Committee, responds to a serious concern. Some companies with flush pension plans have become targets for hostile takeovers. Predators want to grab surplus pension money to shore up their own funds. This is one reason why WHX, a West Virginia steelmaker with a weak plan, has been trying to take over Teledyne, which has a $1 billion pension surplus.

The natural defense for target companies is to remove the attractive nuisance of surplus pension money. So employers with good plans are under pressure to take money out of them to survive. This was easy in the 1980's, when companies could simply terminate their plans and turn the liabilities over to insurance companies to pay the benefits. But these deals were often risky, so Congress set excise taxes as high as 50 percent, which have all but ended them.

Companies can take money out of their plans to cover retirees' health care premiums. But this provision has little value unless a company has many retirees. Dynamic young firms like Teledyne do not.

Concern about the plight of takeover targets should not move Congress to let these companies raid their pension funds at will. The contributions of a worker and his company become larger—and his benefits increase faster—the longer he stays on the job. So it doesn't follow that a pension plan has a healthy future just because it has a surplus today.

The sensible approach is to require plans to maintain a precautionary surplus. Without extra assets to protect against volatility and rising costs, a plan is just a long-term Ponzi scheme like Social Security. And that's very risky for taxpayers, who stand behind failing pension funds.

Last year, Congress and the Clinton Administration ducked the fundamental issue of how to provide workers with secure pensions while protecting taxpayers. They raised taxes on weak pension plans and passed slightly stricter financing requirements. But these measures were hopelessly inadequate. And by taxing companies with weak plans, they strengthened the urge to merge that puts companies like Teledyne under pressure from pension pirates.

That is why Representative Archer is proposing to allow companies to take extra pension money for any corporate purpose. In his favor, the Government does not do a good job of detecting which companies are strong enough to keep their pension promises. But his legislation is unwise. No law should let companies tap retirement money without recognizing the long-term financial costs.

There is a better way. Workers and taxpayers could be protected by requiring companies to secure their pension benefits with a guarantee from triple-A rated insurance companies. This would keep companies like WHX from ending up with weak plans. If the creditworthiness of the pension plan and the company was so weak that private insurance couldn't be obtained, benefits would be frozen. Companies in such sorry shape have no business making false promises to their workers.

President Clinton has vowed to veto the budget package, and the veto would likely be sustained. The House should use the opportunity to make sure that companies keep their pension plans in good shape, not to declare open season on workers who have paid to have safe and secure pensions.

[From the Los Angeles Times, Oct. 17, 1995]

THE GREAT PENSION FUND RAID, PART II

Americans covered by pension plans with defined benefits had better watch out for the frenzied congressional effort to allow companies to divert money from these employee retirement funds. Congressional Republicans are trying to lift safeguards that were imposed in 1990 to prevent raids on pension funds. Making it easier for some companies to withdraw so-called excess assets could put these plans at risk. This is one item in the huge tax package working its way through Congress that should be abandoned.

Under current law, companies may withdraw excess assets—defined as those exceeding 125% of the amount needed to meet projected pension obligations—without penalty, but only if the money is used for health benefits for retirees. For withdrawals for other purposes, companies must pay tax penalties of 25% to 50% as well as income taxes. Congress imposed the penalties five years ago in response to corporate raiders who took over companies in the 1980s and tapped surplus pension funds, a move that left both retires and the government at risk. About $20 billion was pulled out of the private pension system then, according to the Pension Benefit Guaranty Corp., the federal agency that insures defined-benefits pension funds.

The House Ways and Means Committee has already cleared a bill, sponsored by Bill Archer (R-Tex.), to allow firms to withdraw funds for any purpose without notifying pension participants. The withdrawals would be subject to an excise tax of only 6.5% (in addition to income taxes). Any withdrawals before next July 1, would escape the excise tax—an undesirable inducement to use surplus funds quickly. The Senate Finance Committee is considering a similar measure.

Proponents stress that under the change the government stands to raise about $9.5 billion over seven years because many more companies would tap pension money. But a potentially negative effect of the legislation is that an estimated $30 billion in pension funds could be withdrawn. Raiding excess pension assets would be particularly tempting to financially weak companies.

Might current overfunded pension funds become underfunded? Yes. After all, companies are never absolutely sure of how much they will need to pay retirees in pension benefits. That depends on how long retirees live and other variables, such as interest rate fluctuations.

For all these reasons, these changes in the use of excess pension funds should be opposed. Pensions are a crucial factor in the national savings rate, and financial saving is something government policy should encourage, not discourage.

[From the Chicago Tribune, Oct. 3, 1995]

PENSION PROPOSAL AIDS RAIDS

(By Kathy Kristof)

In a move that both startled and horrified pension advocates, a key congressional committee passed a proposal making it easier for some companies to raid their employee pension plans.

The provision is a key of a sweeping tax overhaul that would save the government an estimated $30 billion over five years. As a result, it has a good chance of passing into law, despite the fact that everyone from the American Association of Retired Persons to the AFL–CIO is fighting against the pension provisions, Washington insiders say.

''This is going to make pension plans a tax-free checking account for companies,'' says Neil Hennessy, deputy executive director of the Pension Benefit Guaranty Corp. (PSGC), a government agency that backs defined benefit pension plans. ''Nobody anticipated that Congress would do this.''

''It's unbelievable,'' adds Cindy Hounsell, staff attorney at the Pension Rights Center. ''It's a return to the 1960s.''

What the provision would do is simple. It would drastically reduce tax penalties for taking money out of an ''overfunded'' pension, cutting the excise tax to 6.5 percent from penalties that range from 20 to 50 percent today. Indeed, it would actually give companies an incentive to raid their pensions quickly—before July 1, 1996—by waiving all tax penalties for taking surplus money out of pensions that have more than 125 percent of the money needed to pay future retiree benefits.

Under the proposed rules, the government would still make money if a company raided its pension, because any amount ''distributed'' from a pension is considered taxable income. Companies that raided their pensions before July 1 would pay income tax, but no penalties on the amounts withdrawn.

Currently, if companies take money out of a defined benefit pension, they must pay income and excise taxes on the amount withdrawn—similar to the taxes and penalties you would face if you withdrew money early from an individual retirement account. However, the corporate penalties are currently much more severe, amounting to between 20 and 50 percent of the withdrawn amount in addition to regular income taxes paid on the money.

In the end, a corporation that took money out of a pension today would lose 80 to 85 percent of the withdrawn amount to federal taxes, says Bruce Ashton, a Los Angeles-based pension attorney.

The high penalties were instituted in the late 1980s, after a wave of corporate raiders took over companies, spent their pension ''surpluses'' and ultimately left both retirees and the government at risk. The government, in the form of the Pension Benefit Guaranty Corp., insures defined benefit plans to specified limits, essentially putting taxpayers on the hook for any big losses to the pension system. However, some retirees are also at risk because the government insurance covers only up to set amounts—currently to about $2,574 in monthly benefits. Those who were promised more could lose any excess amounts in a pension plan failure.

How can it be risky to withdraw money from a pension when the company has more than 125 percent of the amount it needs to pay future benefits?

The tricky thing about pension surpluses—and shortages—is they're all estimated. In reality, companies don't know precisely how much they'll need to pay retiree pension benefits. The real cost will depend on how long employees live and collect monthly payments—and on how much the company earns on its savings in the interim.

The proposed law stipulates that companies that decided to withdraw funds from an overfunded plan would not be required to inform their workers, says Hennessy.

How much damage could this do to the income of future retirees?

''It's hard to judge,'' says Hennessy. ''It is very difficult for consumers to stop a raid of their pension when the law allows it. But most people are paid what they are owed by their plan.''

In fact, many believe the law has wings for one simple reason. It could allow the government to immediately collect billions in income taxes from companies that take money out of the pension and declare it as income. At the same time, the risks are hard to quantify, and the costs—anticipated in future pension plan failures—aren't likely to hit for years, probably long after today's congressional leaders are retired.

[From the Chicago Tribune, Oct. 2, 1995]

AN UNCONSCIONABLE RAID ON PENSIONS

Whenever the big fiscal squeeze is on in Washington—as it is now—politicians of all stripes are tempted to dip into money pots wherever they can find them.

One of the most inviting stashes is the nearly $5 trillion salted away in pension funds. Republicans on the House Ways and Means Committee recently sanctioned a raid on corporate pension funds as a way to raise new revenues and help them balance the budget.

Democrats blasted the tax-writing panel's action, contending it would threaten workers' nest eggs and could leave taxpayers with a sizable bill if any pension plans go belly-up as a result.

But with Congress cutting spending on social programs, the Clinton administration has been pushing to let private pension funds invest in low-income housing and other so-called economically targeted investments. While the White House is technically correct that this doesn't constitute a raid on pension

funds, it's at least a thinly veiled sneak attack.

The point is that both parties should keep their grubby hands off pension-fund assets. Employers pay into retirement funds, hoping they will grow enough to cover the payouts promised to retirees. By law, fund managers should be concerned solely with investing to increase benefits for plan participants, and the money in a fund should be thought of as belonging to the participants.

House Republicans, however, decided to ease the rules so employers could withdraw ''excess'' money from pension funds—cash above future pension needs—and use it for anything they want. They said the companies would invest it in new plant and equipment and not jeopardize the funds because they still would be required to have a 25 percent cushion as insurance to meet future obligations.

Even with the cushion, Democrats contend the drawdown of assets will make some funds vulnerable to lower returns if the economy and stock market sour. Then, the administration argues, the government would have to come to the rescue of underfunded pensions, with taxpayers footing the bill.

Republicans would increase the odds for greater unfunded pension liabilities and for some funds to go under. Why? Because while the move would divert up to $40 billion from the pension system, companies would have to pay income tax on the money, raising nearly $10 billion over seven years.

It's a terrible gamble at the wrong time. Many pension funds already are underfunded. Workers aren't saving adequately for retirement and, early in the next century, Social Security will face serious financial woes. Republicans and Democrats alike should keep their hands out of the pension fund cookie jar.

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[From the Chicago Tribune, Sept. 25, 1995]

KEEP PAWS OFF PENSION FUND ASSETS

(By Bill Barnhart)

Have you noticed? Squirrels are especially busy gathering nuts as fall begins this year. That means a harsh winter lies ahead, according to some nature lovers.

Well-heeled financial backers of the current Republican majority in Congress—perhaps sensing that the good days won't last much longer for them, either—are busy grabbing for everything they can get as fast as they can get it. Under cover of the high-profile debates about budget deficits, welfare reform and Medicare, they are stuffing their cheeks with smaller morsels that don't get media attention.

A few weeks ago legislation emerged to weaken the nation's securities laws that protect small investors in favor of the interests of the ''entrepreneur.'' (This Republican Congress may be remembered best for giving entrepreneurship a bad name.)

The latest is a proposed raid on corporate pension funds, which represent the storehouse of retirement savings for millions of American workers. Instead of helping their employees gather retirement nest eggs that will withstand the vagaries of financial markets, certain employers have decided they want free access to the so-called excess dollars in company pension plans.

Many employees these days aren't being covered by pension plans at all, but are expected to sock it away themselves through such tax-advantaged programs as 401(k) plans and individual retirement accounts. A big worry is whether they are saving enough.

There is no provision in the rules for workers who have been fortunate enough to see their 401(k) or IRA portfolio value grow in the current bull market to declare an ''excess'' and withdraw funds for a vacation without paying a tax penalty.

But that's exactly what certain employers pushing a bill recently passed out of the House Ways and Means Committee want to do with employee pension fund assets. Only instead of a vacation, the fun and games could involve more ego-building mergers and acquisitions by a handful of financiers who would use pension fund assets to pay for their deals. It happened in the 1980s, and it can happen again.

''We though we'd put an end to those things,'' said Martin Slate, executive director of the Pension Benefit Guaranty Corp., which has the unenviable task of making good when employers skip out on their employee pension obligations.

Employers pushing this measure say they want to use the locked-up capital to grow and create jobs. That may be. But companies such as Chrysler, with large unrestricted cash amounts on their balance sheet often become sitting ducks for hostile takeover artists. Unlocked pension fund assets on the balance sheet are as inviting as cash to a raider. Certainly, the employees would not get to vote on the use of their ''excess'' pension funds.

Slate's agency estimates that $30 billion to $40 billion in pension assets would be raided if the provision now under consideration passes. That's $30 billion to $40 billion less of an already shrinking cushion of pension fund surplus. Meanwhile, the level of unfunded pension liabilities has been growing.

A law enacted in 1990, largely in response to the raids on pension funds during the previous decade, bans employers from withdrawing the alleged excess employee pension funds, except under limited circumstances to pay retiree health benefits.

Some companies advocate a limited change in the law to permit them to tap a conservatively derived surplus in their employee pension funds to pay health care benefits for active workers. That idea deserves consideration because it would benefit employees. But to turn any amount of pension fund assets into a company checking account for any purpose is dangerous public policy.

The ability and willingness of American workers to save adequately for their retirement is a major concern these days for individuals and the economy as a whole. Letting employers raid their employees' storehouse is no answer to the problem. The fat-cat squirrels should stick to their own nests.

Dumb question: Why doesn't the dividend yield figure relate to the price of the stock, so that when the price per share changes so does the yield statistics?

It does, but sometimes the change goes unreported in newspaper stock listings because of rounding. For example, a stock with a $2.40 per share annual dividend selling at $60 would have a reported dividend yield of 4.0 percent in the stock listings. If the stock price dropped to $59.125, the yield would rise to 4.05 percent, which still would be reported at 4.0 percent. If the stock price dropped to $59.00, the yield would be 4.06 percent, rounded up to 4.1 percent in the listings.

Recently, market commentators have noted that dividend increases have not kept up with stock price increases. To the extent that is true, the changes in reported dividend yields will be less frequent because the dividend represents a smaller part of the share price and the rounding problem becomes more pronounced.

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[From the AARP Bulletin, November 1995]

PENSION FORECAST: NEW RAIDS COMING?

(By Robert Lewis)

A debate that everybody thought was settled five years ago over who owns pension assets—workers or employers—has suddenly reignited.

Touching off the controversy is a Republican plan in Congress to allow corporations to withdraw reserve assets from pension plans and use the funds for purposes other than pensions.

Under a provision included in a tax bill that recently passed the House Ways and Means Committee, employers could tap these assets just so long as they left a cushion of at least 25 percent over what is needed to pay current pension obligations.

Rep. Bill Archer, R-Texas, chairman of the Ways and Means Committee and author of the plan, said the ''pension reversion'' provision would be good for corporations, and also good for the overall economy.

''This will allow companies with excess money in their pension plans to put that money to use,'' he said in a prepared statement, ''to create new jobs, opening up opportunities to expand the economy.''

But critics see dangers for pension plans in the GOP proposal. They argue that a 25 percent cushion is not enough margin to prevent currently overfunded plans from becoming underfunded should their assets decline during economic downturns.

The Pension Benefit Guaranty Corp. (PBGC), the federal agency that insures pensions, calculates that a plan with a 25 percent cushion could become underfunded if the stock market dropped 10 percent or interest rates fell two percentage points.

''The [GOP plan] makes pensions vulnerable to stock market downturns,'' says Karen Ferguson, of the Pension Rights Center, a Washington advocacy group. ''It could place pensions at risk should firms get into financial trouble.''

Clinton administration officials attacked the proposal, charging that it would allow companies to siphon up to $40 billion from pension plans and threaten the retirement security of 11 million workers and 2 million retirees enrolled in some 22,000 plans.

If the plan become law, Labor Secretary Robert Reich told reporters, ''We're going to see raids on pension assets that will make the train robberies during the days of Jesse James pale in comparison.''

AARP officials also criticized the GOP plan, contending it would ''bring back the large pension raids of the late 1980's, ''when employers diverted some $20 billion of pension funds to other purposes. Much of the money was used to finance corporate takeovers and leveraged buyouts.

In 1990, the federal government sought to curb pension reversions by making employers subject to a 50 percent excise tax if they withdrew pension assets and terminated the fund, or a 20 percent excise tax if they established a successor plan. Firms pay federal income taxes on top of that.

Archer's bill would repeal the excise tax for six months, then reduce it to 6.5 percent through 2000. Congressional analysts estimate companies, as a response to Archer's bill, would pull $40 billion from pension funds.

If they did, that would generate $10 billion in tax revenue, experts figure, suggesting this may be the real reason for the Archer proposal.

But Labor Secretary Reich says such a gain may be illusory, since the federal government insures the nation's 58,000 conventional company pensions covering 41 million workers.

When plans fail the PBGC steps in and runs them, keeping pensions flowing to beneficiaries. Although the PBGC is financed by insurance premiums paid by corporate pension sponsors, any shortfalls conceivably could end up being paid by taxpayers.

At the heart of the controversy is a question of who owns the assets of pension funds.

Lynn Dudley of APPWP—The Benefits Association, which represents large corporations, has no doubts about the matter. ''Excess assets belong to the employer,'' she says.

But pension advocates say the money is deferred compensation and belongs to workers. Still other suggest the money belongs right where it is—in the pension trust. ''Employers simply should not be permitted to put workers' pension-fund money at risk, as would happen with this proposal,'' says AARP lobbyist David Certner.

[From the Washington Post, Oct. 31, 1995]

TWO BAD IDEAS

The enormous budget-balancing bills that the House and Senate passed last week each contain some corporate tax increases. Two in the House version of the bill are bad ideas and ought to be dropped in the conference that now begins.

One would make it easier for corporations to remove supposedly excess funds from their pension reserves and use the money for other purposes. Thought it would result in some increased tax payments, it is less a tax increase than a benefit that corporations actively sought—and that critics say would leave the affected pension funds in weakened condition.

The other would phase out a low-income housing tax credit meant to induce corporations to invest in such housing in return for somewhat lower taxes. Again, it is hardly the corporations that would be the primary losers were it to disappear.

Republicans have pointed to the corporate tax increases—they prefer to call them adjustments or reforms—as evidence that theirs is an evenhanded budget in which they squeeze their own traditional constituencies and not just those of the other side. But ''corporate tax increases,'' the principal burdens of which would likely fall on retired workers and lower-income renters, prove nothing of the kind.

Current law imposes a prohibitive penalty in addition to the corporate income tax on withdrawals of supposedly excess amounts from pension funds unless the money is used to help pay retiree health benefits. The House bill would greatly reduce the penalty and in effect ease the definition of excess while permitting withdrawals for any purpose an employer wished.

Billions would likely be withdrawn, and since the withdrawals would still be subject to tax, it's true that revenues would go up. But organized labor, the Clinton administration and such groups as the American Academy of Actuaries have warned that the soundness of a significant number of pension funds could well be threatened in the process. They note that the value of pension fund assets are volatile; they go up when the stock and other securities markets are strong but can just as easily turn down again. It's hard to know exactly where to draw the danger line in a matter such as this, but it's easy to know on which side to err. The Senate last Friday wisely decided to err on the side of caution and knocked a similar pension provision out of its bill by a vote of 94 to 5.

The phase-out of the housing credit was never in the Senate bill. The credit is one of the few remaining devices for adding to the stock of low-income housing in the country. The subsidized housing programs on the spending side of the budget are being cut back, if not shut down, even as the need for such housing continues to grow.

The credit is probably not the most efficient way to produce the housing, but it has been a steady source of added supply at relatively modest cost, and it would seem to be perfect Republican program in that the housing would be provided mainly through private initiative.

The House bill would use the proceeds from both these corporate ''tax increases'' mainly to finance the extension of other corporate tax breaks. For the corporate sector as a whole, they're a wash, while in social terms they would leave the budget more lopsided, not less. On these two issues, present law should be preserved.

[From the Philadelphia Inquirer, Oct. 3, 1995]

PENSION-MANIA

Workers and retirees will be hurt if Congress allows companies to raid pension funds easily.

It was a standard scam of the Decade of Greed: Corporate raiders skimmed off pension funds to pay their debt and line their pockets. Managements of companies such as Simplicity Pattern Co., Faberge Inc. and Pennsylvania Engineering Corp. removed a total of $21 billion from pension funds in the 1980s. Congress finally stopped this in 1990 with a prohibitive tax.

Lo and behold, only five years later, the House Ways and Means Committee has voted to end the special, 50 percent tax that has stopped companies from raiding pension funds. The panel's Republicans say, unpersuasively, the relief would apply only to pension funds holding millions more than they really need.

In reality, this change is a needless risk to workers, to retirees and to the federal corporation that safeguards the system. The Pension Benefit Guarantee Corporation is adamantly opposed to the change. Indeed, the PBGC says it would let companies use pension plans ''as tax-free corporate checking accounts.''

Considering how important pensions are to workers and retirees, it's not clear that the rules ought to be changed at all. When a company's pension-fund investments have done extremely well, creating a real excess, the company gets the benefit of going years without putting more money into the plan. Or, the company can transfer some or all of the excess, without penalty, to pay for health-care benefits for retirees.

Even those who say the 50 percent tax should be lowered must admit that the House Republican plan goes way too far. It proposes only a 6.5 percent tax on withdrawals of supposedly excess pension funds, and for the first half of 1996, no penalty at all!

This is a gimmick to raise revenue—since corporations would pay income tax on the pension money they withdraw. But lawmakers shouldn't be indulging in tax gimmicks at all, let alone one that could undercut the safety of pensions for millions of workers and retirees.

The biggest flaw in the House plan is how it defines a pension plan with truly ''excess'' funds: A plan that holds more than 125 percent of its current liabilities—that is, the pension benefits employees have already earned.

But the PBGC says that threshold isn't nearly high enough. A new report by a business group called the Committee for Economic Development, anticipating how baby boomers will burden the pension system, expresses similar concern.

The retirement security of American workers has been hammered in recent years by corporate downsizing, corporate raiders and the like. Now it's being shaken further by cuts in entitlements such as Medicare. A new raid on pension funds makes no sense whatsoever.

[From the Long Island (NY) Newsday, Sept. 21, 1995]

THE NEW TAX-FREE CORPORATE CHECKING ACCOUNT

(By Marie Cocco)

You can tell when something big is happening at the House Ways and Means Committee. The lobbyists all age by about 25 years and undergo sex-change operations, as the powerful replace the mere note-takers.

The power quotient was unimpressive this week as the panel crafted a measure billed as one to close corporate loopholes. Still lots of empty seats; still too many twentysomething women clutching cellular phones. And that got Rep. Jim McDermott (D-Wash.) wondering.

''Here we have a $10-billion tax increase and nobody cares,'' he noted. ''So you have to ask yourself, what's wrong here?''

An appropriate question. Here's the answer: The $10.5-billion tax ''hike'' innocuously labeled ''corporate pension reversions'' on the committee's charts is in fact an invitation for corporations with rich pension funds to raid the accounts and use the money however they wish. Golden parachutes. Higher stock dividends. Corporate jets. You name it.

Students of the 1980s will recall that during the heyday of the leveraged buyout, a fat pension fund often put a company ''in play.'' That is, the pension assets in excess of what was expected to be needed for retirees became a piggyback. Market-manipulators used the money to pursue other companies. Or a new owner who'd conquered a takeover target would terminate the pension plan, buy less generous annuities for the retirees and skim off the excess.

The Pension Benefit Guarantee Corp. says about $20 billion was siphoned from pension funds during this binge. But that's only about half the $30 to $40 billion the pension-insurance agency estimates would be drained out by reopening this scheme.

How does it work?

Under rules passed in 1990, a corporation can remove pension money without penalty only if the funds are used to pay retirees' health benefits. Otherwise, the company pays a stiff tax penalty on the withdrawal, in addition to income taxes.

The measure pushed through by committee Republicans would wipe out the penalty. Companies would pay only income taxes on the withdrawal. That's how the GOP estimates raising $10.5 billion in new revenue.

But that assumes corporations will actually pay taxes on the withdrawal. More likely, they will time them to coincide with tax losses. They could construct it so it's all a wash.

''It has the effect of creating a tax-free corporate checking account,'' said Assistant Treasury Secretary Leslie B. Samuels, who, with the Democrats on the panel, tried to dissuade the Republicans.

The opponents pointed out that even pension funds that are technically ''overfunded'' now could become underfunded with a stock market downturn or interest-rate change. They argued that pension money belongs to current and future retirees. They tried to warn them that, since the government insures pensions, the Republicans could be paving the way for the next savings-and-loan debacle.

The Republicans said Democrats just don't understand free markets. ''I can't believe that they don't understand our economic system!'' Rep. William Thomas (R-Calif.) shouted. Pension money should be used for productive investments, he argued, not left ''just sitting there doing nothing.''

Someone should let him know pension funds are the nation's largest source of capital; they own a fifth of all corporate stock.

That would clear up the free-market argument. But it won't save the Republicans from themselves.

Days ago, they howled about protecting pensions from the clutches of the Clinton administration. The Labor Department provides information on investments in things like hospitals and small businesses to pension managers; the managers control where to invest. The House abolished the program.

''Our message is simple,'' Majority leader Dick Armey (R-Texas) crowed. ''Keep your paws off our pensions.''

It's a good sound bite. But nothing more than that.

[From the Pittsburgh Post-Gazette, Oct. 1, 1995]

PENSION RAID—DON'T RAISE REVENUES BY THREATENING PENSION BENEFITS

In the 1980s, corporate pirates didn't need a map to find the buried treasure—it was right there in the pension fund.

High interest rates and a galloping stock market had made many funds flush. Frequently a company with a very healthy pension became a takeover target—leverage buyouts were followed by termination of the pension fund and the use of the excess cash to pay off debt.

If workers' welfare had been insulated from all the high-finance brinkmanship, perhaps it wouldn't have been an issue. But often the plans were replaced with lesser-value pensions or, on occasion, no pensions at all.

Starting in 1986, Congress set up a system allowing corporations to draw down excess funds, but with a small excise tax—10 percent at first, later raised to 15 percent.

But that didn't shield workers. Many overfunded pensions ended up being underfunded. Twenty of the top 50 underfunded pension plans had been subject to ''reversions,'' as the draw-down is called.

In 1990 Congress passed a 50 percent excise tax on businesses that terminate plans and fail to set up a successor plan with similar benefits. The tax is 20 percent on those that replace the plan. Reversions are allowed without penalty if the money is used to pay retirees' health benefits.

That's a fairly happy ending to the story. But watch out for the epilogue. Last week the House Ways and Means Committee voted to open pension plans up yet again. Plans that are funded at 125 percent or higher can be drawn down without penalty through June 1996. After that, the excise tax will be only 6.5 percent.

The gambit will raise $9.5 billion for the federal Treasury in corporate income tax, but congressional experts estimate that it will drain pension funds of some $40 billion in assets—double the amount that was drawn down in the 1980s.

The federal pension insurance program has decried the move. The three Cabinet secretaries that sit on its board—Commerce Secretary Ron Brown, Treasury Secretary Robert Rubin and Labor Secretary Robert Reich—cited a host of reasons why this is a bad idea.

A pension that is 125 percent funded on an ongoing basis may well be underfunded if it were terminated immediately and had to make good on its obligations. Most plans will not be terminated immediately, but some will and their beneficiaries won't be adequately covered. That will put a strain on the federal insurance system and will probably reduce benefits for some pensioners.

Even if the plans aren't terminated, interest rates and market conditions change. Plans that are overfunded today weren't three years ago and may not be three years from now. Keeping a cushion makes sense under those circumstances. In the 1980s, many overfunded plans that were drawn down ended up underfunded.

Another concern is that companies receive considerable tax advantages to contribute to pension funds, but will be allowed to withdraw with no penalty.

That will open the door to a lot of financial gamesmanship. Also, the pension raid would be encouraged despite the well-known need to bolster private savings.

Surely there are better ways to balance the budget then to gamble with the security of private pensions covering millions of Americans.

[From the Cleveland Plain Dealer, Oct. 3, 1995]

CUT NOW, PAY LATER

Congress should reconsider tax cuts rather than ask poor people and pensioners to pay for them.

Not surprisingly, members of Congress who approved a $245 billion tax cut earlier this year are struggling now with the delicate question of how to pay for such excess.

A bill recently adopted by the House Ways and Means Committee, for example, would help to finance the tax cut by raising about $39 billion over seven years. Some of the bill's provisions make sense. Others are downright foolish.

One of the most worrisome proposals would make it easier for companies to withdraw money from their pension funds. Under the bill, companies would no longer face severe penalties for withdrawals from pension funds as long as the maintained a cushion of 125 percent of the assets they needed to meet their pensions' liability. The proposal, which would allow companies to withdraw funds for any purpose, would increase federal revenue because companies must pay taxes on withdrawals.

Supporters of the change contend that a 125-percent cushion is adequate. But critics, including the federal Pension Benefit Guaranty Corp., warn that a seemingly comfortable cushion could vanish if the stock market tumbles, because many pension funds are heavily invested in the stock market.

Given the federal government's potential liability, and disasters like the savings and loan crisis, Congress should be wary indeed of loosening restrictions. Tough penalties on withdrawals were instituted precisely to avoid a taxpayer bailout of pension funds.

Another ill-advised House proposal would raise $23 billion by sharply reducing the earned income tax credit, which allows the working poor to receive a credit from the government even if they don't owe taxes. The Senate Finance Committee, meanwhile, is endorsing an even larger cut in the credit—$42 billion over seven years.

Lawmakers are hoping to limit the credit, which was expanded greatly in President Bill Clinton's 1993 economic package, in several ways. Some of the proposals merit consideration—including one that would make childless workers ineligible for the credit, and another that would take into account income from Social Security and other outside sources when determining eligibility for the credit.

Lawmakers should be wary, however, of reducing the value of the credit for the people it was principally intended to help—poor families struggling to survive on low wages. The earned income tax credit was designed to encourage poor breadwinners to take low-wage jobs instead of relying on welfare and related benefits. It is one of the last tax incentives that should be trimmed, not one of the first.

Congress clearly needs to balance its lopsided books. But lawmakers must take a long-term approach. Reducing pension protections and tax credits for poor breadwinners may swell the federal treasury in the short run. But such steps could increase government spending in the long run.

Senate Majority Leader Bob Dole, who raised the possibility Sunday of not providing the full $245 billion tax cut, is on the right track. If Congress wants to avoid blame for foolish tax increases, it should give up foolish tax cuts.

[The Harrisburg (PA) Sunday Patriot-News, Oct. 1, 1995]

PROTECT PENSION FUND ASSETS

During the wave of corporate buyouts in the 1980s, pension-fund monies were used to accomplish two-thirds of the largest mergers, according to Commerce Secretary Ron Brown. All told, about $20 billion was lifted from private retirement funds to facilitate corporate takeovers.

But if congressional Republicans have their way, that period of pension-fund raiding will seem modest.

Last week, the House Ways and Means Committee approved legislation that would allow corporations to remove $30 billion to $40 billion from pension funds over the next five years for other purposes. Republicans hope to capture about $9.5 billion of that in taxes to put toward balancing the budget.

In the process, they may well put some pension funds at risk. As most are government guaranteed, taxpayers could be the losers in the end, along with affected workers and retirees.

Proponents claim that the 25 percent cushion above current liabilities that the measure provides is more than adequate to protect the country's 11 million employees and 2 million retirees covered by private pension plans. In addition, they argue that if the surplus pension money is reinvested in plant and equipment it could mean more jobs and a stronger company.

According to Ways and Means Chairman Bill Archer, the proposal could actually make pension plans more attractive to business and encourage them to make larger contributions.

But as Labor Secretary Robert Reich noted, you couldn't prove that by what happened in the 1980s. An analysis by the federal Pension Benefit Guaranty Corp. found that of 50 pension funds on an underfunded watch, 20 experienced withdrawals in the 1980s of what were then considered surplus assets.

In addition, the agency said that an examination of 10 large pension funds found that the 125 percent limit was not sufficient to protect them if they were terminated because of corporate bankruptcy. Less than 90 percent of the money required to meet obligations would be available, according to the agency.

The agency further noted that funds currently considered sufficient could become underfunded by a modest shift in the market that reduced interest rates by one percent, combined with a 10 percent decline in the value of assets.

Even the pro-business Committee for Economic Development has warned that the present full-funded standard of 150 percent of liabilities is insufficient to ensure the long-term viability of pension funds.

The 1980s corporate-takeover frenzy, fueled in part by raids on pension funds, took a heavy toll on this country in terms of quality companies that were destroyed, thousands of jobs that were lost, damage inflicted on the environment to pay off debts, pension-fund depletions and the loss of employee trust in employers.

It boggles the mind to think that the stage might be set to go through that again, and at twice the rate of the 1980s.

[From the Fort Worth Star-Telegram, Sept. 22, 1995]

AND PENSIONS

And on the subject of ideas in new tax bills, one of the worst is the plan to allow corporations to withdraw money from their pension plans. The withdrawals would be taxed—an estimated $10.5 billion over seven years—but this is a bad idea for two reasons.

First, Americans are worried about their retirement years. What can they count on? Letting corporations use supposedly ''excess'' pension funds for other purposes merely adds to the public's unease about its old age.

Second, the federal Pension Benefit Guaranty Corp.—one of those federal insurance programs, like insured bank deposits, that are ignored until they cost the taxpayers billions of dollars—could have to rescue pension plans that become underfunded because of corporate withdrawals.

We do not need another S&L-style bailout because someone got greedy and saw a way to get more revenue without raising taxes.

[From the Spartanburg (SC) Herald-Journal, Oct. 2, 1995]

LEAVE PENSION FUNDS ALONE—CONGRESS SHOULDN'T ENABLE COMPANIES TO ENDANGER RETIREES' BENEFITS

Congress should back away from a plan to let companies spend ''excess'' funds in their pension programs.

The plan, which was approved by the House last week, is popular with businesses because it would allow companies to use funds that aren't needed to meet pension obligations.

It is popular with Republicans in Congress because it is expected to generate $9.4 billion in new federal revenue.

But it's likely to become unpopular with the rest of us if it ends up affecting our pensions, which it is likely to do.

A key question is: How much money in a pension fund is ''excess?''

The proposed measure would apply to companies that have at least 25 percent more money in their pension funds than is needed to cover benefits already earned by their employees.

About 40 percent of the pension funds insured by the government fall into this category. Companies are expected to spend up to $40 billion of this money if the law is passed.

But 25 percent is not much of a safety margin when dealing with financial investments. The Pension Benefit Guaranty Corp., the government agency that insures pensions, requires more cushion than that when a company terminates a pension plan.

Most pension plan funds are used to buy stocks, bonds and other investment vehicles. The growth of those investments has led to the excess funds in the pension plans.

But what happens if the stock market plunges? If the investments of a plan go sour? All of a sudden, a pension plan that had excess funds no longer has the funds it needs to meet its obligations.

Who pays the pensions for the retirees then?

Taxpayers, through the Pension Benefit Guaranty Corp.

Does it sound familiar? Think Savings and Loan.

Companies were allowed in the '80s to use excess pension funds for business use. About $20 billion was taken out of pension funds then, according to the Guaranty Corp. The money often was used to pay for leveraged buyouts and mergers.

Workers at many of those companies had their pensions replaced by plans with much lower benefits.

In response, Congress placed a 50 percent excise tax on money taken from pension plans. The current proposal would eliminate that tax.

It should not be allowed to become law.

DON'T SUPPORT PENSION RAIDS

Smoke and mirrors would be preferable to a proposal approved by the House Ways and Means Committee last month to let healthy companies withdraw from their workers' pension funds.

The proposal is designed, primarily, to raise $10 billion in federal tax revenue at a time when the government is desperate for money. Giving companies access to large sums of money would also accommodate business expansion, helpful to the economy just about any time.

The problem is it would subject workers' pensions to unacceptable risk, which seems especially unwise during a time of such uncertainty for Social Security. And in the event of a few large defaults, it could pin the cost of a huge bailout by the federal Pension Benefit Guaranty Corp. on taxpayers. After the federal savings and loan debacle, that's the last thing we need.

The Republicans' plan is to let companies borrow from pension plans that have at least 125 percent of the money they are estimated to need to pay current employees' pensions. While such loans are now allowed, the government imposes penalties on them of 20 percent to 50 percent, and it taxes the money as ordinary income. Consequently, most companies choose other ways to raise money. Under the proposal passed by the Ways and Means Committee, the penalty would be eliminated until next July 1 and raised to only 6.5 percent thereafter.

This would undoubtedly encourage hundreds of healthy companies to raid their pension funds, providing a windfall for the government, which would continue to collect taxes on the money taken out. If everything goes according to plan, there wouldn't be a problem. But if the economy stumbled and the stock market tumbled—most pension funds are heavily invested in it—look out below.

In an instant, pensions would be dangerously underfunded, a situation that, uncorrected, could require massive infusions of cash from the PBGC. Without them, pension obligations might not be met. And with them, the government agency might have to turn to taxpayers—just as the Federal Deposit Insurance Corp. did when it had to bail out the S&Ls. A chilling thought.

Not surprisingly, there is widespread opposition to the plan among labor unions and the American Association of Retired Persons. The head of the PBGC is also against it. And that ought to convince President Clinton to veto the measure should the Republicans, as expected, muster enough votes to get it through Congress.

[From the Joplin Globe, Oct. 5, 1995]

PROPOSAL WOULD ALLOW CORPORATIONS TO RAID PENSION PLANS

It appears that little is immune from Congressional budgetary deliberations. If it can be cut or it will raise money, it seems to be fair game for Congress.

Now, pension funds are among the fair game.

The House Ways and Means Committee has approved a proposal to allow corporations to raid their pension plans, raising billions for the government through income taxes paid on the withdrawals.

Proponents say the measure would lead to greater retirement protection while raising $9.5 billion for the government. Corporations support the measure because they say withdrawal of excess assets from pension funds can help workers if the money is used to expand and create more jobs.

Opponents say it would endanger the retirement security of millions of Americans, just like it did in the 1980s, when companies legally tapped pension plans, leaving many under-funded as a result.

Among the opponents are three cabinet secretaries who are members of the Cabinet-level board overseeing the federal Pension Benefit Guaranty Corp. (PBGC), which insures pension plans and takes over those that fail.

They say the proposal would trigger withdrawal of up to $40 billion from pension plans in the next five years—twice that removed by companies during the corporate takeover frenzy of the 1980s.

Under the provision, withdrawals from pension funds would be allowed at any time and for any purpose. Currently, withdrawals are allowed only for use in retirees' health benefits. The proposal would require corporations making withdrawals to leave a cushion of 25 percent more than needed to meet current liabilities.

Allowing companies to dip into their pension funds would lead more of them to make large pension contributions for cushioning or, if they don't already offer pensions, to create them, said Congressman Bill Archer, R-Texas, Ways and Means Committee chairman.

Labor Secretary Robert Reich, one of the PBGC board members, said it didn't happen that way in the 1980s. He said that at that time the money often was used to finance leveraged buyouts, sometimes leaving pension plans underfunded.

Luckily, participants in plans that are underfunded won't be blind-sided. The Retirement Protection Act, approved last year, will offer some protection.

Beginning this year, the act requires companies with more than 100 employees in under-funded pension plans to notify workers if the plan is less than 90 percent funded. That means, for example, that an 80 percent-funded plan could pay only 80 percent of its promised benefits, if the plan failed. The new ruling will apply to companies with fewer than 100 plan participants beginning next year.

These notifications must provide information about the plan's funding status and explain the maximum amount of benefits the PBGC would pay if the plan failed, said Robert Pennington, an academic associate at the College for Financial Planning, a division of the National Endowment for Financial Education. The maximum benefit the PBGC's insurance fund now pays to a participant is $2,574 a month.

The total pension shortfall of plans governed by the PBGC is $71 billion. Some plans are under-insured by more than 40 percent, according to the PBGC, whose own insurance fund is under-funded.

If you receive a notice that your plan is under-funded, Pennington said these are some of the things to consider:

How much is the plan under-funded?

Find out how the benefits are being funded.

Think about building a nest egg to cushion the losses.

[From the Burlington (IA) Hawk Eye, Oct. 1, 1995]

PENSIONS AT RISK

Congress: New budget plan would let companies raid funds.

Hidden in the congressional budget plan is a proposal that would allow unprecedented abuse of employee pension funds.

Never at a loss for an analogy, Labor Secretary Robert Riech said ''You're going to see raids on pension assets that will make the train robberies during the days of Jesse James pale by comparison.''

The provision would let companies withdraw funds from pension funds if their assets exceed 125 percent of the plan's current liability.

Companies could use the money for any reason.

The provision actually encourages companies to withdraw money by abating the federal excise tax on withdrawals made before next July. After that a 6.5 percent tax would apply.

Republicans gleefully predict that $40 billion could be withdrawn over the next five years. That could produce a windfall in taxes.

Their other argument is that companies could use the money to expand or create jobs, although the law does not require that. Companies could just as easily pay bonuses to top executives or finance the campaigns of friendly politicians.

A flurry of withdrawals would create a nightmare for pensioners—and taxpayers.

Since 1974, more than 2,000 pension funds have failed. They were bailed out by the Federal Pension Benefit Guaranty Corp.

The fund insures 56,000 pension plans and 33 million employees. It effectively obligates taxpayers to guarantee pensions when private businesses do not.

The obligation is substantial; at last report, U.S. pension funds were underfunded by $71 billion.

Reich argues soundly that pension plans whose principal is depleted today might not be able to meet their long-term obligations.

Lost in the debate is why companies should be allowed to raid pension funds at all. Or at least without any obligation to assure their solvency.

A compromise might allow companies to borrow, not simply appropriate pension funds. That would offer employees and taxpayers a reasonable assurance that the pensions will be there, while giving companies a low-cost and renewable source of money for expansion or other legitimate purposes.

But then reasonable solutions are not what Congress is necessarily searching for.

[From the Tribune, Meadville (PA), Sept. 17, 1995]

DON'T LET COMPANIES RAID PENSION PLANS—SURPLUSES MEAN FUTURE SECURITY FOR WORKERS

A House committee last week passed a new tax bill that would not only eliminate the earned income tax credit for many poor families, but would jeopardize the retirement income of millions of American workers.

The bill would allow corporations to spend surplus money in pension plans rather than preserve the funds for the health of the plans to ensure the future security of their work forces.

Companies with 25 percent more money in their pension plans than is needed to cover benefits would be able to use that money as they see fit. About 40 percent of the 58,000 pension plans insured by the Pension Benefit Guaranty Corp. currently fit that description, according to congressional estimates.

Legislators are looking at the funds as a means to help raise revenue to reduce the deficit. If companies were to use the money, it would generate about $10 billion in tax revenue over the next seven years.

The irony is that many of the pension plans in question have developed surpluses because companies use them as a tax dodge. By dumping money into the pension plans, the corporations are able to reduce their tax liability. If Congress wants to generate more tax revenue, it should legislate against the misuse of legitimate pension funds.

It is likely given the experience of pension fund raids in the 1970s and 1980s, that new raids by companies would help fund the current rage toward big mergers, resulting in untold layoffs and lost jobs.

Some of the pension surpluses also reflect accounting maneuvers rather than actual assets, raising the prospect that nationwide pension raids would jeopardize the solvency of some plans.

That's why the Pension Benefit Guaranty Corp. opposes the plan, which should be defeated or vetoed.

☐ 2130

REPUBLICANS SHOULD TAKE NOTICE OF ELECTION RESULTS IN VIRGINIA

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

Mr. PAYNE of Virginia. Mr. Speaker, the Commonwealth of Virginia held an election yesterday, and the Republicans in this House ought to sit up and take notice at the results. Yesterday's outcome says a lot about the direction of this country, our priorities here in Congress, and public attitudes about the Republican tax cut.

George Allen, who is our State's Republican Governor, tried to make the election a referendum on his program of tax cuts. Under the Governor's plan, which was proposed and debated during this year's General Assembly session, deep tax cuts would be paid for by slashing spending for a host of vital public programs.

The Governor proposed $2.1 billion in long-term tax reductions, but only identified $400 million in spending cuts to pay for them. Future Governors would have been left to make the cuts that would have been necessitated by the Governor's tax plan.

And when it comes to the $400 million in spending cuts Governor Allen did specify, here is what was in the Governor's plan:

$10.5 million designed to keep students from dropping out of school;

$3.2 million designed to help low-income students finish high school;

$1.3 million for child health clinics;

$7.3 million for 4–H programs;

More than $90 million total for education, including Virginia's colleges and universities.

And on and on it goes. And when the Democratic majorities said no to this agenda, the Governor called them obstructionist. He pledged an all out effort to defeat the Democrats at the polls. And that is exactly what he attempted to do.

Does that sound familiar? Deep tax cuts that are paid for by deep cuts in important programs?

This is exactly the course that this House is following right now in the Republican Budget Reconciliation Act.

The people of Virginia got a good look at the Allen plan, and despite the Governor's tireless campaigning, they rejected his extreme program by a big margin.

They defied the odds and kept the Virginia General Assembly, in Democratic hands.

Under the leadership of the Democratic Party, in the General Assembly Virginia enjoys a balanced budget, a triple A bond rating, and the reputation as one of the best fiscally managed States in the country. We will yield to no State in our belief in fiscal conservatism. But our citizens know that a tax cut that will give them a few dollars more each month isn't worth diminished colleges and universities, reductions in law enforcement, cuts in health care programs.

The message from yesterday is clear: people want responsible government, not a radical program that will gut programs that educate our children, protect our seniors, and help to make our communities strong. They also demand fiscal responsibility.

Having had the opportunity to personally campaign with many of our Virginia candidates, I am more convinced than ever that the course we are pursuing here in Congress is wrong. A budget reconciliation act that cuts Medicare, Medicaid, and other domestic initiatives just to pay for a $245 billion tax cut sounds a lot like the Republicans' program in Virginia. And we see how far it got them.

It's a lesson that we ought to learn here in Washington.

NEW GOVERNOR OF KENTUCKY

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

Mr. WARD. Mr. Speaker, I do not think I will be using the entire 5 minutes this evening, but I wanted to stand up to congratulate the new Governor of Kentucky, Gov. Paul Patton. He has been Lieutenant Governor for 4 years. Prior to that he was county judge of Pike County deep in Appalachia where he really turned things around. He really made things run differently from the way they were run before. So we are very proud in Kentucky that at this time of political upheaval, at this time of uncertainty and a negative feeling about anyone who is in office, that the Democrats, even though we have been in office for 24 years in Kentucky, have had the opportunity to send a new Governor to the Governor's mansion.

I mention this because we, in the last couple of weeks of the campaign, ended up talking about a number of national issues, issues which relate to what we are doing here. I think it is important to make note of the fact that these issues seemed to show us, the way the voters reacted to these issues, seemed to show us that the voters are very concerned about the changes that are being made here to the Medicare Program.

These changes to the Medicare Program really do seem to cut at the heart of the commitment that we have made

to our seniors in this country, and seems to be fashioned in such a way as not only to provide some needed changes to the Medicare Program over the next 7 years, but to leave some money left over for a $245 billion tax break, over half of which goes to the top 12 percent of income earners in America.

These messages were put forward in this Governor's race in Kentucky, and the voters reacted. The voters responded. In fact, just this weekend, the Republican National Committee chairman and other folks over there who tend to talk about how elections are going to come out were saying that this was a definite pickup for the Republicans. What, in fact, turned out to be a win for the Democratic nominee.

I rise to first of all congratulate our newly elected Governor, but also to point out that in a State that actually has had some problems with an FBI sting in the legislature that left 15 members, either present or former members at the time they were indicted, indicted and pled guilty or convicted of felonies, 15 members.

Now, the Democrats have been in control in Kentucky of the Governor's office, in both branches of the legislature for years and years, 24 years for the Governor, and many people blame the Democrats, even though, in fact, of the 15, 7 were Republicans. It was a very evenly split situation.

But, being the party that was in, it was natural to take that out on the Democrats. What we found was that in spite of that, in spite of that, because of the national issues that came into play toward the end of the election, the Democratic Party was successful.

Again, I rise to congratulate our newly elected Governor, Paul Patton, and yield back the balance of my time.

UNITED STATES TROOPS IN BOSNIA SERIOUS FOREIGN POLICY BLUNDER

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Ohio [Mr. CHABOT] is recognized for 60 minutes as the designee of the majority leader.

Mr. CHABOT. Mr. Speaker, I appreciate the opportunity to discuss a very important issue this evening, that being the President's plan to put United States troops into Bosnia.

Mr. Speaker, before we get into that, I would like to yield several minutes to the distinguished gentleman from Illinois [Mr. MANZULLO] to respond to some of the things that we have heard here this evening from the other side.

RESPONDING TO DEMOCRATIC RHETORIC

Mr. MANZULLO. Mr. Speaker, I thank the gentleman for yielding. Our 1 hour tonight is on Bosnia, but I just cannot stand to sit here and listen to some of the rhetoric that has come from the other side of the aisle without responding to it.

No. 1, if anybody read this morning's Washington Times, they would have seen an incredible quote by the Secretary of the Veterans' Administration, Mr. Brown, who admitted that under the Clinton budget plan, veterans would have suffered greater cuts than under the Republican plan that we have imposed. The Republican plan is more generous toward the veterans than the Democrats, and yet to listen to tonight's rhetoric, the Republicans are gutting and hurting and injuring the veterans that have fought so valiantly and have served so valiantly in the armed services. It is simply not true.

The Democrat budget that was set forth by the President has deeper cuts than those set forth by the Republican budget, and that is stated officially by the Secretary of Veterans Affairs, Mr. Brown.

No. 2, we have heard the rhetoric about the Republicans talking about taking over, taking the hands off the pension plan. I serve on the Joint Economic Committee, and we had a vote in this House about a month ago that said, we are on record as opposed to something called the economically targeted investments, the ETI, where the Clinton administration wanted to raid $4 billion from the pension plan in order to put it in the pork projects, in public housing projects, and very questionable projects all over the place.

Mr. POMEROY. Mr. Chairman, will the gentleman yield? We have all kinds of time.

Mr. MANZULLO. Mr. Speaker, I will not yield at this time.

Mr. CHABOT. Mr. Speaker, at this time I would like to hear what the gentleman has to say.

Mr. MANZULLO. So the Republicans had to fight back this incredible program, this incredible raid on the pension plans in this country called the economically targeted investments.

What were some of these investments? Well, we had teachers; pension plans in the eastern States losing millions of dollars on housing projects, and all over this country, one failure after the other, because there are $4 billion of private pension plans that Democrats could not wait to get their hands on.

The third thing that I would like to address is the rhetoric over the so-called tax break. Mr. Speaker, the tax break is not for the rich in this country, but the CBO shows, and several organizations show, that when the tax, so-called tax break goes into effect, those taxpayers in the highest quintile, in other words, those earning in the upper 20 percent, will end up paying more taxes, and in addition, 75 percent of the capital gains taxes in this country are paid by those earning under $75,000 a year. That is not high income, and 87 percent of those who will gain from the tax cut for children earn under $75,000 a year.

I mean clearly, this is not high income, this is common sense, because we believe that the American people who have worked very hard for their dollars know much better how to spend their money than the U.S. Congress, and I just had to clear that up.

Mr. CHABOT. Mr. Speaker, reclaiming my time, the purpose of this special order tonight was to take some time to discuss the President's plan where he is considering putting United States troops on the ground in Bosnia as part of a proposed peace package.

Mr. Speaker, I feel very strongly that this could be one of the most serious foreign policy blunders in memory. This House sent a very clear message to the White House within the past couple of weeks stating very clearly that it is our opinion that no troops should be sent into Bosnia on the ground without the President first coming to Congress and making his case to Congress and to the American people.

☐ 2145

He clearly has not done that to date. This was a bipartisan vote. Three hundred fifteen Members of this House voted this way, versus 103 who supported the President on this particular effort. Half of the President's own party in this body voted that way. So it was a very strong message. At least to date the President apparently has chosen to disregard this very clear message from Congress.

That vote was only a first step. We are now considering taking much stronger action which we are going to discuss here this evening in which we feel that it may perhaps be the appropriate action for us to tell the President up front that we are not going to funds any venture on putting United States ground troops into Bosnia.

I spoke with Vice President GORE several weeks ago in this building along with several other Members of Congress. One of the things I asked the Vice President at that time is did they have any casualty estimates, how many casualties, how many Americans did they project will lose their lives if we put ground troops into Bosnia. They had no answer. They are looking into it. We have not heard word one back from the administration on this yet.

There are many things which have not been addressed yet by the administration. The American people are not in favor of this effort. These are the types of things that we are going to be discussing here this evening.

Mr. Speaker, I yield to my good friend, the gentleman from North Carolina [Mr. FUNDERBURK].

Mr. FUNDERBURK. Mr. Speaker, I thank the gentleman from Ohio [Mr. CHABOT].

Mr. Speaker, I spent 6 years of my life living in the Balkans. I am a historian of southeastern Europe. The Turkish word for the Balkans means ''mountains.'' That is what Bosnia and former Yugoslavia are all about geographically. We do not need an American Afghanistan.

The other thing we learn from a history of the Balkans and Bosnia-

Herzegovina is that centuries of ethnic strife and slights are alive and well today, irrationally. Part of the problem is that Orthodox Serbs still remember their defeat at the hands of the Ottoman Turks back in the 14th century and the 15th century and especially a battle in 1389, ''The Field of Black Birds,'' where the Serbs were finally defeated. Many of the ethnic South Slav people were then converted to Islam by the conquering Turks, and the Orthodox Serbs who did not convert still consider the Muslims who were converted to be traitors to the South Slav nation.

So the world is faced with a place which was never a real country, with a real language or a real nation, that is, Bosnia-Herzegovina, this place being defended as something essential to America's security. What a joke. There was never a Bosnia nation, a Bosnia people, a Bosnia language. There are Orthodox Serbs, Muslims and Catholic Croats, all living together side by side in village after village during the past five centuries.

For Americans to presume that we understand the ethnic conflicts in the region and that we can easily pick out one side as the good guys and the other side as the bad guys is not very wise.

Of course, we stand with people anywhere who have been the victims of genocide and who have been attacked and killed by better-armed old Communist dictators, which is what the Serbian government is, and it is the strongest ally to the Bosnian Serbs. As a member of the CSCE, the Helinski Commission, and an advocate for human rights throughout eastern Europe, Russia, and the world, I deplore the legacy of the government in Belgrade, and I supported lifting the embargo and allowing the Bosnian Muslims to defend themselves.

The united States of America does not have any national interests, any strategic interests, any economic interest, any political interests or any other interests which would justify American soldiers dying in the mountains of Bosnia and Yugoslavia over an ethnic hatred dating back centuries.

In North Carolina, we know that Fort Bragg is getting ready to send American ground troops to Bosnia. We know preparations are under way, and we know that American soldiers like Michael New have already been commanded to wear the United Nations uniform and United Nations insignia in violation of their solemn oath to the Constitution of the U.S. in the area of the former Yugoslavia. We know that American soldiers sent to Bosnia could also well be asked to serve under U.N. command. If so, they will be violating their oath to the U.S. Constitution, and they will be killed needlessly in inhospitable terrain where the parties have been fighting for centuries and where the parties fight for their national survival, not caring who gets in the way. They will use any methods to survive, even when it means getting in U.N. uniforms or gathering together around a hospital. Anything for their ethnic survival.

So President Clinton wants to have his Kuwait, and he wants to earn some macho credentials as military commander-in-chief. But he will not have his Kuwait in Bosnia. It will not be that easy. Thousands of American soldiers will lose their lives, and for what American national security interest? And the United Nations will no doubt be involved. What is the mission? What is the goal? What is the objective?

The people's house here in Washington, the House of Representatives, will not have been consulted by the President. Most Congressmen and most Americans think we should stay out of Bosnia, but the President seems hellbent on going ahead. To date, this foreign policy has been a disaster, and now he wants to make matters worse. If we have learned any lesson——

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

Mr. FUNDERBURK. I will not yield at this time.

The SPEAKER pro tempore (Mr. BILBRAY). The gentleman from Ohio controls the time.

Mr. CHABOT. I continue to yield to the gentleman from North Carolina.

Mr. FUNDERBURK. I thank the gentleman.

Mr. Speaker, if we have learned any lesson from any previous military engagement, it is that we do not enter into a foreign conflict or war without the strong backing and support of the American people. Clinton does not have that backing for sending 20,000 American ground troops into Bosnia. We have to speak loud and we have to speak clear and we have to make sure the President hears the voice of the American people before it is too late.

I support America defending its national security, and I support a strong national defense, which is provided for in the Constitution. But in this case, in this place, I strongly object to United States soldiers being sent to Bosnia and to them being sent there without the support of the American people and the Congress.

Wake up, Mr. President, avoid a tragic mistake, and stay out of Bosnia.

Mr. CHABOT. I thank the gentleman from North Carolina for his remarks. I think they are very insightful and I think he is right on point.

I represent the First District of Ohio. It is basically the city of Cincinnati. We have gotten a fair number of phone calls and letters. I have not gotten the first phone call yet of anybody who thinks that we should put United States ground troops into Bosnia. Not one phone call have I received yet.

I am going to yield to some of my fellow colleagues here in just a moment. I brought here a copy of an article which appeared in my hometown newspaper, the Cincinnati Enquirer. I just wanted to read a couple of paragraphs from this particular article.

The headline on this is ''No Way.'' ''Sending U.S. troops to Bosnia would be a disastrous blunder.''

''It may throw a wet blanket on the United Nations' 50th birthday party, but someone besides Russian President Boris Yeltsin should ask some tough questions about the U.N. debacle in Bosnia.''

''The echoes of Vietnam are unmistakable. Another war in which unsupported troops fight for unexplained goals in an ungrateful land. For all his recent rhetoric about rescuing NATO and performing a ''peacekeeping'' role, Clinton still has not offered a reason why one American life—much less 20,000—should be risked for a shameful paper ''peace'' that ratifies the rape and plunder of Bosnia.''

It goes on. It says, ''Sending U.S. troops into a flammable pit of ethnic hatred, where death has been a fact of life since 1992, will invite hostage taking and terrorism against our soldiers, to inflame American outrage against Clinton's policy. Somalia and the near loss of a U.S. flier in Bosnia should be fresh, painful reminders that it is sheer folly to gamble American blood in a game where our Nation has no cards to play.

''If that's not enough, Clinton can recall his own protests against Vietnam.

''Instead, he threatens to invoke his presidential war powers to send troops, even if Congress balks,'' and it goes on.

Clearly a very strong message from my hometown newspaper, the Cincinnati Enquirer, that we ought to stay out of Bosnia. I agree completely.

Mr. Speaker, I yield to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. I thank the gentleman from Ohio.

It was interesting that you noted that you had not received one phone call. On the central coast of California, which consists of Santa Barbara and San Luis Obispo counties, I can also say that I have not received one call, one fax, one letter or any comments at town hall meetings.

The message is loud and clear: Do not send our men and women to Bosnia.

I think it is important to note that perhaps it is for more than 2 years that the Clinton administration has failed to articulate any clear policy in Bosnia. If you were to listen to the President since his Presidency began, you would be astounded at what he has said, or perhaps what he has not said.

One day the United States is sending troops to Bonsia, the next day we might be; the day after that, we are probably not; then the next day we probably will send troops.

One day the President pushes for more air strikes. After a U.S. plane is shot down and United Nations personnel are taken hostage, the President decides that air strikes are a bad idea. One day we have to pressure the Serbs with decisive action. The next day, well, do not want to provoke the Serbs.

So I think that the American people understand that there is no clear policy of why men and women should be sent to Bosnia.

It is interesting to note, I have a quote here from an ex-State Department official, Mr. Steven Walker, who resigned from the State Department over United States policy on Bosnia. He had this to say, back in June, about the administration's policy:

> The Bosnia policy has gotten consistently worse over the last 2 years. It's in more of a mess than it was before. The Clinton administration is still dealing with this on a day-to-day ad hoc basis. They wake up in the morning, they see what's in the newspapers, and they try and do whatever they can to get the pressure off the administration.

I believe it is a sad commentary, as Mr. Walker stated, on how the Clinton administration decides the Bosnia policy back then, and I wish the Clinton administration would read the newspapers today before getting and deciding on current policy. Because if they did, they would be aware of the fact that the public, the American people, do not support sending troops, our men and women, our young men and women, to Bosina.

A recent New York Times poll found that 79 percent of Americans believe that President Clinton should get approval from Congress before sending troops to Bosnia.

A recent New York Times poll found that 79 percent of Americans believe that President Clinton should get approval from Congress before sending troops to Bosnia. It is going to be interesting in the debate in the next days to come of what leaves this House and what direction we will send to the President. I am going to do all I can to insist that he come before this Congress before he sends anybody to Bosnia.

Perhaps the Clinton administration would have come across the piece in the Washington Post with these words of wisdom, and I quote this article:

> The first law of peacekeeping is that when you have a real peace, you don't need peacekeepers. The second law of peacekeeping is that where there is no peace, sending peacekeepers is a disaster. The third law of peacekeeping is that Americans make the best targets. From which follows one of the rare absolutes in foreign policy; never send peackeepers—and certainly never send American peacekeepers—to police a continuing unsettled war.

I think we have learned our lessons in faraway places like Beirut, Somalia, and Vietnam. I remember Vietnam very well. I remember the men and the women that came back in body bags. I remember shedding many tears with relatives, friends who had their loved ones come back from that horrendous war. I remember how we had a no-win policy. We were just sending troops. We had no reason, no feeling of how we were going to bring our troops home. We had prisoners of war. It was a sad time.

I do not believe we want to do and see a Vietnam all over again. Before we commit 25,000 of our sons and daughters to a mission, and the mom in me understands this very clearly, I have two children, before we send our sons and daughters to a mission that has no clear objective, no statement of our national security interest, no rules of engagement, no exit strategy, President Clinton has a moral obligation to ensure that these life-and-death questions are answered. American soldiers deserve to know that their combat missions and their potential sacrifices are underwritten by strong public understanding and support, and that does not exist today.

I firmly believe that the President and this administration should seek Congress' approval now before any ground troops are deployed to Bosnia. The American people deserve it. The men and women in our armed services definitely deserve it.

Mr. CHABOT. Reclaiming my time, I want to thank the gentlewoman from California for her remarks. I agree with her sentiments exactly.

It is interesting that that same Washington Post article that you mentioned here from Charles Krauthammer, I would like to read the last paragraph from this which I think is very good and right on point.

□ 2200

He says:

> It is hard to think of a greater folly than trying to enforce a peace among unreconciled Balkan enemies. It is a folly that Clinton's fickle meanderings on Bosnia have backed us into, a folly that must be firmly rejected now before it is too late.

That is that same article, and I think his words should be heeded.

At this time I yield to the gentleman from Washington [Mr. METCALF].

Mr. METCALF. Mr. Speaker, in the next few days a monumental decision will come before the U.S. Congress. Mr. Speaker, I will request the House to instruct our conferees on the Defense Appropriation Act, that is, H.R. 2126, to insist on the House-passed version restricting the use of funds for any deployment of United States Armed Forces in the former Yugoslavia without prior congressional authorization.

Last Monday, this House passed a nonbinding resolution stating the sense of Congress that the peace conference in Ohio should not include deployment of United States troops as a precondition to a peace settlement in Bosnia. That measure passed this House 315 to 103 with broad bipartisan support.

My motion to instruct will impress upon the conferees the importance of retaining the original House language. This is not a partisan issue. Almost identical language was placed in the 1994 Department of Defense appropriations bill passed by the Democrats very wisely last year. So we are not inventing anything new.

The question is, shall the United States commit troops to Bosnia? The President has the constitutional authority to commit troops, but the Congress has the constitution responsibility to decide whether or not to fund those troops. So there is a balance of constitutional authority here.

Before this momentous decision is made, there must be a full debate in this House. The President must come to Congress and explain what is the objective, what vital United States interests are threatened, what will our United States troops do to protect those vital United States interests, if any are found, and there have not been any related to the House yet. Will the troops at all times be under United States military control and United States military officers?

The United States troops are truly not needed in Bosnia. Perhaps the greatest injustice is that U.S. troops are really not needed to implement a peace settlement. This is not just my opinion. This is the declaration by the current Chairman of the Joint Chiefs of Staff. When he testified to the Senate and the House last month, just last month, he stated that militarily U.S. troops are not necessary. He stated the Europeans were fully capable of carrying out this mission on their own.

As I say, the House has a constitutional responsibility to judge the validity and then authorize the funds or refuse to authorize the funds. President Clinton has stated he does not need congressional authority. He has not yet even agreed to come before the Congress to present his case.

Well, I have a deep concern about any ground troops in Bosnia, and I for one will not vote any money until those conditions are met, the President comes, lays out the plan, what are the vital interests and how do we protect those vital interests, if there are any. Until that time, I will not vote money for any adventure in Bosnia.

Mr. CHABOT. I would like to thank and compliment the gentleman from Washington for his leadership on this issue. He spoke out very eloquently this morning at the New Federalist group, which is a number of very committed freshmen who keep an eye on making sure we balance the budget and making the necessary cuts in certain areas that are necessary to do that.

He spoke up very eloquently as to why we should not put ground troops in Bosnia this morning, and then again at the Republican Conference, which is all Republican Members of Congress. The gentleman from Washington spoke up very eloquently there, as well, so I want to thank him for his leadership in this area and thank him for his comments this evening.

Mr. Speaker, I yield to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Mr. Speaker, I sit on the Committee on International Relations, and we have had a couple of very disturbing committee hearings in the past several weeks concerning certain administration officials who are attempting, in all earnestness and desire and sincerity and honesty on their

part, to explain to the United States Congress exactly what the policy, if any, of the President is with regard to Bosnia.

Let me take you back to a hearing that we had involving Secretary of Defense Perry, Secretary of State Christopher, and General Shalikashvili, the Chairman of the Joint Chiefs of Staff, and I asked this question. I said, ''Is there a plan to arm Bosnia?'' And I said I would like a simple yes-or-no on it. And the answers that came from all three were very cautious, very guarded, really, because they really did not know the answer to it.

The reason I asked that question is as follows: If there is a plan to arm the Bosnians, then the presence of American troops in Bosnia-Herzegovina would be for the purpose of holding at bay the Serbs until military parity were reached. And none of the three really wanted to tackle that question, because they knew that it was a trap and it was a loaded question. I loaded it on purpose, because if there was a plan to arm the Serbians—and I doubt if our colleagues in England and France would agree to it, because both Mr. Major and Mr. Chirac have been opposed to it, and they are a vital part of NATO—then it was obvious that American troops would be in harm's way. They would be in the role of a referee, and can you imagine that type of a policy, as we sent peacemakers there for the purpose of holding one side at bay while the other side has the opportunity to arm itself.

So none of the three could really come up with a reasoned answer. The problem is that the Clinton administration is seemingly trying to make American troops fight the war that we are not allowing the Bosnians to fight for themselves.

The problem is there has been a consistent policy by the United Nations, the dual key policy of the U.N. having to go back, NATO having to go back to the U.N., et cetera, that says there is something wrong with allowing the Bosnians to arm themselves, and when the United States insisted on going along with this multilateral embargo, this means that it has placed itself on the side of the Serbs in this war.

So why not allow the Bosnians to arm themselves and let them fight their own war?

The second problem is we had another hearing involving Richard Holbrook, Assistant Secretary of State for European Affairs, and he said it would take up to 100,000 troops in order to extricate the present U.N. troops. I said I do not understand that. I said if we simply served notice that the U.N. peacemakers are going to be withdrawn, I said, who is going to shoot at people who are withdrawing? And he could not answer that question.

I think the third thing that comes to my mind on this, Mr. Speaker, is the book that was written by former Secretary of Defense McNamara, who said it was a mistake and knew we could not win the war, and yet stood by to see thousands and thousands, hundreds of thousands of American troops sent to Vietnam.

Now, can you imagine that, a high administration official, the Secretary of Defense, writing his memoirs in a book, making money on it 20 years after 50,000 young Americans have given their lives, saying that at the time he knew the troops were going there that he knew we could not win the war?

I do not want to see that happen again, and 20 years from now have the Secretary of State or the Secretary of Defense write a book and say:

> Well, the President ordered those troops there; we knew we could not win the war, and yet we stood by because these are the directives of the President of the United States.

Mr. Speaker, I tell you, we have no business fighting a war in Bosnia, and as former Ambassador and now Congressman FUNDERBURK so eloquently stated, it is centuries of conflict, going all the way back to the Bosnian tribes and the Croats and the different parties involved in that very precious area around there. We have no business being involved in a war over there. We have a business to try to bring about the peace, but not at the price of American blood.

Mr. CHABOT. Mr. Speaker, I want to thank the gentleman from Illinois for taking the time this evening to share his thoughts with us, and I think you certainly put those remarks very eloquently, and we thank you.

You know, the one thing that keeps coming to mind to me in this whole situation is we have to remember we have got three groups of people that have essentially hated each other and fought with each other for hundreds of years in this area, and essentially what the President is suggesting is that we put our young American men and young American women in between these different groups who have been shooting at each other for all of these years. I think it is clear at some point that these people will turn their targets on these American troops. I think that is the last thing in the world we should do.

I have also heard the argument from those few people in this House that agree with the President on this issue—and I have to stress that, the few—that we now have a volunteer Army and these are voluntary young men and young women who knew what they were getting into when they signed up, so it is not quite as bad when we put them in harm's way. I strenuously disagree with that line of thinking, with that argument. I think it is only in those circumstances where the United States interests, vital interests, are at risk that those troops should be put at risk.

I have also heard the argument that since—yes, and I have heard a few of my Republican colleagues espouse this point of view—that, yes, you know, we should not have done it, but now that the President has committed troops or is about to commit troops, that the United States might somehow lose prestige around the world if we stopped him at this point.

Again, I want to argue first of all that this is exactly the time to stop this President from making this very wrong move, because the troops are not there yet. It will be much more difficult once the troops are there, because then we are all going to rally around our troops and support them. This is the time to stop those young men and young women from losing their lives.

I have heard it argued that the U.S. might lose prestige around the world if we do not stick behind the President on this issue. I would argue that there is a much greater risk of us losing prestige around the world if this thing turns into the bloody debacle that just might occur, and that we all are so concerned about and trying to prevent.

At this time, I yield to my good friend, the gentleman from Kansas [Mr. BROWNBACK].

Mr. BROWNBACK. Thank you very much. To the gentleman from Ohio, I very much appreciate that. I appreciate the leadership of the gentleman from Ohio [Mr. CHABOT] on this issue he is taking on the Committee on International Relations and also here on the floor to be able to have this discussion taking place.

Mr. Speaker, today the Republican Conference voted overwhelmingly to support legislation introduced by our colleague, the gentleman from Colorado [Mr. HEFLEY], to prohibit the use of Department of Defense funds for deployment of United States ground troops into Bosnia without an express congressional authorization.

I think simply that the President must seek and receive congressional support for U.S. participation in this peacekeeping mission. More importantly, however, the President must make his case to the American people before a single United States soldier is deployed to Bosnia.

I would just like to raise a couple of questions I think the President needs to take to the American people. A number of questions already are raised here this evening, and raised quite well, but there are several others as well.

☐ 2215

Take the case to the American people. The President has failed to answer so many questions about the peacekeeping operation, the American involvement in the operation, and most importantly, the justification for American involvement in the operation.

We heard earlier the statement, which I think is accurate, that if you have a peace there, you do not need peacekeepers, and if you do not have a peace there peacekeepers are not going to work. That just seems to make such fundamental sense.

I would like for the administration to explain how we intend to be perceived by the warring parties as neutral when we have bombed one of the warring parties and helped train one of the warring parties that are involved in this particular situation.

I would like to raise another question that came up earlier, actually even this year, and that was in regard to Haiti and the payment for the operation in Haiti. We have not talked yet this evening about the cost, the actual dollar cost of this operation, but what domestic programs is the President willing to cut, willing to reduce, to be paying for this operation in Bosnia? We have not talked dollar figures, because frankly, there are much more serious matters about the lives of our young men and women that are involved here. But if we have to get down to talking about dollars as well, Mr. President, where are you going to make the cuts to pay for this operation? I think that is a very legitimate point, as earlier this year we had to do a defense appropriation supplemental bill to pay for what the President's operation was that took place in Haiti. Where are we going to make those cuts?

The President has not explained to the American people to the point that they are able to believe that this is going to be a short-term peacekeeping operation, that there is not going to be a lot of bloodshed involved in this region of the world that has had bloodshed and hatred for centuries.

Finally, I would just raise a continued standard that I think we should look at with any operation like this. That is a simple one of, is the case sufficiently in front of us, is it sufficiently compelling, do we have a sufficient vital and strategic interest of the United States that I personally would go? Would I send my son to go, or my daughter to go into this operation? I would have to say a dramatic ''absolutely not, in this case.''

Mr. President, you have not made your case to the American people, you have not made your case to this Congress. Now we are talking about deploying troops before any of that takes place. That is wrong. Come to this Congress, come to the American people with your case, if it is so compelling that we can say with a good conscience, yes, I would go.

Mr. CHABOT. Mr. Speaker, I thank the gentleman from Kansas for his remarks this evening. I had mentioned earlier relative to the gentleman from the State of Washington [Mr. METCALF], that he had spoken up at the New Federalist meeting this morning. And I just wanted to make the point that the gentleman from Kansas [Mr. BROWNBACK] is the leader of that group, the head of that group, and has shown tremendous leadership in such issues as making sure we balance the budget, we stick to our guns and keep on top of things around here. I want to compliment him for that and his remarks here this evening.

Mr. Speaker, I yield to the gentleman from Minnesota [Mr. GUTKNECHT].

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman from Ohio for yielding to me.

Mr. Speaker, I almost feel after some of the remarks that have been made tonight that there is not really much to add to this discussion. But I think it is very important, and I want to congratulate the gentleman from Ohio [Mr. CHABOT] for having this special order tonight to talk about it, because I was one of those people who came of age, graduated from high school in 1969. I was fortunate enough to have a high enough draft number that I did not have to go to Vietnam, but a lot of my friends did.

I think sometimes we overutilize the Vietnam analogy, but I think there is one thing that is absolutely crystal clear in the comparison, and the analogy fits this particular discussion. We all saw what that war in Vietnam did to the American people, what it did to our society. It literally tore us apart.

The time to have this debate is now. The debate should not be going on a year from now, when we are bogged down in a no-win situation, when we have sent not 25,000 troops to that area of the world, but perhaps 50,000 or 100,000; because we can talk about 20,000 to 25,000 American troops today, but the truth of the matter is if we get bogged down in a guerrilla-type war in the mountains of the Balkans, it may well be that the generals will be saying, ''What we really need are more troops, what we need are more air strikes, what we need are these things.'' We saw this all happen before.

The time to have this debate, not only in this Congress, not only on the floor of this House but in this country, is before we find ourselves in a situation where the answer to every question is, ''We need more troops, we need more bombers, we need more air strikes, we need more materiel,'' and the potential for that, I think, is great.

The reason is that the whole policy that we are seeing evolve in that area of the world, and Mr. John Hillen, who is the defense policy analyst for the Heritage Foundation has really nailed it when he said that the peace plan we are talking about, the Clinton peace plan, is a classic example of putting the cart before the horse. Instead of making troop commitment that is tailored to support a known, specific, workable mission, Mr. Clinton made the commitment of 25,000 U.S. ground troops first, more than 2 years ago, without any peace plan at hand.

In fact, I think back then, between then and now, we have had something like 10 ceasefires and peace plans.

The U.S. military commitment only incidentally is related to the military conditions that may exist on the ground. This strategy is backwards, a formula for confusion and disarray, and Members of Congress are correct to question it now.

We should be having this debate before we make the commitment of American forces. In fact, I have told some of the people in my district that we hear a lot about the Vietnam analogy. Perhaps an even better analogy is what the Soviets did in Afghanistan. They found themselves bogged down in some warfare that had been going on in those mountains for years and years and years, and they never did win that war. They only lost thousands of young Russian soldiers in that area of the world.

The truth of the matter is we are all becoming much more aware of where Bosnia and Herzegovina is, but if the truth actually be told, I think if you were to ask Americans to locate Bosnia on a world map or a world globe, I daresay that less than 25 percent of the American people can even find it on the map. To say that it is of some major national interest is to exaggerate in the 10th degree.

The truth of the matter is, Americans have no real interest in what is happening in Bosnia, and most of them have little knowledge of the history of that area, but some of us in Congress have been forced over the last several months to become more expert in what the history is there. The more you learn about it, the more you begin to realize that this is a situation that has been going on for years. As a matter of fact, they have been fighting over there since the Turks first invaded in 1389, and there has been one form of conflict going on in that particular region of the world basically ever since.

I think it sort of underscores American arrogance; that we can somehow, by sending 25,000 ground troops at a cost of over $1.2 billion, somehow bring peace to a region that has been fighting that long is, I think, as I say, can only be described as arrogance.

When we talked, and many of the other points that needed to be made have been made tonight, but before we commit our troops anywhere in the world I think we have to have a clearly defined American interest, there needs to be a clearly defined mission statement of what it is we are trying to accomplish. We need to know the rules of engagement. Most importantly, I think we need to know, how will we know when it is time to come home? The truth of the matter is we have not had answers to any of those questions.

The interesting thing from my perspective, as a freshman Member of this body, is that many of the people that I would regard as hawks on national defense, many of the people that I think nonpolitical observers out in America would say, ''These are the kinds of people who would be eager to commit American troops anywhere in the world, they are the hawks of this Congress,'' they are the ones who are the most dovish on this whole idea of Bosnia. The reason is they have asked those tough questions.

We have given the administration every opportunity to come up here to Capitol Hill, to talk about their plans, to explain exactly what they have in

mind, and with every opportunity that they have taken, if anything, the administration in selling their particular proposals to Congress, has lost ground. At every occasion the hawks of this Congress have, perhaps, been the most aggressive in saying that there is no American interest in that region of the world, there is no American mission. We do not seem to know what we are trying to do. There is no peace to keep.

As the gentlewoman from California [Mrs. SEASTRAND] said earlier, the quote from the Krauthammer piece that appeared in the Washington Post says that the greatest targets people can have in the world are Americans, not only to shoot at them in some kind of guerrilla warfare but also to take them hostage. We have already seen that happen in that region of the world.

So before we make this critical mistake, before we find ourselves bogged down in an unwinnable war, before we allow our sons and daughters to become the unwilling pawns in this unwinnable war that has been going on for over 600 years, we ought to have these questions answered. The American people ought to have them answered. I think Congress has a special responsibility, especially to those young kids who wear the American uniform, to make certain that we feel good about what exactly they are going to be asked to do before we ask them to do it.

I think this is a huge mistake. I think the President needs to sit down with the American people and with this Congress, answer these tough questions, before we get into a war like we had back in the 1960s and 1970s that literally tore this country apart. The time for the debate is now, not after the troops are sent. The time for the Congress to get these answers is today, not next week, not next month, and not after the troops are sent in.

I want to congratulate the gentleman from Ohio [Mr. CHABOT], for having this special order. I think we need to do more of this. I think we need to encourage the American people to become engaged in this, because I will just close, and I know the gentleman from California wants to share a few words, but a week and a half ago I spoke to some of the Legion commanders from my congressional district. One of the issues I talked about was Bosnia. I asked for some input from them. I have to tell you, the American Legion people who were at that meeting that day do not support the basic notion of sending group troops to that area of the world. Frankly, if you cannot sell the American Legion and some of the veterans' groups on the importance of this particular mission, then you cannot sell the American people.

This is a mistake. We have to do all we can in the next several weeks to prevent it from happening, because all of those kids that we would be asking to go into that particular region have parents, they have lives of their own, and we cannot just offer them up on some altar just to protect the American ego. That is really, when you are talking about protecting American prestige, it seems to me that is too high a price when you are talking about real people, real kids who belong to real families, to send them into situations just to protect American prestige. In my opinion that is a huge mistake, and again, I want to thank the gentleman for yielding to me tonight. The gentleman from Ohio, again, is to be congratulated and thanked for having the special order.

Mr. CHABOT. Reclaiming my time, Mr. Speaker, I want to thank the gentleman from Minnesota for giving his talk and his points this evening. He happens to be one of the more articulate Members of this body. I think he did a tremendous job.

Mr. Speaker, I yield to the gentleman from California [Mr. ROHRABACHER], who serves on the Committee on International Relations with me, and has shown tremendous leadership on that committee. Many of us, particularly the freshmen on that committee, listen very well when this gentleman, Mr. DANA ROHRABACHER from California, speaks.

Mr. ROHRABACHER. Mr. Speaker, I have heard the analysis and the comparisons between this proposed operation and what happened in Vietnam. I think that the more accurate comparison would be made to Beirut in 1983. In Beirut in 1983, President Reagan made his worst mistake, the worst mistake of his presidency, and sent 2,500 Marines into what was an absolute cauldron of turmoil and bloodshed. When it was over, there was a great deal of American bloodshed on the ground, and we retreated, and our prestige was never lower in that part of the world than when we had to retreat from having lost 240 Americans. That would be the worst blow to American prestige today, would be the introduction of troops and then to have some sort of cataclysmic event, and the resulting American public opinion shift that would force American troops to withdraw under fire, which would then leave us in a position around the world that would really diminish our influence. That is not what we want.

What happened in 1983 was possible because we were in the middle of the cold war. During the cold war, we granted the President of the United States, every President of the United States, a great deal of power in terms of commanding troops. After all, there was a hostile power that sought to destroy the United States and western democracies, communism, as centered and in power in Moscow.

During that time period we knew we had to meet the threat. We had to cut off maneuvers by this hostile power. It meant that the President had to have extraordinary, extraordinary authority that is extraordinary to the traditions of the United States.

The cold war is over. What happened in Beirut unfortunately happened because the President had that authority, and unfortunately, we sent our Marines to places where they should not have gone. The cold war is over, and today when the President makes these decisions, the American people expect that their elected representatives in Congress will scrutinize the decisions and play a part in deciding where the funds that we spend, our funds on national defense, where they will be spent in terms of these foreign commitments.

☐ 2230

I am not talking about isolationism. This is far different than isolationism. The charge of isolationism is nothing more than an attempt to stifle debate, honest debate, on this issue.

What is being proposed in the Balkans is contrary to our national interests. That does not mean we are isolationists for pointing that out. Mr. Speaker, let us note this: Yes, there has been squabbling, there have been hard feelings and fighting going on in that part of the world between the various ethnic groups for many years, many hundreds of years. But the Balkans is not the only place in the world where there have been intractable problems between neighbors, and it is not the only place in the world where the United States may be called to intervene in some way in order to have a presence or exert some sort of force, or to exercise some kind of influence over events in those far-off reaches of the world.

The peace plan now being contemplated, which includes 25,000 American troops on the ground in the Balkans for at least a year, is an absolutely insane plan. It will not work. So on top of the 25,000 people that we are putting at risk, the plan itself, which I have looked over, seems to me to be a bad plan, even for those people who are negotiating right now and being pushed into that direction.

We have seen for 4 years and heard the screams of agony and horror from the Balkans for 4 years, and yet, those people that were the architects of America's response to this event in history are now the very same people who have presented us this plan of sending 25,000 Americans into this caldron.

Well, the fact is, their policy for 4 years has failed. Their policy was basically to label all of those involved in the fighting as morally equivalent to place an arms embargo on everyone, a pox on all of your houses, and in some way with this aloof decisionmaking that we would in some way be able to effect a peace in that area. It was a peace that saw many United Nations troops in the area.

I can still remember vividly a United Nations armored personnel carrier in the middle of April, armored column of United Nations troops being stopped by Serbians and Serbians going to the armored personnel carrier, opening the

door in front of heavily armed United Nations troops, hauling out the Vice President of Bosnia, and murdering him right in front of the United Nations troops. This was no coincidence. They understood what the policy was. They understood what the policy of the United States was. They understood what the policy of the United Nations was.

Over these last four years we have seen acts of aggression basically coming from Bosnia—excuse me, from Serbia in Bosnia and in Croatia in an attempt to grab land. It has not been a moral equivalency, because we have seen heavy artillery, heavy weapons, heavy tanks from Serbia committing acts of genocide and ethnic cleansing in neighboring countries. Yes, there have been some, there have been some murders and there have been some genocide and unfortunate acts committed by Bosnians as well as Croatians. But by and large there is no question that the aggression has been coming as part of an organized attempt by Serbia to grab land.

The peace that has been proposed now basically rewards the gangsters in Serbia who have been committing these horrendous acts against their neighbors. In fact, the peace plan in which 25,000 American lives will be at stake in order to enforce will not work without the goodwill of those very same people who have committed the most horrendous acts of genocide in that conflict.

Part of the peace plan, by the way, has been not only to send 25,000 Americans, but also to send 20,000 Russians, Russians, into the area as well. Thus, we will be relying on the goodwill of the Serbians, who have been murdering people, who have been committing acts of mass rape and genocide, we will depend on their goodwill not to get the United States into a conflict with Russian troops who are nearby. It is absolutely insane; it is a plan whose architects are the same architects who said we will have an arms embargo against the victims as well as against the aggressors.

Their plan for the last four years has brought heartache and misery and death to the Balkans. Because it left the aggressor, the Serbians with their heavy tanks and heavy artillery, outgunning, overwhelmingly outgunning the victims. And thus, they had an incentive to commit these horrendous acts, because they could get away with it with minimum loss.

I am not suggesting now that we should turn our backs on that aggression, but let me note I have been in that area several times, once just about a month ago. I was in Sarajevo, I was in Bosnia, I was in Croatia, I talked to people. The Bosnian people even now, after 4 years and for 4 years they have never asked for American troops. Even now they are not asking for American troops.

The people that are asking for American troops are those people who have been the architects of the failed American policy for the last 4 years. The Bosnians have only asked for, as the Croatians, the ability to buy the weapons necessary to defend themselves.

This is not isolationism, to suggest that that is the strategy we should be following. If there is any American involvement in that area, and I will close with this thought, if indeed we decide to get involved in that area, besides lifting, just lifting the embargo, we should be using American air power. We have invested in aerospace technology, in smart bombs and planes that we could use or exercise our influence with the use of American might that would minimize the risk of the loss of American lives.

By lifting the arms embargo and using American air power, I believe we could force the Serbians aggressors back into Serbia and could bring peace in that way. Let those people bring peace to their own area. Instead, what we have before us is a plan that puts Americans at tremendous risk with very little chance of success.

The last time I saw this is when I sat in the White House in 1983, a member of President Reagan's staff, and I remember when the Marines were introduced into Lebanon. I ran from office to office asking, what are we doing? What is this all about? And I was told, and I was given a very convoluted plan, and I bet nobody has even heard of that peace plan now in Lebanon. But it was a plan that depended on, if we introduce American troops down there and we show up, we have a presence there, this is going to happen and that is going to happen and this is going to happen and the result was going to be peace in the Middle East. Not just peace in Lebanon, but peace in the Middle East. And that type of globalistic, just absolutely irrationalism, led to one of America's greatest humiliations and the loss of 240 marines and naval personnel.

Now, now, we hear about a plan to send 25,000 Americans to the Balkans and we say, what is this all about? Tell me, why? Why are we doing this? What is this all about? Nobody can give the answers except some nebulous plan of this, this and this, which will eventually lead to peace in the Balkans and peace in that part of the world. I have heard it before. We should not, we should not, give in to the notion that other people are going to solve this problem and will protect the lives of young Americans.

It did not happen in Beirut, it is up to us to take care of those young people who defend us. They march off to war or they march off to put themselves in harm's way and they salute and they are willing to do it because they know that we will do our very best in Congress and in the executive branch to make sure that they are not putting their lives on the line for something of little value or something that has little chance of success.

Today, we owe it to our defenders and we owe it to those young men and women to do everything we can to prevent them from being deployed to this area with a plan with so little chance of success.

Mr. CHABOT. Mr. Speaker reclaiming my time, I thank the gentleman from California for his insightful remarks on this important issue. The gentleman from California mentions a scenario which I think is very similar, and that is American involvement in Lebanon, a different administration.

Some years ago, but as the gentleman from California mentions, we went in there with good motivations, trying to keep peace, a peace which really did not exist. The mission really was not clear. There was no real exit policy out of there. We had a suicide bomber who went into the marine barracks and over 200 United States marines lost their lives.

I think another situation which is somewhat analogous, more recently was in Somalia. We went into Somalia with the best of intentions, again, a different administration, to feed people, and then that humanitarian mission then turned into peacekeeping, and democracy-building, and putting ourselves in-between these warlords, and they ended up shooting at us. We had helicopters shot down, we had 18 Americans who lost their lives, we had an American who had his body dragged through the streets.

We want to prevent that from happening again. That is why we are here tonight, and I want to thank all of those who took part in this special order here this evening.

PROTECTING AMERICA'S PENSION BENEFITS

The SPEAKER pro tempore (Mr. BILBRAY). Under the Speaker's announced policy of May 12, 1995, the gentleman from North Dakota [Mr. POMEROY] is recognized for 60 minutes as the designee of the minority leader.

Mr. POMEROY. Mr. Speaker, at the outset of my special order, let me express pretty substantial disappointment in the presenters that have occupied the last hour, filling this Chamber with rhetoric that often was not based in a single shred of fact.

Mr. Speaker, I think the people that follow the carryings on in this Chamber probably get mighty tired of just long, windy speeches after long, windy speeches. What might be kind of fun once in a while is to have some meaningful dialog, give and take. God forbid even an honest debate might break out here on the House floor, and we had that chance that evening. We had that chance in the hour that just passed, and repeatedly, as I asked for recognition to pose a question, simply a question or a clarification, or to straighten out a flat misstatement of fact, I was denied that opportunity.

Well, there are a couple of things I want to set straight at the outset of

my comments. First of all, relative to Bosnia, the matter which we just heard a great deal about, there is no proposal before this Congress about sending troops, nor does the President have proposals that he is enacting about sending troops.

The action about Bosnia is taking place in Dayton, OH, where a terribly important peace conference is going on with leaders of the warring camps in Bosnia, seated at a peace table. Lord knows they have a long, tough road to how in front of them. Coming out of that, this administration has given this Congress the assurance that there will be no commitment of U.S. troops without prior opportunity for Congress to speak on that question.

At that time, this Congress will know exactly what is the plan of the administration, if any; how many troops, how many countries participating in the peace mission, what share might be ours, what is the mission, what is the length of time. Those are the questions we need to debate on this issue. This matter is not before the House, notwithstanding the representations of speaker, after speaker, after speaker that have just discussed this question ad nauseam.

Second point: One of the speakers even had the audacity to talk about harm posed by the Democratic plan relative to pensions. I am telling you, this is an outrageous misstatement, because there has been nothing advanced from this Congress on the Democratic side or this administration that would impact either the risk or return on pension funds.

□ 2245

Again, when I sought to pose the question to the gentleman, no, he would not yield any time, he did not want to discuss it, did not want to debate it.

We can do better than that. In fact, in the next hour, I want to make sure we extend an opportunity. We are going to be debating the $40 billion pension raid proposal contained in the Republican Budget Reconciliation Act which passed the House. I am going to be joined in discussion of this topic by the gentlewoman from Jacksonville, FL [Ms. BROWN] and the gentleman from Wisconsin [Mr. BARRETT]. But we do not propose to have all the information on this topic, and we would be very happy to entertain any from the other side of the aisle that might like to come and shed some light on how in the world a proposal makes sense for our retirees and future retirees that would allow the withdrawal of $40 billion from America's pension funds. Any time anyone wants to come to the floor and seek to engage us in debate, I guarantee right now I will yield time.

Let me give a little background before yielding to the other participants in our discussion this evening.

This issue is of significant interest to me because I spent the 8 years of my professional life prior to coming to Congress as an insurance commissioner charged with regulating the solvency of insurance companies. I understood very well that often people had everything tied up in the security offered by whatever type of insurance plan they had in force. Therefore, we had to make sure the companies had the solvency to make good on their obligation.

What do we have with pension plans? The very same thing. Retirees, today's retirees and tomorrow's retirees, need to know the companies can make good on their pension obligations to their workers. It is critical.

It is even more critical now than ever before, because the Budget Reconciliation Act reduces the future spending in Medicare, exposing seniors and future retirees to greater out-of-pocket costs for their health care bills. So they must understand that their private retirement savings are absolutely secure.

Quite incredibly, in my opinion, in the Budget Reconciliation Act is a proposal that would remove the penalties for raiding pension funds presently in the law. They estimate that $40 billion would flow out of pension funds under their proposal. Why in the world would they propose letting companies reach into the workers' pension funds and pull out $40 billion? One of two reasons.

The first is a budget one. Companies deduct income when they invest in pension funds. They are taxed on income they pull out of pension funds. They recapture some tax. In fact, $40 billion raided from pension funds would produce about $9 billion in tax.

Second, and a reason that I think has to have some bearing on this question, because the policy of raiding tomorrow's pension security simply to produce a little short-term revenue in the budget situation does not make any sense at all. That is absolutely cutting off your nose to spite your face in terms of long-term need. I have a sense that there must be some very well-placed companies out there with some powerful friends in the majority that want to get at their workers' pension money, and they have been accommodated beautifully by the Republican plan on the pension proposal.

First of all, let me briefly discuss the history of how we got the existing protections in place in law. Remember the go-go 1980's? This was the rock-and-roll period of booming financial activity, some of it which did a great discredit to commerce in this country. This was the type of activity where there was a great amount of hostile takeovers, one corporation buying another corporation through transactions known as leveraged buyouts. Ultimately, the debt used in acquiring the company often was retired by robbing out of the workers' pension funds to pay some of the leveraged buyout costs.

There is a public concern presented by this activity for two reasons. First, the workers often stand to get dramatically reduced pension benefits. Second, the Pension Benefit Guaranty Corporation ultimately supported by U.S. taxpayers guarantees the obligations.

Since 1974, the Pension Benefit Guaranty Corporation has paid $370 million for 2,000 failed pension plans. Last year, it paid $720 million in benefits alone. Among the failed pension plans, some you will have heard of, Eastern Airlines, Pan American Airlines. These pension plans do go down, and this taxpayer-backed entity does make the payment.

Now, when Congress saw pension plans flooding out to the extent they did in the 1980's they became mighty concerned. We can see exponential growth walking through the 1980's in revenues coming out of worker pension funds.

It became so critical and so obvious that on November 3, 1985, the New York Times, almost 10 years ago to the day, had a cover story in their business section about raking in billions from company pension plans, how corporate officials were raiding pension plans to fund a variety of things that had nothing to do with worker pension security and placing the retirement security of their workers at risk as a result.

This was unacceptable. This was totally unacceptable. It was not just one party that thought that, both parties thought this was unacceptable. On three different occasions they moved in place protections to stop the outflow of pension funds. In 1986, in 1988, and in 1990—on three different occasions—they moved in place serious excise penalties to stop the hemorrhage of pension funds, and it worked.

We see the activity in the latter 1980's up to the present day dramatically reducing in this chart essentially the flood of pension funds out of pension programs to pay for these leveraged buyouts and other unrelated activities has all but stopped under the present scenario.

The Republican plan would kick this into high gear. $20 billion flowed out of pension funds in the 1980's. The plan contained in the Republican majority Budget Reconciliation Act would have $40 billion, double the entire amount lost in the last decade, flowing out of worker pension funds.

No one serious about retirement security in this country believes that our biggest pension problem as a country is overfunding. We are underfunded. We have got to get private capital together so people can meet their own retirement needs.

In that vein, no one that I know of that is responsibly approaching this problem believes that the loss of $40 billion from pension plans makes the funding crisis we face with worker retirement obligations any easier. In fact, it makes it dramatically worse. The Pension Benefit Guaranty Corporation has said a plan like this is irresponsible and would expose workers' pension security.

When this matter came before the House, because of the importance of

the issue, a number of us went to the Committee on Rules and tried to get a vote. We had a darned good case to make, because, as important to the country as $40 billion of pension funds, this matter did not have a hearing in the Committee on Ways and Means, not a hearing. It was just marked up and plunked in the Budget Reconciliation Act. We asked in the Committee on the Budget for a separate vote. This did not give us a separate vote. It was passed as part of the budget package.

In the Senate, a separate vote was demanded and ordered, because their rules do not allow the precluding of separate votes on issues of this consequence. By a vote of 94 to 5, the Senators rejected this proposal.

Even today, the proposal lingers in conference committee. Well, is it dead or is it not dead? This proposal is very much alive as we debate it tonight. I along with my colleagues have not stayed up in this Chamber till this late hour simply to hear ourselves speak. We are vitally concerned about the seriousness of this issue and the unrelenting efforts of some, including the Ways and Means chairman and others in this majority, that are insistent upon the enactment of this proposal. They will not come to the floor and debate it, as I offered on last night and have again issued this evening, but they will try and get this plunked into the budget reconciliation package in the dead of night, behind closed doors, and we are here to explain this proposal and its devastating consequences to the American worker.

In this respect, I yield to the very distinguished gentlewoman from Florida [Ms. BROWN], clearly a champion for workers' retirement interests.

Ms. BROWN of Florida. I thank the gentleman. First I would like to commend the gentleman from North Dakota for leading this special order, and also my other colleague. I am very proud of our class.

Once again, the party of the rich and famous is up to their old tricks again. The recently passed budget plan included a provision that would allow corporations to raid $40 billion from pension funds and use it for whatever reason they see fit. This provision is just plain wrong.

During the 1980's, as the gentleman indicated earlier, $20 billion in pension funds were drained by companies and in many cases used to finance corporate takeovers, leaving the retirement savings of millions of American workers at risk.

Mr. Speaker, why do the House Republicans want to risk losing the pensions of 11 million workers and 2 million retirees, a lot of them in the State of Florida? Why are the House Republicans digging up this ill-advised pension raid which failed in the 1980's and is certain to fail again? I think I know. It is another tax break for the wealthy at the expense of the working people and retirees. Or perhaps they are saving the pension fund the way they are going to save Medicare and Medicaid, saving it by raiding it.

The Senate rejected this language. I urge the budget conferees to reject it and all Members of this body, the people's House, to stand up for the people, the retirees, and the workers in this country.

Let me say one thing before I go. This is a pink slip. If the American people do not wake up, their pink slip is in the mail.

Mr. POMEROY. Reclaiming my time, and I would pose a question to the gentlewoman before she leaves.

In your district, men and women going to work every day, often finding really their entire future pension security riding on the solvency of the corporate pension fund that has been promised to them when they retire. Do you believe that they are aware that the majority party in this Chamber is proposing to expose their pension funds for a grab by those who control that corporation?

Ms. BROWN of Florida. I really think that the American people, and particularly the retirees, because we have so many of them in Florida, need to wake up. They have no idea what these Republicans are doing up here. They have no idea that these Republicans are trying to raid their pension funds. We need to inform them. They need to wake up.

If this goes on, this could be another S&L, would the gentleman not think?

Mr. POMEROY. There is no question about that. We have watched U.S.-taxpayer dollars amount to tens of billions, hundreds of billions of dollars paying off the obligations of failed savings and loans. The taxpayer had to weigh in because these entities were insured by a U.S.-taxpayer-backed insurance program. Pension funds have the same type of thing, a U.S.-backed insurance program. That does not mean that retirees get all their money, because the amount guaranteed may be well less than the amount obligated and committed to them under their pension program.

So it comes out the worst of both worlds. The worker gets stuck, the taxpayer gets stuck, and the corporation that fleeced the plan, those directors, are probably very long gone.

In terms of calling this to the attention of the American people, though, I must applaud the gentlewoman for her very vigorous efforts in her district and beyond to alert workers about the threat posed to their pension security.

□ 2300

Let me ask one question: If I am a retiree in Florida and my time comes for my pension that I have worked 30 years or 35 years or 40 years and the pension is not in, what happens? I mean, what if the company is no longer there?

Mr. POMEROY. That is a very good question. I will assume that you are talking about, and I will just answer in the context of an insured plan under the Pension Benefit Guaranty Corporation, the PBGC would pay a claim on that pension, would pay pension benefits. They may, however, not represent the entire amount of the pension that otherwise would have been paid had the pension fund not gone belly up.

There is a critical component of this that I think really reflects just how mean-spirited the Committee on Ways and Means action was. When they put forward the plan to allow corporations to withdraw from worker pension funds $40 billion, an amendment was offered. It was an amendment that simply would have allowed notification of the workers. You are going to take our pension funds, at least let us know. The notification amendment was voted down. The committee went on record to allow corporations to quietly, without notice, undermine the solvency of the worker retirement fund.

Ms. BROWN of Florida. I would just say that it is another example of the Republican extremists in this country, and remember, you think it is somebody else, but your pink slip is in the mail.

Mr. POMEROY. I really thank the gentlewoman very, very much for her participation this evening.

I now yield to my colleague, the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. It is a pleasure to spend some time with you and the gentlewoman from Florida [Ms. BROWN] here tonight.

I thought it was interesting, as we started this hour, that you invited Members from the other side to come down and debate this issue, because I think it is an issue that deserves a full debate, and a debate we obviously have not had on the floor here in Congress. It is a debate, frankly, we did not have in committee, because there was no hearing on this proposal as well.

But as you were making the invitation, it reminded me a little bit of ''The Price Is Right'': ''Come on down let's talk about it. Come on down,'' I think ''The Price Is Right'' is a good television show to draw an analogy to here. It is clear what is going on here is the price is right. The price of $40 billion being taken out of the pension funds is what is going to hit the American people and is going to hit the American people very hard.

It is also ironic that the majority is marching lockstep behind the Speaker on this issue, and the Speaker, of course, is a history professor, but if there is one thing we seem to have forgotten in this whole debate, it is history, because we have been down this road before. This is not the first time that this Congress has gone down the road of having pensions bled out of companies at the expense of workers, so that workers who have worked, as the gentlewoman from Florida [Ms. BROWN] said, 30 or 40 years, and are hoping to have quiet years in retirement, are all of a sudden given a pink slip and told the retirement benefits are not there and they can go to the Pension Guaranty Corporation.

Many times the Pension Guaranty Corporation will fully fund them. Of course, there is a substantial cost to the taxpayers when they do so, but not always. It is not always the case that the Pension Benefit Guaranty Corporation will pay the whole benefit.

What I would like to do for the next half hour is have a casual dialogue about some of the real world problems, because unfortunately we have not had the hearing in the Committee on Ways and Means on this issue. We have not had a debate or a separate vote on this issue on the floor. And you have already indicated, even the workers themselves, when they are going to be affected directly by this, when their benefits are going to be directly affected by this, will not even be given notice.

The first, I guess, the first issue is are they their benefits. Maybe we have got down there a little card from one of our colleagues. Maybe we could take a quick look at that and see what one of our colleagues on the other side of the aisle has to say about pension benefits and whose money it is.

Mr. POMEROY. I think this is a pretty classic case where actions and words simply do not run in a very consistently way at all.

Not long before this issue came up, we had another pension issue. Now that, in my opinion, was a totally made up issue. It was about the issue of economically targeted investments which the other side has suggested was a proposal advanced by the Clinton administration that would allow the investment of pension funds in unworthy investment vehicles. They are flat out misrepresenting that issue.

No economically targeted investments would be appropriate unless they met standards of risk and return consistent with the fiduciary obligation of the people running the fund. In other words, no short cuts on solvency, no short cuts on return, no short cuts on risk if you are going to do one of these so-called economically targeted investments.

Anyway, that was a debate that is now past. But some of the statements offered by Members of the majority in the course of that debate, I think, underscored the importance of pensions and make their own votes in favor of the $40 billion pension grab very, very curious indeed. Here is a quote. ''This is the people's pension money. Keep your hands off of people's retirement. Keep your hands off the pension,'' spoken by a freshman Member of the majority. I agree with everything he said.

The only thing is a vote for a $40 billion pension raid takes this statement and turns it right on its head.

Mr. BARRETT of Wisconsin. That is absolutely correct. I do not know if the gentlewoman from Florida [Ms. BROWN] wanted to add something at this point.

Ms. BROWN of Florida. As I always say, the Republicans talk a good game, but they do not walk that walk. When it comes to the American worker, clearly, you know, they do not stand up for the working people and not the retirees and not the veterans, and it just goes on and on and on.

Mr. BARRETT of Wisconsin. Let me, if I may, just sort of try to bring to the floor here how this issue came about, because earlier this year, of course, when the Republicans decided that they wanted to come forth with a budget, there was some criticism of them because they did not go after corporate welfare. There were Members of their own party who said, ''Look, we are leaving corporate welfare alone. If we are going to ask people in their country to suffer, if we are going to ask kids on school lunch programs to take a cut, if we are going to ask students to have student loans cut, ask senior citizens to take a cut in growth of Medicare, how can we as a party with a straight face go to the American people and say we are not going to touch corporate welfare?''

They got together and said, ''Let's go after corporate welfare. What can we do?'' This is the corporate welfare they are going after; of the $25 billion in cuts that they are claiming as corporate welfare, $10 billion of it comes out of this program. Now, the $10 billion is achieved, because as you indicated, I say to the gentleman from North Dakota [Mr. POMEROY], their projections are the $30 billion to $40 billion will be taken out of pension funds in the next 5 years.

That is twice as much as was taken out in the 1980's when this was a big crisis in our country, so that as far as they are concerned, what happened in the 1980's through the entire decade, that was chump change. They are not going to kid around with $20 billion. They are going for the whole enchilada. They are going for $40 billion coming out of the pensions, and the pensions that belong to the workers in those companies.

And as that gentleman said from the other side of the aisle, this is the people's pension money, keep your hands off people's retirement, keep your hands off the pension. That is a quote from a colleague from the other side of the aisle.

So they have decided, ''OK, if we get $30 billion to $40 billion that we can take out of the retirement funds, we will generate some tax revenues, because there is still the 25 percent or 35 percent, excuse me, corporate tax rate that they will basically have to pay, so that will generate $9 billion to $10 billion.'' That as their big push for corporate welfare, is they are going to take money away from people who are either about to retire or have retired.

Mr. POMEROY. You know, the very words ''corporate welfare'' would lead one to believe that some unfair break given to a corporation was going to be straightened out. Well, here, as you so well pointed out, they give corporations another big break, and if is at the expense of the worker.

Right now, the corporation is restricted from grabbing a worker's pension fund, and those restrictions are eliminated. The excise tax is eliminated, allowing any amount over the 125 percent continuing liability in the plan to be withdrawn for any purpose whatsoever at no excise tax level whatsoever between now and July 1, 1996. I call this the windfall window, because this is the time you would really see that pension money flow.

Then they move in place a 6½ percent excise tax, but that 6½-percent excise tax, compared to the 50-percent tax today, I believe the 6½-percent tax represents an amount cheaper than the corporations could borrow the money, and there would continue to be a very heavy draw on workers' pension funds.

Ms. BROWN of Florida. Do you have any idea what they could use these funds for?

Mr. POMEROY. That is a very good question, and I have been trying to think about what they could use them for. I have got basically three scenarios.

Mr. BARRETT of Wisconsin. Let us break it down. Maybe we can help out: I am a predator, I am a corporation that likes to go in and take over other corporations.

Ms. BROWN of Florida. I am a worker now.

Mr. BARRETT of Wisconsin. How does this help me as a predator corporation?

☐ 2310

Mr. POMEROY. We have seen this before. This is the whole business that provided the financial underpinnings for the hostile takeovers that proliferated throughout this country in the 1980's, leaving so many of our corporations deeply leveraged and in debt, and so many workers unemployed. You are the predator, you want to buy a company; you basically want to use as much of this company's assets to pay the cost of buying it. In other words, you buy me and use my assets to pay off the purchase price. It is a heck of a deal.

Mr. BARRETT of Wisconsin. This will encourage a new round of predator leveraged buyouts.

Mr. POMEROY. Absolutely, predator companies taking hold of other companies and bleed out their pension funds to pay the purchase price.

Ms. BROWN of Florida. Let me ask the gentleman a question, Mr. Speaker. However, as a worker, when you are rightsizing and downsizing, you do not need me. So even though it is my pension, I lose my job.

Mr. POMEROY. That is the tragic irony. All so often in these leveraged buyouts where the worker's very pension funds finance the takeover, the worker loses his job because of downsizing and rightsizing and restructuring and every other darned thing that results in so many pink slips that have gone out in so many recent years.

Mr. BARRETT of Wisconsin. Let us assume that I am a family-owned corporation, a small corporation that does not want to be taken over, that has tried to be as extremely responsible as I could be, tries to be a good corporate citizen, so as a result, we have put in more than the 125 percent that is required by law. Let us say we have 150 percent in the fund. What kind of incentives is this going to put on me?

Mr. POMEROY. This is one of the most tragic aspects of how this would play out, because there are thousands of corporations that understand their success is because of the hard work of their workers, and just as their workers are committed to the corporation, the corporation is committed back to the worker, and they run healthy pension funds to make sure there is no question about their ability to meet their retirement obligations when their workers retire.

This corporation is going to have to think again, because a predator, just as we described earlier, could take this company over and use those pension funds to pay for the transaction, so actually, even those companies that highly value their employees and the importance of pension security are going to have to draw down the pension funds to avoid becoming a takeover target.

Mr. BARRETT of Wisconsin. In other words, I am going to have, as a defensive measure, even though I want to be a good corporation and take care of my retirees and the people who have worked for me for 30 or 40 years, as a defensive measure, so I am not attractive to corporate takeover, I am going to have to bleed out as much money as I can out of that pension fund and bring it down as close to 125 percent as possible; is that what you are saying?

Mr. POMEROY. That is exactly what I am saying. You might be the most responsibly-managed corporation ever in this country, but if your pension fund is over that 125 percent amount, you face exposure to a hostile takeover, financing the transaction by pulling ultimately from your workers' retirement.

Mr. BARRETT of Wisconsin. If I could, the third scenario, since you are an insurance commissioner, the third scenario that I could foresee is where you have a company that is not exactly doing that well and the pressures it puts on them. Maybe you can tell us your insights there.

Mr. POMEROY. What I saw with insurance regulation as one of the earliest signs of a company going under was when they would underfund their loss reserves. These are the reserves they put aside to pay claims in the future. When they start underfunding, it means they are underfunding tomorrow's obligation to meet today's cash flow.

If a corporation is incompetently managed, and losing money, it has a couple of options. It can try and raise money through private markets, it can borrow the money, but in either instance it is expensive, and very difficult questions may be asked about the competence of that corporation's management.

Would it not be easier to get rid of those penalties restricting that corporation management team from getting at the workers' pension money? And then would it not be easy for that corporation management team to pull off the workers' retirement kitty to meet cash flow demands of that corporation? That is exactly what would happen under this. That is exactly why the Committee on Ways and Means has allowed this money to be used for any purpose whatsoever; no notice to the employees when they pull money out of the pension funds, but it can be used for any purpose whatsoever. It could even be used for huge corporate bonuses, or any other lavish activity, unrelated to the workers themselves who, by their productivity, generated the success of the corporation and who are owed the retirement security in a well-funded pension plan.

Mr. BARRETT of Wisconsin. There are really a couple of issues here; there is the issue, first of all, of the majority policy change, where right now, under current law if corporations are going to take money out of this fund, it has to be used for the benefit of the employees, essentially. It has to be used for their health benefits, primarily. This change means they can use it, as you indicated, for corporate bonuses, for buyouts, for expensive vacations, anything they want. So we are really departing from the notion we have worked on for the last decade that this is the people's money. We are now moving from that to the notion that this belongs to somebody else, and these are in fact risky investments that they are going to be going toward.

I personally find it appalling that we have not had any debate in committee, we have not had a debate on the floor, and equally appalling is that the American workers, if this measure were enacted into law, might find out about a bleeding of their pension fund, funds they had invested for 30 or 40 years, only after reading about it on a business page that their corporation had been sold.

Mr. POMEROY. Or worse yet, they would find out when the pension fund was no longer sufficiently solvent to meet their obligation, and the PBGC was entering into it. But all the technical dimension of this pension issue aside, do you not think that this Congress owes it to the workers you represent that when they move forward a plan that represents the biggest threat to solvency of pension plans ever considered by this body, that at least they would have a hearing?

Mr. BARRETT of Wisconsin. You would think they would have a hearing, you would think they would have a vote, you would think they would hear testimony from people who are involved in this. That is why I think it is important for us to point out what the position is of the Pension Benefit Guaranty Corporation, because they were asked what their opinion was of this $40 billion raid. As Martin Slate, the executive director, stated on September 27, 1995: ''Our analysis shows that removal of these funds would leave many pension plans with insufficient resources to protect retirees and the PBGC. These pension plans would not be adequately funded to pay all benefits, should they fail. This risk could grow with changes in interest rates and asset values, or if companies experience financial difficulty.''

If the Republican leadership in this Congress would have asked the corporation, the government corporation, what its reaction was to their proposal, this is what they would have been told.

Mr. POMEROY. I think that is a very important point, because the PBGC is just like a regulator of pension funds. Just like insurance commissioners regulate insurance companies, and you would ask an insurance commissioner about a solvency question on insurance companies, the PBGC is the regulator of pension funds.

If you have something proposing a $40 billion hit to pension funds, you would think you would want to get the PBGC up and ask their opinion. It did not happen in the Committee on Ways and Means. Fortunately, the PBGC has stated their opinion anyway, and their opinion is no way, that is a terrible setback in the stability of pension funds. This threatens the security of worker pensions throughout the country.

Ms. BROWN of Florida. Mr. Speaker, if the gentleman will continue to yield, this reminds me, in the 1980's we had the foxes guarding the henhouse. Now we put the foxes in charge of the henhouse, and that is the U.S. Congress, the people's House of Representatives.

As a worker from Florida or a retiree, I am concerned. I am listening to you tonight. What can I do to turn this around.

Mr. POMEROY. I think that is an important question, because it is not too late for the workers across the country to get involved. I would answer you this way. I would hope that workers that become concerned about pension security would write to their Congressmen, their Congresswomen. Chances are if they are represented by a Republican Member of this body they have already voted not once but twice to allow a $40 billion raid on their pensions. That is unacceptable. Workers, I cannot understate the importance of it, have to let their Members know that their pension security is absolutely vital to them, and that playing with their pensions is simply unacceptable.

Ms. BROWN of Florida. I have always been so proud of serving in the people's House. I have served 10 years in the Florida House, and this is my third year here, but now I thank God for the other body, and I would say, contact your Senators also, because at least

they have reasons, they have hearings. They just do not ram things through.

Mr. POMEROY. I think that is a good point, the fact that this Congress, when it began, was supposed to be the Congress of open rules, where we could debate, and what do we see? We see continually that we are not allowed to break out very vital policy questions and have a separate debate and vote.

□ 2320

And then, I think ironically, very typical tonight, they did not even want to ask questions or have a debate of any kind, even though we are here in fairly relaxed format the end of a very busy day. This is the opportunity where we could thrash this out; they were not interested.

Mr. BARRETT of Wisconsin. Congressman POMEROY, let us shift gears for a minute. I would imagine that if we had any Members on the other side who wanted to debate this, or perhaps even people who have followed this issue, they say we are yelling the sky is falling, we are crying chicken, and they would argue perhaps, although I do not share their argument, that 125 percent of current liability is more than sufficient to cover what is needed to pay for pensions. Can you address that?

Mr. POMEROY. I will address it this way, responding technically with the Pension Benefit Guarantee Corporation. They have done a study, in fact, of 10 corporations having that level of funding today. If it would be withdrawn, if the funds would be withdrawn as allowed under this proposal, they could very likely face solvency problems in the future.

In fact, an interest rate drop of as small as 1 percent, so dramatically effects future outlay projections in a pension plan actuarial analysis that many would be insufficiently funded to meet their worker obligations.

We have been down this road before. Mr. Speaker, here are some examples that my colleagues may recognize. In 1985, United Airlines drew $378 million out of their pension fund in a reversion. Today, they are underfunded by $1 billion in their pension fund. Goodyear Tire bought out $400 million in a reversion in 1988. Today, their workers know that that pension program is underfunded by $388 million in 1995. The act of the matter is that this level is not sufficient to protect them.

Ms. BROWN of Florida. If the gentleman will yield, it looks like the leader, the gentleman from New York [Mr. SOLOMON] has joined us.

Mr. POMEROY. Mr. Speaker, reclaiming my time, maybe we can get some debate.

But the 125 percent of current liability, among other things, does not address change in the relative position of the workers' advancement in position, all of which might require a heavier pension payout in the future. In other words, there are many that would tell you, including the Pension Benefit Guarantee Corporation, the Nation's pension regulator, that 125 percent of current liability is simply not sufficient.

Mr. BARRETT of Wisconsin. Mr. Speaker, if the gentleman will yield, speaking of risky investments, maybe the gentleman can share with us what one of our other colleagues had to say on this issue.

Mr. POMEROY. Mr. Speaker, another one of our colleagues on the Republican side of the House said after all, can you claim to stand for the American worker and at the same time advocate a risky investment strategy that undermines his or her retirement funds.

As far as I am concerned, that question has only one answer: No. You cannot claim to stand for the American worker and allow a program that places at-risk retirement funds. Again, to be fair, in this case they were talking about the earlier issue relative to pensions where there was no threat. How someone could make this statement and then vote for a proposal that allows a $40 billion raid on pension funds is beyond me.

Mr. BARRETT of Wisconsin. Mr. Speaker, if the gentleman will yield further, I think if we look at the current law where you have to have a minimum of 125 percent of current liabilities, and analyze that in the context of the current market and where we are right now, where we are at a situation in our history where the stock market is at an all-time high, if that stock market dropped 10 percent or 20 percent, the impact that that would have on a currently well-funded retirement plan would be devastating. If the assets went down 20 percent, your 125 percent cushion would be gone, it would be entirely gone.

If, at the same time, the assets dropped 20 percent in value, the interest rate dropped 1 percent in addition, you would only be at 86 percent. So all it would take is a little bit of a soft market and interest rates dropping 1 percent, and your 125 percent pension is down to funding at 86 percent.

What we are doing, and when I say we, Congress, and unfortunately, we have not had an opportunity to vote on this measure in Congress as a separate, standing bill, but the Speaker and his followers, what they are doing without a vote, without a hearing, without any opportunity to talk about this issue before the American people, they are putting the pensions of literally millions of American workers at substantial risk, and that is wrong.

Mr. POMEROY. Mr. Speaker, reclaiming my time, I think there is not even an internal consistency, because it is part of a budget plan which they boast will bring down interest rates. Now, what happens if they bring down interest rates? Well, if interest rates fall, we have resulting underfunding in the pension plans. So it is not even consistent internally. Part of their plan would expose worker pension plans at the very time that they brag on the other side about bringing down interest rates.

Mr. BARRETT of Wisconsin. Mr. Speaker, the gentleman is absolutely correct, because even if there was no change in the assets, but the interest rate dropped 2 percent, a plan that is currently funded at 125 percent would be funded at only 92 percent. So even if we accept their arguments that whatever action they take is going to have a positive effect on interest rates and bring interest rates down 2 percent, which is what we have heard time and time again, that means the big losers are the people who rely on pensions and whose employers have decided to bleed the money out of that fund. That is not what should be happening, and I share the concern of the gentlewoman from Florida [Ms. BROWN] and the concern of the gentleman from North Dakota [Mr. POMEROY] that we are setting the stage for another S&L-type debacle, or another return to the 1980s where we saw the go-go takeovers and the negative impact it had on millions of workers in this country.

Ms. BROWN of Florida. Mr. Speaker, if the gentleman will yield, I just want to say that I think that time is running out, not just for us tonight, but for the American worker, and they need to wake up and contact their Congress person or contact their Senator on this issue.

Mr. POMEROY. Mr. Speaker, I think that that point is extremely important. We are at the end of a very, very long day. I, like you, came to the Capitol earlier than 8 this morning, and it is now about a half past 11, and we are here tonight hammering on this issue because of the seriousness of the issue to American workers, but unfortunately, because of the continuing seriousness of the threat that this thing could actually be enacted. It is in conference committee now, and even though the Senate has overwhelmingly rejected it, it is in the House version.

We had a motion to instruct conferees considered by this body that would have instructed our conferees to go with the Senate position, not stick with the House position. You know what happened to that motion, it was defeated.

I am informed that there was a publication that carried news of this, even today, that they are still pressing ahead in spite of the Senate vote to make sure it is tucked quietly into the total picture. This would be a devastating result for the American worker.

There is one final quote that I think we could wrap this up on, because it really does, in my opinion, sum it up. This was offered in the earlier pension debate, but how people could say this in one pension debate and then move to advance a $40 billion pension rate a short time thereafter absolutely confounds me. This one is by our majority leader, DICK ARMEY. He said, on September 11, ''Our message is simple: Keep your paws off our pensions.''

Well, I think that Americans all over the country would be very, very well advised to give that message unequivocally to every member of this body and every Member of the Senate: Keep your paws off of our pensions. Clearly, the future, the retirement future of the American worker is at stake, and they deserve no less.

Final comments, Mr. BARRETT.

Mr. BARRETT of Wisconsin. There is a couple of comments that I want to make and I think that they are important enough that we should continue for a few more minutes on this.

As you indicated early in your comments, this issue first came to the American public's attention in the early 1970's, and maybe we could go to that graph for a second, the very first graph, the one that you had in front of us. We had seen it once before, but I want to look at it again just for a second.

□ 2330

This issue first raised its ugly head in the early 1980's. As we saw in the period from 1982 to 1986, there were $16.5 billion that was bled out of pension funds. That is when Congress stepped in and decided that it should do something so that the American workers and really corporate stability in this country would not be negatively impacted by corporate raids based primarily on the value of a company's pension fund. So Congress came in and enacted a 10-percent excise fee.

As you can see from that chart, the amount of reversions as they are called, I call it bleeding, dropped from $16.5 to $5.5 billion. In 1991 again, early 1990's, Congress again acted and basically on a bipartisan basis understood that this is not good for the American worker, increased the excise tax and basically we saw it drop to a trickle, where essentially now corporations that take funds out of their pension fund are doing so for legitimate purposes, for health benefits, maybe for some other employee stock option or basically for health benefits.

I think it is extremely important after we know what happened 12, 13 years ago and saw what a scandal it was 12 or 13 years ago to have people who worked 30 or 40 years of their lives, dedicated to a company, to see their pensions taken away, to put that in context to what is being proposed today, is being proposed today as we can see from this chart, is more than double what occurred in the early 1980's and essentially double of that which happened during the entire decade.

Again, you have to give credit where credit is due. This is a situation just as Willie Sutton used to say, ''You rob banks because that's where the money is.'' What we are seeing right here in this Congress is the majority is going after those pensions because that is where the money is, and they are not going to kid around with a $100 million, $200 million, even $1 billion. They are going for $40 billion that belongs to the American workers, that the American workers have put into those funds.

I think it is wrong. I think the majority leader was correct when he said earlier this fall, ''Keep your paws off that pension money.'' That is what we should be doing. We should be keeping our paws off that pension money. Fortunately, the Senate, at least in its first go around, recognized that, and I think that demonstrates the extreme nature of this body when it comes to this issue.

As we have talked about for the last hour, we have tried over and over and over again to get a hearing, to get notification of workers as to what is going on, to go before the Committee on Rules and ask them to have a separate vote on this very important issue, and time and time and time again we have been told, ''Get away, kid, you bother me.''

The Senate works a little differently. the Senate does allow free-standing amendments, and when there was some light shed on this issue, when the U.S. Senate had the opportunity to look at this issue and had to be accountable to the American people, what did they do? They voted on a 94–5 vote to take this provision out of the Senate bill.

We have not had that luxury here in the House of Representatives, because we cannot have a vote on it. That is why it is so important for the American people to let their Members of Congress know that they do not want Congress to put their paws on their pension money. The only way that is going to happen is if the American people contact their Congressmen and women.

I want to thank you again for putting this together.

I will turn it over to the gentlewoman from Florida [Ms. BROWN].

Ms. BROWN of Florida. Mr. Speaker, I thank the gentleman again.

Mr. Speaker, I would tell the American worker that this reverse Robin Hood that is going on in Congress, robbing from the working people again, robbing from the retirees to give to the rich is the legacy of the 104th Congress.

Mr. POMEROY. Mr. Speaker, in closing, we have spent the last hour trying to highlight what truly is the most substantial threat posed to workers' pension security ever considered by a Congress. It would be the complete elimination of protections on pension funds, keeping corporations from basically taking workers' pension money.

The Republican majority has projected $40 billion would flow out of pension funds, and they think that is a good thing. I think it is a bad thing. It is a very bad thing for the American worker.

I want to thank each of you for helping us highlight this issue tonight.

ADDRESSING THE FEDERAL DEBT

The SPEAKER pro tempore (Mr. BILBRAY). Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. SOLOMON] is recognized for 24 minutes as the designee of the majority leader.

Mr. SOLOMON. Mr. Speaker, I realize the time is late. The Committee on Rules has been meeting all evening, and we have just produced a rule which will bring to the floor a debt ceiling extension.

This debt ceiling extension will extend the debt so that the American Government can meet its obligation to the debt holders. This is a bill that I have never voted for in my 17 years in the Congress because I have always objected to what I would call the irresponsible, reckless spending of this United States Congress.

A lot of people like to blame that on a President but the truth of the matter is, a President cannot spend a dime. Only Congress can spend the taxpayers' dollars.

I often look back to the early days of Ronald Reagan, who was a hero of mine, because Ronald Reagan attempted to do what we Republicans are doing right now, and that is why I call this year the second beginning of the Reagan revolution.

In 1981 when President Reagan took office, it was his intent to downsize the Federal Government, to shrink its power, and to return that power to the States, to the counties, to the towns and villages and cities, to the local school districts, and to the private sector where it belongs.

Because, ladies and gentlemen, over 200 years ago we formed this republic. A lot of people think this is a Federal Government, but it is not. We are a republic of States that was formed primarily for the sole purpose of defending these States against outside military aggression that would threaten the sovereignty of the States.

Unfortunately for these States over the years, we have lost many of the States rights. The Federal Government has usurped those rights, and this Federal Government has just ballooned into a bureaucracy that really infringes on the very freedoms of the people that we would try to protect.

When you look at the deficits that we have piled on the generations to come, we now have a national accumulated debt of almost $5 trillion, $4.9 trillion.

When we look at the debt service, in other words, the amount of interest that it takes just to pay the interest on that debt each year, it comes to almost $250 billion.

□ 2340

When you look at the whole pie of the Federal Government, one big round pie, and you take a slice out of it of $250 billion, that is a huge, huge slice. And if we had allowed these deficits to continue to accrue like they have over the last 10 or 15 years, the annual debt service, that is, the amount of taxes we have to raise just to pay the interest would have grown if we had adopted President Clinton's budget projections.

We would have added $1 trillion to that debt over the next 5 years. That is, we would have gone from $5 trillion to $6 trillion.

What happens to the interest, then, that we have to pay, if we added another trillion dollars? The interest would have grown from $250 billion up to $350 billion, a larger slice of the pie, and less money then available to take care of those people that truly do need help.

I yield to my good friend, a member of the Committee on Rules, from Miami, FL, and who does yeoman work here in the Congress, the gentleman from Florida [Mr. DIAZ–BALART].

Mr. DIAZ–BALART. I thank the gentleman. I appreciate you very much yielding.

I am very proud of the work that the Committee on Rules has been doing over not only these 10 months but very specifically these last two nights. We have been working, like tonight, until just before midnight in the Committee on Rules, bringing to the floor, first, the legislation we brought to the floor today to keep the Federal Government running, functioning, until December 1, and that is an important, important task while we work on trying to resolve that issue for the next fiscal year, and hopefully at some point getting, obtaining some collaboration, some cooperation from the White House down Pennsylvania Avenue, just a few blocks, and, of course, then the work that we did tonight where we fashioned the rule, the guideline, the framework with which we will bring to the floor tomorrow the legislation that you, Mr. Chairman, just referred to now, which is the legislation that will permit the Government of the United States to meet its fiscal responsibilities until December 12.

I think it is important, and obviously we discussed this in the Committee on Rules, as we focus in on these important pieces of legislation, which are obviously not only important but extraordinarily so, that we not, while we focus in on the trees, to use that analogy, we not lose sight of the forest. And that is very much related to what, Mr. Chairman, you were referring to just a few minutes ago.

I have to admit that I felt great uncertainty just months ago that we could actually in this Congress frame and pass a framework, a glide path toward balancing this budget in 7 years. Now, unfortunately, during those 7 years more debt will be accumulated, but at least what seemed very, very difficult and, in fact, is very, very difficult, is being done by this Congress, and that is we are in the process of passing a framework, a glide path that leads to an end of deficit spending by the year 2002.

And that sounds sometimes, Mr. Chairman, technical. Sometimes it sounds that is an issue simply of numbers, but there is no country in the history of the world that has been able to accumulate without end public debt and has not ultimately gotten to a position where its economy falters because of it.

It is true that we are the richest Nation in the world. We are, in fact, the most powerful Nation in the history of the world, but unless we would have done what the American people decided in the election of 1994 had to be done, and that is get the economic house in order and balance the budget in the Federal Government, I fear that we would have reached a situation in 7 or 10 or 15 or 20 years where we would have passed beyond the point of no return.

So, Mr. Chairman, these tasks that involve our committee and that I am so proud to be able to be a part of under your leadership, day in and day out, where we work these long hours and sometimes, as the hours pass, we never forget, but it is always important for us to keep our eye on the big picture of why we are doing this work, and it is for our children and their children, and that this economy will remain an economy because of what we are doing now and because of the tough decisions that we are engaged in now. And it will remain an economy where a child that is being born today will not only be able, after he finishes school, to find a job, but also to create a job if he or she wants to, and that is what we are doing.

I want to thank you, Mr. Chairman, for your work along with the rest of the leadership in this Congress in permitting the situation to come about where that child who is born today will be in an economy that will be the most competitive and the wealthiest economy in 20 or 40 years.

I thank the gentleman for yielding.

Mr. SOLOMON. I want to thank the gentleman from Miami, FL, for the great work he does on the Committee on Rules with me. He is a new member on that Committee on Rules this year. You have certainly been like a right arm to me, LINCOLN. I know the people you represent in Miami certainly appreciate it.

They appreciate something else, too. I do not know how many people know it, but LINCOLN DIAZ-BALART has been a fighter of communism for all of his life. I have been involved in it for some 40 years myself, ever since the outbreak of the Korean war back in 1950, and I know that one person that has stood firm against Castro and this atheistic, deadly philosophy of communism has been the entire Diaz-Balart family, and, LINCOLN, we deeply appreciate that.

It was because of standing up way back in those days that Ronald Reagan and the rest of this country and our allies were able to bring down the Iron Curtain, and now we see democracy spreading out all over the world instead of communism spreading out throughout all of the world.

One point the gentleman was making was that when great nations become debtor nations, when they become fiscally irresponsible, they usually fail shortly thereafter. And as I was talking just before the gentleman came in, when we talk about this escalating debt and the debt service that is required to pay to support that debt every single year, that pie continues to grow bigger and bigger, that slice of that pie, and I was about to say that if we had followed the Clinton programs of expanding that debt by another trillion dollars over the next 5 years, the debt service would have grown from $250 billion to almost $350 billion.

And if inflation had set back in, as it usually does when you have fiscal irresponsibility in this Congress, like in the days of Jimmy Carter when interest rates rose, inflation rose to 9, 10, 11, 12, even 13 percent, interest rates followed. That is, the amount of money small business has to borrow, the rate it borrows from the banks, went to 21.5 percent.

What kind of business can support itself paying out that kind of interest? None.

☐ 2347

Mr. Speaker, consequently, we could not allow that to happen. That is why we have put ourselves on this glide path to a balanced budget. This bill that we will bring up tomorrow, this increase in the debt service, goes a long way toward keeping us on that glide path, because for one thing, it gives regulatory relief to business and industry in America. It shrinks the size further of this Federal Government, which means less tax dollars to support it, which means more money in the pockets of people in business and industry in America, so that this country can survive and compete and be profitable and create jobs for the high school graduates, for the college graduates.

That is really what we are about. We are not going to be deterred. We are going to complete this job. It is going to be tough, it is going to be difficult, but we will do it.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2586, TEMPORARY INCREASE IN THE STATUTORY DEBT LIMIT

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–328) on the resolution (H. Res. 258) providing for consideration of the bill (H.R. 2586) to provide for a temporary increase in the public debt limit, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RAMSTAD (at the request of Mr. ARMEY) for today, on account of serving as a pallbearer at the funeral of David Hetland, field director of his district office.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks, and include extraneous material:)

Mrs. THURMAN, for 5 minutes, today.
Mr. MILLER, for 5 minutes, today.
Mr. WAXMAN, for 5 minutes, today.
Ms. DELAURO, for 5 minutes, today.
Mr. PAYNE of Virginia, for 5 minutes, today.
Mr. PALLONE, for 5 minutes, today.
Mr. WARD, for 5 minutes, today.
Mr. MASCARA, for 5 minutes, today.
Mr. FALEOMAVAEGA, for 5 minutes, today.
Ms. JACKSON-LEE, for 5 minutes, today.
Mr. GREEN, for 5 minutes, today.
Mr. POMEROY, for 60 minutes, today.
Mr. OWENS, for 60 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mr. KIM, for 5 minutes each day, today and on November 9.
Mrs. KELLY, for 5 minutes, on November 9.
Mr. HAYWORTH, for 5 minutes, today.
Mr. FOLEY, for 5 minutes, today.
Mr. ENGLISH, for 5 minutes, on November 10.
Mr. RAMSTAD, for 5 minutes, on November 9.
Mrs. SEASTRAND, for 5 minutes, today.
Mr. RIGGS, for 5 minutes, on November 9.
Mr. FOX, for 5 minutes, today.
Mr. HOKE, for 5 minutes, today.
Mr. DORNAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Mr. CONYERS, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,823.)

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. ENGLISH of Pennsylvania.
Mr. GALLEGLY.
Mr. TALENT.
Mr. SOLOMON.
Mr. BOEHLERT.
Mr. BURTON of Indiana.
Mr. QUINN.
Mr. FRELINGHUYSEN.
Mr. MCINTOSH.

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Ms. KAPTUR in two instances.
Mr. FOGLIETTA.
Mr. LIPINSKI.
Mr. WAXMAN.
Mr. LANTOS.
Mr. UNDERWOOD.
Mr. TORRES in two instances.
Mr. HAMILTON.
Mr. POSHARD in two instances.
Mr. TOWNS.
Mr. MANTON.
Mr. OBEY.
Mr. NADLER.
Mr. FAZIO.

(The following Members (at the request of Mr. POMEROY) and to include extraneous matter:)

Mr. PACKARD.
Mr. MYRICK.
Mr. PORTMAN.
Mr. PASTOR.
Mr. FALEOMAVAEGA.
Mr. WAXMAN.
Mr. THOMPSON.
Mr. TANNER.
Mr. MARTINEZ.
Mr. CONYERS.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2436. An act to require the head of any Federal agency to differentiate between fats, oils, and greases of animal, marine, or vegetable origin, and other oils and greases, in issuing certain regulations, and for other purposes.

H.R. 1103. An act to amend the Perishable Agricultural Commodities Act, 1930, to modernize, streamline, and strengthen the operation of the Act.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On November 7, 1995:

H.R. 1715. An act respecting the relationship between worker's compensation benefits available under the Migrant and Seasonal Agricultural Worker Protection Act.

H.R. 1905. An act making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes.

On November 8, 1995:

H.R. 436. An act to require the head of any Federal agency to differentiate between fates, oils, and greases of animal, marine, or vegetable origin, and other oils and greases, in issuing certain regulations, and for other purposes.

ADJOURNMENT

Mr. DIAZ-BALART. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 50 minutes p.m.), the House adjourned until tomorrow, Thursday, November 9, 1995, at 10 a.m.

REPORTS OF COMMITTEE ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XXIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CLINGER: Committee on Government Reform and Oversight. S. 790. An act to provide for the modification or elimination of Federal reporting requirements; with an amendment (Rept. 104–327). Referred to the Committee of the Whole House on the State of the Union.

Mr. SOLOMON: Committee on Rules. House Resolution 258. Resolution providing for consideration of the bill (H.R. 2586) to provide for a temporary increase in the public debt limit, and for other purposes (Rept. 104–328). Referred to the House Calendar.

BILLS PLACED ON THE CORRECTIONS CALENDAR

Under clause 4 of rule XIII, the Speaker filed with the Clerk a notice requesting that the following bills be placed upon the Corrections Calendar:

S. 790. An act to provide for the modification or elimination of Federal reporting requirements.

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. SHUSTER (for himself, Mr. OBERSTAR, Ms. MOLINARI, Mr. WISE, Mr. RAHALL, and Mr. LIPINSKI):

H.R. 2594. A bill to amend the Railroad Unemployment Insurance Act to reduce the waiting period for benefits payable under that act, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. PETERSON of Minnesota:

H.R. 2595. A bill to amend the Superfund Amendments and Reauthorization Act of 1986 to establish the reportable quantity for sulfur dioxide as 1,000 pounds; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, 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. SCHAEFER:

H.R. 2596. A bill to extend energy conservation programs under the Energy Policy and Conservation Act through fiscal year 1999, and for other purposes; to the Committee on Commerce.

By Mr. SOLOMON (for himself, Mr. LIVINGSTON, Mr. PAXON, Mr. BOEHLERT, Mr. CHAMBLISS, Mr. CLINGER, Mr. DEAL of Georgia, Mr. ENGLISH of Pennsylvania, Mr. EVERETT, Mr. HOUGHTON, Mr. MCHUGH, Mr. QUILLEN, Mr. QUINN, Mr. TAYLOR of North Carolina, and Mr. WALSH):

H.R. 2597. A bill to modify the price support program for milk; to establish a class IV account applicable to the products of milk; to modify the dairy export incentive program; and to consolidate and reform Federal milk marketing orders; to the Committee on Agriculture.

By Mr. SOLOMON:

H.R. 2598. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act with respect

to penalties for powder cocaine and crack cocaine offenses; 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. BARTON of Texas (for himself, Mr. STENHOLM, Mr. EWING, Mr. PETE GEREN of Texas, Mr. BALLENGER, Mr. HASTERT, Mr. MANZULLO, Mr. HALL of Texas, Mr. SENSENBRENNER, Mr. PETERSON of Minnesota, Mr. HAYES, Mr. BREWSTER, Mr. MINGE, Mr. CONDIT, Mr. FORBES, Mr. SHADEGG, Mr. PAYNE of Virginia, Mrs. LINCOLN, Mr. ORTON, Mr. BARR, of Georgia, Mr. SHAYS, Mr. WAMP, Mr. SAM JOHNSON, and Mr. FOX of Pennsylvania):

H.R. 2599. A bill to reform the congressional budget process, establish binding spending caps, introduce fiscal integrity, discipline and accountability, and for other purposes; to the Committee on the Budget, and in addition to the Committees on Government Reform and Oversight, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBEY (for himself, Mr. BEILENSON, Mr. FARR of California, Mr. SKAGGS, Mr. KILDEE, Mrs. THURMAN, Mr. LEVIN, Mr. GILMAN, Mr. WAXMAN, Mrs. KENNELLY, Mr. WILLIAMS, Mr. MURTHA, Mr. HOYER, Ms. PELOSI, Ms. DELAURO, Mr. BONIOR, Mr. KLECZKA, Mr. BARRETT of Wisconsin, Ms. WATERS, and Mrs. CLAYTON):

H.R. 2600: A bill to provide for coverage of certain anti-cancer drug treatments under Medicare; to the Committee on Ways and Means, 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.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 28: Mr. FORBES and Mr. HOKE.
H.R. 89: Mr. CLINGER.
H.R. 103: Mr. OLVER and Ms. FURSE.
H.R. 109: Mrs. SCHROEDER, Mr. MANZULLO, Mr. OBERSTAR, Mr. MCHUGH, and Mr. CLEMENT.
H.R. 156: Mr. FOX.
H.R. 266: Mr. GONZALEZ, Mr. PORTER, and Mrs. SCHROEDER.
H.R. 373: Mr. LAUGHLIN, Mrs. CUBIN, and Mr. SCARBOROUGH.
H.R. 497: Mr. ROMERO-BARCELO and Mr. SOUDER.
H.R. 520: Mr. CLINGER.
H.R. 619: Ms. MCKINNEY.
H.R. 620: Mr. OWENS.
H.R. 682: Mr. CLINGER.
H.R. 733: Mr. LEWIS of Georgia.
H.R. 734: Mr. MOLLOHAN.
H.R. 739: Mr. SHADEGG, Mr. GANSKE, and Mr. RADANOVICH.
H.R. 777: Mrs. THURMAN.
H.R. 778: Mrs. THURMAN.
H.R. 789: Mr. HUNTER.
H.R. 891: Ms. VELAZQUEZ and Mr. HASTINGS of Florida.
H.R. 1127: Mr. TIAHRT and Mr. MARTINI.
H.R. 1210: Mr. LATOURETTE.
H.R. 1222: Mr. SOUDER.
H.R. 1363: Mr. RADANOVICH.
H.R. 1446: Mr. SENSENBRENNER.
H.R. 1448: Mr. CALVERT.
H.R. 1496: Mr. CRAPO.
H.R. 1684: Mr. CLYBURN, Mr. WAXMAN, and Mr. EMERSON.
H.R. 1701: Mr. RAMSTAD.
H.R. 1733: Mr. ACKERMAN and Mr. SABO.
H.R. 1846: Mr. JACOBS.
H.R. 1856: Mr. REED and Mr. DAVIS.
H.R. 1916: Mr. CALVERT.
H.R. 1972: Mr. COMBEST, Mr. FRELINGHUYSEN, Mrs. WALDHOLTZ, Mr. MYERS of Indiana, Mrs. MORELLA, Mr. MCDADE, Mr. BAKER of Louisiana, Mr. GOODLATTE, and Mr. HANSEN.
H.R. 1993: Mr. DOOLITTLE and Mr. CALVERT.
H.R. 1994: Mr. RIGGS.
H.R. 2009: Mr. WATT of North Carolina, Mr. OWENS, and Mrs. MORELLA.
H.R. 2013: Mr. TIAHRT.
H.R. 2081: Mr. STUMP.
H.R. 2128: Mr. FIELDS of Texas, Mr. SPENCE, and Mr. DELAY.
H.R. 2181: Mr. OLVER and Mr. THOMPSON.
H.R. 2211: Ms. JACKSON-LEE and Mr. OWENS.
H.R. 2232: Mr. DURBIN, Mr. LEACH, Mr. LIGHTFOOT, and Mr. EVANS.
H.R. 2244: Mr. WATTS of Oklahoma and Mr. LEVIN.
H.R. 2261: Mr. LEVIN.
H.R. 2276: Mr. QUILLEN.
H.R. 2372: Mr. CRAMER, Mr. BACHUS, Mr. LEWIS of Kentucky, Mr. BUNNING of Kentucky, Mr. BURTON of Indiana, and Mr. MYERS of Indiana.
H.R. 2416: Mrs. MYRICK.
H.R. 2422: Mr. ENGEL and Ms. VELAZQUEZ.
H.R. 2458: Mr. FILNER, Mr. FOX, Mr. BUNN of Oregon, Mr. BARCIA of Michigan, Mr. DIAZ-BALART, Mr. MEEHAN, Mr. EHRLICH, Mr. CUNNINGHAM, Mr. LIPINSKI, Miss COLLINS of Michigan, Mr. ENGEL, Mr. FRANK of Massachusetts, Mr. ENGLISH of Pennsylvania, Mr. ZIMMER, Mr. SANFORD, Mr. FUNDERBURK, Ms. PRYCE, Mr. KASICH, Mrs. MEEK of Florida, Mr. MCCOLLUM, Mr. TRAFICANT, Mr. KNOLLENBERG, and Mr. STARK.
H.R. 2463: Mr. DELLUMS.
H.R. 2503: Mr. KINGSTON.
H.R. 2506: Mrs. CUBIN.
H.R. 2507: Mr. STEARNS, Mr. LIGHTFOOT, Mr. BARTON of Texas, Mr. STOCKMAN, and Mr. SOUDER.
H.R. 2540: Mr. CHABOT, Mr. BLILEY, Mr. SENSENBRENNER, Mr. MANZULLO, and Mrs. SEASTRAND.
H.R. 2548: Mr. GORDON, Mr. PETE GEREN of Texas, Mr. GEJDENSON, Mr. EHLERS, Mr. WAMP, Mr. LIPINSKI, MISS COLLINS of Michigan, Mr. HASTERT, and Mr. BEREUTER.
H.R. 2557: Mr. BRYANT of Tennessee, Mr. COMBEST, Mr. COOLEY, Mr. CHAMBLISS, Mr. MCHUGH, Mr. EMERSON, Mr. LEACH, Mr. BARRETT of Nebraska, and Mrs. LINCOLN.
H. Con. Res. 47: Ms. RIVERS.
H. Con. Res. 50: Mr. GEJDENSON.
H. Res. 250: Mr. POMEROY, Mr. BENTSEN, Mr. CASTLE, Mr. POSHARD, Mr. UPTON, and Mr. BLUTE.

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. 359: Miss COLLINS of Michigan.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2586
OFFERED BY: MR. CHRYSLER
AMENDMENT NO. 1:

TITLE II—ABOLISHMENT OF DEPARTMENT OF COMMERCE

SEC. 2001. SHORT TITLE.

This title may be cited as the ''Department of Commerce Dismantling Act''.

SEC. 2002. TABLE OF CONTENTS.

The table of contents for this title is as follows:

Subtitle A—Abolishment of Department of Commerce

SEC. 2101. ABOLISHMENT OF DEPARTMENT OF COMMERCE.

(a) ABOLISHMENT OF DEPARTMENT.—The Department of Commerce is abolished effective on the abolishment date specified in subsection (c).

(b) TRANSFER OF DEPARTMENT FUNCTIONS TO OMB.—Except as otherwise provided in this title, all functions that immediately before the abolishment date specified in subsection (c) are authorized to be performed by the Secretary of Commerce, any other officer or employee of the Department acting in that capacity, or any agency or office of the Department, are transferred to the Director of the Office of Management and Budget effective on that abolishment date.

(c) ABOLISHMENT DATE.—The abolishment date referred to in subsections (a) and (b) is the earlier of—

(1) the last day of the 6-month period beginning on the date of the enactment of this Act; or

(2) September 30, 1996.

SEC. 2102. RESOLUTION AND TERMINATION OF DEPARTMENT FUNCTIONS.

(a) RESOLUTION OF FUNCTIONS.—During the period beginning on the date of enactment of this Act and ending on the functions termination date specified in subsection (c)—

(1) the disposition and resolution of functions of the Department of Commerce shall be completed in accordance with this title; and

(2) the Director shall resolve all functions that are transferred to the Director under section 2101(b) and are not otherwise continued under this title.

(b) TERMINATION OF FUNCTIONS.—All functions that are transferred to the Director under section 2101(b) that are not otherwise continued by this title shall terminate on the functions termination date specified in subsection (c).

(c) FUNCTIONS TERMINATION DATE.—The functions termination date referred to in subsections (a) and (b) is the last day of the 3-year period beginning on the date of the enactment of this Act.

SEC. 2103. RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

(a) IN GENERAL.—The Director of the Office of Management and Budget shall be responsible for the implementation of this subtitle, including—

(1) the administration and wind-up, during the wind-up period, of all functions transferred to the Director under section 2101(b);

(2) the administration and wind-up, during the wind-up period, of any outstanding obligations of the Federal Government under any programs terminated by this title; and

(3) taking such other actions as may be necessary to wind-up any outstanding affairs of the Department of Commerce before the end of the wind-up period.

(b) DELEGATION OF FUNCTIONS.—The Director may delegate to any officer of the Office of Management and Budget or to any other Federal department or agency head the performance of the Director's functions under this subtitle, except the Director's planning and reporting responsibilities under section 2105, to the extent that the Director determines that such delegation would further the purposes of this subtitle.

(c) TRANSFER OF ASSETS AND PERSONNEL.—In connection with any delegation of functions under subsection (b), the Director may transfer within the Office or to the department or agency concerned such assets, funds, personnel, records, and other property relating to the delegated function as the Director determines to be appropriate.

(d) AUTHORITIES OF THE DIRECTOR.—For purposes of performing the functions of the Director under this subtitle and subject to the availability of appropriations, the Director may—

(1) enter into contracts;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem rate equivalent to the rate for level IV of the Executive Schedule; and

(3) utilize, on a reimbursable basis, the services, facilities, and personnel of other Federal agencies.

SEC. 2104. PERSONNEL.

Effective on the abolishment date specified in section 2101(c), there are transferred to the Office all individuals who—

(1) immediately before the abolishment date, were officers or employees of the Department of Commerce; and

(2) in their capacity as such an officer or employee, performed functions that are transferred to the Director under section 2101(b).

SEC. 2105. PLANS AND REPORTS.

(a) INITIAL IMPLEMENTATION PLAN.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director shall submit a report, through the President, to the Congress specifying those actions taken and necessary to be taken—

(A) to resolve those programs and functions terminated on the date of enactment of this Act; and

(B) to implement the additional transfers and other program dispositions provided for in this title.

(2) CONTENTS.—The report shall include—

(A) recommendations for additional legislation, if any, needed to reflect or otherwise to implement the abolishments, transfers, terminations, and other dispositions of programs and functions under this title; and

(B) a description of actions planned and taken to comply with limitations imposed by this Act on future spending for continued functions.

(b) ANNUAL STATUS REPORTS.—At the end of each of the first, second, and third years following the date of enactment of this Act, the Director shall submit a report, through the President, to the Congress which—

(1) specifies the status and progress of actions taken to implement this title and to wind-up the affairs of the Department of Commerce by the functions termination date specified in section 2102(c);

(2) includes any recommendations the Director may have for additional legislation; and

(3) describes actions taken to comply with limitations imposed by this Act on future spending for continued functions.

(c) GAO REPORTS.—Not later than 60 days after issuance of each report under subsections (a) and (b), the Comptroller General of the United States shall submit to the Congress a report which—

(1) evaluates the report under that subsection; and

(2) includes any recommendations the Comptroller General considers appropriate.

SEC. 2106. GAO AUDIT AND ACCESS TO RECORDS.

(a) AUDIT OF PERSONS PERFORMING FUNCTIONS PURSUANT TO THIS ACT.—All agencies, corporations, organizations, and other persons of any description which under the authority of the United States perform any

function or activity pursuant to this title shall be subject to audit by the Comptroller General of the United States with respect to such function or activity.

(b) AUDIT OF PERSONS PROVIDING CERTAIN GOODS OR SERVICES.—All persons and organizations which, by contract, grant, or otherwise, provide goods or services to, or receive financial assistance from, any agency or other person performing functions or activities under or referred to by this title shall be subject to audit by the Comptroller General of the United States with respect to such provision of goods or services or receipt of financial assistance.

(c) PROVISIONS APPLICABLE TO AUDITS UNDER THIS SECTION.—

(1) NATURE AND SCOPE OF AUDIT.—The Comptroller General of the United States shall determine the nature, scope, terms, and conditions of audits conducted under this section.

(2) COORDINATION WITH OTHER PROVISIONS OF LAW.—The authority of the Comptroller General of the United States under this section shall be in addition to any audit authority available to the Comptroller General under other provisions of this title or any other law.

(3) RIGHTS OF ACCESS, EXAMINATION, AND COPYING.—The Comptroller General of the United States, and any duly authorized representative of the Comptroller General, shall have access to, and the right to examine and copy, all records and other recorded information in any form, and to examine any property within the possession or control of any agency or person which is subject to audit under this section, which the Comptroller General considers relevant to an audit conducted under this section.

(4) ENFORCEMENT OF RIGHT OF ACCESS.—The right of access of the Comptroller General of the United States to information under this section shall be enforceable under section 716 of title 31, United States Code.

(5) MAINTENANCE OF CONFIDENTIAL RECORDS.—Section 716(e) of title 31, United States Code, shall apply to information obtained by the Comptroller General under this section.

SEC. 2107. CONFORMING AMENDMENTS.

(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1) of title 3, United States Code, is amended by striking ''Secretary of Commerce,''.

(b) EXECUTIVE DEPARTMENTS.—Section 101 of title 5, United States Code, is amended by striking the following item: ''The Department of Commerce.''.

(c) SECRETARY'S COMPENSATION.—Section 5312 of title 5, United States Code, is amended by striking the following item: ''Secretary of Commerce.''.

(d) COMPENSATION FOR POSITIONS AT LEVEL III.—Section 5314 of title 5, United States Code, is amended—

(1) by striking the following item:

''Under Secretary of Commerce, Under Secretary of Commerce for Economic Affairs, Under Secretary of Commerce for Export Administration and Under Secretary of Commerce for Travel and Tourism.'';

(2) by striking the following item:

''Under Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Administrator of the National Oceanic and Atmospheric Administration.''; and

(3) by striking the following item:

''Under Secretary of Commerce for Technology.''.

(e) COMPENSATION FOR POSITIONS AT LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking the following item:

''Assistant Secretaries of Commerce (11).'';

(2) by striking the following item:

''General Counsel of the Department of Commerce.'';

(3) by striking the following item:

''Assistant Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Deputy Administrator of the National Oceanic and Atmospheric Administration.'';

(4) by striking the following item:

''Director, National Institute of Standards and Technology, Department of Commerce.'';

(5) by striking the following item:

''Inspector General, Department of Commerce.'';

(6) by striking the following item:

''Chief Financial Officer, Department of Commerce.''; and

(7) in the item relating to the Bureau of the Census, by striking '', Department of Commerce''.

(f) COMPENSATION FOR POSITIONS AT LEVEL V.—Section 5316 of title 5, United States Code, is amended—

(1) by striking the following item:

''Director, United States Travel Service, Department of Commerce.''; and

(2) by striking the following item:

''National Export Expansion Coordinator, Department of Commerce.''.

(g) INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 9(a)(1), by striking subparagraph (B);

(2) in section 11(1), by striking ''Commerce,''; and

(3) in section 11(2), by striking ''Commerce,''.

(h) EFFECTIVE DATE.—The amendments made by this section shall be effective on the abolishment date specified in section 2101(c).

SEC. 2108. PRIVATIZATION FRAMEWORK.

(a) IN GENERAL.—The Office of Management and Budget shall privatize each function designated for privatization under subtitle B within 18 months of the date of the transfer of such function to the Office. The Office shall pursue such forms of privatization arrangements as the Office considers appropriate to best serve the interests of the United States. If the Office is unable to privatize a function within 18 months, the Office shall report its inability to the Congress with its recommendations as to the appropriate disposition of the function and its assets.

(b) ROLE OF THE FEDERAL GOVERNMENT.—No privatization arrangement made under subsection (a) shall include any future role for, or accountability to, the Federal Government unless it is necessary to assure the continued accomplishment of a specific Federal objective. The Federal role should be the minimum necessary to accomplish Federal objectives.

(c) ASSETS.—In privatizing a function, the Office of Management and Budget shall take any action necessary to preserve the value of the assets of a function during the period the Office holds such assets and to continue the performance of the function to the extent necessary to preserve the value of the assets or to accomplish core Federal objectives.

SEC. 2109. PRIORITY PLACEMENT PROGRAMS FOR FEDERAL EMPLOYEES AFFECTED BY A REDUCTION IN FORCE ATTRIBUTABLE TO THIS TITLE.

(a) IN GENERAL.—Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

''§ 3329b. Priority placement programs for employees affected by a reduction in force attributable to the Department of Commerce Dismantling Act

''(a)(1) For the purpose of this section, the term 'affected agency'—

''(A) except as provided in subparagraph (B), means an Executive agency to which personnel are transferred in connection with a transfer of function under the Department of Commerce Dismantling Act, and

''(B) with respect to employees of the Department of Commerce in general administration, the Inspector General's office, or the General Counsel's office, or who provided overhead support to other components of the Department on a reimbursable basis, means all agencies to which functions of those employees are transferred under the Department of Commerce Dismantling Act.

''(2) This section applies with respect to any reduction in force that—

''(A) occurs within 12 months after the date of the enactment of this section; and

''(B) is due to—

''(i) the termination of any function of the Department of Commerce; or

''(ii) the agency's having excess personnel as a result of a transfer of function described in paragraph (1), as determined by—

''(I) the Director of the Office of Management and Budget, in the case of a function transferred to the Office of Management and Budget; or

''(II) the head of the agency, in the case of any other function.

''(b) As soon as practicable after the date of the enactment of this section, each affected agency shall establish an agencywide priority placement program to facilitate employment placement for employees who—

''(1) are scheduled to be separated from service due to a reduction in force described in subsection (a)(2); or

''(2) are separated from service due to such a reduction in force.

''(c)(1) Each agencywide priority placement program shall include provisions under which a vacant position shall not be filled by the appointment or transfer of any individual from outside of that agency if—

''(A) there is then available any individual described in paragraph (2) who is qualified for the position; and

''(B) the position—

''(i) is at the same grade (or pay level) or not more than 1 grade (or pay level) below that of the position last held by such individual before placement in the new position; and

''(ii) is within the same commuting area as the individual's last-held position (as referred to in clause (i)) or residence.

''(2) For purposes of an agencywide priority placement program, an individual shall be considered to be described in this paragraph if such individual's most recent performance evaluation was at least fully successful (or the equivalent), and such individual is either—

''(A) an employee of such agency who is scheduled to be separated, as described in subsection (b)(1); or

''(B) an individual who became a former employee of such agency as a result of a separation, as described in subsection (b)(2).

''(d)(1) Nothing in this section shall affect any priority placement program of the Department of Defense which is in operation as of the date of the enactment of this section.

''(2) Nothing in this section shall impair placement programs within agencies subject to reductions in force resulting from causes other than the Department of Commerce Dismantling Act.

''(e) An individual shall cease to be eligible to participate in a program under this section on the earlier of—

''(1) the conclusion of the 12-month period beginning on the date on which that individual first became eligible to participate under subsection (c)(2); or

''(2) the date on which the individual declines a bona fide offer (or if the individual

does not act on the offer, the last day for accepting such offer) from the affected agency of a position described in subsection (c)(1)(B).''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Title 5, United States Code, is amended by redesignating the second section which is designated as section 3329 as section 3329a.

(2) The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to the second section which is designated as section 3329 and inserting the following:

''3329a. Government-wide list of vacant positions.
''3329b. Priority placement programs for employees affected by a reduction in force attributable to the Department of Commerce Dismantling Act.''.

SEC. 2110. FUNDING REDUCTIONS FOR TRANSFERRED FUNCTIONS.

(a) FUNDING REDUCTIONS.—Except as provided in subsection (b), the total amount obligated or expended by the United States in performing functions transferred under this title to the Director or to the Office from the Department of Commerce, or any of its officers or components, shall not exceed—

(1) for the first fiscal year that begins after the abolishment date specified in section 2101(c), 75 percent of the total amount appropriated to the Department of Commerce for the performance of such functions in fiscal year 1995; and

(2) for the second fiscal year that begins after the abolishment date specified in section 2101(c) and for each fiscal year thereafter, 65 percent of the total amount appropriated to the Department of Commerce for the performance of such functions in fiscal year 1995.

(b) EXCEPTION.—Subsection (a) shall not apply to obligations or expenditures incurred as a direct consequence of the termination, transfer, or other disposition of functions described in subsection (a) pursuant to this title.

(c) RULE OF CONSTRUCTION.—This section shall take precedence over any other provision of law unless such provision explicitly refers to this section and makes an exception to it.

(d) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall—

(1) ensure compliance with the requirements of this section; and

(2) include in each report under sections 2105(a) and (b) a description of actions taken to comply with such requirements.

SEC. 2111. DEFINITIONS.

For purposes of this subtitle, the following definitions apply:

(1) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget.

(2) OFFICE.—The term ''Office'' means the Office of Management and Budget.

(3) WIND-UP PERIOD.—The term ''wind-up period'' means the period beginning on the date of the enactment of this Act and ending on the functions termination date specified in section 2102(c).

Subtitle B—Disposition of Various Programs, Functions, and Agencies of Department of Commerce

SEC. 2201. ABOLISHMENT OF ECONOMIC DEVELOPMENT ADMINISTRATION AND TRANSFER OF FUNCTIONS.

(a) IN GENERAL.—The Public Works and Economic Development Act of 1965 (40 U.S.C. 3131 et seq.) is amended by striking all after the first section and inserting the following:

''SEC. 2. ADMINISTRATOR DEFINED.

''In this Act, the term 'Administrator' means the Administrator of the Small Business Administration.

''TITLE I—STATEMENT OF PURPOSE

''SEC. 101. FINDINGS AND DECLARATION.

''(a) FINDINGS.—Congress finds that—

''(1) the maintenance of the national economy at a high level is vital to the best interests of the United States, but that some of our regions, counties, and communities are suffering substantial and persistent unemployment and underemployment that cause hardship to many individuals and their families, and waste invaluable human resources;

''(2) to overcome this problem the Federal Government, in cooperation with the States, should help areas and regions of substantial and persistent unemployment and underemployment to take effective steps in planning and financing their public works and economic development;

''(3) Federal financial assistance, including grants for public works and development facilities to communities, industries, enterprises, and individuals in areas needing development should enable such areas to help themselves achieve lasting improvement and enhance the domestic prosperity by the establishment of stable and diversified local economies and improved local conditions, if such assistance is preceded by and consistent with sound, long-range economic planning; and

''(4) under the provisions of this Act, new employment opportunities should be created by developing and expanding new and existing public works and other facilities and resources rather than by merely transferring jobs from one area of the United States to another.

''(b) DECLARATION.—Congress declares that, in furtherance of maintaining the national economy at a high level—

''(1) the assistance authorized by this Act should be made available to both rural and urban areas;

''(2) such assistance should be made available for planning for economic development prior to the actual occurrences of economic distress in order to avoid such condition; and

''(3) such assistance should be used for long-term economic rehabilitation in areas where long-term economic deterioration has occurred or is taking place.

''TITLE II—GRANTS FOR PUBLIC WORKS AND DEVELOPMENT FACILITIES

''SEC. 201. DIRECT AND SUPPLEMENTARY GRANTS.

''(a) IN GENERAL.—Upon the application of any eligible recipient, the Administrator may—

''(1) make direct grants for the acquisition or development of land and improvements for public works, public service, or development facility usage, and the acquisition, design and engineering, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, within an area described in section 502(a), if the Administrator finds that—

''(A) the project for which financial assistance is sought will directly or indirectly—

''(i) tend to improve the opportunities, in the area where such project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities;

''(ii) otherwise assist in the creation of additional long-term employment opportunities for such area; or

''(iii) primarily benefit the long-term unemployed and members of low-income families;

''(B) the project for which a grant is requested will fulfill a pressing need of the area, or part thereof, in which it is, or will be, located; and

''(C) the area for which a project is to be undertaken has an approved investment strategy as provided by section 503 and such project is consistent with such strategy;

''(2) make supplementary grants in order to enable the States and other entities within areas described in section 502(a) to take maximum advantage of designated Federal grant-in-aid programs (as defined in subsection (c)(4)), direct grants-in-aid authorized under this section, and Federal grant-in-aid programs authorized by the Watershed Protection and Flood Prevention Act (68 Stat. 666), and the 11 watersheds authorized by the Flood Control Act of December 22, 1944 (58 Stat. 887), for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share.

''(b) COST SHARING.—Subject to subsection (c), the amount of any direct grant under this subsection for any project shall not exceed 50 percent of the cost of such project.

''(c) REQUIREMENTS APPLICABLE TO SUPPLEMENTARY GRANTS.—

''(1) AMOUNT OF SUPPLEMENTARY GRANTS.—

''(A) IN GENERAL.—Except as provided by subparagraph (B), the amount of any supplementary grant under this section for any project shall not exceed the applicable percentage established by regulations promulgated by the Administrator, but in no event shall the non-Federal share of the aggregate cost of any such project (including assumptions of debt) be less than 20 percent of such cost.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), in the case of an Indian tribe, a State (or a political subdivision of the State), or a community development corporation which the Administrator determines has exhausted its effective taxing and borrowing capacity, the Administrator shall reduce the non-Federal share below the percentage specified in subparagraph (A) or shall waive the non-Federal share in the case of such a grant for a project in an area described in section 502(a)(4).

''(2) FORM OF SUPPLEMENTARY GRANTS.—Supplementary grants shall be made by the Administrator, in accordance with such regulations as the Administrator may prescribe, by increasing the amounts of direct grants authorized under this section or by the payment of funds appropriated under this Act to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the administration of the applicable Federal programs.

''(3) FEDERAL SHARE LIMITATIONS SPECIFIED IN OTHER LAWS.—Notwithstanding any requirement as to the amount or sources of non-Federal funds that may otherwise be applicable to the Federal program involved, funds provided under this subsection shall be used for the sole purpose of increasing the Federal contribution to specific projects in areas described in section 502(a) under such programs above the fixed maximum portion of the cost of such project otherwise authorized by the applicable law.

''(4) DESIGNATED FEDERAL GRANT-IN-AID PROGRAMS DEFINED.—In this subsection, the term 'designated Federal grant-in-aid programs' means such existing or future Federal grant-in-aid programs assisting in the construction or equipping of facilities as the Administrator may, in furtherance of the purposes of this Act, designate as eligible for allocation of funds under this section.

''(5) CONSIDERATION OF RELATIVE NEED IN DETERMINING AMOUNT.—In determining the amount of any supplementary grant available to any project under this section, the Administrator shall take into consideration the relative needs of the area and the nature of the projects to be assisted.

''(d) REGULATIONS.—The Administrator shall prescribe rules, regulations, and procedures to carry out this section which will assure that adequate consideration is given to the relative needs of eligible areas. In prescribing such rules, regulations, and procedures the Administrator shall consider among other relevant factors—

''(1) the severity of the rates of unemployment in the eligible areas and the duration of such unemployment; and

''(2) the income levels of families and the extent of underemployment in eligible areas.

''(e) REVIEW AND COMMENT UPON PROJECTS BY LOCAL GOVERNMENTAL AUTHORITIES.—The Administrator shall prescribe regulations which will assure that appropriate local governmental authorities have been given a reasonable opportunity to review and comment upon proposed projects under this section.

''SEC. 202. CONSTRUCTION COST INCREASES.

''In any case where a grant (including a supplemental grant) has been made by the Administrator under this title for a project and after such grant has been made but before completion of the project, the cost of such project based upon the designs and specifications which were the basis of the grant has been increased because of increases in costs, the amount of such grant may be increased by an amount equal to the percentage increase, as determined by the Administrator, in such costs, but in no event shall the percentage of the Federal share of such project exceed that originally provided for in such grant.

''SEC. 203. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

''In any case where a grant (including a supplemental grant) has been made by the Administrator under this title for a project, and after such grant has been made but before completion of the project, the cost of such project based upon the designs and specifications which were the basis of the grant has decreased because of decreases in costs, such underrun funds may be used to improve the project either directly or indirectly as determined by the Administrator.

''SEC. 204. CHANGED PROJECT CIRCUMSTANCES.

''In any case where a grant (including a supplemental grant) has been made by the Administrator under this title for a project, and after such grant has been made but before completion of the project, the purpose or scope of such project based upon the designs and specifications which were the basis of the grant has changed, the Administrator may approve the use of grant funds on such changed project if the Administrator determines that such changed project meets the requirements of this title and that such changes are necessary to enhance economic development in the area.

''TITLE III—SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE

''SEC. 301. STATEMENT OF PURPOSE.

''The purpose of this title to provide special economic development and adjustment assistance programs to help State and local areas meet special needs arising from actual or threatened severe unemployment arising from economic dislocation (including unemployment arising from actions of the Federal Government, from defense base closures and realignments, and from compliance with environmental requirements which remove economic activities from a locality) and economic adjustment problems resulting from severe changes in economic conditions (including long-term economic deterioration), and to encourage cooperative intergovernmental action to prevent or solve economic adjustment problems. Nothing in this title is intended to replace the efforts of the economic adjustment program of the Department of Defense.

''SEC. 302. SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE.

''(a) IN GENERAL.—The Administrator is authorized to make grants directly to any eligible recipient in an area which the Administrator determines, in accordance with criteria to be established by the Administrator by regulation—

''(1) has experienced, or may reasonably be foreseen to be about to experience, a special need to meet an expected rise in unemployment, or other economic adjustment problems (including those caused by any action or decision of the Federal Government); or

''(2) has demonstrated long-term economic deterioration.

''(b) PURPOSES.—Amounts from grants under subsection (a) shall be used by an eligible recipient to carry out or develop an investment strategy which—

''(1) meets the requirements of section 503; and

''(2) is approved by the Administrator.

''(c) TYPES OF ASSISTANCE.—In carrying out an investment strategy using amounts from grants under subsection (a), an eligible recipient may provide assistance for any of the following:

''(1) Public facilities.

''(2) Public services.

''(3) Business development.

''(4) Planning.

''(5) Research and technical assistance.

''(6) Administrative expenses.

''(7) Training.

''(8) Relocation of individuals and businesses.

''(9) Other assistance which demonstrably furthers the economic adjustment objectives of this title.

''(d) DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.—Amounts from grants under subsection (a) may be used in direct expenditures by the eligible recipient or through redistribution by the eligible recipient to public and private entities in grants, loans, loan guarantees, payments to reduce interest on loan guarantees, or other appropriate assistance, but no grant shall be made by an eligible recipient to a private profit-making entity.

''(e) COORDINATION.—The Administrator to the extent practicable shall coordinate the activities relating to the requirements for investment strategies and making grants and loans under this title with other Federal programs, States, economic development districts, and other appropriate planning and development organizations.

''(f) BASE CLOSINGS AND REALIGNMENTS.—

''(1) LOCATION OF PROJECTS.—In any case in which the Administrator determines a need for assistance under subsection (a) due to the closure or realignment of a military installation, the Administrator may make such assistance available for projects to be carried out on the military installation and for projects to be carried out in communities adversely affected by the closure or realignment.

''(2) INTEREST IN PROPERTY.—Notwithstanding any other provision of law, the Administrator may provide to an eligible recipient any assistance available under this Act for a project to be carried out on a military installation that is closed or scheduled for closure or realignment without requiring that the eligible recipient have title to the property or a leasehold interest in the property for any specified term.

''SEC. 303. ANNUAL REPORTS BY RECIPIENT.

''Each eligible recipient which receives assistance under this title from the Administrator shall annually during the period such assistance continue to make a full and complete report to the Administrator, in such manner as the Administrator shall prescribe, and such report shall contain an evaluation of the effectiveness of the economic assistance provided under this title in meeting the need it was designed to alleviate and the purposes of this title.

''SEC. 304. SALE OF FINANCIAL INSTRUMENTS IN REVOLVING LOAN FUNDS.

''Any loan, loan guarantee, equity, or other financial instrument in the portfolio of a revolving loan fund, including any financial instrument made available using amounts from a grant made before the effective date specified in section 802, may be sold, encumbered, or pledged at the discretion of the grantee of the Fund, to a third party provided that the net proceeds of the transaction—

''(1) shall be deposited into the Fund and may only be used for activities which are consistent with the purposes of this title; and

''(2) shall be subject to the financial management, accounting, reporting, and auditing standards which were originally applicable to the grant.

''SEC. 305. TREATMENT OF REVOLVING LOAN FUNDS.

''(a) IN GENERAL.—Amounts from grants made under this title which are used by an eligible recipient to establish a revolving loan fund shall not be treated, except as provided by subsection (b), as amounts derived from Federal funds for the purposes of any Federal law after such amounts are loaned from the fund to a borrower and repaid to the fund.

''(b) EXCEPTIONS.—Amounts described in subsection (a) which are loaned from a revolving loan fund to a borrower and repaid to the fund—

''(1) may only be used for activities which are consistent with the purposes of this title; and

''(2) shall be subject to the financial management, accounting, reporting, and auditing standards which were originally applicable to the grant.

''(c) REGULATIONS.—Not later than 30 days after the effective date specified in section 802, the Administrator shall issue regulations to carry out subsection (a).

''(d) PUBLIC REVIEW AND COMMENT.—Before issuing any final guidelines or administrative manuals governing the operation of revolving loan funds established using amounts from grants under this title, the Administrator shall provide reasonable opportunity for public review of and comment on such guidelines and administrative manuals.

''(e) APPLICABILITY TO PAST GRANTS.—The requirements of this section applicable to amounts from grants made under this title shall also apply to amounts from grants made, before the effective date specified in section 802, under title I of this Act, as in effect on the day before such effective date.

''TITLE IV—TECHNICAL ASSISTANCE, RESEARCH, AND INFORMATION

''SEC. 401. TECHNICAL ASSISTANCE.

''(a) IN GENERAL.—In carrying out its duties under this Act, the Administrator may provide technical assistance which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment to areas which the Administrator finds have substantial need for such assistance. Such assistance shall include project planning and feasibility studies, management and operational assistance, establishment of business outreach centers, and studies evaluating the needs of, and development potentialities for, economic growth of such areas.

''(b) PROCEDURES AND TERMS.—

''(1) MANNER OF PROVIDING ASSISTANCE.—Assistance may be provided by the Administrator through—

''(A) members of the Administrator's staff;

''(B) the payment of funds authorized for this section to departments or agencies of the Federal Government;

''(C) the employment of private individuals, partnerships, firms, corporations, or suitable institutions under contracts entered into for such purposes; or

''(D) grants-in-aid to appropriate public or private nonprofit State, area, district, or local organizations.

''(2) REPAYMENT TERMS.—The Administrator, in the Administrator's discretion, may require the repayment of assistance provided under this subsection and prescribe the terms and conditions of such repayment.

''(c) GRANTS COVERING ADMINISTRATIVE EXPENSES.—

''(1) IN GENERAL.—The Administrator may make grants to defray not to exceed 50 percent of the administrative expenses of organizations which the Administrator determines to be qualified to receive grants-in-aid under subsections (a) and (b); except that in the case of a grant under this subsection to an Indian tribe, the Administrator is authorized to defray up to 100 percent of such expenses.

''(2) DETERMINATION OF NON-FEDERAL SHARE.—In determining the amount of the non-Federal share of such costs or expenses, the Administrator shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including contributions of space, equipment, and services.

''(3) USE OF GRANTS WITH PLANNING GRANTS.—Where practicable, grants-in-aid authorized under this subsection shall be used in conjunction with other available planning grants to assure adequate and effective planning and economical use of funds.

''(d) AVAILABILITY OF TECHNICAL INFORMATION; FEDERAL PROCUREMENT.—The Administrator shall aid areas described in section 502(a) and other areas by furnishing to interested individuals, communities, industries, and enterprises within such areas any assistance, technical information, market research, or other forms of assistance, information, or advice which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment within such areas. The Administrator may furnish the procurement divisions of the various departments, agencies, and other instrumentalities of the Federal Government with a list containing the names and addresses of business firms which are located in areas described in section 502(a) and which are desirous of obtaining Government contracts for the furnishing of supplies or services, and designating the supplies and services such firms are engaged in providing.

''SEC. 402. ECONOMIC DEVELOPMENT PLANNING.

''(a) DIRECT GRANTS.—

''(1) IN GENERAL.—The Administrator may make, upon application of any State, or city, or other political subdivision of a State, or sub-State planning and development organization (including an area described in section 502(a) or an economic development district), direct grants to such State, city, or other political subdivision, or organization to pay up to 50 percent of the cost for economic development planning.

''(2) PLANNING PROJECTS SPECIFICALLY INCLUDED.—The planning for cities, other political subdivisions, and sub-State planning and development organizations (including areas described in section 502(a) and economic development districts) assisted under this section shall include systematic efforts to reduce unemployment and increase incomes.

''(3) PLANNING PROCESS.—The planning shall be a continuous process involving public officials and private citizens in analyzing local economies, defining development goals, determining project opportunities, and formulating and implementing a development program.

''(4) COORDINATION OF ASSISTANCE UNDER SECTION 401(c).—The assistance available under this section may be provided in addition to assistance available under section 401(c) but shall not supplant such assistance.

''(b) COMPLIANCE WITH REVIEW PROCEDURE.—The planning assistance authorized under this title shall be used in conjunction with any other available Federal planning assistance to assure adequate and effective planning and economical use of funds.

''TITLE V—ELIGIBILITY AND INVESTMENT STRATEGIES

''PART A—ELIGIBILITY

''SEC. 501. ELIGIBLE RECIPIENT DEFINED.

''In this Act, the term 'eligible recipient' means an area described in section 502(a), an economic development district designated under section 510, an Indian tribe, a State, a city or other political subdivision of a State, or a consortium of such political subdivisions, or a public or private nonprofit organization or association acting in cooperation with officials of such political subdivisions.

''SEC. 502. AREA ELIGIBILITY.

''(a) CERTIFICATION.—In order to be eligible for assistance under title II, an applicant seeking assistance to undertake a project in an area shall certify, as part of an application for such assistance, that the area on the date of submission of such application meets 1 or more of the following criteria:

''(1) The area has a per capita income of 80 percent or less of the national average.

''(2) The area has an unemployment rate 1 percent above the national average percentage for the most recent 24-month period for which statistics are available.

''(3) The area has experienced or is about to experience a sudden economic dislocation resulting in job loss that is significant both in terms of the number of jobs eliminated and the effect upon the employment rate of the area.

''(4) The area is a community or neighborhood (defined without regard to political or other subdivisions or boundaries) which the Administrator determines has one or more of the following conditions:

''(A) A large concentration of low-income persons.

''(B) Rural areas having substantial outmigration.

''(C) Substantial unemployment.

''(b) DOCUMENTATION.—A certification made under subsection (a) shall be supported by Federal data, when available, and in other cases by data available through the State government. Such documentation shall be accepted by the Administrator unless it is determined to be inaccurate. The most recent statistics available shall be used.

''(c) PRIOR DESIGNATIONS.—Any designation of a redevelopment area made before the effective date specified in section 802 shall not be effective after such effective date.

''SEC. 503. INVESTMENT STRATEGY.

''The Administrator may provide assistance under titles II and III to an applicant for a project only if the applicant submits to the Administrator, as part of an application for such assistance, and the Administrator approves an investment strategy which—

''(1) identifies the economic development problems to be addressed using such assistance;

''(2) identifies past, present, and projected future economic development investments in the area receiving such assistance and public and private participants and sources of funding for such investments;

''(3) sets forth a strategy for addressing the economic problems identified pursuant to paragraph (1) and describes how the strategy will solve such problems;

''(4) provides a description of the project necessary to implement the strategy, estimates of costs, and timetables; and

''(5) provides a summary of public and private resources expected to be available for the project.

''SEC. 504. APPROVAL OF PROJECTS.

''Only applications for grants or other assistance under this Act for specific projects shall be approved which are certified by the State representing such applicant and determined by the Administrator—

''(1) to be included in a State investment strategy;

''(2) to have adequate assurance that the project will be properly administered, operated, and maintained; and

''(3) to otherwise meet the requirements for assistance under this Act.

''PART B—ECONOMIC DEVELOPMENT DISTRICTS

''SEC. 510. DESIGNATION OF ECONOMIC DEVELOPMENT DISTRICTS AND ECONOMIC DEVELOPMENT CENTERS.

''(a) IN GENERAL.—In order that economic development projects of broader geographic significance may be planned and carried out, the Administrator may—

''(1) designate appropriate 'economic development districts' within the United States with the concurrence of the States in which such districts will be wholly or partially located, if—

''(A) the proposed district is of sufficient size or population, and contains sufficient resources, to foster economic development on a scale involving more than a single area described in section 502(a);

''(B) the proposed district contains at least 1 area described in section 502(a);

''(C) the proposed district contains 1 or more areas described in section 502(a) or economic development centers identified in an approved district investment strategy as having sufficient size and potential to foster the economic growth activities necessary to alleviate the distress of the areas described in section 502(a) within the district; and

''(D) the proposed district has a district investment strategy which includes adequate land use and transportation planning and contains a specific program for district cooperation, self-help, and public investment and is approved by the State or States affected and by the Administrator;

''(2) designate as 'economic development centers', in accordance with such regulations as the Administrator shall prescribe, such areas as the Administrator may deem appropriate, if—

''(A) the proposed center has been identified and included in an approved district investment strategy and recommended by the State or States affected for such special designation;

''(B) the proposed center is geographically and economically so related to the district that its economic growth may reasonably be expected to contribute significantly to the alleviation of distress in the areas described in section 502(a) of the district; and

''(C) the proposed center does not have a population in excess of 250,000 according to the most recent Federal census.

''(3) provide financial assistance in accordance with the criteria of this Act, except as may be herein otherwise provided, for projects in economic development centers designated under subsection (a)(2), if—

''(A) the project will further the objectives of the investment strategy of the district in which it is to be located;

''(B) the project will enhance the economic growth potential of the district or result in

additional long-term employment opportunities commensurate with the amount of Federal financial assistance requested; and

''(C) the amount of Federal financial assistance requested is reasonably related to the size, population, and economic needs of the district;

''(4) subject to the 50 percent non-Federal share required for any project by section 201(c), increase the amount of grant assistance authorized by section 201 for projects within areas described in section 502(a), by an amount not to exceed 10 percent of the aggregate cost of any such project, in accordance with such regulations as the Administrator shall prescribe if—

''(A) the area described in section 502(a) is situated within a designated economic development district and is actively participating in the economic development activities of the district; and

''(B) the project is consistent with an approved investment strategy.

''(b) AUTHORITIES.—In designating economic development districts and approving district investment strategies under subsection (a), the Administrator may, under regulations prescribed by the Administrator—

''(1) invite the several States to draw up proposed district boundaries and to identify potential economic development centers;

''(2) cooperate with the several States—

''(A) in sponsoring and assisting district economic planning and development groups; and

''(B) in assisting such district groups to formulate district investment strategies; and

''(3) encourage participation by appropriate local governmental authorities in such economic development districts.

''(c) TERMINATION OR MODIFICATION OF DESIGNATIONS.—The Administrator shall by regulation prescribe standards for the termination or modification of economic development districts and economic development centers designated under the authority of this section.

''(d) DEFINITIONS.—In this Act, the following definitions apply:

''(1) ECONOMIC DEVELOPMENT DISTRICT.—The term 'economic development district' refers to any area within the United States composed of cooperating areas described in section 502(a) and, where appropriate, designated economic development centers and neighboring counties or communities, which has been designated by the Administrator as an economic development district. Such term includes any economic development district designated under section 403 of this Act, as in effect on the day before the effective date specified in section 802.

''(2) ECONOMIC DEVELOPMENT CENTER.—The term 'economic development center' refers to any area within the United States which has been identified as an economic development center in an approved investment strategy and which has been designated by the Administrator as eligible for financial assistance under this Act in accordance with the provisions of this section.

''(3) LOCAL GOVERNMENT.—The term 'local government' means any city, county, town, parish, village, or other general-purpose political subdivision of a State.

''(e) PARTS OF ECONOMIC DEVELOPMENT DISTRICTS NOT WITHIN AREAS DESCRIBED IN SECTION 502(a).—The Administrator is authorized to provide the financial assistance which is available to an area described in section 502(a) under this Act to those parts of an economic development district which are not within an area described in section 502(a), when such assistance will be of a substantial direct benefit to an area described in section 502(a) within such district. Such financial assistance shall be provided in the same manner and to the same extent as is provided in this Act for an area described in section 502(a); except that nothing in this subsection shall be construed to permit such parts to receive the increase in the amount of grant assistance authorized in subsection (a)(4).

''TITLE VI—ADMINISTRATION

''SEC. 601. APPOINTMENT OF ASSOCIATE ADMINISTRATOR; FULL TIME EQUIVALENT EMPLOYEES.

''(a) APPOINTMENT.—The Administrator shall carry out the duties vested in the Administrator by this Act acting through an Associate Administrator of the Small Business Administration, who shall be appointed by the President by and with the advice and consent of the Senate.

''(b) PAY.—The Associate Administrator shall be compensated by the Federal Government at the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(c) FULL TIME EQUIVALENT EMPLOYEES.—The Administrator shall assign not to exceed 25 full time equivalent employees of the Small Business Administration (excluding the Associate Administrator) to assist the Administrator in the carrying out the duties vested in the Administrator by this Act.

''SEC. 602. REGIONAL COOPERATIVE AGREEMENTS.

''(a) IN GENERAL.—The Administrator shall make grants and carry out such other functions under this Act as the Administrator considers appropriate by entering into cooperative agreements with 1 or more States on a regional basis. Each State entering into such an agreement shall be represented by the chief executive officer of the State.

''(b) TERMS AND CONDITIONS.—A cooperative agreement entered into under subsection (a) shall include such terms and conditions as the Administrator determines are necessary to carry out the provisions of this Act. Such terms and conditions at a minimum shall provide that no decision concerning regional policies or approval of project or grant applications may be made without the consent of the Administrator and a majority of the States participating in the cooperative agreement.

''(c) PARTICIPATION NOT REQUIRED.—No State shall be required to enter into a cooperative agreement under this section or to participate in any program established by this Act.

''SEC. 603. ADMINISTRATIVE EXPENSES.

''(a) PAYMENT BY STATES.—Fifty percent of the administrative expenses incurred by States in participating in a cooperative agreement entered into under section 602 shall be paid by such States and the remaining 50 percent of such expenses shall be paid by the Federal Government.

''(b) DETERMINATION OF STATE SHARE.—The share of the administrative expenses to be paid by each State participating in a cooperative agreement shall be determined by a majority vote of such States. The Administrator may not participate or vote in such determination.

''(c) DELINQUENT PAYMENTS.—No assistance authorized by this Act shall be furnished to any State or to any political subdivision or resident of a State, nor shall the State participate or vote in any decision described in section 602(b), while such State is delinquent in the payment of such State's share of the administrative expenses described in subsection (a).

''SEC. 604. FEDERAL SHARE.

''Except as otherwise expressly provided by this Act, the Federal share of the cost of any project funded with amounts made available under this Act shall not exceed 50 percent of such cost.

''SEC. 605. COOPERATION OF FEDERAL AGENCIES.

''Each Federal department and agency, in accordance with applicable laws and within the limits of available funds, shall cooperate with the Administrator in order to assist the Administrator in carrying out the functions of the Administrator.

''SEC. 606. CONSULTATION WITH OTHER PERSONS AND AGENCIES.

''(a) CONSULTATION ON PROBLEMS RELATING TO EMPLOYMENT.—The Administrator is authorized from time to time to call together and confer with any persons, including representatives of labor, management, agriculture, and government, who can assist in meeting the problems of area and regional unemployment or underemployment.

''(b) CONSULTATION ON ADMINISTRATION OF ACT.—The Administrator may make provisions for such consultation with interested departments and agencies as the Administrator may deem appropriate in the performance of the functions vested in the Administrator by this Act.

''SEC. 607. ADMINISTRATION, OPERATION, AND MAINTENANCE.

''No Federal assistance shall be approved under this Act unless the Administrator is satisfied that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained.

''TITLE VII—MISCELLANEOUS

''SEC. 701. POWERS OF ADMINISTRATOR.

''(a) IN GENERAL.—In performing the Administrator's duties under this Act, the Administrator is authorized to—

''(1) adopt, alter, and use a seal, which shall be judicially noticed;

''(2) subject to the civil-service and classification laws, select, employ, appoint, and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act;

''(3) hold such hearings, sit and act at such times and places, and take such testimony, as the Administrator may deem advisable;

''(4) request directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics needed to carry out the purposes of this Act; and each department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics directly to the Administrator;

''(5) under regulations prescribed by the Administrator, assign or sell at public or private sale, or otherwise dispose of for cash or credit, in the Administrator's discretion and upon such terms and conditions and for such consideration as the Administrator determines to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by the Administrator in connection with assistance extended under this Act, and collect or compromise all obligations assigned to or held by the Administrator in connection with such assistance until such time as such obligations may be referred to the Attorney General for suit or collection;

''(6) deal with, complete, renovate, improve, modernize, insure, rent, or sell for cash or credit, upon such terms and conditions and for such consideration as the Administrator determines to be reasonable, any real or personal property conveyed to, or otherwise acquired by the Administrator in connection with assistance extended under this Act;

''(7) pursue to final collection, by way of compromise or other administrative action, prior to reference to the Attorney General,

all claims against third parties assigned to the Administrator in connection with assistance extended this Act;

''(8) acquire, in any lawful manner and in accordance with the requirements of the Federal Property and Administrative Services Act of 1949, any property (real, personal, or mixed, tangible or intangible), whenever necessary or appropriate to the conduct of the activities authorized under this Act;

''(9) in addition to any powers, functions, privileges, and immunities otherwise vested in the Administrator, take any action, including the procurement of the services of attorneys by contract, determined by the Administrator to be necessary or desirable in making, purchasing, servicing, compromising, modifying, liquidating, or otherwise administratively dealing with assets held in connection with financial assistance extended under this Act;

''(10) employ experts and consultants or organizations as authorized by section 3109 of title 5, United States Code, compensate individuals so employed at rates not in excess of $100 per diem, including travel time, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed, except that contracts for such employment may be renewed annually;

''(11) sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Administrator or the Administrator's property;

''(12) make discretionary grants, pursuant to authorities otherwise available to the Administrator under this Act and without regard to the requirements of section 504, to implement significant regional initiatives, to take advantage of special development opportunities, or to respond to emergency economic distress in a region from the funds withheld from distribution by the Administrator; except that the aggregate amount of such discretionary grants in any fiscal year may not exceed 10 percent of the amounts appropriated under title VIII for such fiscal year;

''(13) allow a State to use not to exceed 5 percent of the total of amounts received by the State in a fiscal year in grants under this Act for reasonable expenses incurred by the State in administering such amounts; and

''(14) establish such rules, regulations, and procedures as the Administrator considers appropriate in carrying out the provisions of this Act.

''(b) DEFICIENCY JUDGMENTS.—The authority under subsection (a)(7) to pursue claims shall include the authority to obtain deficiency judgments or otherwise in the case of mortgages assigned to the Administrator.

''(c) INAPPLICABILITY OF CERTAIN OTHER REQUIREMENTS.—Section 3709 of the Revised Statutes of the United States shall not apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Administrator as a result of assistance extended under this Act if the premium for the insurance or the amount of the insurance does not exceed $1,000.

''(d) POWERS OF CONVEYANCE AND EXECUTION.—The power to convey and to execute, in the name of the Administrator, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein acquired by the Administrator pursuant to the provisions of this Act may be exercised by the Administrator, or by any officer or agent appointed by the Administrator for such purpose, without the execution of any express delegation of power or power of attorney.

"SEC. 702. ESTABLISHMENT OF CLEARINGHOUSE.

''In carrying out the Administrator's duties under this Act, the Administrator shall ensure that the Small Business Administration—

''(1) serves as a central information clearinghouse on matters relating to economic development, economic adjustment, disaster recovery, and defense conversion programs and activities of the Federal and State governments, including political subdivisions of the States; and

''(2) helps potential and actual applicants for economic development, economic adjustment, disaster recovery, and defense conversion assistance under Federal, State, and local laws in locating and applying for such assistance, including financial and technical assistance.

"SEC. 703. PERFORMANCE MEASURES.

''The Administrator shall establish performance measures for grants and other assistance provided under this Act. Such performance measures shall be used to evaluate project proposals and conduct evaluations of projects receiving such assistance.

"SEC. 704. MAINTENANCE OF STANDARDS.

''The Administrator shall continue to implement and enforce the provisions of section 712 of this Act, as in effect on the day before the effective date specified in section 802.

"SEC. 705. TRANSFER OF FUNCTIONS.

''The functions, powers, duties, and authorities and the assets, funds, contracts, loans, liabilities, commitments, authorizations, allocations, and records which are vested in or authorized to be transferred to the Secretary of the Treasury under section 29(b) of the Area Redevelopment Act, and all functions, powers, duties, and authorities under section 29(c) of such Act are hereby vested in the Administrator.

"SEC. 706. DEFINITION OF STATE.

''In this Act, the terms 'State', 'States', and 'United States' include the several States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Marshall Islands, Micronesia, and the Northern Mariana Islands.

"SEC. 707. ANNUAL REPORT TO CONGRESS.

''The Administrator shall transmit to Congress a comprehensive and detailed annual report of the Administrator's operations under this Act for each fiscal year beginning with the fiscal year ending September 30, 1996. Such report shall be printed and shall be transmitted to Congress not later than April 1 of the year following the fiscal year with respect to which such report is made.

"SEC. 708. USE OF OTHER FACILITIES.

''(a) DELEGATION OF FUNCTIONS TO OTHER FEDERAL DEPARTMENTS AND AGENCIES.—The Administrator may delegate to the heads of other departments and agencies of the Federal Government any of the Administrator's functions, powers, and duties under this Act as the Administrator may deem appropriate, and to authorize the redelegation of such functions, powers, and duties by the heads of such departments and agencies.

''(b) DEPARTMENT AND AGENCY EXECUTION OF DELEGATED AUTHORITY.—Departments and agencies of the Federal Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this Act.

''(c) TRANSFER BETWEEN DEPARTMENTS.—Funds authorized to be appropriated under this Act may be transferred between departments and agencies of the Government, if such funds are used for the purposes for which they are specifically authorized and appropriated.

''(d) FUNDS TRANSFERRED FROM OTHER DEPARTMENTS AND AGENCIES.—In order to carry out the objectives of this Act, the Administrator may accept transfers of funds from other departments and agencies of the Federal Government if the funds are used for the purposes for which (and in accordance with the terms under which) the funds are specifically authorized and appropriated. Such transferred funds shall remain available until expended, and may be transferred to and merged with the appropriations under the heading 'salaries and expenses' by the Administrator to the extent necessary to administer the program.

"SEC. 709. EMPLOYMENT OF EXPEDITERS AND ADMINISTRATIVE EMPLOYEES.

''No financial assistance shall be extended by the Administrator under this Act to any business enterprise unless the owners, partners, or officers of such business enterprise—

''(1) certify to the Administrator the names of any attorneys, agents, and other persons engaged by or on behalf of such business enterprise for the purpose of expediting applications made to the Administrator for assistance of any sort, under this Act, and the fees paid or to be paid to any such person; and

''(2) execute an agreement binding such business enterprise, for a period of 2 years after such assistance is rendered by the Administrator to such business enterprise, to refrain from employing, tendering any office or employment to, or retaining for professional services, any person who, on the date such assistance or any part thereof was rendered, or within the 1-year period ending on such date, shall have served as an officer, attorney, agent, or employee, occupying a position or engaging in activities which the Administrator determines involves discretion with respect to the granting of assistance under this Act.

"SEC. 710. MAINTENANCE OF RECORDS OF APPROVED APPLICATIONS FOR FINANCIAL ASSISTANCE; PUBLIC INSPECTION.

''(a) MAINTENANCE OF RECORD REQUIRED.—The Administrator shall maintain as a permanent part of the records of the Small Business Administration a list of applications approved for financial assistance under this Act, which shall be kept available for public inspection during the regular business hours of the Small Business Administration.

''(b) POSTING TO LIST.—The following information shall be posted in such list as soon as each application is approved:

''(1) The name of the applicant and, in the case of corporate applications, the names of the officers and directors thereof.

''(2) The amount and duration of the financial assistance for which application is made.

''(3) The purposes for which the proceeds of the financial assistance are to be used.

"SEC. 711. RECORDS AND AUDIT.

''(a) RECORDKEEPING AND DISCLOSURE REQUIREMENTS.—Each recipient of assistance under this Act shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

''(b) ACCESS TO BOOKS FOR EXAMINATION AND AUDIT.—The Administrator and the

Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this Act.

''SEC. 712. PROHIBITION AGAINST A STATUTORY CONSTRUCTION WHICH MIGHT CAUSE DIMINUTION IN OTHER FEDERAL ASSISTANCE.

''All financial and technical assistance authorized under this Act shall be in addition to any Federal assistance previously authorized, and no provision of this Act shall be construed as authorizing or permitting any reduction or diminution in the proportional amount of Federal assistance to which any State or other entity eligible under this Act would otherwise be entitled under the provisions of any other Act.

''SEC. 713. ACCEPTANCE OF APPLICANTS' CERTIFICATIONS.

''The Administrator may accept, when deemed appropriate, the applicants' certifications to meet the requirements of this Act.

''TITLE VIII—FUNDING; EFFECTIVE DATE

''SEC. 801. AUTHORIZATION OF APPROPRIATIONS

''There is authorized to be appropriated to carry out this Act $340,000,000 per fiscal year for each of fiscal years 1996, 1997, 1998, 1999, and 2000. Such sums shall remain available until expended.

''SEC. 802. EFFECTIVE DATE.

''The effective date specified in this section is the abolishment date specified in section 2101(c) of the Department of Commerce Dismantling Act.''.

(b) CONFORMING AMENDMENTS TO TITLE 5.—Section 5316 of title 5, United States Code, is amended—

(1) by striking ''Associate Administrators of the Small Business Administration (4)'' and inserting ''Associate Administrators of the Small Business Administration (5)''; and

(2) by striking ''Administrator for Economic Development.''.

(c) GAO STUDY.—On or before December 30, 1996, the Comptroller General shall submit to Congress a plan or plans for consolidating economic development programs throughout the Federal Government. The plan or plans shall focus on, but not be limited to, consolidating programs included in the Catalogue of Federal Domestic Assistance with similar purposes and target populations. The plan or plans shall detail how consolidation can lead to improved grant or program management, improvements in achieving program goals, and reduced costs.

SEC. 2202. TECHNOLOGY ADMINISTRATION.

(a) TECHNOLOGY ADMINISTRATION.—

(1) GENERAL RULE.—Except as otherwise provided in this section, the Technology Administration is terminated.

(2) OFFICE OF TECHNOLOGY POLICY.—The Office of Technology Policy is terminated.

(b) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—

(1) REDESIGNATION.—The National Institute of Standards and Technology is hereby redesignated as the National Bureau of Standards, and all references to the National Institute of Standards and Technology in Federal law or regulations are deemed to be references to the National Bureau of Standards.

(2) GENERAL RULE.—The National Bureau of Standards (in this subsection referred to as the ''Bureau'') is transferred to the National Scientific, Oceanic, and Atmospheric Administration, established under section 2206.

(3) FUNCTIONS OF DIRECTOR.—Except as otherwise provided in this section or section 2207, upon the transfer under paragraph (2), the Director of the Bureau shall perform all functions relating to the Bureau that, immediately before the effective date specified in section 2208(a), were functions of the Secretary of Commerce or the Under Secretary of Commerce for Technology.

(c) NATIONAL TECHNICAL INFORMATION SERVICE.—

(1) PRIVATIZATION.—All functions of the National Technical Information Service are transferred to the Director of Office of Management and Budget for privatization in accordance with section 2108 before the end of the 18-month period beginning on the date of the enactment of this Act.

(2) TRANSFER TO NATIONAL SCIENTIFIC, OCEANIC, AND ATMOSPHERIC ADMINISTRATION.—If an appropriate arrangement for the privatization of functions of the National Technical Information Service under paragraph (1) has not been made before the end of the period described in that paragraph, the National Technical Information Service shall be transferred as of the end of such period to the National Scientific, Oceanic, and Atmospheric Administration established by section 2206.

(3) GOVERNMENT CORPORATION.—If an appropriate arrangement for the privatization of functions of the National Technical Information Service under paragraph (1) has not been made before the end of the period described in that paragraph, the Director of the Office of Management and Budget shall, within 6 months after the end of such period, submit to Congress a proposal for legislation to establish the National Technical Information Service as a wholly owned Government corporation. The proposal should provide for the corporation to perform substantially the same functions that, as of the date of enactment of this Act, are performed by the National Technical Information Service.

(4) FUNDING.—No funds are authorized to be appropriated for the National Technical Information Service or any successor corporation established pursuant to a proposal under paragraph (3).

(d) AMENDMENTS.—

(1) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.—The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(A) in section 2(b), by striking paragraph (1) and redesignating paragraphs (2) through (11) as paragraphs (1) through (10), respectively;

(B) in section 2(d), by striking '', including the programs established under sections 25, 26, and 28 of this Act'';

(C) in section 10, by striking ''Advanced'' in both the section heading and subsection (a), and inserting in lieu thereof ''Standards and''; and

(D) by striking sections 24, 25, 26, and 28.

(2) STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended—

(A) in section 3, by striking paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(B) in section 4, by striking paragraphs (1), (4), and (13) and redesignating paragraphs (2), (3), (5), (6), (7), (8), (9), (10), (11), and (12) as paragraphs (1) through (10), respectively;

(C) by striking sections 5, 6, 7, 8, 9, and 10;

(D) in section 11—

(i) by striking '', the Federal Laboratory Consortium for Technology Transfer,'' in subsection (c)(3);

(ii) by striking ''and the Federal Laboratory Consortium for Technology Transfer'' in subsection (d)(2);

(iii) by striking '', and refer such requests'' and all that follows through ''available to the Service'' in subsection (d)(3); and

(iv) by striking subsection (e); and

(E) in section 17—

(i) by striking ''Subject to paragraph (2), separate'' in subsection (c)(1) and inserting in lieu thereof ''Separate'';

(ii) by striking paragraph (2) of subsection (c) and redesignating paragraph (3) as paragraph (2);

(iii) by striking ''funds to carry out'' in subsection (f), and inserting in lieu thereof ''funds only to pay the salary of the Director of the Office of Quality Programs, who shall be responsible for carrying out''; and

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

''(h) VOLUNTARY AND UNCOMPENSATED SERVICES.—The Director of the Office of Quality Programs may accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31, United States Code.''.

(3) MISCELLANEOUS AMENDMENTS.—Section 3 of Public Law 94–168 (15 U.S.C. 205b) is amended—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(C) in paragraph (3), as so redesignated by subparagraph (B) of this paragraph, by striking ''in nonbusiness activities''.

SEC. 2203. REORGANIZATION OF THE BUREAU OF THE CENSUS AND THE BUREAU OF ECONOMIC ANALYSIS.

(a) TRANSFER OF FUNCTIONS.—All functions of the Secretary of Commerce relating to the Bureau of the Census and the Bureau of Economic Analysis of the Department of Commerce are transferred to the Secretary of Labor.

(b) TRANSFER OF BUREAUS.—The Bureau of the Census and Bureau of Economic Analysis of the Department of Commerce are transferred to the Department of Labor.

(c) CONSOLIDATION WITH THE BUREAU OF LABOR STATISTICS.—The Secretary of Labor shall consolidate the Bureaus transferred under subsection (b) with the Bureau of Labor Statistics within the Department of Labor.

(d) REFERENCES TO SECRETARY.—Section 1(2) of the title 13, United States Code, is amended by striking out ''Secretary of Commerce'' and inserting in lieu thereof ''Secretary of Labor''.

(e) REFERENCES TO DEPARTMENT.—Section 2 of title 13, United States Code, is amended by striking out ''Department of Commerce'' and inserting in lieu thereof ''Department of Labor''.

(f) GENERAL REFERENCES TO SECRETARY AND DEPARTMENT.—The provisions of title 13, United States Code, are further amended—

(1) by striking out ''Secretary of Commerce'' each place such term appears and insert in lieu thereof ''Secretary of Labor''; and

(2) by striking out ''Department of Commerce'' each place such term appears and inserting in lieu thereof ''Department of Labor''.

(g) SUBMISSION OF PLAN.—Within 180 days after the date of enactment of this Act, the President shall transmit to the Congress—

(1) a determination of the feasibility and potential savings resulting from the further consolidation of statistical functions throughout the Government into a single agency; and

(2) draft legislation under which the provisions of title 13, United States Code, relating to confidentiality (including offenses and penalties) shall be applied after the consolidation under subsection (c) has been effected.

(h) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Bureau of the Census or the agency established as a result of the consolidation under subsection (c) should—

(1) make appropriate use of any authority afforded to it by the Census Address List Improvement Act of 1994 (Public Law 103–430; 108 Stat. 4393), and take measures to ensure the timely implementation of such Act; and

(2) streamline census questionnaires to promote savings in the collection and tabulation of data.

SEC. 2204. TERMINATED FUNCTIONS OF NTIA.

(a) REPEALS.—The following provisions of law are repealed:

(1) Subpart A of part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.), relating to assistance for public telecommunications facilities.

(2) Subpart B of part IV of title III of the Communications Act of 1934 (47 U.S.C. 394 et seq.), relating to the Endowment for Children's Educational Television.

(3) Subpart C of part IV of title III of the Communications Act of 1934 (47 U.S.C. 395 et seq.), relating to Telecommunications Demonstration grants.

(b) DISPOSAL OF NTIA LABORATORIES.—

(1) PRIVATIZATION.—All laboratories of the National Telecommunications and Information Administration are transferred to the Director of the Office of Management and Budget for privatization in accordance with section 2108 before the end of the 18-month period beginning on the date of the enactment of this Act.

(2) TRANSFER TO NATIONAL SCIENTIFIC, OCEANIC, AND ATMOSPHERIC ADMINISTRATION.—If an appropriate arrangement for the privatization of functions of the laboratories of the National Telecommunications and Information Administration under paragraph (1) has not been made before the end of the period described in that paragraph, the laboratories of the National Telecommunications and Information Administration shall be transferred as of the end of such period to the National Scientific, Oceanic, and Atmospheric Administration established by section 2206.

(3) TRANSFER OF FUNCTIONS.—The functions of the National Telecommunications and Information Administration concerning research and analysis of the electromagnetic spectrum described in section 5112(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 1532) are transferred to the Director of the National Bureau of Standards.

(c) TRANSFER OF NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION FUNCTIONS.—

(1) TRANSFER TO USTR.—Except as provided in subsection (b)(2), the functions of the National Telecommunications and Information Administration, and of the Secretary of Commerce and the Assistant Secretary for Communications and Information of the Department of Commerce with respect to the National Telecommunications and Information Administration, are transferred to the United States Trade Representative. The functions transferred by this paragraph shall be placed in an organizational component that is independent from all USTR functions directly related to the negotiation of trade agreements. Such functions shall be supervised by an individual whose principal professional expertise is in the area of telecommunications. The position to which such individual is appointed shall be graded at a level sufficiently high to attract a highly qualified individual, while ensuring autonomy in the conduct of such functions from all activities and influences associated with trade negotiations.

(2) REFERENCES.—References in any provision of law (including the National Telecommunications and Information Administration Organization Act) to the Secretary of Commerce or the Assistant Secretary for Communications and Information of the Department of Commerce—

(A) with respect to a function vested pursuant to this section in the United States Trade Representative shall be deemed to refer to the United States Trade Representative; and

(B) with respect to a function vested pursuant to this section in the Director of the National Bureau of Standards shall be deemed to refer to the Director of the National Bureau of Standards.

(3) TERMINATION OF NTIA.—Effective on the abolishment date specified in section 2101(c), the National Telecommunications and Information Administration is abolished.

SEC. 2205. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

(a) TERMINATION OF MISCELLANEOUS RESEARCH PROGRAMS AND ACCOUNTS.—

(1) IN GENERAL.—No funds may be appropriated in any fiscal year for the following programs and accounts of the National Scientific, Oceanic, and Atmospheric Administration:

(A) The National Undersea Research Program.

(B) The Fleet Modernization Program.

(C) The Charleston, South Carolina, Special Management Plan.

(D) Chesapeake Bay Observation Buoys (as of September 30, 1996).

(E) Federal/State Weather Modification Grants.

(F) The Southeast Storm Research Account.

(G) The Southeast United States Caribbean Fisheries Oceanographic Coordinated Investigations Program.

(H) National Institute for Environmental Renewal.

(I) The Lake Champlain Study.

(J) The Maine Marine Research Center.

(K) The South Carolina Cooperative Geodetic Survey Account.

(L) Pacific Island Technical Assistance.

(M) Sea Grant Oyster Disease Account.

(N) Sea Grant Zebra Mussel Account.

(O) VENTS program.

(P) National Weather Service non-Federal, non-wildfire Weather Service.

(Q) National Weather Service Regional Climate Centers.

(R) National Weather Service Samoa Weather Forecast Office Repair and Upgrade Account.

(S) Dissemination of Weather Charts (Marine Facsimile Service).

(T) The Climate and Global Change Account.

(U) The Global Learning and Observations to Benefit the Environment Program.

(V) Great Lakes nearshore research.

(W) Mussel watch.

(2) REPEALS.—The following provisions of law are repealed:

(A) The Ocean Thermal Conversion Act of 1980 (42 U.S.C. 9101 et seq.).

(B) Title IV of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1447 et seq.).

(C) Title V of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 2801 et seq.).

(D) The Great Lakes Shoreline Mapping Act of 1987 (33 U.S.C. 883a note).

(E) The Great Lakes Fish and Wildlife Tissue Bank Act (16 U.S.C. 943 et seq.).

(F) The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.), except for those provisions affecting the Assistant Secretary of the Army (civil works) and the Secretary of the department in which the Coast Guard is operating.

(G) Section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a).

(H) Section 208(c) of the National Sea Grant College Program Act (33 U.S.C. 1127(c)).

(I) Section 305 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454) is repealed effective October 1, 1998.

(J) The NOAA Fleet Modernization Act (33 U.S.C. 891 et seq.).

(K) Public Law 85–342 (72 Stat. 35; 16 U.S.C. 778 et seq.), relating to fish research and experimentation.

(L) The first section of the Act of August 8, 1956 (70 Stat. 1126; 16 U.S.C. 760d), relating to grants for commercial fishing education.

(M) Public Law 86–359 (16 U.S.C. 760e et seq.), relating to the study of migratory marine gamefish.

(N) The Act of August 15, 1914 (Chapter 253; 38 Stat. 692; 16 U.S.C. 781 et seq.), prohibiting the taking of sponges in the Gulf of Mexico and the Straits of Florida.

(b) AERONAUTICAL MAPPING AND CHARTING.—

(1) IN GENERAL.—The aeronautical mapping and charting functions of the National Oceanic and Atmospheric Administration are transferred to the Defense Mapping Agency.

(2) TERMINATION OF CERTAIN FUNCTIONS.—The Defense Mapping Agency shall terminate any functions transferred under paragraph (1) that are performed by the private sector.

(3) FUNCTIONS REQUESTED BY FEDERAL AVIATION ADMINISTRATION.—(A) Notwithstanding paragraph (2), the Director of the Defense Mapping Agency shall carry out such aeronautical charting functions as may be requested by the Administrator of the Federal Aviation Administration.

(B) In carrying out aeronautical mapping functions requested by the Administrator under subparagraph (A), the Director shall—

(i) publish and distribute to the public and to the Administrator any aeronautical charts requested by the Administrator; and

(ii) provide to the Administrator such other air traffic control products and services as may be requested by the Administrator,

in such manner and including such information as the Administrator determines is necessary for, or will promote, the safe and efficient movement of aircraft in air commerce.

(4) CONTINUING APPLICABILITY.—The requirements of section 1307 of title 44, United States Code, shall continue to apply with respect to all aeronautical products created or published by the Director of the Defense Mapping Agency in carrying out the functions transferred to the Director under this paragraph; except that the prices for such products shall be established jointly by the Director and the Secretary of Transportation on an annual basis.

(c) TRANSFER OF MAPPING, CHARTING, AND GEODESY FUNCTIONS TO THE UNITED STATES GEOLOGICAL SURVEY.—

(1) IN GENERAL.—Except as provided in subsection (b), there are hereby transferred to the Director of the United States Geological Survey the functions relating to mapping, charting, and geodesy authorized under the Act of August 7, 1947 (61 Stat. 787; 33 U.S.C. 883a).

(2) TERMINATION OF CERTAIN FUNCTIONS.—The Director of the United States Geological Survey shall terminate any functions transferred under paragraph (1) that are performed by the private sector.

(d) NESDIS.—There are transferred to the National Scientific, Oceanic, and Atmospheric Administration all functions and assets of the National Oceanic and Atmospheric Administration that on the date immediately before the effective date of this section were authorized to be performed by the National Environmental Satellite, Data, and Information System.

(e) OAR.—There are transferred to the National Scientific, Oceanic, and Atmospheric

Administration all functions and assets of the National Oceanic and Atmospheric Administration (including global programs) that on the date immediately before the effective date of this section were authorized to be performed by the Office of Oceanic and Atmospheric Research.

(f) NWS.—

(1) IN GENERAL.—There are transferred to the National Scientific, Oceanic, and Atmospheric Administration all functions and assets of the National Oceanic and Atmospheric Administration that on the date immediately before the effective date of this section were authorized to be performed by the National Weather Service.

(2) DUTIES.—To protect life and property and enhance the national economy, the Administrator of Science, Oceans, and the Atmosphere, through the National Weather Service, except as outlined in paragraph (3), shall be responsible for the following:

(A) Forecasts. The Administrator of Science, Oceans, and the Atmosphere, through the National Weather Service, shall serve as the sole official source of severe weather warnings.

(B) Issuance of storm warnings.

(C) The collection, exchange, and distribution of meteorological, hydrological, climatic, and oceanographic data and information.

(D) The preparation of hydro-meteorological guidance and core forecast information.

(3) LIMITATIONS ON COMPETITION.—The National Weather Service may not compete, or assist other entities to compete, with the private sector to provide a service when that service is currently provided or can be provided by a commercial enterprise unless—

(A) the Administrator of Science, Oceans, and the Atmosphere finds that the private sector is unwilling or unable to provide the service; or

(B) the Administrator of Science, Oceans, and the Atmosphere finds that the service provides vital weather warnings and forecasts for the protection of lives and property of the general public.

(4) ORGANIC ACT AMENDMENTS.—

(A) AMENDMENTS.—The Act of 1890 is amended—

(i) by striking section 3 (15 U.S.C. 313); and

(ii) in section 9 (15 U.S.C. 317), by striking ''Department of'' and all that follows thereafter and inserting ''National Scientific, Oceanic, and Atmospheric Administration.''.

(B) DEFINITION.—For purposes of this paragraph, the term ''Act of 1890'' means the Act entitled ''An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture'', approved October 1, 1890 (26 Stat. 653).

(5) REPEAL.—Sections 706 and 707 of the Weather Service Modernization Act (15 U.S.C. 313 note) are repealed.

(6) CONFORMING AMENDMENTS.—The Weather Service Modernization Act (15 U.S.C. 313 note) is amended—

(A) in section 702, by striking paragraph (3) and redesignating paragraphs (4) through (10) as paragraphs (3) through (9), respectively; and

(B) in section 703—

(i) by striking ''(a) NATIONAL IMPLEMENTATION PLAN.—'';

(ii) by striking paragraph (3) and redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively; and

(iii) by striking subsections (b) and (c).

(g) TERMINATION OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION CORPS OF COMMISSIONED OFFICERS.—

(1) NUMBER OF OFFICERS.—Notwithstanding section 8 of the Act of June 3, 1948 (33 U.S.C. 853g), the total number of commissioned officers on the active list of the National Scientific, Oceanic, and Atmospheric Administration shall not exceed—

(A) 358 as of September 30, 1996;

(B) 180 as of September 30, 1997; and

(C) 0 for any fiscal year beginning after September 30, 1998.

(2) SEPARATION PAY.—(A) Commissioned officers may be separated from the active list of the National Scientific, Oceanic, and Atmospheric Administration. Any officer so separated because of paragraph (1) shall, subject to subparagraph (B) and the availability of appropriations, be eligible for separation pay under section 9 of the Act of June 3, 1948 (33 U.S.C. 853h) to the same extent as if such officer had been separated under section 8 of such Act (33 U.S.C. 853g).

(B) Any officer who, under paragraph (4), transfers to another of the uniformed services or becomes employed in a civil service position shall not be eligible for separation pay under this paragraph.

(C)(i) Any officer who receives separation pay under this paragraph shall be required to repay the amount received if, within 1 year after the date of the separation on which the payment is based, such officer is reemployed in a civil service position in the National Scientific, Oceanic, and Atmospheric Administration, the duties of which position would formerly have been performed by a commissioned officer, as determined by the Administrator of Science, Oceans, and the Atmosphere.

(ii) A repayment under this subparagraph shall be made in a lump sum or in such installments as the Administrator may specify.

(D) In the case of any officer who makes a repayment under subparagraph (C)—

(i) the National Scientific, Oceanic, and Atmospheric Administration shall pay into the Civil Service Retirement and Disability Fund, on such officer's behalf, any deposit required under section 8422(e)(1) of title 5, United States Code, with respect to any prior service performed by that individual as such an officer; and

(ii) if the amount paid under clause (i) is less than the amount of the repayment under subparagraph (C), the National Scientific, Oceanic, and Atmospheric Administration shall pay into the Government Securities Investment Fund (established under section 8438(b)(1)(A) of title 5, United States Code), on such individual's behalf, an amount equal to the difference.

The provisions of paragraph (5)(C)(iv) shall apply with respect to any contribution to the Thrift Savings Plan made under clause (ii).

(3) PRIORITY PLACEMENT PROGRAM.—A priority placement program similar to the programs described in section 3329b of title 5, United States Code, as amended by section 2109, shall be established by the National Scientific, Oceanic, and Atmospheric Administration to assist commissioned officers who are separated from the active list of the National Scientific, Oceanic, and Atmospheric Administration because of paragraph (1).

(4) TRANSFER.—(A) Subject to the approval of the Secretary of Defense and under terms and conditions specified by the Secretary, commissioned officers subject to paragraph (1) may transfer to the Armed Forces under section 716 of title 10, United States Code.

(B) Subject to the approval of the Secretary of Transportation and under terms and conditions specified by the Secretary, commissioned officers subject to paragraph (1) may transfer to the United States Coast Guard under section 716 of title 10, United States Code.

(C) Subject to the approval of the Administrator of Science, Oceans, and the Atmosphere and under terms and conditions specified by that Administrator, commissioned officers subject to paragraph (1) may be employed by the National Scientific, Oceanic, and Atmospheric Administration as members of the civil service.

(5) RETIREMENT PROVISIONS.—(A) For commissioned officers who transfer under paragraph (4)(A) to the Armed Forces, the National Scientific, Oceanic, and Atmospheric Administration shall pay into the Department of Defense Military Retirement Fund an amount, to be calculated by the Secretary of Defense in consultation with the Secretary of the Treasury, equal to the actuarial present value of any retired or retainer pay they will draw upon retirement, including full credit for service in the NOAA Corps. Any payment under this subparagraph shall, for purposes of paragraph (2) of section 2206(g), be considered to be an expenditure described in such paragraph.

(B) For commissioned officers who transfer under paragraph (4)(B) to the United States Coast Guard, full credit for service in the NOAA Corps shall be given for purposes of any annuity or other similar benefit under the retirement system for members of the United States Coast Guard, entitlement to which is based on the separation of such officer.

(C)(i) For a commissioned officer who becomes employed in a civil service position pursuant to paragraph (4)(C) and thereupon becomes subject to the Federal Employees' Retirement System, the National Scientific, Oceanic, and Atmospheric Administration shall pay, on such officer's behalf—

(I) into the Civil Service Retirement and Disability Fund, the amounts required under clause (ii); and

(II) into the Government Securities Investment Fund, the amount required under clause (iii).

(ii)(I) The amount required under this subclause is the amount of any deposit required under section 8422(e)(1) of such title 5 with respect to any prior service performed by the individual as a commissioned officer of the National Oceanic and Atmospheric Administration.

(II) To determine the amount required under this subclause, first determine, for each year of service with respect to which the deposit under subclause (I) relates, the product of the normal-cost percentage for such year (as determined under the last sentence of this subclause) multiplied by basic pay received by the individual for any such service performed in such year. Second, take the sum of the amounts determined for the respective years under the first sentence. Finally, subtract from such sum the amount of the deposit under subclause (I). For purposes of the first sentence, the normal-cost percentage for any year shall be as determined for such year under the provisions of section 8423(a)(1) of title 5, United States Code, except that, in the case of any year before the first year for which any normal-cost percentage was determined under such provisions, the normal-cost percentage for such first year shall be used.

(iii) The amount required under this clause is the amount by which the separation pay to which the officer would have been entitled under the second sentence of paragraph (2)(A) (assuming the conditions for receiving such separation pay have been met) exceeds the amount of the deposit under clause (ii)(I), if at all.

(iv)(I) Any contribution made under this subparagraph to the Thrift Savings Plan shall not be subject to any otherwise applicable limitation on contributions contained in the Internal Revenue Code of 1986, and shall not be taken into account in applying any such limitation to other contributions or benefits under the Thrift Savings Plan,

with respect to the year in which the contribution is made.

(II) Such plan shall not be treated as failing to meet any nondiscrimination requirement by reason of the making of such contribution.

(6) REPEALS.—(A) The following provisions of law are repealed:

(i) The Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853a–853o, 853p–853u).

(ii) The Act of February 16, 1929 (Chapter 221, section 5; 45 Stat. 1187; 33 U.S.C. 852a).

(iii) The Act of January 19, 1942 (Chapter 6; 56 Stat. 6).

(iv) Section 9 of Public Law 87–649 (76 Stat. 495).

(v) The Act of May 22, 1917 (Chapter 20, section 16; 40 Stat. 87; 33 U.S.C. 854 et seq.).

(vi) The Act of December 3, 1942 (Chapter 670; 56 Stat. 1038.

(vii) Sections 1 through 5 of Public Law 91–621 (84 Stat. 1863; 33 U.S.C. 857–1 et seq.).

(viii) The Act of August 10, 1956 (Chapter 1041, section 3; 70A Stat. 619; 33 U.S.C. 857a).

(ix) The Act of May 18, 1920 (Chapter 190, section 11; 41 Stat. 603; 33 U.S.C. 864).

(x) The Act of July 22, 1947 (Chapter 286; 61 Stat. 400; 33 U.S.C. 873, 874).

(xi) The Act of August 3, 1956 (Chapter 932; 70 Stat. 988; 33 U.S.C. 875, 876).

(xii) All other Acts inconsistent with this subsection.

No repeal under this subparagraph shall affect any annuity or other similar benefit payable, under any provision of law so repealed, based on the separation of any individual from the NOAA Corps or its successor on or before September 30, 1998. Any authority exercised by the Secretary of Commerce or his designee with respect to any such benefits shall be exercised by the Administrator of Science, Oceans, and the Atmosphere, and any authorization of appropriations relating to those benefits, which is in effect as of September 30, 1998, shall be considered to have remained in effect.

(B) The effective date of the repeals under subparagraph (A) shall be October 1, 1998.

(C)(i) All laws relating to the retirement of commissioned officers of the Navy shall apply to commissioned officers of the former Commissioned Officers Corps of the National Oceanic and Atmospheric Administration and its predecessors.

(ii) Active service of officers of the former Commissioned Officers Corps of the National Oceanic and Atmospheric Administration and its predecessors who have retired from the Commissioned Officers Corps shall be deemed to be active military service in the United States Navy for purposes of all rights, privileges, immunities, and benefits provided to retired commissioned officers of the Navy by the laws and regulations of the United States and any agency thereof. In the Administration of those laws and regulations with respect to retired officers of the former Commissioned Officers Corps of the National Oceanic and Atmospheric Administration and its predecessors, the authority of the Secretary of the Navy shall be exercised by the Administrator of Science, Oceans, and the Atmosphere.

(iii) For purposes of this subparagraph, the term ''its predecessors'' means the former Commissioned Officers Corps of the Environmental Science Services Administration and the former Commissioned Officers Corps of the Coast and Geodetic Survey.

(7) CREDITABILITY OF NOAA SERVICE FOR PURPOSES RELATING TO REDUCTIONS IN FORCE.—A commissioned officer who is separated from the active list of the National Oceanic and Atmospheric Administration or its successor because of paragraph (1) shall, for purposes of any subsequent reduction in force, receive credit for any period of service performed as such an officer before separation from such list to the same extent and in the same manner as if it had been a period of active service in the Armed Forces.

(8) ABOLITION.—The Office of the National Oceanic and Atmospheric Administration Corps of Operations or its successor and the Commissioned Personnel Center are abolished effective September 30, 1998.

(h) NOAA FLEET.—

(1) SERVICE CONTRACTS.—Notwithstanding any other provision of law and subject to the availability of appropriations, the Administrator of Science, Oceans, and the Atmosphere shall enter into contracts, including multiyear contracts, subject to paragraph (3), for the use of vessels to conduct oceanographic research and fisheries research, monitoring, enforcement, and management, and to acquire other data necessary to carry out the missions of the National Scientific, Oceanic, and Atmospheric Administration. The Administrator of Science, Oceans, and the Atmosphere shall enter into these contracts unless—

(A) the cost of the contract is more than the cost (including the cost of vessel operation, maintenance, and all personnel) to the National Scientific, Oceanic, and Atmospheric Administration of obtaining those services on vessels of the National Scientific, Oceanic, and Atmospheric Administration;

(B) the contract is for more than 7 years; or

(C) the data is acquired through a vessel agreement pursuant to paragraph (4).

(2) VESSELS.—The Administrator of Science, Oceans, and the Atmosphere may not enter into any contract for the construction, lease-purchase, upgrade, or service life extension of any vessel.

(3) MULTIYEAR CONTRACTS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), and notwithstanding section 1341 of title 31, United States Code, and section 11 of title 41, United States Code, the Administrator of Science, Oceans, and the Atmosphere may acquire data under multiyear contracts.

(B) REQUIRED FINDINGS.—The Administrator of Science, Oceans, and the Atmosphere may not enter into a contract pursuant to this paragraph unless such Administrator finds with respect to that contract that there is a reasonable expectation that throughout the contemplated contract period the Administrator will request from Congress funding for the contract at the level required to avoid contract termination.

(C) REQUIRED PROVISIONS.—The Administrator of Science, Oceans, and the Atmosphere may not enter into a contract pursuant to this paragraph unless the contract includes—

(i) a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;

(ii) a provision that specifies the term of effectiveness of the contract; and

(iii) appropriate provisions under which, in case of any termination of the contract before the end of the term specified pursuant to clause (ii), the United States shall only be liable for the lesser of—

(I) an amount specified in the contract for such a termination; or

(II) amounts that were appropriated before the date of the termination for the performance of the contract or for procurement of the type of acquisition covered by the contract and are unobligated on the date of the termination.

(4) VESSEL AGREEMENTS.—The Administrator of Science, Oceans, and the Atmosphere shall use excess capacity of University National Oceanographic Laboratory System vessels where appropriate and may enter into memoranda of agreement with the operators of these vessels to carry out this requirement.

(5) TRANSFER OF EXCESS VESSELS.—The Administrator of Science, Oceans, and the Atmosphere shall transfer any vessels over 1,500 gross tons that are excess to the needs of the National Scientific, Oceanic, and Atmospheric Administration to the National Defense Reserve Fleet. Notwithstanding any other provision of law, these vessels may be scrapped in accordance with section 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1160(i)).

(i) NATIONAL MARINE FISHERIES SERVICE.—(1) There are transferred to the National Scientific, Oceanic, and Atmospheric Administration all functions that on the day before the effective date of this section were authorized by law to be performed by the National Marine Fisheries Service.

(2) Notwithstanding any other provision of law, the National Marine Fisheries Service may not affect on-land activities under the Endangered Species Act of 1973 for salmon recovery in the State of Idaho (16 U.S.C. 1531 et seq.).

(j) NATIONAL OCEAN SERVICE.—Except as otherwise provided in this title, there are transferred to the National Scientific, Oceanic, and Atmospheric Administration all functions and assets of the National Oceanic and Atmospheric Administration that on the date immediately before the effective date of this section were authorized to be performed by the National Ocean Service (including the Coastal Ocean Program).

(k) TRANSFER OF COASTAL NONPOINT POLLUTION CONTROL FUNCTIONS.—There are transferred to the Administrator of the Environmental Protection Agency the functions under section 6217 of the Omnibus Budget Reconciliation Act of 1990 (16 U.S.C. 1455b) that on the day before the effective date of this section were vested in the Secretary of Commerce.

SEC. 2206. NATIONAL SCIENTIFIC, OCEANIC, AND ATMOSPHERIC ADMINISTRATION.

(a) ESTABLISHMENT.—There is established as an independent agency in the Executive Branch the National Scientific, Oceanic, and Atmospheric Administration (in this section referred to as the ''NSOAA''). The NSOAA, and all functions and offices transferred to it under this title, shall be administered under the supervision and direction of an Administrator of Science, Oceans, and the Atmosphere. The Administrator of Science, Oceans, and the Atmosphere shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive basic pay at the rate payable for level II of the Executive Schedule under section 5313 of title 5, United States Code. The Administrator of Science, Oceans, and the Atmosphere shall additionally perform the functions previously performed by the Administrator of the National Oceanic and Atmospheric Administration.

(b) PRINCIPAL OFFICER.—There shall be in the NSOAA, on the transfer of functions and offices under this title, a Director of the National Bureau of Standards, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) ADDITIONAL OFFICERS.—There shall be in the NSOAA—

(1) a Chief Financial Officer of the NSOAA, to be appointed by the President, by and with the advice and consent of the Senate;

(2) a Chief of External Affairs, to be appointed by the President, by and with the advice and consent of the Senate;

(3) a General Counsel, to be appointed by the President, by and with the advice and consent of the Senate; and

(4) an Inspector General, to be appointed in accordance with the Inspector General Act of 1978.

Each Officer appointed under this subsection shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(d) TRANSFER OF FUNCTIONS AND OFFICES.—Except as otherwise provided in this title, there are transferred to the NSOAA—

(1) the functions and offices of the National Oceanic and Atmospheric Administration, as provided in section 2205;

(2) the National Bureau of Standards, along with its functions and offices, as provided in section 2202; and

(3) the Office of Space Commerce, along with its functions and offices.

(e) ELIMINATION OF POSITIONS.—The Administrator of Science, Oceans, and the Atmosphere may eliminate positions that are no longer necessary because of the termination of functions under this section, section 2202, and section 2205.

(f) AGENCY TERMINATIONS.—

(1) TERMINATIONS.—On the date specified in section 2208(a), the following shall terminate:

(A) The Office of the Deputy Administrator and Assistant Secretary of the National Oceanic and Atmospheric Administration.

(B) The Office of the Deputy Under Secretary of the National Oceanic and Atmospheric Administration.

(C) The Office of the Chief Scientist of the National Oceanic and Atmospheric Administration.

(D) The position of Deputy Assistant Secretary for Oceans and Atmosphere.

(E) The position of Deputy Assistant Secretary for International Affairs.

(F) Any office of the National Oceanic and Atmospheric Administration or the National Bureau of Standards whose primary purpose is to perform high performance computing communications, legislative, personnel, public relations, budget, constituent, intergovernmental, international, policy and strategic planning, sustainable development, administrative, financial, educational, legal and coordination functions. These functions shall, as necessary, be performed only by officers described in subsection (c).

(G) The position of Associate Director of the National Institute of Standards and Technology.

(2) TERMINATION OF EXECUTIVE SCHEDULE POSITIONS.—Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for levels I through V of the Executive Schedule under sections 5312 through 5315 of title 5, United States Code, in an office terminated pursuant to this section, section 2202, and section 2205 shall also terminate.

(g) FUNDING REDUCTIONS RESULTING FROM REORGANIZATION.—

(1) FUNDING REDUCTIONS.—Notwithstanding the transfer of functions under this subtitle, the total amount obligated or expended by the United States in performing all functions vested in the National Scientific, Oceanic, and Atmospheric Administration pursuant to this subtitle shall not exceed—

(A) for the first fiscal year that begins after the abolishment date specified in section 2101(c), 75 percent of the total amount appropriated for fiscal year 1995 for the performance of all functions vested in the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and the Office of Space Commerce, except for those functions transferred under section 2205 to agencies or departments other than the National Scientific, Oceanic, and Atmospheric Administration; and

(B) for the second fiscal year that begins after the abolishment date specified in section 2101(c) and for each fiscal year thereafter, 65 percent of the total amount appropriated for fiscal year 1995 for the performance of all functions vested in the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and the Office of Space Commerce, except for those functions transferred under section 22045 to agencies or departments other than the National Scientific, Oceanic, and Atmospheric Administration.

(2) EXCEPTION.—Paragraph (1) shall not apply to obligations or expenditures incurred as a direct consequence of the termination, transfer, or other disposition of functions described in paragraph (1) pursuant to this subtitle.

(3) RULE OF CONSTRUCTION.—This subsection shall take precedence over any other provision of law unless such provision explicitly refers to this section and makes an exception to it.

(4) RESPONSIBILITY OF NATIONAL SCIENTIFIC, OCEANIC, AND ATMOSPHERIC ADMINISTRATION.—The National Scientific, Oceanic, and Atmospheric Administration, in consultation with the Director of the Office of Management and Budget, shall make such modifications in programs as are necessary to carry out the reductions in appropriations set forth in subparagraphs (A) and (B) of paragraph (1).

(5) RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall include in each report under sections 2105(a) and (b) a description of actions taken to comply with the requirements of this subsection.

SEC. 2207. MISCELLANEOUS TERMINATIONS; MORATORIUM ON PROGRAM ACTIVITIES.

(a) TERMINATIONS.—The following agencies and programs of the Department of Commerce are terminated:

(1) The Minority Business Development Administration.

(2) The United States Travel and Tourism Administration.

(3) The programs and activities of the National Telecommunications and Information Administration referred to in section 2204(a).

(4) The Advanced Technology Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n).

(5) The Manufacturing Extension Programs under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l).

(6) The National Institute of Standards and Technology METRIC Program.

(b) MORATORIUM ON PROGRAM ACTIVITIES.—The authority to make grants, enter into contracts, provide assistance, incur obligations, or provide commitments (including any enlargement of existing obligations or commitments, except if required by law) with respect to the agencies and programs described in subsection (a) is terminated effective on the date of the enactment of this title.

SEC. 2208. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle shall take effect on the abolishment date specified in section 2101(c).

(b) PROVISIONS EFFECTIVE ON DATE OF ENACTMENT.—The following provisions of this subtitle shall take effect on the date of the enactment of this Act:

(1) Section 2201.

(2) Section 2205(g), except as otherwise provided in that section.

(3) Section 2207(b).

(4) This section.

Subtitle C—Office of United States Trade Representative

CHAPTER 1—GENERAL PROVISIONS

SEC. 2301. DEFINITIONS.

For purposes of this subtitle—

(1) the term ''Office'' means the Office of the United States Trade Representative;

(2) the term ''Federal agency'' has the meaning given to the term ''agency'' by section 551(1) of title 5, United States Code; and

(3) the term ''USTR'' means the United States Trade Representative as provided for under section 2311.

CHAPTER 2—OFFICE OF UNITED STATES TRADE REPRESENTATIVE

Subchapter A—Establishment

SEC. 2311. ESTABLISHMENT OF THE OFFICE.

(a) IN GENERAL.—The Office of the United States Trade Representative is established as an independent establishment in the executive branch of Government as defined under section 104 of title 5, United States Code. The United States Trade Representative shall be the head of the Office and shall be appointed by the President, by and with the advice and consent of the Senate.

(b) AMBASSADOR STATUS.—The USTR shall have the rank and status of Ambassador and shall represent the United States in all trade negotiations conducted by the Office.

(c) CONTINUED SERVICE OF CURRENT USTR.—The individual serving as United States Trade Representative on the date immediately preceding the effective date of this subtitle may continue to serve as USTR under subsection (a).

(d) SUCCESSOR TO THE DEPARTMENT OF COMMERCE.—The Office shall be the successor to the Department of Commerce for purposes of protocol.

SEC. 2312. FUNCTIONS OF THE USTR.

(a) IN GENERAL.—In addition to the functions transferred to the USTR by this subtitle, such other functions as the President may assign or delegate to the USTR, and such other functions as the USTR may, after the effective date of this subtitle, be required to carry out by law, the USTR shall—

(1) serve as the principal advisor to the President on international trade policy and advise the President on the impact of other policies of the United States Government on international trade;

(2) exercise primary responsibility, with the advice of the interagency organization established under section 242 of the Trade Expansion Act of 1962, for developing and implementing international trade policy, including commodity matters and, to the extent related to international trade policy, direct investment matters and, in exercising such responsibility, advance and implement, as the primary mandate of the Office, the goals of the United States to—

(A) maintain United States leadership in international trade liberalization and expansion efforts;

(B) reinvigorate the ability of the United States economy to compete in international markets and to respond flexibly to changes in international competition; and

(C) expand United States participation in international trade through aggressive promotion and marketing of goods and services that are products of the United States;

(3) exercise lead responsibility for the conduct of international trade negotiations, including negotiations relating to commodity matters and, to the extent that such negotiations are related to international trade, direct investment negotiations;

(4) exercise lead responsibility for the establishment of a national export strategy, including policies designed to implement such strategy;

(5) with the advice of the interagency organization established under section 242 of the Trade Expansion Act of 1962, issue policy guidance to other Federal agencies on international trade, commodity, and direct investment functions to the extent necessary to assure the coordination of international trade policy;

(6) seek and promote new opportunities for United States products and services to compete in the world marketplace;

(7) assist small businesses in developing export markets;

(8) enforce the laws of the United States relating to trade;

(9) analyze economic trends and developments;

(10) report directly to the Congress—

(A) on the administration of, and matters pertaining to, the trade agreements program under the Omnibus Trade and Competitiveness Act of 1988, the Trade Act of 1974, the Trade Expansion Act of 1962, section 350 of the Tariff Act of 1930, and any other provision of law enacted after this Act; and

(B) with respect to other important issues pertaining to international trade;

(11) keep each official adviser to the United States delegations to international conferences, meetings, and negotiation sessions relating to trade agreements who is appointed from the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives under section 161 of the Trade Act of 1974 currently informed on United States negotiating objectives with respect to trade agreements, the status of negotiations in progress with respect to such agreements, and the nature of any changes in domestic law or the administration thereof which the USTR may recommend to the Congress to carry out any trade agreement;

(12) consult and cooperate with State and local governments and other interested parties on international trade matters of interest to such governments and parties, and to the extent related to international trade matters, on investment matters, and, when appropriate, hold informal public hearings;

(13) serve as the principal advisor to the President on Government policies designed to contribute to enhancing the ability of United States industry and services to compete in international markets;

(14) develop recommendations for national strategies and specific policies intended to enhance the productivity and international competitiveness of United States industries;

(15) serve as the principal advisor to the President in identifying and assessing the consequences of any Government policies that adversely affect, or have the potential to adversely affect, the international competitiveness of United States industries and services;

(16) promote cooperation between business, labor, and Government to improve industrial performance and the ability of United States industries to compete in international markets and to facilitate consultation and communication between the Government and the private sector about domestic industrial performance and prospects and the performance and prospects of foreign competitors; and

(17) monitor and enforce foreign government compliance with international trade agreements to protect United States interests.

(b) INTERAGENCY ORGANIZATION.—The USTR shall be the chairperson of the interagency organization established under section 242 of the Trade Expansion Act of 1962.

(c) NATIONAL SECURITY COUNCIL.—The USTR shall be a member of the National Security Council.

(d) ADVISORY COUNCIL.—The USTR shall be Deputy Chairman of the National Advisory Council on International Monetary and Financial Policies established under Executive Order 11269, issued February 14, 1966.

(e) AGRICULTURE.—(1) The USTR shall consult with the Secretary of Agriculture or the designee of the Secretary of Agriculture on all matters that potentially involve international trade in agricultural products.

(2) If an international meeting for negotiation or consultation includes discussion of international trade in agricultural products, the USTR or the designee of the USTR shall be Chairman of the United States delegation to such meeting and the Secretary of Agriculture or the designee of such Secretary shall be Vice Chairman. The provisions of this paragraph shall not limit the authority of the USTR under subsection (h) to assign to the Secretary of Agriculture responsibility for the conduct of, or participation in, any trade negotiation or meeting.

(f) TRADE PROMOTION.—The USTR shall be the chairperson of the Trade Promotion Coordinating Committee.

(g) NATIONAL ECONOMIC COUNCIL.—The USTR shall be a member of the National Economic Council established under Executive Order No. 12835, issued January 25, 1993.

(h) INTERNATIONAL TRADE NEGOTIATIONS.—Except where expressly prohibited by law, the USTR, at the request or with the concurrence of the head of any other Federal agency, may assign the responsibility for conducting or participating in any specific international trade negotiation or meeting to the head of such agency whenever the USTR determines that the subject matter of such international trade negotiation is related to the functions carried out by such agency.

Subchapter B—Officers

SEC. 2321. DEPUTY ADMINISTRATOR OF THE OFFICE.

(a) ESTABLISHMENT.—There shall be in the Office the Deputy Administrator of the Office of the United States Trade Representative, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) ABSENCE, DISABILITY, OR VACANCY OF USTR.—The Deputy Administrator of the Office of the United States Trade Representative shall act for and exercise the functions of the USTR during the absence or disability of the USTR or in the event the office of the USTR becomes vacant. The Deputy Administrator shall act for and exercise the functions of the USTR until the absence or disability of the USTR no longer exists or a successor to the USTR has been appointed by the President and confirmed by the Senate.

(c) FUNCTIONS OF DEPUTY ADMINISTRATOR.—The Deputy Administrator of the Office of the United States Trade Representative shall exercise all functions, under the direction of the USTR, transferred to or established in the Office, except those functions exercised by the Deputy United States Trade Representatives, the Director General for Export Promotion, the Inspector General, and the General Counsel of the Office, as provided by this subtitle.

SEC. 2322. DEPUTY UNITED STATES TRADE REPRESENTATIVES.

(a) ESTABLISHMENT.—There shall be in the Office 2 Deputy United States Trade Representatives, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy United States Trade Representatives shall exercise all functions under the direction of the USTR, and shall include—

(1) the Deputy United States Trade Representative for Negotiations; and

(2) the Deputy United States Trade Representative to the World Trade Organization.

(b) FUNCTIONS OF DEPUTY UNITED STATES TRADE REPRESENTATIVES.—(1) The Deputy United States Trade Representative for Negotiations shall exercise all functions transferred under section 2331 and shall have the rank and status of Ambassador.

(2) The Deputy United States Trade Representative to the World Trade Organization shall exercise all functions relating to representation to the World Trade Organization and shall have the rank and status of Ambassador.

SEC. 2323. ASSISTANT ADMINISTRATORS.

(a) ESTABLISHMENT.—There shall be in the Office 3 Assistant Administrators, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Administrators shall exercise all functions under the direction of the Deputy Administrator of the Office of the United States Trade Representative and include—

(1) the Assistant Administrator for Export Administration;

(2) the Assistant Administrator for Import Administration; and

(3) the Assistant Administrator for Trade and Policy Analysis.

(b) FUNCTIONS OF ASSISTANT ADMINISTRATORS.—(1) The Assistant Administrator for Export Administration shall exercise all functions transferred under section 2332(1)(C).

(2) The Assistant Administrator for Import Administration shall exercise all functions transferred under section 2332(1)(D).

(3) The Assistant Administrator for Trade and Policy Analysis shall exercise all functions transferred under section 2332(1)(B) and all functions transferred under section 2332(2).

SEC. 2324. DIRECTOR GENERAL FOR EXPORT PROMOTION.

(a) ESTABLISHMENT.—There shall be a Director General for Export Promotion, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS.—The Director General for Export Promotion shall exercise, under the direction of the USTR, all functions transferred under sections 2332(1)(A) (relating to functions of the United States and Foreign Commercial Service) and 2333 and shall have the rank and status of Ambassador.

SEC. 2325. GENERAL COUNSEL.

There shall be in the Office a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall provide legal assistance to the USTR concerning the activities, programs, and policies of the Office.

SEC. 2326. INSPECTOR GENERAL.

There shall be in the Office an Inspector General who shall be appointed in accordance with the Inspector General Act of 1978, as amended by section 2371(b) of this Act.

SEC. 2327. CHIEF FINANCIAL OFFICER.

There shall be in the Office a Chief Financial Officer who shall be appointed in accordance with section 901 of title 31, United States Code, as amended by section 2371(e) of this Act. The Chief Financial Officer shall perform all functions prescribed by the Deputy Administrator of the Office of the United States Trade Representative, under the direction of the Deputy Administrator.

Subchapter C—Transfers to the Office

SEC. 2331. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

There are transferred to the USTR all functions of the United States Trade Representative and the Office of the United

States Trade Representative in the Executive Office of the President and all functions of any officer or employee of such Office.

SEC. 2332. TRANSFERS FROM THE DEPARTMENT OF COMMERCE.

There are transferred to the USTR the following functions:

(1) All functions of, and all functions performed under the direction of, the following officers and employees of the Department of Commerce:

(A) The Under Secretary of Commerce for International Trade, and the Director General of the United States and Foreign Commercial Service, relating to all functions exercised by the Service.

(B) The Assistant Secretary of Commerce for International Economic Policy and the Assistant Secretary of Commerce for Trade Development.

(C) The Under Secretary of Commerce for Export Administration.

(D) The Assistant Secretary of Commerce for Import Administration.

(2) All functions of the Secretary of Commerce relating to the National Trade Data Bank.

(3) All functions of the Secretary of Commerce under the Tariff Act of 1930, the Uruguay Round Agreements Act, the Trade Act of 1974, and other trade-related Acts for which responsibility is not otherwise assigned under this subtitle.

SEC. 2333. TRADE AND DEVELOPMENT AGENCY.

There are transferred to the Director General for Export Promotion all functions of the Director of the Trade and Development Agency. There are transferred to the Office of the Director General for Export Promotion all functions of the Trade and Development Agency.

SEC. 2334. EXPORT-IMPORT BANK.

(a) IN GENERAL.—(1) There are transferred to the USTR all functions of the Secretary of Commerce relating to the Export-Import Bank of the United States.

(2) Section 3(c)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(c)(1)) is amended to read as follows:

''(c)(1) There shall be a Board of Directors of the Bank consisting of the United States Trade Representative (who shall serve as Chairman), the President of the Export-Import Bank of the United States (who shall serve as Vice Chairman), the first Vice President, and 2 additional persons appointed by the President of the United States, by and with the advice and consent of the Senate.''.

(b) EX OFFICIO MEMBER OF EXPORT-IMPORT BANK BOARD OF DIRECTORS.—The Director General for Export Promotion shall serve as an ex officio nonvoting member of the Board of Directors of the Export-Import Bank.

(c) AMENDMENTS TO RELATED BANKING AND TRADE ACTS.—Section 2301(h) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(h)) is amended to read as follows:

''(h) ASSISTANCE TO EXPORT-IMPORT BANK.—The Commercial Service shall provide such services as the Director General for Export Promotion of the Office of the United States Trade Representative determines necessary to assist the Export-Import Bank of the United States to carry out the lending, loan guarantee, insurance, and other activities of the Bank.''.

SEC. 2335. OVERSEAS PRIVATE INVESTMENT CORPORATION.

(a) BOARD OF DIRECTORS.—The second and third sentences of section 233(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2193(b)) are amended to read as follows: ''The United States Trade Representative shall be the Chairman of the Board. The Administrator of the Agency for International Development (who shall serve as Vice Chairman) shall serve on the Board.''.

(b) EX OFFICIO MEMBER OF OVERSEAS PRIVATE INVESTMENT CORPORATION BOARD OF DIRECTORS.—The Director General for Export Promotion shall serve as an ex officio nonvoting member of the Board of Directors of the Overseas Private Investment Corporation.

SEC. 2336. CONSOLIDATION OF EXPORT PROMOTION AND FINANCING ACTIVITIES.

(a) SUBMISSION OF PLAN.—Within 180 days after the date of the enactment of this Act, the President shall transmit to the Congress a comprehensive plan to consolidate Federal nonagricultural export promotion activities and export financing activities and to transfer those functions to the Office. The plan shall provide for—

(1) the elimination of the overlap and duplication among all Federal nonagricultural export promotion activities and export financing activities;

(2) a unified budget for Federal nonagricultural export promotion activities which eliminates funding for the areas of overlap and duplication identified under paragraph (1); and

(3) a long-term agenda for developing better cooperation between local, State and Federal programs and activities designed to stimulate or assist United States businesses in exporting nonagricultural goods or services that are products of the United States, including sharing of facilities, costs, and export market research data.

(b) PLAN ELEMENTS.—The plan under subsection (a) shall—

(1) place all Federal nonagricultural export promotion activities and export financing activities within the Office;

(2) provide clear authority for the USTR to use the expertise and assistance of other United States Government agencies;

(3) achieve an overall 25 percent reduction in the amount of funding for all Federal nonagricultural export promotion activities within 2 years after the enactment of this Act;

(4) include any functions of the Department of Commerce not transferred by this subtitle, or of other Federal departments the transfer of which to the Office would be necessary to the competitiveness of the United States in international trade; and

(5) assess the feasibility and potential savings resulting from—

(A) the consolidation of the Export-Import Bank of the United States and the Overseas Private Investment Corporation;

(B) the consolidation of the Boards of Directors of the Export-Import Bank and the Overseas Private Investment Corporation; and

(C) the consolidation of the Trade and Development Agency with the consolidations under subparagraphs (A) and (B).

(c) DEFINITION.—As used in this section, the term ''Federal nonagricultural export promotion activities'' means all programs or activities of any department or agency of the Federal Government (including, but not limited to, departments and agencies with representatives on the Trade Promotion Coordinating Committee established under section 2312 of the Export Enhancement Act of 1988 (15 U.S.C. 4727)) that are designed to stimulate or assist United States businesses in exporting nonagricultural goods or services that are products of the United States, including trade missions.

SEC. 2337. ADDITIONAL TRADE FUNCTIONS.

(a) TERMINATION OF AUTHORIZATIONS OF APPROPRIATIONS.—

(1) NAFTA SECRETARIAT.—Section 105(b) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3315(b)) is amended by striking ''each fiscal year after fiscal year 1993'' and inserting ''each of fiscal years 1994 and 1995''.

(2) BORDER ENVIRONMENT COOPERATION COMMISSION.—Section 533(a)(2) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3473(a)(2)) is amended by striking ''and each fiscal year thereafter'' and inserting ''fiscal year 1995''.

(b) FUNCTIONS RELATED TO TEXTILE AGREEMENTS.—

(1) FUNCTIONS OF CITA.—(A) Subject to subparagraph (B), those functions delegated to the Committee for the Implementation of Textile Agreements established under Executive Order 11651 (7 U.S.C. 1854 note) (hereafter in this subsection referred to as ''CITA'') are transferred to the USTR.

(B) Those functions delegated to CITA that relate to the assessment of the impact of textile imports on domestic industry are transferred to the International Trade Commission. The International Trade Commission shall make a determination pursuant to the preceding sentence within 60 days after receiving a complaint or request for an investigation.

(2) ABOLITION OF CITA.—CITA is abolished.

Subchapter D—Administrative Provisions

SEC. 2341. PERSONNEL PROVISIONS.

(a) APPOINTMENTS.—The USTR may appoint and fix the compensation of such officers and employees, including investigators, attorneys, and administrative law judges, as may be necessary to carry out the functions of the USTR and the Office. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(b) POSITIONS ABOVE GS–15.—(1) At the request of the USTR, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in a grade level above GS–15 of the General Service, and in the Senior Executive Service, of a number of positions in the Office equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred by this subtitle and which were assigned and filled on the day before the effective date of this subtitle.

(2) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this subtitle and, on the day before the effective date of this subtitle, holds a position and has duties comparable to those of the position to which appointed under this subsection.

(3) The authority under this subsection with respect to any position established at a grade level above GS–15 shall terminate when the person first appointed to fill such position ceases to hold such position.

(4) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as the individual occupied on the day before the effective date of this subtitle.

(c) EXPERTS AND CONSULTANTS.—The USTR may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate such experts and consultants for each day (including traveltime) at rates not in excess of the maximum rate of pay for a position above GS–15 of the General Schedule under section 5332 of such title. The USTR may pay experts and consultants who are serving away from their homes or regular place of business travel expenses and per diem in lieu

of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

(d) VOLUNTARY SERVICES.—(1)(A) The USTR is authorized to accept voluntary and uncompensated services without regard to the provisions of section 1342 of title 31, United States Code, if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The USTR is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The USTR is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for individuals who provide voluntary services under subparagraph (A) or (B) of paragraph (1).

(3) An individual who provides voluntary services under paragraph (1)(A) shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(e) FOREIGN SERVICE POSITIONS.—In order to assure United States representation in trade matters at a level commensurate with the level of representation maintained by industrial nations which are major trade competitors of the United States, the Secretary of State shall classify certain positions at Foreign Service posts as commercial minister positions and shall assign members of the Foreign Service performing functions of the Office, with the concurrence of the USTR, to such positions in nations which are major trade competitors of the United States. The Secretary of State shall obtain and use the recommendations of the USTR with respect to the number of positions to be so classified under this subsection.

SEC. 2342. DELEGATION AND ASSIGNMENT.

Except where otherwise expressly prohibited by law or otherwise provided by this subtitle, the USTR may delegate any of the functions transferred to the USTR by this subtitle and any function transferred or granted to the USTR after the effective date of this subtitle to such officers and employees of the Office as the USTR may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the USTR under this section or under any other provision of this subtitle shall relieve the USTR of responsibility for the administration of such functions.

SEC. 2343. SUCCESSION.

(a) ORDER OF SUCCESSION.—Subject to the authority of the President, and except as provided in section 2321(b), the USTR shall prescribe the order by which officers of the Office who are appointed by the President, by and with the advice and consent of the Senate, shall act for, and perform the functions of, the USTR or any other officer of the Office appointed by the President, by and with the advice and consent of the Senate, during the absence or disability of the USTR or such other officer, or in the event of a vacancy in the office of the USTR or such other officer.

(b) CONTINUATION.—Notwithstanding any other provision of law, and unless the President directs otherwise, an individual acting for the USTR or another officer of the Office pursuant to subsection (a) shall continue to serve in that capacity until the absence or disability of the USTR or such other officer no longer exists or a successor to the USTR or such other officer has been appointed by the President and confirmed by the Senate.

SEC. 2344. REORGANIZATION.

(a) IN GENERAL.—Subject to subsection (b), the USTR is authorized to allocate or reallocate functions among the officers of the Office, and to establish, consolidate, alter, or discontinue such organizational entities in the Office as may be necessary or appropriate.

(b) EXCEPTION.—The USTR may not exercise the authority under subsection (a) to establish, consolidate, alter, or discontinue any organizational entity in the Office or allocate or reallocate any function of an officer or employee of the Office that is inconsistent with any specific provision of this subtitle.

SEC. 2345. RULES.

The USTR is authorized to prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the USTR determines necessary or appropriate to administer and manage the functions of the USTR or the Office.

SEC. 2346. FUNDS TRANSFER.

The USTR may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Office, except that no appropriation for any fiscal year shall be either increased or decreased by more than 10 percent and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

SEC. 2347. CONTRACTS, GRANTS, AND COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—Subject to the provisions of the Federal Property and Administrative Services Act of 1949, the USTR may make, enter into, and perform such contracts, leases, cooperative agreements, grants, or other similar transactions with public agencies, private organizations, and persons, and make payments (in lump sum or installments, and by way of advance or reimbursement, and, in the case of any grant, with necessary adjustments on account of overpayments and underpayments) as the USTR considers necessary or appropriate to carry out the functions of the USTR or the Office.

(b) EXCEPTION.—Notwithstanding any other provision of this subtitle, the authority to enter into contracts or to make payments under this subchapter shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts. This subsection does not apply with respect to the authority granted under section 2349.

SEC. 2348. USE OF FACILITIES.

(a) USE BY USTR.—With their consent, the USTR, with or without reimbursement, may use the research, services, equipment, and facilities of—

(1) an individual,

(2) any public or private nonprofit agency or organization, including any agency or instrumentality of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States,

(3) any political subdivision of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, or

(4) any foreign government,

in carrying out any function of the USTR or the Office.

(b) USE OF USTR FACILITIES.—The USTR, under terms, at rates, and for periods that the USTR considers to be in the public interest, may permit the use by public and private agencies, corporations, associations or other organizations, or individuals, of any real property, or any facility, structure or other improvement thereon, under the custody of the USTR. The USTR may require permittees under this section to maintain or recondition, at their own expense, the real property, facilities, structures, and improvements used by such permittees.

SEC. 2349. GIFTS AND BEQUESTS.

(a) IN GENERAL.—The USTR is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Office. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the United States Treasury in a separate fund and shall be disbursed on order of the USTR. Property accepted pursuant to this subsection, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(b) TAX TREATMENT.—For the purpose of Federal income, estate, and gift taxes, and State taxes, property accepted under subsection (a) shall be considered a gift or bequest to or for the use of the United States.

(c) INVESTMENT.—Upon the request of the USTR, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in subsection (a). Income accruing from such securities, and from any other property held by the USTR pursuant to subsection (a), shall be deposited to the credit of the fund, and shall be disbursed upon order of the USTR.

SEC. 2350. WORKING CAPITAL FUND.

(a) ESTABLISHMENT.—The USTR is authorized to establish for the Office a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the USTR shall find to be desirable in the interest of economy and efficiency, including—

(1) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Office and its components;

(2) central messenger, mail, and telephone service and other communications services;

(3) office space and central services for document reproduction and for graphics and visual aids;

(4) a central library service; and

(5) such other services as may be approved by the Director of the Office of Management and Budget.

(b) OPERATION OF FUND.—The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the USTR may transfer to the fund, less the related liabilities and unpaid obligations. The fund shall be reimbursed in advance from available funds of agencies and offices in the Office, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain the fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to those services which the USTR determines will be performed.

SEC. 2351. SERVICE CHARGES.

(a) AUTHORITY.—Notwithstanding any other provision of law, the USTR may establish reasonable fees and commissions with respect to applications, documents, awards, loans, grants, research data, services, and assistance administered by the Office, and the USTR may change and abolish such fees and commissions. Before establishing, changing, or abolishing any schedule of fees or commissions under this section, the USTR may submit such schedule to the Congress.

(b) DEPOSITS.—The USTR is authorized to require a deposit before the USTR provides any item, information, service, or assistance for which a fee or commission is required under this section.

(c) DEPOSIT OF MONEYS.—Moneys received under this section shall be deposited in the Treasury in a special account for use by the USTR and are authorized to be appropriated and made available until expended.

(d) FACTORS IN ESTABLISHING FEES AND COMMISSIONS.—In establishing reasonable fees or commissions under this section, the USTR may take into account—

(1) the actual costs which will be incurred in providing the items, information, services, or assistance concerned;

(2) the efficiency of the Government in providing such items, information, services, or assistance;

(3) the portion of the cost that will be incurred in providing such items, information, services, or assistance which may be attributed to benefits for the general public rather than exclusively for the person to whom the items, information, services, or assistance is provided;

(4) any public service which occurs through the provision of such items, information, services, or assistance; and

(5) such other factors as the USTR considers appropriate.

(e) REFUNDS OF EXCESS PAYMENTS.—In any case in which the USTR determines that any person has made a payment which is not required under this section or has made a payment which is in excess of the amount required under this section, the USTR, upon application or otherwise, may cause a refund to be made from applicable funds.

SEC. 2352. SEAL OF OFFICE.

The USTR shall cause a seal of office to be made for the Office of such design as the USTR shall approve. Judicial notice shall be taken of such seal.

Subchapter E—Related Agencies

SEC. 2361. INTERAGENCY TRADE ORGANIZATION.

Section 242(a)(3) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)(3)) is amended to read as follows:

''(3)(A) The interagency organization established under subsection (a) shall be composed of—

''(i) the United States Trade Representative, who shall be the chairperson,

''(ii) the Secretary of Agriculture,

''(iii) the Secretary of the Treasury,

''(iv) the Secretary of Labor,

''(v) the Secretary of State, and

''(vi) the representatives of such other departments and agencies as the United States Trade Representative shall designate.

''(B) The United States Trade Representative may invite representatives from other agencies, as appropriate, to attend particular meetings if subject matters of specific functional interest to such agencies are under consideration. It shall meet at such times and with respect to such matters as the President or the chairperson shall direct.''.

SEC. 2362. NATIONAL SECURITY COUNCIL.

The fourth paragraph of section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended—

(1) by redesignating clauses (5), (6), and (7) as clauses (6), (7), and (8), respectively; and

(2) by inserting after clause (4) the following new clause:

''(5) the United States Trade Representative;''.

SEC. 2363. INTERNATIONAL MONETARY FUND.

Section 3 of the Bretton Woods Agreement Act is amended by adding at the end the following new subsection:

''(e) The United States executive director of the Fund shall consult with the United States Trade Representative with respect to matters under consideration by the Fund which relate to trade.''.

Subchapter F—Conforming Amendments

SEC. 2371. AMENDMENTS TO GENERAL PROVISIONS.

(a) INSPECTOR GENERAL.—The Inspector General Act of 1978 is amended—

(1) in subsection 9(a)(1) by inserting after subparagraph (W) the following:

''(X) of the United States Trade Representative, all functions of the Inspector General of the Department of Commerce and the Office of the Inspector General of the Department of Commerce relating to the functions transferred to the United States Trade Representative by section 2332 of the Department of Commerce Dismantling Act; and''; and

(2) in section 11—

(A) in paragraph (1) by inserting ''the United States Trade Representative;'' after ''the Attorney General;''; and

(B) in paragraph (2) by inserting ''the Office of the United States Trade Representative,'' after ''Treasury;''.

(b) AMENDMENT TO THE TRADE ACT OF 1974.—(1) Chapter 4 of title I of the Trade Act of 1974 is amended to read as follows:

''CHAPTER 4—REPRESENTATION IN TRADE NEGOTIATIONS

''SEC. 141. FUNCTIONS OF THE UNITED STATES TRADE REPRESENTATIVE.

''The United States Trade Representative established under section 2311 of the Department of Commerce Dismantling Act shall—

''(1) be the chief representative of the United States for each trade negotiation under this title or chapter 1 of title III of this Act, or subtitle A of title I of the Omnibus Trade and Competitiveness Act of 1988, or any other provision of law enacted after the Department of Commerce Dismantling Act;

''(2) report directly to the President and the Congress, and be responsible to the President and the Congress for the administration of trade agreements programs under this Act, the Omnibus Trade and Competitiveness Act of 1988, the Trade Expansion Act of 1962, section 350 of the Tariff Act of 1930, and any other provision of law enacted after the Department of Commerce Dismantling Act;

''(3) advise the President and the Congress with respect to nontariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements programs; and

''(4) be responsible for making reports to Congress with respect to the matters set forth in paragraphs (1) and (2).''.

(2) The table of contents in the first section of the Trade Act of 1974 is amended by striking the items relating to chapter 4 and section 141 and inserting the following:

''CHAPTER 4—REPRESENTATION IN TRADE NEGOTIATIONS

''Sec. 141. Functions of the United States Trade Representative.''.

(d) FOREIGN SERVICE PERSONNEL.—The Foreign Service Act of 1980 is amended by striking paragraph (3) of section 202(a) (22 U.S.C. 3922(a)) and inserting the following:

''(3) The United States Trade Representative may utilize the Foreign Service personnel system in accordance with this Act—

''(A) with respect to the personnel performing functions—

''(i) which were transferred to the Department of Commerce from the Department of State by Reorganization Plan No. 3 of 1979; and

''(ii) which were subsequently transferred to the United States Trade Representative by section 2332 of the Department of Commerce Dismantling Act; and

''(B) with respect to other personnel of the Office of United States Trade Representative to the extent the President determines to be necessary in order to enable the Office of the United States Trade Representative to carry out functions which require service abroad.''.

(e) CHIEF FINANCIAL OFFICERS.—Section 901(b)(1) of title 31, United States Code, is amended by adding at the end the following:

''(Q) The Office of the United States Trade Representative.''.

SEC. 2372. REPEALS.

Sections 1 and 2 of the Act of June 5, 1939 (15 U.S.C. 1502 and 1503; 53 Stat. 808), relating to the Under Secretary of Commerce, are repealed.

SEC. 2373. CONFORMING AMENDMENTS RELATING TO EXECUTIVE SCHEDULE POSITIONS.

(a) POSITIONS AT LEVEL I.—Section 5312 of title 5, United States Code, is amended by amending the item relating to the United States Trade Representative to read as follows:

''United States Trade Representative, Office of the United States Trade Representative.''.

(b) POSITIONS AT LEVEL II.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

''Deputy Administrator of the Office of the United States Trade Representative.

''Deputy United States Trade Representatives, Office of the United States Trade Representative (2).''.

(c) POSITIONS AT LEVEL III.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Assistant Administrators, Office of the United States Trade Representative (3).

''Director General for Export Promotion, Office of the United States Trade Representative.''.

(d) POSITIONS AT LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking the item relating to the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service; and

(2) by adding at the end the following:

''General Counsel, Office of the United States Trade Representative.

''Inspector General, Office of the United States Trade Representative.

''Chief Financial Officer, Office of the United States Trade Representative.''.

Subchapter G—Miscellaneous

SEC. 2381. EFFECTIVE DATE.

(a) IN GENERAL.—This subtitle shall take effect on the effective date specified in section 2208(a), except that—

(1) section 2336 shall take effect on the date of the enactment of this Act; and

(2) at any time after the date of the enactment of this Act the officers provided for in subchapter B may be nominated and appointed, as provided in such subchapter.

(b) INTERIM COMPENSATION AND EXPENSES.—Funds available to the Department of Commerce or the Office of the United States Trade Representative (or any official or component thereof), with respect to the functions transferred by this subtitle, may be used, with approval of the Director of the Office of Management and Budget, to pay the compensation and expenses of an officer appointed under subsection (a) who will carry

out such functions until funds for that purpose are otherwise available.

SEC. 2382. INTERIM APPOINTMENTS.

(a) IN GENERAL.—If one or more officers required by this subtitle to be appointed by and with the advice and consent of the Senate have not entered upon office on the effective date of this subtitle and notwithstanding any other provision of law, the President may designate any officer who was appointed by and with the advice and consent of the Senate, and who was such an officer on the day before the effective date of this subtitle, to act in the office until it is filled as provided by this subtitle.

(b) COMPENSATION.—Any officer acting in an office pursuant to subsection (a) shall receive compensation at the rate prescribed by this subtitle for such office.

SEC. 2383. FUNDING REDUCTIONS RESULTING FROM REORGANIZATION.

(a) FUNDING REDUCTIONS.—Notwithstanding the transfer of functions under this subtitle, and except as provided in subsection (b), the total amount appropriated by the United States in performing all functions vested in the USTR and the Office pursuant to this subtitle shall not exceed—

(1) for the first fiscal year that begins after the abolishment date specified in section 2101(c), 75 percent of the total amount appropriated in fiscal year 1995 for the performance of all such functions; and

(2) for the second fiscal year that begins after the abolishment date specified in section 2101(c) and for each fiscal year thereafter, 65 percent of the total amount appropriated in fiscal year 1995 for the performance of all such functions.

(b) EXCEPTION.—Subsection (a) shall not apply to obligations or expenditures incurred as a direct consequence of the termination, transfer, or other disposition of functions described in subsection (a) pursuant to this title.

(c) RULE OF CONSTRUCTION.—This section shall take precedence over any other provision of law unless such provision explicitly refers to this section and makes an exception to it.

(d) RESPONSIBILITY OF USTR.—The USTR, in consultation with the Director of the Office of Management and Budget, shall make such modifications in programs as are necessary to carry out the reductions in appropriations set forth in paragraph (1) and (2) of subsection (a).

(e) RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall include in each report under sections 2105(a) and (b) a description of actions taken to comply with the requirements of this section.

Subtitle D—Patent and Trademark Office Corporation

SEC. 2401. SHORT TITLE.

This subtitle may be cited as the ''Patent and Trademark Office Corporation Act of 1995''.

CHAPTER 1—PATENT AND TRADEMARK OFFICE

SEC. 2411. ESTABLISHMENT OF PATENT AND TRADEMARK OFFICE AS A CORPORATION.

Section 1 of title 35, United States Code, is amended to read as follows:

''§ 1. Establishment

''(a) ESTABLISHMENT.—The Patent and Trademark Office is established as a wholly owned Government corporation subject to chapter 91 of title 31, except as otherwise provided in this title.

''(b) OFFICES.—The Patent and Trademark Office shall maintain an office in the District of Columbia, or the metropolitan area thereof, for the service of process and papers and shall be deemed, for purposes of venue in civil actions, to be a resident of the district in which its principal office is located. The Patent and Trademark Office may establish offices in such other places as it considers necessary or appropriate in the conduct of its business.

''(c) REFERENCE.—For purposes of this title, the Patent and Trademark Office shall also be referred to as the 'Office'.''.

SEC. 2412. POWERS AND DUTIES.

Section 2 of title 35, United States Code, is amended to read as follows:

''§ 2. Powers and Duties

''(a) IN GENERAL.—The Patent and Trademark Office shall be responsible for—

''(1) the granting and issuing of patents and the registration of trademarks;

''(2) conducting studies, programs, or exchanges of items or services regarding domestic and international patent and trademark law or the administration of the Office, including programs to recognize, identify, assess, and forecast the technology of patented inventions and their utility to industry;

''(3) authorizing or conducting studies and programs cooperatively with foreign patent and trademark offices and international organizations, in connection with the granting and issuing of patents and the registration of trademarks; and

''(4) disseminating to the public information with respect to patents and trademarks.

''(b) SPECIFIC POWERS.—The Office—

''(1) shall have perpetual succession;

''(2) shall adopt and use a corporate seal, which shall be judicially noticed and with which letters patent, certificates of trademark registrations, and papers issued by the Office shall be authenticated;

''(3) may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings, subject to the provisions of section 8 of this title;

''(4) may indemnify the Commissioner of Patents and Trademarks, and other officers, attorneys, agents, and employees (including members of the Management Advisory Board established in section 5) of the Office for liabilities and expenses incurred within the scope of their employment;

''(5) may adopt, amend, and repeal bylaws, rules, and regulations, governing the manner in which its business will be conducted and the powers granted to it by law will be exercised;

''(6) may acquire, construct, purchase, lease, hold, manage, operate, improve, alter, and renovate any real, personal, or mixed property, or any interest therein, as it considers necessary to carry out its functions;

''(7)(A) may make such purchases, contracts for the construction, maintenance, or management and operation of facilities, and contracts for supplies or services, without regard to section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759); and

''(B) may enter into and perform such purchases and contracts for printing services, including the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the products of such processes, as it considers necessary to carry out the functions of the Office, without regard to sections 501 through 517 and 1101 through 1123 of title 44;

''(8) may use, with their consent, services, equipment, personnel, and facilities of other departments, agencies, and instrumentalities of the Federal Government, on a reimbursable basis, and cooperate with such other departments, agencies, and instrumentalities in the establishment and use of services, equipment, and facilities of the Office;

''(9) may obtain from the Administrator of General Services such services as the Administrator is authorized to provide to other agencies of the United States, on the same basis as those services are provided to other agencies of the United States;

''(10) may use, with the consent of the United States and the agency, government, or international organization concerned, the services, records, facilities, or personnel of any State or local government agency or instrumentality or foreign government or international organization to perform functions on its behalf;

''(11) may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946');

''(12) may retain and use all of its revenues and receipts, including revenues from the sale, lease, or disposal of any real, personal, or mixed property, or any interest therein, of the Office, in carrying out the functions of the Office, including for research and development and capital investment, subject to the provisions of section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note);

''(13) shall have the priority of the United States with respect to the payment of debts from bankrupt, insolvent, and decedents' estates;

''(14) may accept monetary gifts or donations of services, or of real, personal, or mixed property, in order to carry out the functions of the Office;

''(15) may execute, in accordance with its bylaws, rules, and regulations, all instruments necessary and appropriate in the exercise of any of its powers;

''(16) may provide for liability insurance and insurance against any loss in connection with its property, other assets, or operations either by contract or by self-insurance; and

''(17) shall pay any settlement or judgment entered against it from the funds of the Office and not from amounts available under section 1304 of title 31.''.

SEC. 2413. ORGANIZATION AND MANAGEMENT.

Section 3 of title 35, United States Code, is amended to read as follows:

''§ 3. Officers and employees

''(a) COMMISSIONER.—

''(1) IN GENERAL.—The management of the Patent and Trademark Office shall be vested in a Commissioner of Patents and Trademarks (hereafter in this title referred to as the 'Commissioner'), who shall be a citizen of the United States and who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner shall be a person who, by reason of professional background and experience in patent and trademark law, is especially qualified to manage the Office.

''(2) DUTIES.—

''(A) IN GENERAL.—The Commissioner shall be responsible for the management and direction of the Office, including the issuance of patents and the registration of trademarks.

''(B) ADVISING THE PRESIDENT.—The Commissioner shall advise the President of all activities of the Patent and Trademark Office undertaken in response to obligations of the United States under treaties and executive agreements, or which relate to cooperative programs with those authorities of foreign governments that are responsible for granting patents or registering trademarks. The Commissioner shall also recommend to the President changes in law or policy which may improve the ability of United States citizens to secure and enforce patent rights

or trademark rights in the United States or in foreign countries.

''(C) CONSULTING WITH THE MANAGEMENT ADVISORY BOARD.—The Commissioner shall consult with the Management Advisory Board established in section 5 on a regular basis on matters relating to the operation of the Patent and Trademark Office, and shall consult with the Board before submitting budgetary proposals to the Office of Management and Budget or changing or proposing to change patent or trademark user fees or patent or trademark regulations.

''(D) SECURITY CLEARANCES.—The Commissioner, in consultation with the Director of the Office of Personnel Management, shall maintain a program for identifying national security positions and providing for appropriate security clearances.

''(3) TERM.—The Commissioner shall serve a term of 5 years, and may continue to serve after the expiration of the Commissioner's term until a successor is appointed and assumes office. The Commissioner may be reappointed to subsequent terms.

''(4) OATH.—The Commissioner shall, before taking office, take an oath to discharge faithfully the duties of the Office.

''(5) COMPENSATION.—The Commissioner shall receive compensation at the rate of pay in effect for Level III of the Executive Schedule under section 5314 of title 5.

''(6) REMOVAL.—The Commissioner may be removed from office by the President only for cause.

''(7) DESIGNEE OF COMMISSIONER.—The Commissioner shall designate an officer of the Office who shall be vested with the authority to act in the capacity of the Commissioner in the event of the absence or incapacity of the Commissioner.

''(b) OFFICERS AND EMPLOYEES OF THE OFFICE.—

''(1) DEPUTY COMMISSIONERS.—The Commissioner shall appoint a Deputy Commissioner for Patents and a Deputy Commissioner for Trademarks for terms that shall expire on the date on which the Commissioner's term expires. The Deputy Commissioner for Patents shall be a person with demonstrated experience in patent law and the Deputy Commissioner for Trademarks shall be a person with demonstrated experience in trademark law. The Deputy Commissioner for Patents and the Deputy Commissioner for Trademarks shall be the principal policy advisors to the Commissioner on all aspects of the activities of the Office that affect the administration of patent and trademark operations, respectively.

''(2) OTHER OFFICERS AND EMPLOYEES.—The Commissioner shall—

''(A) appoint an Inspector General and such other officers, employees (including attorneys), and agents of the Office as the Commissioner considers necessary to carry out its functions;

''(B) fix the compensation of such officers and employees; and

''(C) define the authority and duties of such officers and employees and delegate to them such of the powers vested in the Office as the Commissioner may determine.

The Office shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Office shall be taken into account for purposes of applying any such limitation, except to the extent otherwise specifically provided by statute with respect to the Office.

''(c) LIMITS ON COMPENSATION.—Except as otherwise provided in this title or any other provision of law, the basic pay of an officer or employee of the Office for any calendar year may not exceed the annual rate of basic pay in effect for level IV of the Executive Schedule under section 5315 of title 5. The Commissioner shall by regulation establish a limitation on the total compensation payable to officers or employees of the Office, which may not exceed the annual rate of basic pay in effect for level I of the Executive Schedule under section 5312 of title 5.

''(d) INAPPLICABILITY OF TITLE 5 GENERALLY.—Except as otherwise provided in this section, officers and employees of the Office shall not be subject to the provisions of title 5 relating to Federal employees.

''(e) CONTINUED APPLICABILITY OF CERTAIN PROVISION OF TITLE 5.—The following provisions of title 5 shall apply to the Office and its officers and employees:

''(1) Section 3110 (relating to employment of relatives; restrictions).

''(2) Subchapter II of chapter 55 (relating to withholding pay).

''(3) Subchapter II of chapter 73 (relating to employment limitations).

''(f) PROVISIONS OF TITLE 5 RELATING TO CERTAIN BENEFITS.—

''(1) RETIREMENT.—(A)(i) Any individual who becomes an officer or employee of the Office pursuant to subsection (h) shall, if such individual has at least 3 years of creditable service (within the meaning of section 8332 or 8411 of title 5) as of the effective date of the Patent and Trademark Office Corporation Act of 1995, remain subject to subchapter III of chapter 83 or chapter 84 of such title, as the case may be, so long as such individual continues to hold an office or position in or under the Office without a break in service.

''(ii)(I) Except as provided in subclause (II), with respect to an individual described in clause (i), the Office shall make the appropriate withholding from pay and shall pay the contributions required of an employing agency into the Civil Service Retirement and Disability Fund and, if applicable, the Thrift Savings Fund in accordance with applicable provisions of subchapter III of chapter 83 or chapter 84 of title 5, as the case may be.

''(II) In the case of an officer or employee who remains subject to subchapter III of chapter 83 of such title by virtue of this subparagraph, the Office shall, instead of the amount which would otherwise be required under the second sentence of section 8334(a)(1) of title 5, contribute an amount equal to the normal-cost percentage (determined with respect to officers and employees of the Office using dynamic assumptions, as defined by section 8401(9) of such title) of the individual's basic pay, minus the amount required to be withheld from such pay under such section 8334(a)(1).

''(B)(i) Notwithstanding subsection (d), the provisions of subchapter III of chapter 83 or chapter 84 of title 5 (as applicable) which relate to disability shall be considered to remain in effect, with respect to an individual who becomes an officer or employee of the Office pursuant to subsection (h), until the end of the 2-year period beginning on the effective date of the Patent and Trademark Office Corporation Act of 1995 or, if earlier, until such individual satisfies the prerequisites for coverage under any program offered by the Office to replace the disability retirement program under chapter 83 or 84 of title 5.

''(ii) This clause applies with respect to any officer or employee of the Office who is receiving disability coverage under this subparagraph and has completed the service requirement specified in the first sentence of section 8337(a) or 8451(a)(1)(A) of title 5 (as applicable), but who is not described in subparagraph (A)(i). In the case of any individual to whom this clause applies, the Office shall pay into the Civil Service Retirement and Disability Fund an amount equal to that portion of the normal-cost percentage (determined in the same manner as under subparagraph (A)(ii)(II)) of the basic pay of such individual (for service performed during the period during which such individual is receiving such coverage) allocable to such coverage. Any amounts payable under this clause shall be paid at such time and in such manner as mutually agreed to by the Office and the Office of Personnel Management, and shall be in lieu of any individual or agency contributions otherwise required.

''(2) HEALTH BENEFITS.—(A) Officers and employees of the Office shall not become ineligible to participate in the health benefits program under chapter 89 of title 5 by reason of subsection (d) until the effective date of elections made during the first election period (under section 8905(f) of title 5) beginning after the end of the 2-year period beginning on the effective date of the Patent and Trademark Office Corporation Act of 1995.

''(B)(i) With respect to any individual who becomes an officer or employee of the Office pursuant to subsection (h), the eligibility of such individual to participate in such program as an annuitant (or of any other person to participate in such program as an annuitant based on the death of such individual) shall be determined disregarding the requirements of section 8905(b) of title 5. The preceding sentence shall not apply if the individual ceases to be an officer or employee of the Office for any period of time after becoming an officer or employee of the Office pursuant to subsection (h) and before separation.

''(ii) The Government contributions authorized by section 8906 for health benefits for anyone participating in the health benefits program pursuant to this subparagraph shall be made by the Office in the same manner as provided under section 8906(g)(2) of title 5 with respect to the United States Postal Service for individuals associated therewith.

''(iii) For purposes of this subparagraph, the term 'annuitant' has the meaning given such term by section 8901(3) of title 5.

''(3) LIFE INSURANCE.—(A) Officers and employees of the Office shall not become ineligible to participate in the life insurance program under chapter 87 of title 5 by reason of subsection (d) until the first day after the end of the 2-year period beginning on the effective date of the Patent and Trademark Office Corporation Act of 1995.

''(B)(i) Eligibility for life insurance coverage after retirement or while in receipt of compensation under subchapter I of chapter 81 of title 5 shall be determined, in the case of any individual who becomes an officer or employee of the Office pursuant to subsection (h), without regard to the requirements of section 8706(b) (1) or (2), but subject to the condition specified in the last sentence of paragraph (2)(B)(i) of this subsection.

''(ii) Government contributions under section 8708(d) on behalf of any such individual shall be made by the Office in the same manner as provided under paragraph (3) thereof with respect to the United States Postal Service for individuals associated therewith.

''(4) EMPLOYEES' COMPENSATION FUND.—The Office shall remain responsible for reimbursing the Employees' Compensation Fund, pursuant to section 8147 of title 5, for compensation paid or payable after the effective date of the Patent and Trademark Office Corporation Act of 1995 in accordance with chapter 81 of title 5 with regard to any injury, disability, or death due to events arising before such date, whether or not a claim has been filed or is final on such date.

''(5) REQUIREMENT THAT THE OFFICE OFFER CERTAIN MINIMUM NUMBER OF LIFE AND HEALTH INSURANCE POLICIES.—The Office

shall offer at least 1 life insurance policy and at least 3 health insurance policies to its officers and employees, comparable to existing Federal benefits, beginning on the first day after the end of the 2-year period beginning on the effective date of the Patent and Trademark Office Corporation Act of 1995.

''(g) LABOR-MANAGEMENT RELATIONS.—

''(1) LABOR RELATIONS AND EMPLOYEE RELATIONS PROGRAMS.—The Office shall develop labor relations and employee relations programs with the objective of improving productivity and efficiency, incorporating the following principles:

''(A) Such programs shall be consistent with the merit principles in section 2301(b) of title 5.

''(B) Such programs shall provide veterans preference protections equivalent to those established by sections 2801, 3308–3318, and 3320 of title 5.

''(C)(i) In order to maximize individual freedom of choice in the pursuit of employment and to encourage an economic climate conducive to economic growth, the right to work shall not be subject to undue restraint or coercion. The right to work shall not be infringed or restricted in any way based on membership in, affiliation with, or financial support of a labor organization.

''(ii) No person shall be required, as a condition of employment or continuation of employment:

''(I) To resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization.

''(II) To become or remain a member of a labor organization.

''(III) To pay any dues, fees, assessments, or other charges of any kind or amount to a labor organization.

''(IV) To pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro-rata portion of dues, fees, assessments, or other charges regularly required of members of a labor organization.

''(V) To be recommended, approved, referred, or cleared by or through a labor organization.

''(iii) This subparagraph shall not apply to a person described in section 7103(a)(2)(v) of title 5 or a 'supervisor', 'management official', or 'confidential employee' as those terms are defined in 7103(a)(10), (11), and (13) of such title.

''(iv) Any labor organization recognized by the Office as the exclusive representative of a unit of employees of the Office shall represent the interests of all employees in that unit without discrimination and without regard to labor organization membership.

''(2) ADOPTION OF EXISTING LABOR AGREEMENTS.—The Office shall adopt all labor agreements which are in effect, as of the day before the effective date of the Patent and Trademark Office Corporation Act of 1995, with respect to such Office (as then in effect). Each such agreement shall remain in effect for the 2-year period commencing on such date, unless the agreement provides for a shorter duration or the parties agree otherwise before such period ends.

''(h) CARRYOVER OF PERSONNEL.—

''(1) FROM PTO.—Effective as of the effective date of the Patent and Trademark Office Corporation Act of 1995, all officers and employees of the Patent and Trademark Office on the day before such effective date shall become officers and employees of the Office, without a break in service.

''(2) OTHER PERSONNEL.—Any individual who, on the day before the effective date of the Patent and Trademark Office Corporation Act of 1995, is an officer or employee of the Department of Commerce (other than an officer or employee under paragraph (1)) shall be transferred to the Office if—

''(A) such individual serves in a position for which a major function is the performance of work reimbursed by the Patent and Trademark Office, as determined by the Secretary of Commerce;

''(B) such individual serves in a position that performed work in support of the Patent and Trademark Office during at least half of the incumbent's work time, as determined by the Secretary of Commerce; or

''(C) such transfer would be in the interest of the Office, as determined by the Secretary of Commerce in consultation with the Commissioner of Patents and Trademarks.

Any transfer under this paragraph shall be effective as of the same effective date as referred to in paragraph (1), and shall be made without a break in service.

''(3) ACCUMULATED LEAVE.—The amount of sick and annual leave and compensatory time accumulated under title 5 before the effective date described in paragraph (1), by officers or employees of the Patent and Trademark Office who so become officers or employees of the Office, are obligations of the Office.

''(4) TERMINATION RIGHTS.—Any employee referred to in paragraph (1) or (2) of this subsection whose employment with the Office is terminated during the 2-year period beginning on the effective date of the Patent and Trademark Office Corporation Act of 1995 shall be entitled to rights and benefits, to be afforded by the Office, similar to those such employee would have had under Federal law if termination had occurred immediately before such date. An employee who would have been entitled to appeal any such termination to the Merit Systems Protection Board, if such termination had occurred immediately before such effective date, may appeal any such termination occurring within this 2-year period to the Board under such procedures as it may prescribe.

''(5) CONTINUATION IN OFFICE OF CERTAIN OFFICERS.—(A) The individual serving as the Commissioner of Patents and Trademarks on the day before the effective date of the Patent and Trademark Office Corporation Act of 1995 may serve as the Commissioner until the earlier of 1 year after the effective date of that Act or the date on which a Commissioner is appointed under subsection (a).

''(B) The individual serving as the Assistant Commissioner for Patents on the day before the effective date of the Patent and Trademark Office Corporation Act of 1995 may serve as the Deputy Commissioner for Patents until the earlier of 1 year after the effective date of that Act or the date on which a Deputy Commissioner for Patents is appointed under subsection (b).

''(C) The individual serving as the Assistant Commissioner for Trademarks on the day before the effective date of the Patent and Trademark Office Corporation Act of 1995 may serve as the Deputy Commissioner for Trademarks until the earlier of 1 year after the effective date of that Act or the date on which a Deputy Commissioner for Trademarks is appointed under subsection (b).

''(i) COMPETITIVE STATUS.—For purposes of appointment to a position in the competitive service for which an officer or employee of the Office is qualified, such officer or employee shall not forfeit any competitive status, acquired by such officer or employee before the effective date of the Patent and Trademark Office Corporation Act of 1995, by reason of becoming an officer or employee of the Office pursuant to subsection (h).

''(j) SAVINGS PROVISIONS.—All orders, determinations, rules, and regulations regarding compensation and benefits and other terms and conditions of employment, in effect for the Office and its officers and employees immediately before the effective date of the Patent and Trademark Office Corporation Act of 1995, shall continue in effect with respect to the Office and its officers and employees until modified, superseded, or set aside by the Office or a court of appropriate jurisdiction or by operation of law.''.

SEC. 2414. MANAGEMENT ADVISORY BOARD.

Chapter 1 of part I of title 35, United States Code, is amended by inserting after section 4 the following:

''§ 5. Patent and Trademark Office Management Advisory Board

''(a) ESTABLISHMENT OF MANAGEMENT ADVISORY BOARD.—

''(1) APPOINTMENT.—The Patent and Trademark Office shall have a Management Advisory Board (hereafter in this title referred to as the 'Board') of 12 members, 4 of whom shall be appointed by the President, 4 of whom shall be appointed by the Speaker of the House of Representatives, and 4 of whom shall be appointed by the President pro tempore of the Senate. Not more than 3 of the 4 members appointed by each appointing authority shall be members of the same political party.

''(2) TERMS.—Members of the Board shall be appointed for a term of 4 years each, except that of the members first appointed by each appointing authority, 1 shall be for a term of 1 year, 1 shall be for a term of 2 years, and 1 shall be for a term of 3 years. No member may serve more than 1 term.

''(3) CHAIR.—The President shall designate the chair of the Board, whose term as chair shall be for 3 years.

''(4) TIMING OF APPOINTMENTS.—Initial appointments to the Board shall be made within 3 months after the effective date of the Patent and Trademark Office Corporation Act of 1995, and vacancies shall be filled within 3 months after they occur.

''(5) VACANCIES.—Vacancies shall be filled in the manner in which the original appointment was made under this subsection. Members appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor is appointed.

''(b) BASIS FOR APPOINTMENTS.—Members of the Board shall be citizens of the United States who shall be chosen so as to represent the interests of diverse users of the Patent and Trademark Office, and shall include individuals with substantial background and achievement in corporate finance and management.

''(c) APPLICABILITY OF CERTAIN ETHICS LAWS.—Members of the Board shall be special Government employees within the meaning of section 202 of title 18.

''(d) MEETINGS.—The Board shall meet at the call of the chair to consider an agenda set by the chair.

''(e) DUTIES.—The Board shall—

''(1) review the policies, goals, performance, budget, and user fees of the Patent and Trademark Office, and advise the Commissioner on these matters; and

''(2) within 60 days after the end of each fiscal year, prepare an annual report on the matters referred to in paragraph (1), transmit the report to the President and the Committees on the Judiciary of the Senate and the House of Representatives, and publish the report in the Patent and Trademark Office Official Gazette.

''(f) STAFF.—The Board shall employ a staff of not more than 10 members and shall procure support services for the staff adequate to enable the Board to carry out its functions, using funds available to the Commissioner under section 42 of this title. The

Board shall ensure that members of the staff, other than clerical staff, are especially qualified in the areas of patents, trademarks, or management of public agencies. Persons employed by the Board shall receive compensation as determined by the Board, which may not exceed the limitations set forth in section 3(c) of this title, shall serve in accordance with terms and conditions of employment established by the Board, and shall be subject solely to the direction of the Board, notwithstanding any other provision of law.

''(g) COMPENSATION.—Members of the Board shall be compensated for each day (including travel time) during which they are attending meetings or conferences of the Board or otherwise engaged in the business of the Board, at the rate which is the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

''(h) ACCESS TO INFORMATION.—Members of the Board shall be provided access to records and information in the Patent and Trademark Office, except for personnel or other privileged information and information concerning patent applications required to be kept in confidence by section 122 of this title.''.

SEC. 2415. INDEPENDENCE FROM DEPARTMENT OF COMMERCE.

(a) DUTIES OF COMMISSIONER.—Section 6 of title 35, United States Code, is amended—

(1) by striking '', under the direction of the Secretary of Commerce,'' each place it appears; and

(2) by striking '', subject to the approval of the Secretary of Commerce,''.

(b) REGULATIONS FOR AGENTS AND ATTORNEYS.—Section 31 of title 35, United States Code, is amended by striking '', subject to the approval of the Secretary of Commerce,''.

SEC. 2416. TRADEMARK TRIAL AND APPEAL BOARD.

Section 17 of the Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946'') (15 U.S.C. 1067) is amended to read as follows:

''SEC. 17. (a) In every case of interference, opposition to registration, application to register as a lawful concurrent user, or application to cancel the registration of a mark, the Commissioner shall give notice to all parties and shall direct a Trademark Trial and Appeal Board to determine and decide the respective rights of registration.

''(b) The Trademark Trial and Appeal Board shall include the Commissioner, the Deputy Commissioner for Patents, the Deputy Commissioner for Trademarks, and members competent in trademark law who are appointed by the Commissioner.''.

SEC. 2417. BOARD OF PATENT APPEALS AND INTERFERENCES.

Section 7 of title 35, United States Code, is amended to read as follows:

''§ 7. Board of Patent Appeals and Interferences

''(a) ESTABLISHMENT AND COMPOSITION.—There shall be in the Patent and Trademark Office a Board of Patent Appeals and Interferences. The Commissioner, the Deputy Commissioner for Patents, the Deputy Commissioner for Trademarks, and the examiners-in-chief shall constitute the Board. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability.

''(b) DUTIES.—The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, review adverse decisions of examiners upon applications for patents and shall determine priority and patentability of invention in interferences declared under section 135(a) of this title. Each appeal and interference shall be heard by at least 3 members of the Board, who shall be designated by the Commissioner. Only the Board of Patent Appeals and Interferences may grant rehearings.''.

SEC. 2418. SUITS BY AND AGAINST THE CORPORATION.

Chapter 1 of part I of title 35, United States Code, is amended—

(1) by redesignating sections 8 through 14 as sections 9 through 15; and

(2) by inserting after section 7 the following new section:

''§ 8. Suits by and against the Corporation

''(a) IN GENERAL.—

''(1) ACTIONS UNDER UNITED STATES LAW.—Any civil action or proceeding to which the Patent and Trademark Office is a party is deemed to arise under the laws of the United States. The Federal courts shall have exclusive jurisdiction over all civil actions by or against the Office.

''(2) CONTRACT CLAIMS.—Any action or proceeding against the Office in which any claim is cognizable under the Contract Disputes Act of 1978 (41 U.S.C. 601 and following) shall be subject to that Act. For purposes of that Act, the Commissioner shall be deemed to be the agency head with respect to contract claims arising with respect to the Office. Any other action or proceeding against the Office founded upon contract may be brought in an appropriate district court, notwithstanding any provision of title 28.

''(3) TORT CLAIMS.—(A) Any action or proceeding against the Office in which any claim is cognizable under the provisions of section 1346(b) and chapter 171 of title 28, shall be governed by those provisions.

''(B) Any other action or proceeding against the Office founded upon tort may be brought in an appropriate district court without regard to the provisions of section 1346(b) and chapter 171 of title 28.

''(4) PROHIBITION ON ATTACHMENT, LIENS, ETC.—No attachment, garnishment, lien, or similar process, intermediate or final, in law or equity, may be issued against property of the Office.

''(5) SUBSTITUTION OF OFFICE AS PARTY.—The Office shall be substituted as defendant in any civil action or proceeding against an officer or employee of the Office, if the Office determines that the officer or employee was acting within the scope of his or her employment with the Office. If the Office refuses to certify scope of employment, the officer or employee may at any time before trial petition the court to find and certify that the officer or employee was acting within the scope of his or her employment. Upon certification by the court, the Office shall be substituted as the party defendant. A copy of the petition shall be served upon the Office. In any such civil action or proceeding to which paragraph (3)(A) applies, the provisions of section 1346(b) and chapter 171 of title 28 shall apply in lieu of this paragraph.

''(b) RELATIONSHIP WITH JUSTICE DEPARTMENT.—

''(1) EXERCISE BY OFFICE OF ATTORNEY GENERAL'S AUTHORITIES.—Except as provided in this section, with respect to any action or proceeding in which the Office is a party or an officer or employee thereof is a party in his or her official capacity, the Office, officer, or employee may exercise, without prior authorization from the Attorney General, the authorities and duties that otherwise would be exercised by the Attorney General on behalf of the Office, officer, or employee under title 28 and other laws.

''(2) APPEARANCES BY ATTORNEY GENERAL.—Notwithstanding paragraph (1), at any time the Attorney General may, in any action or proceeding described in paragraph (1), file an appearance on behalf of the Office or the officer or employee involved, without the consent of the Office or the officer or employee. Upon such filing, the Attorney General shall represent the Office or such officer or employee with exclusive authority in the conduct, settlement, or compromise of that action or proceeding.

''(3) CONSULTATIONS WITH AND ASSISTANCE BY ATTORNEY GENERAL.—The Office may consult with the Attorney General concerning any legal matter, and the Attorney General shall provide advice and assistance to the Office, including representing the Office in litigation, if requested by the Office.

''(4) REPRESENTATION BEFORE SUPREME COURT.—The Attorney General shall represent the Office in all cases before the United States Supreme Court.

''(5) QUALIFICATIONS OF ATTORNEYS.—An attorney admitted to practice to the bar of the highest court of at least one State in the United States or the District of Columbia and employed by the Office may represent the Office in any legal proceeding in which the Office or an officer or employee of the Office is a party or interested, regardless of whether the attorney is a resident of the jurisdiction in which the proceeding is held and notwithstanding any other prerequisites of qualification or appearance required by the court or administrative body before which the proceeding is conducted.''.

SEC. 2419. ANNUAL REPORT OF COMMISSIONER.

Section 15 of title 35, United States Code, as redesignated by section 2418 of this Act, is amended to read as follows:

''§ 15. Annual report to Congress

''The Commissioner shall report to the Congress, not later than 180 days after the end of each fiscal year, the moneys received and expended by the Office, the purposes for which the moneys were spent, the quality and quantity of the work of the Office, and other information relating to the Office. The report under this section shall also meet the requirements of section 9106 of title 31, to the extent that such requirements are not inconsistent with the preceding sentence. The report required under this section shall be deemed to be the report of the Patent and Trademark Office under section 9106 of title 31, and the Commissioner shall not file a separate report under such section.''.

SEC. 2420. SUSPENSION OR EXCLUSION FROM PRACTICE.

Section 32 of title 35, United States Code, is amended by inserting before the last sentence the following: ''The Commissioner shall have the discretion to designate any attorney who is an officer or employee of the Patent and Trademark Office to conduct the hearing required by this section.''.

SEC. 2421. FUNDING.

Section 42 of title 35, United States Code, is amended to read as follows:

''§ 42. Patent and Trademark Office funding

''(a) FEES PAYABLE TO THE OFFICE.—All fees for services performed by or materials furnished by the Patent and Trademark Office shall be payable to the Office.

''(b) USE OF MONEYS.—Moneys of the Patent and Trademark Office not otherwise used to carry out the functions of the Office shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed by the United States, or in obligations or other instruments which are lawful investments for fiduciary, trust, or public funds. Fees available to the Commissioner under this title shall be used exclusively for the processing of patent applications and for other services and materials relating to patents. Fees available to the Commissioner

under section 31 of the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946'; 15 U.S.C. 1113), shall be used exclusively for the processing of trademark registrations and for other services and materials relating to trademarks.

''(c) BORROWING AUTHORITY.—The Patent and Trademark Office is authorized to issue from time to time for purchase by the Secretary of the Treasury its debentures, bonds, notes, and other evidences of indebtedness (hereafter in this subsection referred to as 'obligations') to assist in financing its activities. Borrowing under this subsection shall be subject to prior approval in appropriation Acts. Such borrowing shall not exceed amounts approved in appropriation Acts. Any such borrowing shall be repaid only from fees paid to the Office and surcharges appropriated by the Congress. Such obligations shall be redeemable at the option of the Office before maturity in the manner stipulated in such obligations and shall have such maturity as is determined by the Office with the approval of the Secretary of the Treasury. Each such obligation issued to the Treasury shall bear interest at a rate not less than the current yield on outstanding marketable obligations of the United States of comparable maturity during the month preceding the issuance of the obligation as determined by the Secretary of the Treasury. The Secretary of the Treasury shall purchase any obligations of the Office issued under this subsection and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such purpose. Payment under this subsection of the purchase price of such obligations of the Patent and Trademark Office shall be treated as public debt transactions of the United States.''.

SEC. 2422. AUDITS.

Chapter 4 of part I of title 35, United States Code, is amended by adding at the end the following new section:

''§ 43. Audits

''(a) IN GENERAL.—Financial statements of the Patent and Trademark Office shall be prepared on an annual basis in accordance with generally accepted accounting principles. Such statements shall be audited by an independent certified public accountant chosen by the Commissioner. The audit shall be conducted in accordance with standards that are consistent with generally accepted Government auditing standards and other standards established by the Comptroller General, and with the generally accepted auditing standards of the private sector, to the extent feasible. The Commissioner shall transmit to the Committees on the Judiciary of the House of Representatives and the Senate the results of each audit under this subsection.

''(b) REVIEW BY COMPTROLLER GENERAL.—The Comptroller General may review any audit of the financial statement of the Patent and Trademark Office that is conducted under subsection (a). The Comptroller General shall report to the Congress and the Office the results of any such review and shall include in such report appropriate recommendations.

''(c) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General may audit the financial statements of the Office and such audit shall be in lieu of the audit required by subsection (a). The Office shall reimburse the Comptroller General for the cost of any audit conducted under this subsection.

''(d) ACCESS TO OFFICE RECORDS.—All books, financial records, report files, memoranda, and other property that the Comptroller General deems necessary for the performance of any audit shall be made available to the Comptroller General.

''(e) APPLICABILITY IN LIEU OF TITLE 31 PROVISIONS.—This section applies to the Office in lieu of the provisions of section 9105 of title 31.''.

SEC. 2423. TRANSFERS.

(a) TRANSFER OF FUNCTIONS.—Except as otherwise provided in this Act, there are transferred to, and vested in, the Patent and Trademark Office all functions, powers, and duties vested by law in the Secretary of Commerce or the Department of Commerce or in the officers or components in the Department of Commerce with respect to the authority to grant patents and register trademarks, and in the Patent and Trademark Office, as in effect on the day before the effective date of this subtitle, and in the officers and components of such Office.

(b) TRANSFER OF FUNDS AND PROPERTY.—The Secretary of Commerce shall transfer to the Patent and Trademark Office, on the effective date of this subtitle, so much of the assets, liabilities, contracts, property, records, and unexpended and unobligated balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Department of Commerce, including funds set aside for accounts receivable which are related to functions, powers, and duties which are vested in the Patent and Trademark Office by this subtitle.

CHAPTER 2—EFFECTIVE DATE; TECHNICAL AMENDMENTS

SEC. 2431. EFFECTIVE DATE.

This subtitle shall take effect 6 months after the date of the enactment of this Act.

SEC. 2432. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 35.—

(1) The table of contents for part I of title 35, United States Code, is amended by amending the item relating to chapter 1 to read as follows:

''1. Establishment, Officers and Employees, Functions ..... 1.''

(2) The table of sections for chapter 1 of title 35, United States Code, is amended to read as follows:

''CHAPTER 1—ESTABLISHMENT, OFFICERS AND EMPLOYEES, FUNCTIONS

''Sec.
''1. Establishment.
''2. Powers and duties.
''3. Officers and employees.
''4. Restrictions on officers and employees as to interest in patents.
''5. Patent and Trademark Office Management Advisory Board.
''6. Duties of Commissioner.
''7. Board of Patent Appeals and Interferences.
''8. Suits by and against the Corporation.
''9. Library.
''10. Classification of patents.
''11. Certified copies of records.
''12. Publications.
''13. Exchange of copies of patents with foreign countries.
''14. Copies of patents for public libraries.
''15. Annual report to Congress.''.

(3) The table of contents for chapter 4 of part I of title 35, United States Code, is amended by adding at the end the following new item:

''43. Audits.''.

(b) OTHER PROVISIONS OF LAW.—

(1) Section 9101(3) of title 31, United States Code, is amended by adding at the end the following:

''(O) the Patent and Trademark Office.''.

(2) Section 500(e) of title 5, United States Code, is amended by striking ''Patent Office'' and inserting ''Patent and Trademark Office''.

(3) Section 5102(c)(23) of title 5, United States Code, is amended by striking '', Department of Commerce''.

(4) Section 5316 of title 5, United States Code, is amended by striking ''Commissioner of Patents, Department of Commerce.'', ''Deputy Commissioner of Patents and Trademarks.'', ''Assistant Commissioner for Patents.'', and ''Assistant Commissioner for Trademarks.''.

(5) Section 12 of the Act of February 14, 1903 (15 U.S.C. 1511) is amended by striking ''(d) Patent and Trademark Office;'' and redesignating subsections (a) through (g) as paragraphs (1) through (6), respectively.

(6) The Act of April 12, 1892 (27 Stat. 395; 20 U.S.C. 91) is amended by striking ''Patent Office'' and inserting ''Patent and Trademark Office''.

(7) Sections 505(m) and 512(o) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(m) and 360b(o)) are each amended by striking ''of the Department of Commerce''.

(8) Section 105(e) of the Federal Alcohol Administration Act (27 U.S.C. 205(e)) is amended by striking ''Patent Office'' and inserting ''Patent and Trademark Office''.

(9) Section 1744 of title 28, United States Code is amended—

(A) by striking ''Patent Office'' each place it appears and inserting ''Patent and Trademark Office''; and

(B) by striking ''Commissioner of Patents'' and inserting ''Commissioner of Patents and Trademarks''.

(10) Section 1745 of title 28, United States Code, is amended by striking ''United States Patent Office'' and inserting ''Patent and Trademark Office''.

(11) Section 1928 of title 28, United States Code, is amended by striking ''Patent Office'' and inserting ''Patent and Trademark Office''.

(12) Section 160 of the Atomic Energy Act of 1954 (42 U.S.C. 2190) is amended—

(A) by striking ''United States Patent Office'' and inserting ''Patent and Trademark Office''; and

(B) by striking ''Commissioner of Patents'' and inserting ''Commissioner of Patents and Trademarks''.

(13) Section 305(c) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(c)) is amended by striking ''Commissioner of Patents'' and inserting ''Commissioner of Patents and Trademarks''.

(14) Section 12(a) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5510(a)) is amended by striking ''Commissioner of the Patent Office'' and inserting ''Commissioner of Patents and Trademarks''.

(15) Section 1111 of title 44, United States Code, is amended by striking ''the Commissioner of Patents,''.

(16) Section 1114 of title 44, United States Code, is amended by striking ''the Commissioner of Patents,''.

(17) Section 1123 of title 44, United States Code, is amended by striking ''the Patent Office,''.

(18) Sections 1337 and 1338 of title 44, United States Code, and the items relating to those sections in the table of contents for chapter 13 of such title, are repealed.

(19) Section 10(i) of the Trading With the Enemy Act (50 U.S.C. App. 10(i)) is amended by striking ''Commissioner of Patents'' and inserting ''Commissioner of Patents and Trademarks''.

(20) Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting ''the Patent and Trademark Office,'', after ''the Panama Canal Commission,''.

Subtitle E—Miscellaneous Provisions

SEC. 2501. REFERENCES.

Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department or office from which a function is transferred by this title—

(1) to the head of such department or office is deemed to refer to the head of the department or office to which such function is transferred; or

(2) to such department or office is deemed to refer to the department or office to which such function is transferred.

SEC. 2502. EXERCISE OF AUTHORITIES.

Except as otherwise provided by law, a Federal official to whom a function is transferred by this title may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this title.

SEC. 2503. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Secretary of Commerce, the United States Trade Representative, any officer or employee of any office transferred by this title, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this title, and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date),

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(b) PROCEEDINGS.—This title shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending on the date of the enactment of this Act before an office transferred by this title, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS.—This title shall not affect suits commenced before the date of the enactment of this Act, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Commerce or the Secretary of Commerce, or by or against any individual in the official capacity of such individual as an officer or employee of an office transferred by this title, shall abate by reason of the enactment of this title.

(e) CONTINUANCE OF SUITS.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and under this title such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred by this title shall apply to the exercise of such function by the head of the Federal agency, and other officers of the agency, to which such function is transferred by this title.

SEC. 2504. TRANSFER OF ASSETS.

Except as otherwise provided in this title, so much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with a function transferred to an official or agency by this title shall be available to the official or the head of that agency, respectively, at such time or times as the Director of the Office of Management and Budget directs for use in connection with the functions transferred.

SEC. 2505. DELEGATION AND ASSIGNMENT.

Except as otherwise expressly prohibited by law or otherwise provided in this title, an official to whom functions are transferred under this title (including the head of any office to which functions are transferred under this title) may delegate any of the functions so transferred to such officers and employees of the office of the official as the official may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this section or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

SEC. 2506. AUTHORITY OF DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET WITH RESPECT TO FUNCTIONS TRANSFERRED.

(a) DETERMINATIONS.—If necessary, the Director shall make any determination of the functions that are transferred under this title.

(b) INCIDENTAL TRANSFERS.—The Director, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title. The Director shall provide for the termination of the affairs of all entities terminated by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

SEC. 2507. CERTAIN VESTING OF FUNCTIONS CONSIDERED TRANSFERS.

For purposes of this title, the vesting of a function in a department or office pursuant to reestablishment of an office shall be considered to be the transfer of the function.

SEC. 2508. AVAILABILITY OF EXISTING FUNDS.

Existing appropriations and funds available for the performance of functions, programs, and activities terminated pursuant to this title shall remain available, for the duration of their period of availability, for necessary expenses in connection with the termination and resolution of such functions, programs, and activities.

SEC. 2509. DEFINITIONS.

For purposes of this title—

(1) the term ''function'' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(2) the term 'office' includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

Subtitle F—Citizens Commission on 21st Century Government

SEC. 2601. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This subtitle may be cited as the ''21st Century Government Act''.

(b) PURPOSE.—The purpose of this subtitle is to establish a bipartisan commission to—

(1) identify and analyze the current functions and missions of the Federal Government; and

(2) based on that analysis, develop recommendations to restructure the executive branch of the Federal Government, in order to—

(A) focus Federal efforts on those core functions and missions that the Federal Government must perform in the 21st Century;

(B) ensure that the Federal Government performs those functions as effectively and efficiently as possible;

(C) consolidate executive organizations around clear, specific missions reflecting current national priorities;

(D) eliminate functions that do not advance current national priorities;

(E) eliminate duplication of functions and activities within and among departments and agencies;

(F) streamline organizational hierarchy so as to reduce costs and increase accountability for performance; and

(G) provide a basis for—

(i) the subsequent implementation of operational reforms for Federal agencies, including administrative consolidation and the provision of 1-stop services for citizens; and

(ii) more detailed structural improvements within each agency.

SEC. 2602. CITIZENS COMMISSION ON 21ST CENTURY GOVERNMENT.

(a) ESTABLISHMENT.—There is established in the legislative branch an independent commission to be known as the Citizens Commission on 21st Century Government (in this subtitle referred to as the ''Commission'').

(b) APPOINTMENT OF COMMISSIONERS.—

(1) COMPOSITION.—The Commission shall be a bipartisan body composed of 11 members, who shall be appointed as follows:

(A) Three members shall be appointed by the Speaker of the House of Representatives.

(B) Three members shall be appointed by the majority leader of the Senate.

(C) Two members shall be appointed by the minority leader of the House of Representatives.

(D) Two members shall be appointed by the minority leader of the Senate.

(E) One member appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate, in consultation with the minority leaders of the House of Representatives and the Senate, who shall be the Chairman of the Commission.

(2) MEMBERSHIP QUALIFICATIONS.—Any citizen of the United States is eligible to be appointed as a member of the Commission, except an individual serving as a Member of Congress or an elected or appointed official of the executive branch of the Federal Government.

(3) CONFLICT OF INTERESTS.—For purposes of chapter 11 of title 18, United States Code,

a member of the Commission shall be a special Government employee.

(4) DATE OF APPOINTMENTS.—All members of the Commission shall be appointed no later than 30 days after the date of the enactment of this Act.

(c) TERMS.—Each member of the Commission shall serve until the termination of the Commission.

(d) VACANCIES.—A vacancy on the Commission shall be filled in the same manner as was the original appointment.

(e) MEETINGS.—The Commission shall meet as necessary to carry out its responsibilities.

(f) TRAVEL EXPENSES.—Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) DIRECTOR.—

(1) APPOINTMENT.—The Chairman, in consultation with the other members of the Commission, shall appoint a Director of the Commission.

(2) PAY.—The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(h) STAFF.—

(1) APPOINTMENT.—The Director may, with the approval of the Chairman, appoint and fix the pay of employees of the Commission without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and any Commission employee may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that a Commission employee may not receive pay in excess of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) DETAIL.—(A) Upon request of the Director, the head of any Federal department or agency may detail any of the personnel of the department or agency to the Commission to assist the Commission in carrying out its duties under this subtitle. Such details may be made with or without reimbursement, and shall be without interruption or loss of civil service status or privilege.

(B) Upon request of the Director, a Member of Congress or an officer who is the head of an office or committee of the Senate or House of Representatives or of an agency within the legislative branch may detail an employee of the office or committee of which such Member or officer is the head to the Commission to assist the Commission in carrying out its duties under this subtitle.

(i) SUPPORT SERVICES.—The Comptroller General of the United States shall provide support services to the Commission in accordance with an agreement entered into with the Commission.

(j) OTHER AUTHORITIES.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code. The Commission shall give public notice of any such contract before entering into such contract.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission $1,250,000 for fiscal year 1996 to carry out its responsibilities under this subtitle, to remain available until December 31, 1996.

(l) TERMINATION.—The Commission shall terminate December 31, 1996.

SEC. 2603. DEPARTMENT AND AGENCY COOPERATION.

All Federal agencies and employees of all Federal agencies shall cooperate fully with all requests for information from the Commission and shall respond to any such request for information within 30 days or such other time as is agreed upon by the requesting and requested persons.

SEC. 2604. HEARINGS.

The Commission shall hold such hearings as it considers appropriate. The Chairman of the Commission shall designate a member of the Commission to preside at any hearing in the absence of the Chairman.

SEC. 2605. COMMISSION PROCEDURES.

(a) STARTUP.—The Commission may conduct business at any time after at least 6 of its members have been appointed in accordance with section 2602.

(b) VOTING.—A majority of those members of the Commission who have been appointed in accordance with section 2602 shall constitute a quorum for purposes of conducting Commission business. Any recommendation of the Commission shall require an affirmative vote of a majority of Commission members who have been appointed in accordance with section 2602. Members of the Commission may not vote by proxy.

SEC. 2606. FRAMEWORK FOR THE FEDERAL GOVERNMENT IN THE 21ST CENTURY.

(a) ANALYSIS OF CURRENT FEDERAL FUNCTIONS.—The Commission shall conduct a comprehensive review of the functions currently performed by the Federal Government, and shall analyze each such function under the following criteria:

(1) Does the function have clearly defined missions and objectives.

(2) Do those missions and objectives serve a currently valid and important Federal role, including analysis of whether—

(A) there is a need for governmental action;

(B) the Federal Government has exclusive constitutional authority to perform the function;

(C) the Federal Government is otherwise uniquely positioned to perform the function; and

(D) there is a clear need for or advantage to performing the function at the Federal level versus at the State or local level.

(3) Does the current Federal role constitute the most effective and efficient means of achieving the objectives of the function.

(4) Does the current Federal role constitute the least intrusive means of achieving the objectives with respect to individual liberty and principles of Federalism.

(5) Is there a need to enhance Federal performance of the function, including analysis of whether—

(A) the Federal Government requires greater resources or authority to perform that function;

(B) there are other ways of consolidating Federal resources and activities directed to the function; and

(C) there are opportunities for participation by the private sector or other levels of government.

(b) COMMISSION REPORTS AND RECOMMENDATIONS.—

(1) IN GENERAL.—The Commission shall prepare and submit to the Congress a report or reports on the results of its analysis. Each report shall be made public and shall include—

(A) the Commission's findings and conclusions;

(B) the Commission's recommendations for the restructuring or termination of current functions;

(C) the reasons for such findings, conclusions, and recommendations; and

(D) a complete description of the Commission's deliberations, including a discussion of any major points on which the members had significant disagreements.

(2) REPORT ON MATTERS OF HIGHEST PRIORITY.—Not later than July 31, 1996, the Commission shall submit a report containing those findings, conclusions, and recommendations that the Commission considers to be of highest priority.

(3) ADDITIONAL REPORTS.—The Commission may submit such additional reports under this section as it considers appropriate, and at such times on or before December 31, 1996, as it considers appropriate.

SEC. 2607. PROPOSAL FOR REORGANIZING THE EXECUTIVE BRANCH.

(a) IN GENERAL.—The Commission shall—

(1) examine all significant issues related to the organization of the executive branch of the Federal Government; and

(2) develop organizational recommendations to eliminate duplication, reduce costs, streamline operations, and improve performance and accountability in Federal departments and agencies.

(b) LEGISLATIVE PROPOSAL.—The recommendations of the Commission under this section shall be encompassed in a single legislative proposal under section 2608 which implements a comprehensive reorganization and restructuring plan for the executive branch and which addresses, among other issues, the following:

(1) Whether the Federal Government should include fewer departments, each with clear, specific missions and goals, and if so, what those departments should be.

(2) Whether and how to ensure that similar functions of Government, such as statistical, science, or trade functions, are consolidated within a single department or agency.

(3) Whether and how significant common administrative functions should be consolidated within one executive organization.

(4) Whether a single department-level office should be designated with responsibility for representation and oversight within the White House of all independent agencies of the executive branch.

(5) Whether and how a streamlined hierarchical structure can be provided within each department and agency.

(c) OTHER RECOMMENDATIONS.—The Commission may also make additional recommendations which it determines will enhance the operational effectiveness of the organizational recommendations. Such recommendations shall not be included in any draft implementation bill to be considered under section 2609, but may be submitted separately to the Congress.

SEC. 2608. PROCEDURES FOR MAKING RECOMMENDATIONS.

(a) COMMISSION REPORT.—No later than December 31, 1996, the Commission shall prepare and submit to the Congress a single report, which shall be made public, and which shall include—

(1) a description of the Commission's findings and recommendations pursuant to section 2607;

(2) the reasons for such recommendations; and

(3) a single proposal consisting of draft legislation to implement those recommendations for which legislation is appropriate.

(b) REVIEW AND COMMENT BY THE PRESIDENT.—No later than March 31, 1997, the President shall submit to the Congress an evaluation of the Commission's report under this section, together with any recommendations that the President considers appropriate.

SEC. 2609. CONGRESSIONAL CONSIDERATION OF REFORM PROPOSALS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term ''implementation bill'' means only a bill which is introduced as provided under subsection (b), and consists of the

draft legislation contained in the report submitted to Congress under section 2608; and

(2) the term ''calendar day of session'' means a calendar day other than one on which either House is not in session because of an adjournment of more than 3 days to a date certain.

(b) INTRODUCTION, REFERRAL, AND REPORT OR DISCHARGE.—

(1) INTRODUCTION.—On the first calendar day of session on which both Houses are in session immediately following April 15, 1997, a bill consisting of the draft legislation contained in the report submitted to Congress under section 2608 shall be introduced (by request)—

(A) in the Senate by the majority leader or by any Member designated by the majority leader; and

(B) in the House of Representatives by the majority leader or by any Member designated by the majority.

If such a bill is not introduced in either House as provided in the preceding session within 3 calendar days of session after such first calendar day of session, then any Member of that House may introduce such a bill.

(2) REFERRAL.—The implementation bill introduced in the Senate under paragraph (1) shall be referred concurrently to the Committee on Governmental Affairs of the Senate and other committees with jurisdiction.

(3) REPORT OR DISCHARGE.—If any committee to which an implementation bill is referred has not reported such bill by the end of the 15th calendar day of session after the date of introduction of such bill, such committee shall be immediately discharged from further consideration of such bill, and upon being reported or discharged from all committees, such bill shall be placed on the appropriate calendar of the House involved.

(c) PROCEDURES FOR CONSIDERATION BY THE SENATE.—

(1) IN GENERAL.—On or after the second calendar day of session after the date on which an implementation bill is placed on the Senate calendar, it is 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 implementation bill (but only on the day after the calendar day of session on which such Senator announces on the floor of the Senate the Senator's intention to do so). All points of order against the implementation bill (and against consideration of the implementation bill) are waived. The motion is privileged and is not debatable. 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 implementation bill is agreed to, the Senate shall immediately proceed to consideration of the implementation bill without intervening motion, order, or other business, and the implementation bill shall remain the unfinished business of the Senate until disposed of.

(2) DEBATE.—Debate on the implementation bill, 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 the majority leader and the minority leader or their designees. An amendment to the implementation bill is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the implementation bill is not in order. A motion to reconsider the vote by which the implementation bill is agreed to or disagreed to is not in order.

(3) MOTION TO SUSPEND OR WAIVE APPLICATION.—No motion to suspend or waive the application of this subsection shall be in order, except by unanimous consent.

(4) APPEALS FROM CHAIR.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to an implementation bill shall be decided without debate.

(5) FINAL PASSAGE.—Immediately following the conclusion of the debate on an implementation bill and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the implementation bill shall occur.

(d) CONSIDERATION BY OTHER HOUSE.—

(1) IN GENERAL.—If, before the passage by the Senate of an implementation bill, the Senate receives from the House of Representatives an implementation bill, then the following procedures shall apply:

(A) The implementation bill of the House of Representatives shall not be referred to a committee and may not be considered in the Senate except in the case of final passage as provided in subparagraph (B)(ii).

(B) With respect to an implementation bill of the Senate—

(i) the procedure in the Senate shall be the same as if no implementation bill had been received from the House of Representatives; but

(ii) the vote on final passage shall be on the implementation bill of the House of Representatives.

(2) FINAL DISPOSITION.—Upon disposition of the implementation bill received from the House of Representatives, it shall no longer be in order to consider the implementation bill that originated in the Senate.

(f) RULES OF THE SENATE AND HOUSE.—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 an implementation bill, 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 its 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.

SEC. 2610. DISTRIBUTION OF ASSETS.

Any proceeds from the sale of assets of any department or agency resulting from the enactment of an implementation bill under section 2609 shall be—

(1) applied to reduce the Federal deficit; and

(2) deposited in the Treasury and treated as general receipts.

SEC. 2611. AGENCY DEFINED.

For purposes of this subtitle, the term ''agency'' means each authority of the Federal Government, including all departments, independent agencies, government-sponsored enterprises, and Government corporations, except the legislative branch, judicial branch, the governments of the territories or possessions of the United States, or the District of Columbia.

H.R. 2586

OFFERED BY: MR. WALKER

AMENDMENT NO. 2:

TITLE III—REGULATORY REFORM

SEC. 3001. SHORT TITLE.

This title may be cited as the ''Comprehensive Regulatory Reform Act of 1995''.

SEC. 3002. 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. 3003. 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 therefore.

''(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 roundtable 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 roundtable 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 therefore, 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; and

''(C) for an interpretation regarding the meaning of a rule, interpretive rule, general statement of policy, or guidance.

''(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. 3004. ANALYSIS OF AGENCY RULES.

(a) IN GENERAL.—(1) It is the sense of the Senate that nothing in this Act is intended to delay the timely promulgation of any regulations that would meet a human health or safety threat, including any rules that would reduce illness or mortality from the following: heart disease, cancer, stroke, chronic obstructive lung diseases, pneumonia and influenza, diabetes mellitus, human immunodeficiency virus infection, or water- or food-borne pathogens, polio, tuberculosis, measles, viral hepatitis, syphilis, or all other infectious or parasitic diseases.

(2) Section 551 of title 5, United States Code, is amended by striking ''and'' at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting a semicolon, and by adding at the end the following:

''(15) 'major rule' means any rule subject to section 553(c) that is likely to result in—

''(A) an annual effect on the economy of $75,000,000 or more;

''(B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or

''(C) significant adverse effects on competition, employment, investment, productivity,

innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets; and

''(16) 'Director' means the Director of the Office of Management and Budget.''.

''(17) The term 'cost' means the reasonably identifiable significant adverse effects, quantifiable and nonquantifiable, including social, environmental, health, and economic effects that are expected to result directly or indirectly from implementation of a rule or other agency action.

''(18) 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 decision making on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition.

''(19) 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.''.

(3) Section 553 of title 5, United States Code, is amended by adding at the end the following:

''(f)(1) Each agency shall for a proposed major rule publish in the Federal Register, at least 90 days before the date of publication of the general notice required under subsection (b), a notice of intent to engage in rulemaking.

''(2) A notice under paragraph (1) for a proposed major rule shall include, to the extent possible, the information required to be included in a regulatory impact analysis for the rule under subsection (i)(4)(B) and (D).

''(3) For a major rule proposed by an agency, the head of the agency shall include in a general notice under subsection (b), a preliminary regulatory impact analysis for the rule prepared in accordance with subsection (i).

''(4) For a final major rule, the agency shall include with the statement of basis and purpose—

''(A) a summary of a final regulatory impact analysis of the rule in accordance with subsection (i); and

''(B) a clear delineation of all changes in the information included in the final regulatory impact analysis under subsection (i) from any such information that was included in the notice for the rule under subsection (b).

The agency shall provide the complete text of a final regulatory impact analysis upon request.

''(5) The issuance of a notice of intent to engage in rulemaking under paragraph (1) and the issuance of a preliminary regulatory impact analysis under paragraph (3) shall not be considered final agency action for purposes of section 704.

''(6) In a rulemaking involving a major rule, the agency conducting the rulemaking shall make a written record describing the subject of all contacts the agency made with persons outside the agency relating to such rulemaking. If the contact was made with a non-governmental person, the written record of such contact shall be made available, upon request to the public.''.

(4)(A) HEARING REQUIREMENT.—Section 553 of title 5, United States Code, as amended by section 322, is further amended by adding after subsection (f) the following:

''(g) If more than 100 interested persons acting individually submit requests for a hearing to an agency regarding any major rule proposed by the agency, the agency shall hold such a hearing on the proposed rule.''.

(B) EXTENSION OF COMMENT PERIOD.—Section 553 of title 5, United States Code, as amended by subsection (a), is further amended by adding after subsection (g) the following:

''(h) If during the 90-day period beginning on the date of publication of a notice under subsection (f) for a proposed major rule, or if during the period beginning on the date of publication or service of notice required by subsection (b) for a proposed major rule, more than 100 persons individually contact the agency to request an extension of the period for making submissions under subsection (c) pursuant to the notice, the agency—

''(1) shall provide an additional 30-day period for making those submissions; and

''(2) may not adopt the rule until after the additional period.''.

(C) RESPONSE TO COMMENTS.—Section 553(c) of title 5, United States Code, is amended—

(i) by inserting ''(1)'' after ''(c)''; and

(ii) by adding at the end the following:

''(2) Each agency shall publish in the Federal Register, with each rule published under section 552(a)(1)(D), responses to the substance of the comments received by the agency regarding the rule.''.

(5) Section 553 of title 5, United States Code, as amended by section 323, is amended by adding after subsection (h) the following:

''(i)(1) Each agency shall, in connection with every major rule, prepare, and, to the extent permitted by law, consider, a regulatory impact analysis. Such analysis may be combined with any regulatory flexibility analysis performed under sections 603 and 604.

''(2) Each agency shall initially determine whether a rule it intends to propose or issue is a major rule. The Director shall have authority to order a rule to be treated as a major rule and to require any set of related rules to be considered together as a major rule.

''(3) Except as provided in subsection (j), agencies shall prepare—

''(A) a preliminary regulatory impact analysis, which shall be transmitted, along with a notice of proposed rulemaking, to the Director at least 60 days prior to the publication of notice of proposed rulemaking, and

''(B) a final regulatory impact analysis, which shall be transmitted along with the final rule at least 30 days prior to the publication of a major rule.

''(4) Each preliminary and final regulatory impact analysis shall contain the following information:

''(A) A description of the potential benefits of the rule, including any beneficial effects that cannot be quantified in monetary terms and the identification of those likely to receive the benefits.

''(B) An explanation of the necessity, legal authority, and reasonableness of the rule and a description of the condition that the rule is to address.

''(C) A description of the potential costs of the rule, including any adverse effects that cannot be quantified in monetary terms, and the identification of those likely to bear the costs.

''(D) An analysis of alternative approaches, including market based mechanisms or other flexible regulatory options that could substantially achieve the same regulatory goal at a lower cost and an explanation of the reasons why such alternative approaches were not adopted, together with a demonstration that the rule provides for the least costly approach.

''(E) A statement that the rule does not conflict with, or duplicate, any other rule or a statement of the reasons why such a conflict or duplication exists.

''(F) A statement of whether the rule will require on-site inspections or whether persons will be required by the rule to maintain any records which will be subject to inspection, and a statement of whether the rule will require persons to obtain licenses, permits, or other certifications, including specification of any associated fees or fines.

''(G) An estimate of the costs to the agency for implementation and enforcement of the rule and of whether the agency can be reasonably expected to implement the rule with the current level of appropriations.

''(5)(A) the Director is authorized to review and prepare comments on any preliminary or final regulatory impact analysis, notice of proposed rulemaking, or final rule based on the requirements of this subsection.

''(B) Upon the request of the Director, an agency shall consult with the Director concerning the review of a preliminary impact analysis or notice of proposed rulemaking and shall refrain from publishing its preliminary regulatory impact analysis or notice of proposed rulemaking until such review is concluded. The Director's review may not take longer than 90 days after the date of the request of the Director.

''(6)(A) An agency may not adopt a major rule unless the final regulatory impact analysis for the rule is approved or commented upon in writing by the Director or by an individual designated by the Director for that purpose.

''(B) Upon receiving notice that the Director intends to comment in writing with respect to any final regulatory impact analysis or final rule, the agency shall refrain from publishing its final regulatory impact analysis or final rule until the agency has responded to the Director's comments and incorporated those comments in the agency's response in the rulemaking file.

''(7)(A) Except as provided in subparagraph (B), no final major rule subject to this section shall be promulgated unless the agency head publishes in the Federal Register a finding that—

''(i) the benefits of the rule justify the costs of the rule; and

''(ii) the rule employs to the extent practicable flexible alternatives as set forth in paragraph (4)(D) and adopts the reasonable alternative which has the greater net benefits and achieves the objectives of the statutes.

''(B) If, applying the statutory requirements upon which the rule is based, a rule cannot satisfy the criteria of subparagraph (A), the agency head may promulgate the rule if the agency head finds that—

''(i) the rule employs to the extent practicable flexible reasonable alternatives of the type described in paragraph (4)(D); and

''(ii) the rule adopts the alternative with the least net cost of the reasonable alternatives that achieve the objectives of the statute.

''(8) Notwithstanding section 551(16), for purposes of this subsection with regard to any rule proposed or issued by an appropriate Federal banking agency (as that term is defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), the National Credit Union Administration, or the Office of Federal Housing Enterprise Oversight, the term 'Director' means the head of such agency, Administration, or Office.''.

(6) Section 553 of title 5, United States Code, as amended in section 324, is amended by adding after subsection (i) the following:

''(j) To the extent practicable, the head of an agency shall seek to ensure that any proposed major rule or regulatory impact analysis of such a rule is written in a reasonably

simple and understandable manner and provides adequate notice of the content of the rule to affected persons.''.

(7) Section 553 of title 5, United States Code, as amended by section 325, is further amended by adding after subsection (j) the following:

''(k)(1) The provisions of this section regarding major rules shall not apply if

''(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency, or health or safety threat, or a food 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 one year after the promulgation of a final major rule to which this section applies, the agency shall comply with the provisions of this subchapter and, as thereafter necessary, revise the rule.—

''(A) any regulation that responds to an emergency situation if such regulation is reported to the Director as soon as is practicable;

''(B) any regulation for which consideration under the procedures of this section would conflict with deadlines imposed by statute or by judicial order;

''(C) any regulation proposed or issued in connection with the implementation of monetary policy or to ensure the safety and soundness of federally insured depository institutions, any affiliate of such institution, credit unions, or government sponsored housing enterprises regulated by the Office of Federal Housing Enterprise Oversight;

''(D) any agency action that the head of the agency certifies is limited to interpreting, implementing, or administering the internal revenue laws of the United States, including any regulation proposed or issued in connection with ensuring the collection of taxes from a subsidiary of a foreign company doing business in the United States; and

''(E) any regulation proposed or issued pursuant to section 553 of title 5, United States Code, in connection with imposing trade sanctions against any country that engages in illegal trade activities against the United States that are injurious to American technology, jobs, pensions, or general economic well-being.

A regulation described in subparagraph (B) shall be reported to the Director with a brief explanation of the conflict and the agency, in consultation with the Director, shall, to the extent permitted by statutory or judicial deadlines, adhere to the process of this section.

''(2) The Director may in accordance with the purposes of this section exempt any class or category of regulations from any or all requirements of this section.

''(3) For purposes of paragraph (1), the term 'emergency situation' means a situation that is—

''(A) immediately impending and extraordinary in nature, or

''(B) 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.''.

(8) The Director of the Office of Management and Budget shall submit a report to the Congress no later than 24 months after the date of the enactment of this Act containing an analysis of rulemaking procedures of Federal agencies and an analysis of the impact of those rulemaking procedures on the regulated public and regulatory process.

(9) The amendment made by this title shall apply only to final agency rules issued after rulemaking begun after the date of enactment of this Act.

(10) Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER II—AUTHORITY FOR RULE-MAKING FLEXIBILITY

''§ 621. Decisional criteria

''(a) IN GENERAL.—No final major rule subject to the provisions of this subchapter that is designed to protect human health, safety or the environment that is proposed or promulgated by the agency after the enactment of this subchapter shall be promulgated unless the agency certifies the following:

''(1) That the analyses under section 553(i) are based on objective and unbiased scientific and economic evaluations of all significant and relevant information and risk assessments provided to the agency by interested parties relating to the costs, risks, and risk reduction and other benefits addressed by the rule.

''(2) That the incremental risk reduction or other benefits of any strategy chosen will be likely to justify, and be reasonably related to, the incremental costs incurred by State, local, and tribal governments, the Federal Government, and other public and private entities.

''(3) That other alternative strategies identified or considered by the agency (including 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) were found either (A) to be less cost-effective at achieving a substantially equivalent reduction in risk, or (B) to provide less flexibility to State, local, or tribal governments or regulated entities in achieving the otherwise applicable objectives of the regulation, along with a brief explanation of why alternative strategies that were identified or considered by the agency were found to be less cost-effective or less flexible.

''(b) EFFECT OF DECISION CRITERIA.—

''(1) IN GENERAL.—Notwithstanding any other provision of Federal law, the decision criteria of subsection (a) shall supplement and, to the extent there is a conflict, supersede the decision criteria for rulemaking otherwise applicable under the statute pursuant to which the rule is promulgated.

''(2) SUBSTANTIAL EVIDENCE.—Notwithstanding any other provision of Federal law, no major rule shall be promulgated by any Federal agency pertaining to the protection of health, safety, or the environment unless the requirements of subsection (a) are met and the certifications required therein are supported by substantial evidence of the rulemaking record.

''(c) PUBLICATION.—The agency shall publish in the Federal Register, along with the final regulation, the certifications required by subsection (a).

''(d) NOTICE.—Where the agency finds a conflict between the decision criteria of this section and the decision criteria of an otherwise applicable statute, the agency shall so notify the Congress in writing.

''(e) MAJOR RULE.—For purposes of this section, the term 'major rule' does not include any regulation or other action taken by an agency to authorize or approve an individual substance or product, and such term does not include regulations concerning health insurance, health provider services, or health care diagnostic services.

''§ 622. Deadlines for rulemaking

''(a) STATUTORY.—All deadlines in statutes that require agencies to propose or promulgate any rule subject to subchapter I 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 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 subchapter I 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 subchapter I 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 subchapter I are satisfied; or

''(2) the date occurring 2 years after the date of the applicable deadline.

''§ 623. 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.

''§ 624. Petition for alternative method of compliance

''(a) Except as provided in subsection (e), or unless prohibited by the statute authorizing the rule, any person subject to a major rule may petition the relevant agency to modify or waive the specific requirements of the major rule (or any portion thereof) 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.

''(b) The agency shall grant the petition if the petition shows that there is a reasonable likelihood that the proposed alternative means of compliance—

''(1) would achieve the identified benefits of the major rule with at least an equivalent level of protection of health, safety, and the environment as would be provided by the major rule; and

''(2) would not impose an undue burden on the agency that would be responsible for enforcing such alternative means of compliance.

''(c) A decision to grant or to deny a petition under this subsection shall be made not later than 180 days after the petition is submitted, but in no event shall agency action taken pursuant to this section be subject to judicial review.

''(d) Following a decision to grant or deny a petition under this section, no further petition for such rule, submitted by the same person, shall be granted unless such petition pertains to a different facility or installation

owned or operated by such person or unless such petition is based on a significant 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 petition.

''(e) If the statute authorizing the rule which is the subject of the petition provides procedures or standards for an alternative method of compliance the petition shall be reviewed solely under the terms of the statute.''.

''SUBCHAPTER III—RISK ASSESSMENTS

''§ 631. Short title

This subchapter may be cited as the ''Risk Assessment and Communication Act of 1995''.

''§ 632. Purposes

The purposes of this subchapter are—

(1) to present the public and executive branch with the most scientifically objective and unbiased information concerning the nature and magnitude of health, safety, and environmental risks in order to provide for sound regulatory decisions and public education;

(2) to provide for full consideration and discussion of relevant data and potential methodologies;

(3) to require explanation of significant choices in the risk assessment process which will allow for better peer review and public understanding; and

(4) to improve consistency within the executive branch in preparing risk assessments and risk characterizations.

''§ 633. Effective date; applicability; savings provisions

''(a) EFFECTIVE DATE.—Except as otherwise specifically provided in this subchapter, the provisions of this subchapter shall take effect 18 months after the date of enactment of this subchapter.

''(b) APPLICABILITY.—

''(1) IN GENERAL.—Except as provided in paragraph (3), this subchapter applies to all significant risk assessment documents and significant risk characterization documents, as defined in paragraph ''(2).

''(2) SIGNIFICANT RISK ASSESSMENT DOCUMENT OR SIGNIFICANT RISK CHARACTERIZATION DOCUMENT.—(A) As used in this subchapter, the terms 'significant risk assessment document' and 'significant risk characterization document' include, at a minimum, risk assessment documents or risk characterization documents prepared by or on behalf of a covered Federal agency in the implementation of a regulatory program designed to protect human health, safety, or the environment, used as a basis for one of the items referred to in subparagraph (B), and—

''(i) included by the agency in that item; or

''(ii) inserted by the agency in the administrative record for that item.

''(B) The items referred to in subparagraph (A) are the following:

''(i) Any proposed or final major rule, including any analysis or certification under subchapter II, promulgated as part of any Federal regulatory program designed to protect human health, safety, or the environment.

''(ii) Any proposed or final environmental clean-up plan for a facility or Federal guidelines for the issuance of any such plan. As used in this clause, the term 'environmental clean-up' means a corrective action under the Solid Waste Disposal Act, a removal or remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and any other environmental restoration and waste management carried out by or on behalf of a covered Federal agency with respect to any substance other than municipal waste.

''(iii) Any proposed or final permit condition placing a restriction on facility siting or operation under Federal laws administered by the Environmental Protection Agency or the Department of the Interior. Nothing in this section (iii) shall apply to the requirements of section 404 of the Clean Water Act.

''(iv) Any report to Congress.

''(v) Any regulatory action to place a substance on any official list of carcinogens or toxic or hazardous substances or to place a new health effects value on such list, including the Integrated Risk Information System Database maintained by the Environmental Protection Agency.

''(vi) Any guidance, including protocols of general applicability, establishing policy regarding risk assessment or risk characterization.

''(C) The terms 'significant risk assessment document' and 'significant risk characterization document' shall also include the following:

''(i) Any such risk assessment and risk characterization documents provided by a covered Federal agency to the public and which are likely to result in an annual effect on the economy of $75,000,000 or more.

''(ii) Environmental restoration and waste management carried out by or on behalf of the Department of Defense with respect to any substance other than municipal waste.

''(D) Within 15 months after the date of the enactment of this subchapter, each covered Federal agency administering a regulatory program designed to protect human health, safety, or the environment shall promulgate a rule establishing those additional categories, if any, of risk assessment and risk characterization documents prepared by or on behalf of the covered Federal agency that the agency will consider significant risk assessment documents or significant risk characterization documents for purposes of this subchapter. In establishing such categories, the head of the agency shall consider each of the following:

''(i) The benefits of consistent compliance by documents of the covered Federal agency in the categories.

''(ii) The administrative burdens of including documents in the categories.

''(iii) The need to make expeditious administrative decisions regarding documents in the categories.

''(iv) The possible use of a risk assessment or risk characterization in any compilation of risk hazards or health or environmental effects prepared by an agency and commonly made available to, or used by, any Federal, State, or local government agency.

''(v) Such other factors as may be appropriate.

''(E)(i) Not later than 18 months after the date of the enactment of this subchapter, the President, acting through the Director of the Office of Management and Budget, shall determine whether any other Federal agencies should be considered covered Federal agencies for 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—

''(I) regulatory programs administered by that agency; and

''(II) the communication of risk information by that agency to the public.

The effective date of such a determination shall be no later than 6 months after the date of the determination.

''(ii) Not later than 15 months after the President, acting through the Director of the Office of Management and Budget, determines pursuant to clause (i) that a Federal agency should be considered a covered Federal agency for purposes of this subchapter, the head of that agency shall promulgate a rule pursuant to subparagraph (D) to establish additional categories of risk assessment and risk characterization documents described in that subparagraph.

''(3) EXCEPTIONS.—(A) This subchapter does not apply to risk assessment or risk characterization documents containing risk assessments or risk characterizations performed with respect to the following:

''(i) A screening analysis, where appropriately labeled as such, including a screening analysis for purposes of product regulation or premanufacturing notices.

''(ii) Any health, safety, or environmental inspections.

''(iii) The sale or lease of Federal resources or regulatory activities that directly result in the collection of Federal receipts.

''(B) No analysis shall be treated as a screening analysis for purposes of subparagraph (A) if the results of such analysis are used as the basis for imposing restrictions on substances or activities.

''(C) The risk assessment principle set forth in this 634(b)(1) need not apply to any risk assessment or risk characterization document described in clause (iii) of paragraph (2)(B). The risk characterization and communication principle set forth in section 635(4) need not apply to any risk assessment or risk characterization document described in clause (v) or (vi) of paragraph (2)(B).

''(c) SAVINGS PROVISIONS.—The provisions of this subchapter shall be supplemental to any other provisions of law relating to risk assessments and risk characterizations, except that nothing in this subchapter shall be construed to modify any statutory standard or statutory requirement designed to protect health, safety, or the environment. Nothing in this subchapter shall be interpreted to 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. Nothing in this subchapter shall be construed to require the disclosure of any trade secret or other confidential information.

''§ 634. Principles for risk assessment

''(a) IN GENERAL.—The head of each covered Federal agency shall apply the principles set forth in subsection (b) in order to assure that significant risk assessment documents and all of their components distinguish scientific findings from other considerations and are, to the extent feasible, scientifically objective, unbiased, and inclusive of all relevant data and rely, to the extent available and practicable, on scientific findings. Discussions or explanations required under this section need not be repeated in each risk assessment document as long as there is a reference to the relevant discussion or explanation in another agency document which is available to the public.

''(b) PRINCIPLES.—The principles to be applied are as follows:

''(1) When discussing human health risks, a significant risk assessment document shall contain a discussion of both relevant laboratory and relevant epidemiological data of sufficient quality which finds, or fails to find, a correlation between health risks and a potential toxin or activity. Where conflicts among such data appear to exist, or where animal data is used as a basis to assess human health, the significant risk assessment document shall, to the extent feasible and appropriate, include discussion of possible reconciliation of conflicting information, and as relevant, differences in study designs, comparative physiology, routes of exposure, bioavailability, pharmacokinetics, and any other relevant factor, including the

sufficiency of basic data for review. The discussion of possible reconciliation should indicate whether there is a biological basis to assume a resulting harm in humans. Animal data shall be reviewed with regard to its relevancy to humans.

''(2) Where a significant risk assessment document involves selection of any significant assumption, inference, or model, the document shall, to the extent feasible—

''(A) present a representative list and explanation of plausible and alternative assumptions, inferences, or models;

''(B) explain the basis for any choices;

''(C) identify any policy or value judgments;

''(D) fully describe any model used in the risk assessment and make explicit the assumptions incorporated in the model; and

''(E) indicate the extent to which any significant model has been validated by, or conflicts with, empirical data.

''§ 635. Principles for risk characterization and communication

Each significant risk characterization document shall meet each of the following requirements:

''(1) ESTIMATES OF RISK.—The risk characterization shall describe the populations or natural resources which are the subject of the risk characterization. If a numerical estimate of risk is provided, the agency shall, to the extent feasible, provide—

''(A) the best estimate or estimates for the specific populations or natural resources which are the subject of the characterization (based on the information available to the Federal agency); and

''(B) a statement of the reasonable range of scientific uncertainties.

In addition to such best estimate or estimates, the risk characterization document may present plausible upper-bound or conservative estimates in conjunction with plausible lower bound estimates. Where appropriate, the risk characterization document may present, in lieu of a single best estimate, multiple best estimates based on assumptions, inferences, or models which are equally plausible, given current scientific understanding. To the extent practical and appropriate, the document shall provide descriptions of the distribution and probability of risk estimates to reflect differences in exposure variability or sensitivity in populations and attendant uncertainties. Sensitive subpopulations or highly exposed subpopulations include, where relevant and appropriate, children, the elderly, pregnant women, and disabled persons.

''(2) EXPOSURE SCENARIOS.—The risk characterization document shall explain the exposure scenarios used in any risk assessment, and, to the extent feasible, provide a statement of the size of the corresponding population at risk and the likelihood of such exposure scenarios.

''(3) COMPARISONS.—The document shall contain a statement that places the nature and magnitude of risks to human health, safety, or the environment in context. Such statement shall, to the extent feasible, provide comparisons with estimates of greater, lesser, and substantially equivalent risks that are familiar to and routinely encountered by the general public as well as other risks, and, where appropriate and meaningful, comparisons of those risks with other similar risks regulated by the Federal agency resulting from comparable activities and exposure pathways. Such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks and the preventability or nonpreventability of risks.

''(4) SUBSTITUTION RISKS.—Each significant risk assessment or risk characterization document shall include a statement of any significant substitution risks to human health, where information on such risks has been provided to the agency.

''(5) SUMMARIES OF OTHER RISK ESTIMATES.—If—

''(A) a commenter provides a covered Federal agency with a relevant risk assessment document or a risk characterization document, and a summary thereof, during a public comment provided by the agency for a significant risk assessment document or a significant risk characterization document, or, where no comment period is provided but a commenter provides the covered Federal agency with the relevant risk assessment document or risk characterization document, and a summary thereof, in a timely fashion, and

''(B) the risk assessment document or risk characterization document is consistent with the principles and the guidance provided under this subchapter,

the agency shall, to the extent feasible, present such summary in connection with the presentation of the agency's significant risk assessment document or significant risk characterization document. Nothing in this paragraph shall be construed to limit the inclusion of any comments or material supplied by any person to the administrative record of any proceeding.

A document may satisfy the requirements of paragraph (3), (4) or (5) by reference to information or material otherwise available to the public if the document provides a brief summary of such information or material.

''§ 636. Recommendations or classifications by a non-united states-based entity

No covered Federal agency shall automatically incorporate or adopt any recommendation or classification made by a non-United States-based entity concerning the health effects value of a substance without an opportunity for notice and comment, and any risk assessment document or risk characterization document adopted by a covered Federal agency on the basis of such a recommendation or classification shall comply with the provisions of this subchapter. For the purposes of this section, the term ''non-United States-based entity'' means—

''(1) any foreign government and its agencies;

''(2) the United Nations or any of its subsidiary organizations;

''(3) any other international governmental body or international standards-making organization; or

''(4) any other organization or private entity without a place of business located in the United States or its territories.

''§ 637. Guidelines and report

''(a) GUIDELINES.—Within 15 months after the date of enactment of this subchapter, the President shall issue guidelines for Federal agencies consistent with the risk assessment and characterization principles set forth in sections 634 and 635 and shall provide a format for summarizing risk assessment results. In addition, such guidelines shall include guidance on at least the following subjects: criteria for scaling animal studies to assess risks to human health; use of different types of dose-response models; thresholds; definitions, use, and interpretations of the maximum tolerated dose; weighting of evidence with respect to extrapolating human health risks from sensitive species; evaluation of benign tumors, and evaluation of different human health endpoints.

''(b) REPORT.—Within 3 years after the date of the enactment of this subchapter, each covered Federal agency shall provide a report to the Congress evaluating the categories of policy and value judgments identified under subparagraph (C) of section 634(b)(2).

''(c) PUBLIC COMMENT AND CONSULTATION.—The guidelines and report under this section, shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State, local, and tribal governments, and such other departments and agencies, offices, organizations, or persons as may be advisable.

''(d) REVIEW.—The President shall review and, where appropriate, revise the guidelines published under this section at least every 4 years.

''§ 638. Research and training in risk assessment

''(a) EVALUATION.—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) STRATEGY AND ACTIONS TO MEET IDENTIFIED NEEDS.—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).

''(c) REPORT.—Not later than 6 months after the date of the enactment of this subchapter, the head of each covered agency shall submit to the Congress a report on the evaluations conducted under subsection ''(a) and the strategy and schedule developed under subsection ''(b). The head of each covered agency shall report to the Congress periodically on the evaluations, strategy, and schedule.

''§ 639. Study of comparative risk analysis

''(a) IN GENERAL.—(1) The Director of the Office of Management and Budget, in consultation with the Office of Science and Technology Policy, shall conduct, or provide for the conduct of, a study using comparative risk analysis to rank health, safety, and environmental risks and to provide a common basis for evaluating strategies for reducing or preventing those risks. The goal of the study shall be to improve methods of comparative risk analysis.

''(2) Not later than 90 days after the date of the enactment of this subchapter, the Director, in collaboration with the heads of appropriate Federal agencies, shall enter into a contract with the National Research Council to provide technical guidance on approaches to using comparative risk analysis and other considerations in setting health, safety, and environmental risk reduction priorities.

''(b) SCOPE OF STUDY.—The study shall have sufficient scope and breadth to evaluate

comparative risk analysis and to test approaches for improving comparative risk analysis and its use in setting priorities for health, safety, and environmental risk reduction. The study shall compare and evaluate a range of diverse health, safety, and environmental risks.

''(c) STUDY PARTICIPANTS.—In conducting the study, the Director shall provide for the participation of a range of individuals with varying backgrounds and expertise, both technical and nontechnical, comprising broad representation of the public and private sectors.

''(d) DURATION.—The study shall begin within 180 days after the date of the enactment of this subchapter and terminate within 2 years after the date on which it began.

''(e) RECOMMENDATIONS FOR IMPROVING COMPARATIVE RISK ANALYSIS AND ITS USE.—Not later than 90 days after the termination of the study, the Director shall submit to the Congress the report of the National Research Council with recommendations regarding the use of comparative risk analysis and ways to improve the use of comparative risk analysis for decision-making in appropriate Federal agencies.

''§ 639a. Definitions

For purposes of this subchapter:

''(1) RISK ASSESSMENT DOCUMENT.—The term ''risk assessment document'' means a document containing the explanation of how hazards associated with a substance, activity, or condition have been identified, quantified, and assessed. The term also includes a written statement accepting the findings of any such document.

''(2) RISK CHARACTERIZATION DOCUMENT.—The term ''risk characterization document'' means a document quantifying or describing the degree of toxicity, exposure, or other risk posed by hazards associated with a substance, activity, or condition to which individuals, populations, or resources are exposed. The term also includes a written statement accepting the findings of any such document.

''(3) BEST ESTIMATE.—The term ''best estimate'' means a scientifically appropriate estimate which is based, to the extent feasible, on one of the following:

''(A) Central estimates of risk using the most plausible assumptions.

''(B) An approach which combines multiple estimates based on different scenarios and weighs the probability of each scenario.

''(C) Any other methodology designed to provide the most unbiased representation of the most plausible level of risk, given the current scientific information available to the Federal agency concerned.

''(4) SUBSTITUTION RISK.—The term ''substitution risk'' means a potential risk to human health, safety, or the environment from a regulatory alternative designed to decrease other risks.

''(5) COVERED FEDERAL AGENCY.—The term ''covered Federal agency'' means each of the following:

''(A) The Environmental Protection Agency.

''(B) The Occupational Safety and Health Administration.

''(C) The Department of Transportation (including the National Highway Transportation Safety Administration).

''(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 Mine Safety and Health Administration.

''(L) The Nuclear Regulatory Commission.

''(M) Any other Federal agency considered a covered Federal agency pursuant to section 413(b)(2)(E).

''(6) FEDERAL AGENCY.—The term ''Federal agency'' means an executive department, military department, or independent establishment as defined in part I of title 5 of the United States Code, except that such term also includes the Office of Technology Assessment.

''(7) DOCUMENT.—The term ''document'' includes material stored in electronic or digital form.

''§ 639b. Peer review program

''(a) ESTABLISHMENT.—For regulatory programs designed to protect human health, safety, or the environment, the head of each Federal agency shall develop a systematic program for independent and external peer review required by subsection (b). Such program shall be applicable across the agency and—

''(1) shall provide for the creation of peer review panels consisting of experts and shall be broadly representative and balanced and to the extent relevant and appropriate, may include representatives of State, local, and tribal governments, small businesses, other representatives of industry, universities, agriculture, labor, consumers, conservation organizations, or other public interest groups and organizations;

''(2) may provide for differing levels of peer review and differing numbers of experts on peer review panels, depending on the significance or the complexity of the problems or the need for expeditiousness;

''(3) shall not exclude peer reviewers with substantial and relevant expertise merely because they represent entities that may have a potential interest in the outcome, provided that 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;

''(4) may provide specific and reasonable deadlines for peer review panels to submit reports under subsection (c); and

''(5) shall provide adequate protections for confidential business information and trade secrets, including requiring peer reviewers to enter into confidentiality agreements.

''(b) REQUIREMENT FOR PEER REVIEW.—In connection with any rule that is likely to result in an annual increase in costs of $100,000,000 or more (other than any rule or other action taken by an agency to authorize or approve any individual substance or product), each Federal agency shall provide for peer review in accordance with this section of any risk assessment or cost analysis which forms the basis for such rule or of any analysis under section 431(a). In addition, the Director of the Office of Management and Budget may order that peer review be provided for any major risk assessment or cost assessment that is likely to have a significant impact on public policy decisions.

''(c) CONTENTS.—Each peer review under this section shall include a report to the Federal agency concerned with respect to the scientific and economic merit of data and methods used for the assessments and analyses.

''(d) RESPONSE TO PEER REVIEW.—The head of the Federal agency shall provide a written response to all significant peer review comments.

''(e) AVAILABILITY TO PUBLIC.—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.

''(f) PREVIOUSLY REVIEWED DATA AND ANALYSIS.—No peer review shall be required under this section for any data or method which has been previously subjected to peer review or for any component of any analysis or assessment previously subjected to peer review.

''(g) NATIONAL PANELS.—The President shall appoint National Peer Review Panels to annually review the risk assessment and cost assessment practices of each Federal agency for programs designed to protect human health, safety, or the environment. The Panel shall submit a report to the Congress no less frequently than annually containing the results of such review.

''§ 639c. Petition for review of a major free-standing risk assessment

''(a) Any interested person may petition an agency to conduct a scientific review of a risk assessment conducted or adopted by the agency, except for a risk assessment used as the basis for a major rule or a site-specific risk assessment.

''(b) The agency shall utilize external peer review, as appropriate, to evaluate the claims and analyses in the petition, and shall consider such review in making its determination of whether to grant the petition.

''(c) The agency shall grant the petition if the petition establishes that there is a reasonable likelihood that—

''(1)(A) the risk assessment that is the subject of the petition was carried out in a manner substantially inconsistent with the principles in section 633; or

''(B) the risk assessment that is the subject of the petition does not take into account material significant new scientific data and scientific understanding;

''(2) the risk assessment that is the subject of the petition contains significantly different results than if it had been properly conducted pursuant to subchapter III; and

''(3) a revised risk assessment will provide the basis for reevaluating an agency determination of risk, and such determination currently has an effect on the United States economy equivalent to that of major rule.

''(d) A decision to grant, or final action to deny, a petition under this subsection shall be made not later than 180 days after the petition is submitted.

''(e) If the agency grants the petition, it shall complete its review of the risk assessment not later than 1 year after its decision to grant the petition. If the agency revises the risk assessment, in response to its review, it shall do so in accordance with section 633.

''§ 639d. 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 shall set priorities for the use of resources available under those laws to address those risks to human health, safety, and the environment that—

''(A) the covered agency determines to be 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 a nationally recognized scientific institution or scholarly organization—

''(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.

''(C) Nothing in this subsection should be construed to prevent the Director from entering into a sole-source arrangement with a nationally recognized scientific institution or scholarly organization.

''(2) CRITERIA.—The Director shall ensure that the arrangement under paragraph (1) provides 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, including opportunities for the public to submit views, data, and analyses and to provide public comment on the results before making them final;

''(C) the analysis is conducted by a balanced group of individuals with relevant expertise, including toxicologists, biologists, engineers, and experts in medicine, industrial hygiene, and environmental effects, and the selection of members for such study shall be at the sole discretion of the scientific institution or scholarly organization;

''(D) the analysis is conducted, to the extent feasible and relevant, consistent with the risk assessment and risk characterization principles in section 633 of this subchapter;

''(E) the methodologies and principal scientific determinations made in the analysis are subjected to independent peer review consistent with section 633(g), and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e); 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 by 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 reason 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 statutory 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 judgment 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.

''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. Public disclosure of information

''(a) OMB RESPONSIBILITY.—The Director or other designated officer to whom authority is delegated under section 642, in carrying out the provisions of section 641, 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 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.

''(b) AGENCY RESPONSIBILITY.—The head of each agency shall—

''(1) disclose to the public the identification of any regulatory action undergoing review under this section and the date upon which such action was submitted for such review; and

''(2) describe in any applicable rulemaking notice the results of any review under this section, including an explanation of any significant changes made to the regulatory action as a consequence of such review.

''§ 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 642 and agency compliance or noncompliance with the procedure under section 641 shall not be subject to judicial review.

''§ 645. 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) JUDICIAL REVIEW.—

(A) AMENDMENT.—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 one year, notwithstanding any other provision of law, 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 the terms of this subsection. A court having jurisdiction to review such rule for compliance with the provisions of section 553 or under any other provision of law shall have jurisdiction to review such certification or analysis. In the case where 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 one year, notwithstanding any other provision of law, after the date the analysis is made available to the public.

''(2) 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.

''(3) 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.

''(4)(A) In the case where the agency certified 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 the case where the agency prepared a final regulatory flexibility analysis, the court may order the agency to take corrective action consistent with the requirements of 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 observance of procedure required by section 604.

''(5) If, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (4) (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 the requirements of section 604,

the court may stay the rule or grant such other relief as it deems appropriate.

''(6) 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)(4)) 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.''.

(B) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only to final agency rules issued after the date of enactment of this division.

(2) RULES COMMENTED ON BY SBA CHIEF COUNSEL FOR ADVOCACY.—

(A) IN GENERAL.—Section 612 of title 5, United States Code, is amended by adding at the end the following new subsection:

''(d) ACTION BY THE SBA CHIEF COUNSEL FOR ADVOCACY.—

''(1) TRANSMITTAL OF PROPOSED RULES AND INITIAL REGULATORY FLEXIBILITY ANALYSIS TO SBA CHIEF COUNSEL FOR ADVOCACY.—On or before the 30th day preceding the date of publication by an agency of general notice of proposed rulemaking for a rule, the agency shall transmit to the Chief Counsel for Advocacy of the Small Business Administration—

''(A) a copy of the proposed rule; and

''(B)(i) a copy of the initial regulatory flexibility analysis for the rule if required under section 603; or

''(ii) a determination by the agency that an initial regulatory flexibility analysis is not required for the proposed rule under section 603 and an explanation for the determination.

''(2) STATEMENT OF EFFECT.—On or before the 15th day following receipt of a proposed rule and initial regulatory flexibility analysis from an agency under paragraph (1), the Chief Counsel for Advocacy may transmit to the agency a written statement of the effect of the proposed rule on small entities.

''(3) RESPONSE.—If the Chief Counsel for Advocacy transmits to an agency a statement of effect on a proposed rule in accordance with paragraph (2), the agency shall publish the statement, together with the response of the agency to the statement, in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule.

''(4) SPECIAL RULE.—Any proposed rules issued by an appropriate Federal banking agency (as that term is defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), the National Credit Union Administration, or the Office of Federal Housing Enterprise Oversight, in connection with the implementation of monetary policy or to ensure the safety and soundness of federally insured depository institutions, any affiliate of such an institution, credit unions, or government sponsored housing enterprises or to protect the Federal deposit insurance funds shall not be subject to the requirements of this subsection.''.

(B) CONFORMING AMENDMENT.—Section 603(a) of title 5, United States Code, is amended by inserting ''in accordance with section 612(d)'' before the period at the end of the last sentence.

(3) SENSE OF CONGRESS REGARDING SBA CHIEF COUNSEL FOR ADVOCACY.—It is the sense of Congress that the Chief Counsel for Advocacy of the Small Business Administration should be permitted to appear as amicus curiae in any action or case brought in a court of the United States for the purpose of reviewing a rule.

(4) PRESIDENTIAL ACTION.—Pursuant to the authority of section 7301 of title 5, United States Code, the President shall, within 180 days of the date of the enactment of this Act, prescribe regulations for employees of the executive branch to ensure that Federal laws and regulations shall be administered consistent with the principle that any person shall, in connection with the enforcement of such laws and regulations—

(A) be protected from abuse, reprisal, or retaliation, and

(B) be treated fairly, equitably, and with due regard for such person's rights under the Constitution.

(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) BOTTLED WATER STANDARDS.—Section 410 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 349) is amended—

(1) by striking ''Whenever''— and inserting—

''(a) Except as provided in subsection (b), whenever''; and

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

''(b)(1)(A) Not later than 180 days after the Administrator of the Environmental Protection Agency promulgates a national primary drinking water regulation for a contaminant under section 1412 of the Public Health Service Act (42 U.S.C. 300g–1), the Secretary, after public notice and comment shall issue a regulation under this subsection for that contaminant in bottled water or make a finding that the regulation is not necessary to protect the public health because the contaminant is contained in water in public water systems (as defined under section 1401(4) of such Act (42 U.S.C. 333F(4))) but not in water used for bottled drinking water.

''(B) In the case of contaminants for which national primary drinking water regulations were promulgated under section 1412 of the Public Health Service Act (42 U.S.C. 300g–1) before the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the Secretary shall issue the regulation or publish the finding not later than 1 year after such date of enactment.

''(2) The regulation shall include any monitoring requirements that the Secretary determines appropriate for bottled drinking water.

''(3) The regulation shall require the following:

''(A) In the case of contaminants for which a maximum contaminant level is established in a national primary drinking water regulation under section 1412 of the Public Health Service Act (42 U.S.C. 300g–1), the regulation under this subsection shall establish a maximum contaminant level for the contaminant that is at least as stringent as the maximum contaminant level provided in the national primary drinking water regulation.

''(B) In the case of contaminants for which a treatment technique is established in a national primary drinking water regulation under section 1412 of the Public Health Service Act (42 U.S.C. 300g–1), the regulation under this subsection shall require that bottled water be subject to requirements no less protective of public health than those applicable to water provided by public water systems using the treatment technique required by the national primary drinking water regulation.

''(4)(A) If the Secretary fails to establish a regulation within the 180-day period, or the 1-year period (whichever is applicable), described in subparagraph (A) or (B) of paragraph (1), the national primary drinking water regulation described in subparagraph (A) or (B) of such paragraph (which is applicable) shall be considered, as of the date on which the Secretary is required to establish a regulation under such paragraph, as the regulation applicable under this subsection to bottled water.

''(B) Not later than 30 days after the 180-day period, or the 1-year period (whichever is applicable) described in subparagraph (A) or (B) of paragraph (1), the Secretary shall, with respect to a national primary drinking water regulation that is considered applicable to bottled water as provided in subparagraph (A), publish a notice in the Federal Register that—

''(i) sets forth the requirements of the national primary drinking water regulation, including monitoring requirements, which shall be applicable to bottled water; and

''(ii) provides that—

''(I) in the case of a national primary drinking water regulation promulgated after the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the requirements shall take effect on the date on which the national primary drinking water regulation for the contaminant takes effect under section 1412 of the Public Health Service Act (42 U.S.C. 300g–1); or

''(II) in the case of a national primary drinking water regulation promulgated before the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the requirements shall take effect on the date that is 18 months after such date of enactment.''.

(e) AMENDMENTS TO THE REGULATORY FLEXIBILITY ACT.—

(1) Improving agency certifications regarding nonapplicability of the regulatory flexibility act.—Section 605(b) of title 5, United States Code, is amended to read as follows:

''(b) Sections 603 and 604 of this title shall not apply to any rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification, along with a succinct statement providing the factual reasons for such certification, in the Federal Register along with the general notice of proposed rulemaking for the rule. The agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.''.

(2) TECHNICAL AND CLARIFYING AMENDMENTS.—Section 612 of title 5, United States Code, is amended—

(A) in subsection (a) by striking ''the Committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives'' and inserting ''the Committees on the Judiciary and Small Business of the Senate and House of Representatives''; and

(B) in subsection (b) by striking ''his views with respect to the effect of the rule on small entities'' and inserting ''views on the rule and its effects on small entities''.

(f) 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

''SUBCHAPTER II—ANALYSIS OF AGENCY RULES

''SUBCHAPTER III—RISK ASSESSMENTS

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

(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. 3005. GUIDANCE FOR JUDICIAL INTERPRETATION

(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.

''§ 709. Agency interpretations in civil and criminal actions

''(a) No civil or criminal penalty shall be imposed by a court, and no civil administrative penalty shall be imposed by an agency, for the violation of a rule—

''(1) if the court or agency, as appropriate, finds that the rule, and other information reasonable available to the defendant, failed to give the defendant fair warning of the conduct that the rule prohibits or requires; or

''(2) if the court or agency, as appropriate, finds that the defendant—

''(A) reasonably in good faith determined, based upon the language of the rule published in the Federal Register, and other information reasonably available to the defendant, that the defendant was in compliance with, exempt from, or otherwise not subject to, the requirements of the rule; or

''(B) engaged in the conduct alleged to violate the rule in reasonable reliance upon a written statement issued by an appropriate agency official, or by an appropriate official of a State authority to which had been delegated responsibility for implementing or ensuring compliance with the rule, after the disclosure of the material stating that the facts, action compliance with, or that the defendant was exempt from, or otherwise not subject to, the requirements of the rule.

In making its determination of facts under this subsection, the court or agency shall consider all relevant factors, including, if appropriate: that the defendant ought the advice in good faith; and that he acted in accord with the advice that he was given.

''(b) In an action brought to impose a civil or criminal penalty for the violation of a rule, the court, or an agency, as appropriate, shall not give deference for the purpose of the action to any interpretation of such rule relied on by an agency in the action that had not been timely published in the Federal Register, and was to otherwise personally available to the defendant or communicated to the defendant by the method described in paragraph (a)(2) in a timely manner by the agency, or by a state official described in paragraph (a)(2)(B), prior to the commencement of the alleged violation.

''(c) Except as provided in subsection (d), no civil or criminal penalty shall be imposed by a court and no administrative penalty shall be imposed by an agency based upon—

''(1) an interpretation of a statute, rule, guidance, agency statement of policy, of license requirement or condition; or

''(2) a written determination of fact made by an appropriate agency official, or state official as described in paragraph (a)(2)(B), after disclosure of the material facts at the time and appropriate review, if such interpretation or determination is materially different from a prior interpretation or determination made by the agency or the state official described in (a)(2)(B), and if such person, having taken into account all information that was reasonably available at the time of the original interpretation or determination, reasonably relied in good faith upon the prior interpretation or determination.

''(d) Nothing in this section shall be construed to preclude an agency:

''(1) from revising a rule or changing its interpretation of a rule in accordance with sections 552 and 553 of this title, and,. subject to the provisions of this section, prospectively enforcing the requirements of such rule as revised or reinterpreted and imposing or seeking a civil or criminal penalty for any subsequent violation of such rule as revised or reinterpreted;

''(2) from making a new determination of fact, and based upon such determination, prospectively applying a particular legal requirement.

''(e) This section shall apply to any action for which a final unappealable judicial order has not been issued prior to the effective date.''.

(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. 3006. 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 major final and proposed 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

''Sec.
''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 (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress) 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)(1) A rule or proposed rule shall not take effect (or continue) as a final rule, if the Congress passes a joint resolution of disapproval described under section 802.

''(2) A rule or proposed rule that does not take effect (or does not continue) under paragraph (1) may not be reissued in substantially the same form, and a new rule that is substantially the same as such a rule or proposed rule may not be issued, unless the reissued or new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule.

''(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 a session of Congress through the date on which the same or succeeding Congress first convenes its next session, section 802 shall apply to such rule in the succeeding session of 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) The requirements established by the Comprehensive Regulatory Reform Act of 1995 shall apply to any major rule that was 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 of enactment of the Comprehensive Regulatory Reform Act of 1995. Any major rule issued in that period shall be reissued within one year after the date of enactment of that Act to comply with this subsection.

''(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) Prior to its reissuance under paragraph (1), 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) JOINT RESOLUTION DEFINED.—For purposes of this section, the term 'joint resolution' means only—

''(1) a joint resolution introduced in 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 (excluding days either House of Congress is adjourned for more than 3 days during a session of 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); or

''(2) a joint resolution the matter after the resolving clause of which is as follows: 'That the Congress disapproves the proposed rule published by the _____ relating to _____, and such proposed rule shall not be issued or take effect as a final rule.' (the blank spaces being appropriately filled in)

''(b)(1) A resolution described in subsection (a) shall be referred to the committees in each House of Congress with jurisdiction.

''(2) For purposes of this section, the term 'submission or publication date' means—

''(A) in the case of a joint resolution described in subsection (a)(1) the later of the date on which—

''(i) the Congress receives the report submitted under section 801(a)(1); or

''(ii) the rule is published in the Federal Register; or

''(B) in the case of a joint resolution described in subsection (a)(2), the date of introduction of the joint resolution.

''(c) In the Senate, if the committee to which is referred a resolution described in subsection (a) has not reported such joint 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 upon a petition supported in writing by 30 Members of the Senate, and such resolution shall be placed on the appropriate calendar.

''(d)(1) In the Senate, when the committee to which a joint 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 joint resolution is agreed to, the resolution shall remain the unfinished business of the Senate until disposed of.

''(2) In the Senate, debate on the joint 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 joint resolution is not in order.

''(3) In the Senate, immediately following the conclusion of the debate on a joint 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 Senate, 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 to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

''(e) If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply:

''(1) The joint resolution of the other House shall not be referred to a committee.

''(2) With respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—

''(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

''(B) the vote on final passage shall be on the joint resolution of the other House.

''(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 joint 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.

(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. 3007. REGULATORY ACCOUNTING STATEMENT.

(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. 3008. 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. 3009. 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.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *104th* CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, WEDNESDAY, NOVEMBER 8, 1995 *No. 176*

Senate

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

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, for tomorrow and its needs we do not pray, but keep us, guide us, strengthen us, just for today. Help us to live in day-tight compartments by being faithful and obedient to You in this new day You have given us. Yesterday is a memory and tomorrow is uncertain. But today, if we live it to the fullest, will become a memorable yesterday and tomorrow will be a vision of hope. A great life is an accumulation of days lived, one at a time, for Your glory and by Your grace. Anything is possible if we take it in day-sized bites. Help us make today a day to be that different person we've wanted to be, to start doing what we've procrastinated, and to enjoy the work we have to do. We want this to be a special day to love You, serve You, and be an encourager of others around us. One day to live, it will go so fast; Lord, make it a good memory, before it's past. In our Lord's name. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

PARTIAL-BIRTH ABORTION BAN ACT

The PRESIDENT pro tempore. Under the previous order, 9:30 a.m. having arrived, the Senate will now resume consideration of H.R. 1833, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortion.

The Senate resumed the consideration of the bill.

MOTION TO COMMIT WITH INSTRUCTIONS

The PRESIDENT pro tempore. Under the previous order, the Senator from Pennsylvania [Mr. SPECTER] is recognized to make a motion to commit with the time until 12:30 p.m. equally divided and controlled between the Senator from New Hampshire [Mr. SMITH] and the Senator from Pennsylvania [Mr. SPECTER].

Mr. SPECTER. I thank the Chair. I thank the distinguished President pro tempore.

Mr. President, on behalf of Senators JEFFORDS, SNOWE, CAMPBELL, KASSEBAUM, SIMPSON, and COHEN, I move to commit H.R. 1833 to the Committee on the Judiciary with instructions to hold not less than one hearing on this bill and report the bill with amendments, if any, back to the Senate within 19 days.

The motion to commit with instructions is as follows:

MOTION TO COMMIT WITH INSTRUCTIONS

Mr. SPECTER (for himself, Mr. JEFFORDS, Ms. SNOWE, Mr. CAMPBELL, Ms. KASSEBAUM, Mr. SIMPSON, and Mr. COHEN) moves to commit the bill H.R. 1833 to the Committee on the Judiciary with instructions to hold not less than one hearing on such bill and report the bill, with amendments (if any), back to the Senate within 19 days.

Mr. SPECTER. Mr. President, I have selected a bare minimum amount of time, which is really only a 9-day commitment from today, November 8, until November 17 when the Senate will go out of session under a previously announced recess period by the majority leader. And then there would be an additional 10 days while the Senate is in recess, from November 17 to November 27, for a total of 19 days. But the effective period of this referral, as I say, will only be for 9 days.

After considerable thought, I have abbreviated the referral period to this very short time to emphasize to everyone the importance of the issue and the need to have very prompt consideration and to allay any concern or reject any argument that this referral is being made to, in effect, defeat the bill.

Mr. President, I submit that this kind of consideration and this kind of a hearing is really indispensable because of the very complex matters which are involved in this issue. I would enumerate them as humanitarian considerations, medical considerations, statutory interpretation considerations, and constitutional considerations.

The humanitarian considerations have been broached to a significant extent in terms of the circumstances of the mother and the circumstances of the fetus with considerable doubt as to what actually occurs during these so-called late-term abortions. It is a very complicated picture as to what pain and suffering is sustained by the fetus, a subject which requires our very thorough consideration because of the very serious humanitarian implications on pain and suffering to the fetus during the course of this medical procedure.

The matter has had a very, very brief hearing in the House of Representatives—as I understand it, for less than a full day.

Mr. President, I ask unanimous consent that at the conclusion of my statement the full transcript of the hearing before the House of Representatives may be printed in the RECORD so that everyone in the Senate who will be considering this matter in the course of the next day or two, or however long it takes, will have an opportunity to see the brevity of those hearings and the impossibility of consideration of the many complicated issues which are involved in this matter.

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

(See exhibit 1.)

Mr. SPECTER. Mr. President, there is no question about the chilling effect

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

of this medical procedure. It is something that, I submit, has to be understood thoroughly on all sides.

I say candidly that I am not sure what my ultimate judgment would be on this kind of a medical procedure if, as some claim, it is really infanticide. I have spent a large portion of my career as a district attorney being very much concerned about the issue of homicide, which takes many, many forms. And, if we genuinely have an issue of infanticide—the killing of an infant—that is something which existing law does not tolerate, and that is something which has to be considered very, very carefully on the basic question of whether there is an infant where the medical procedures would take the life of the infant, or whether we do not have an infant in the contemplation of the law. And that is something which has to be considered carefully.

There has been considerable controversy as to just what the medical circumstances are with the children who are involved. One case, which I have had referred to me through the media, involved a fetus where the brain had grown outside the skull so that on the medical procedure involved it was not a question of whether the baby would die, not a question of whether the fetus would die, but only a question of when and how.

Other matters that I have heard about involve situations where the mothers and the fathers were desperately interested in saving the pregnancy but the medical facts were such that there was such severe brain damage and heart damage that there really was not a live human being.

There will doubtless be considerable discussion on the floor of the Senate today about the status of the fetus on these medical procedures.

I suggest that while argument and debate is obviously a very important part of our process, a more important part of our process involves the hard medical facts as to what is involved. That really requires medical testimony as opposed to the kinds of arguments which are traditionally made on the Senate floor. Those arguments have real value, but they have to be evaluated and judged in the context of what the hard medical evidence is. On this date of the record, at least from the House hearings, there is not much to go on. So that I think this is a matter which cries out for that kind of a hearing and the establishment of the evidence to enable the Senate to make a judgment.

I find it, candidly, a little hard to understand the procedures which brought this legislation to the floor without a hearing by the Judiciary Committee. But facing the procedural posture of this matter, the remedy is to move from the decision of the majority leader to put this matter in the Chamber to having consideration by the full Senate as to what is the appropriate course. It is rumored that this is going to be a close vote. I do not know whether that is true or not. But if we send this matter to committee for hearings, we may be saving considerable time because if the vote is close on a motion to commit as to having a simple majority, I think it is fair to say it is unlikely there would be the 60 votes present to cut off debate. So that prompt action by the Senate in sending the matter to committee may well save us time, not only in the long run but in the short run as well.

Beyond the considerations of humane treatment for the fetus and the mother, we then come to very, very complex questions of statutory interpretation which I submit have not been thought through by the proponents of this bill in the House or by the hasty action that it went through in the House and the heavily emotionally charged context.

According to the information provided to me, there is a real question as to the applicability of this statute in the broader terms of how a fetus is delivered. Subsection (b) provides that a partial-birth abortion is defined as ''an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.''

On a note, a statutory interpretation—and again, candidly, I think this needs further verification and further analysis, but according to this definition the prohibition established in H.R. 1833 would not apply to (1) abortions performed by C section or hysterectomy, that is, where the fetus is not extracted vaginally, and it would not apply either to abortions in which the fetus is acted upon prior to being moved into the birth canal.

So what we may realistically be doing here is to be legislating in a halfway manner in the area of vaginal births without other ways of dealing with the issue which ought to be dealt with in terms of effective legislation, if this is, indeed, an issue with which we feel we ought to deal.

Subsection (c) then establishes an affirmative defense to the prosecution of a physician performing a partial-birth abortion if it is established by a preponderance of the evidence that the physician reasonably believed that ''the partial-birth abortion was necessary to save the life of the mother; and no other procedure would suffice for that purpose.''

As a matter of statutory interpretation, there are very complex issues involved where you provide for an affirmative defense as opposed to making those elements of proof a part of the prosecutor's case. In a criminal case, the Government has the burden of proving beyond a reasonable doubt all of the elements in a prosecution, and it may well be that this language is ineffective as a matter of law to shift the burden of proof to the defendant.

There are many items which have been affirmative defenses such as alibi, not being present at the time the offense was committed, which have been incorporated into the prosecutor's affirmative duty to show beyond a reasonable doubt all elements of the offense. There is no indication that any consideration has been given on that complex subject by the House of Representatives.

The constitutional issues are present here because the Supreme Court of the United States has held that the States may prohibit an abortion in late term—''may proscribe an abortion except where it is necessary in an appropriate medical judgment for the preservation of the life or health of the mother,'' language from Roe versus Wade.

That involves making the life of the mother an affirmative defense, and it also opens a broader context as to whether the health of the mother would be an exception to the prohibition against the State's eliminating late-term abortions.

This is a very shorthanded description, in the course of having a relatively limited amount of time available for this issue in this Chamber because of our crowded calendar, but these are matters which could be taken up in some detail in the course of the 9 days between now and the 17th, when the Senate is in session or when the Judiciary Committee may see fit to interrupt the recess process. And I can speak for myself. I would be glad to be here to take whatever time is necessary on a hearing or hearings so that these matters may be inquired into and we may legislate, if at all, in a rational way.

There is another consideration involved here that I do not intend to dwell on, but that is the consideration which is articulated so frequently in this Chamber. That is the appropriate area of legislation for the Federal Government in terms of federalism generally and in terms of the 10th amendment where Members of this body are proud to pull from their vest pocket the 10th amendment which specifies that all matters not expressly given to the Congress are reserved to the States.

Subsection (a) provides:

> Whoever, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years or both.

It raises a real question basically as to whether this is a matter appropriately for the Congress. Provisions of the criminal law are traditionally left to the States. Recently, the Supreme Court of the United States in the Lopez case sharply limited the authority of the Congress of the United States to legislate in areas which have long been viewed as areas where the Congress had authority. So that we do have State legislatures ready, willing, and able to act affirmatively on the subject.

On this date of the record, I do not know what States, if any, have moved to legislate on late-term abortions. But

I think it ought to be at least mentioned with whatever degree of emphasis we choose to make on it as to the Federal considerations which are involved here.

Customarily, when you have issues involving jurisdiction, our pattern has been to move a little fast over any such considerations, as we have been known to move a little fast over constitutional considerations, leaving those matters ultimately for the courts.

But where you have a matter of overwhelming importance on the constitutional issue of life of the mother, or health of the mother, and especially where even the most restrictive interpretations on abortion have always carved out an exception for life of the mother, this statute does not do that.

This statute purports to have it raised only as an affirmative defense, which is very different from even under the restrictive interpretations of when an abortion may be performed excepting life of the mother.

Then the issue of jurisdiction, again, not often focused on the floor of either the Senate or the House of Representatives, is worthy of consideration.

But I would say, Mr. President, that the fundamental considerations really here involve the humanitarian considerations: What is actually happening to the fetus? Is the fetus subjected to pain and suffering? If so, is there a way that the legislation could encompass a procedure which would eliminate that pain and suffering? What are the humanitarian considerations involved for the life of the mother?

If it is determined medically that it is preferable to have the fetus acted upon vaginally, as opposed to alternatives which are apparently not covered by the statute, a C section, hysterotomy, or where action is taken on the fetus prior to removal from the birth canal, why should the Congress of the United States rush to judgment to criminalize a medical procedure which is in the vaginal channel as opposed to a hysterotomy or C section or action prior to the entry of the fetus into the vaginal channel, where those matters are really matters for the medical profession as opposed to the Congress? At least should not the Congress be informed as to the intricacies of these matters before we pass judgment on a matter of this great importance?

EXHIBIT 1

HEARING ON PARTIAL-BIRTH ABORTION BEFORE THE HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON THE CONSTITUTION, COMMITTEE ON THE JUDICIARY, June 15, 1995

The subcommittee met, pursuant to notice, at 10:23 a.m., in room 2237, Rayburn House Office Building, Hon. Charles Canady (chairman of the subcommittee) presiding.

Present: Representatives Canady, Hyde, Inglis, Sensenbrenner, Hoke, Goodlatte, Frank, Conyers, and Schroeder.

Also Present: Representative Jackson Lee.

Staff Present: Kathyrn Hazeem, chief counsel; Keri Harrison, counsel; Jennifer Welch, secretary; Jacquelene McKee, secretary; and Robert Raben, minority counsel.

Mr. CANADY [presiding]. The subcommittee will come to order. I am pleased to have the opportunity to hold this hearing to examine the partial-birth abortion procedure. We will hear primarily from medical experts today. They will describe the partial-birth abortion procedure in which a live baby's entire body, except for the head, is delivered before the baby is killed, after which the practitioner completes the delivery. They will testify regarding whether the baby undergoing this procedure feels pain.

We invited two of the abortionists who specialize in and advocate the use of this type of abortion. They agreed to testify. But apparently after further consideration, they found that their position was a position they did not wish to speak to the subcommittee about today. I am very disappointed to report that both practitioners canceled at the last minute.

This hearing focuses on partial birth abortion because while every abortion sadly takes a human life, this method takes that life as the baby emerges from the mother's womb while the baby is in the birth canal. The difference between the partial-birth abortion procedure and homicide is a mere three inches.

A fundamental principle on which our country was founded is that we are endowed by our creator with the unalienable right to life. Roe v. Wade alienated that right from a powerless group by taking away their legal personhood. Richard John Neuhouse correctly stated that, ''We need never fear the charge of crimes against humanity so long as we hold the power to define who does and who does not belong to humanity.'' The Supreme Court instituted abortion on demand by deciding that unborn human beings do not belong to humanity.

Partial-birth abortion procedures go a step beyond abortion on demand. The baby involved is not unborn. His or her life is taken during a breech delivery. A procedure which obstetricians use in some circumstances to bring a healthy child into the world is perverted to result in a dead child. The physician, traditionally trained to do everything in his power to assist and protect both mother and child during the birth process deliberately kills the child in the birth canal.

Because we believe it is an inhuman act, Barbara Vucanovich, Tony Hall, Henry Hyde, and I introduced a bill yesterday with 28 of our colleagues to ban the performance of partial-birth abortion. Partial-birth abortion is defined in the bill as, and I quote, ''An abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.''

On June 12, the National Abortion Federation sent a letter to Members of Congress in response to a letter Barbara Vucanovich and I sent to inform our colleagues of our intention to introduce the partial-birth abortion ban. The National Abortion Federation letter made a number of claims about the partial-birth abortion procedure that are inconsistent with the statements of Drs. McMahon and Haskell, two abortionists who use and advocate the use of the procedure.

The letter claims that the drawings of the partial-birth abortion procedure that we included with our Dear Colleague are highly imaginative and misleading. But Dr. Haskell himself told the American Medical News that the drawings were accurate from a technical point of view.

Professor Watson Bowes of the University of North Carolina at Chapel Hill, a distinguished physician and prominent authority on fetal and maternal medicine, and coeditor of the Obstetrical and Gynological Survey, reviewed an article by Dr. Haskell describing a partial-birth abortion procedure and confirmed that the drawings are an accurate representation of the procedure described in the article by Dr. Haskell.

The National Abortion Federation letter also claims that the fetal demise is virtually always induced by the combination of steps taken to prepare for the abortion procedure. Both Dr. Haskell and Dr. McMahon, however, told American Medical News that the majority of fetuses aborted this way are alive until the end of the procedure. In a Dayton News interview, Dr. Haskell referred to the scissors thrust that occurs after the baby's entire body is delivered and only the head of the baby is still lodged in the birth canal as the act that kills the baby. He said, and I quote, ''When I do the instrumentation on the skull, it destroys the brain sufficiently so that even if it,'' that is, the baby's head, ''falls out at that point, it definitely is not alive.''

After his review of Dr. Haskell's article, Professor Bowes concluded that the fetuses are alive at the time the partial-birth procedure is performed. Indeed, Dr. Bowes notes that Dr. Haskell explicitly contrasts his procedure with other procedures that do induce fetal death within the uterus.

The National Abortion Federation letter implies that partial-birth abortions are performed only in unusual circumstances. Neither Dr. Haskell nor Dr. McMahon claims that this technique is used only in limited circumstances. In fact, their writings advocate this method as the preferred method for most late-term abortions. Dr. Haskell prefers the method from 20 to 26 weeks into the pregnancy. Dr. McMahon uses the method throughout the entire 40 weeks of pregnancy. In fact, a previous National Abortion Federation memo to its members counsels them not to apologize for this legal procedure, and states, ''There are many reasons why women have late abortions, life endangerment, fetal indications, lack of money or health insurance, social, psychological crises, lack of knowledge about human reproduction,'' et cetera.

It is my hope that we can have a candid debate on the realities of this procedure without disinformation or euphemisms. I believe that when they are informed about the truth about the procedure, my colleagues who value the dignity of human life and believe in common decency, will agree with me that partial-birth abortion is inhuman and should be banned.

Mr. Frank.

Mr. FRANK. Mr. Chairman, I have very strong views on this. But given the importance of this particularly to women, I am going to yield my time to the senior woman in the U.S. Congress, the gentlewoman from Colorado.

Mrs. SCHROEDER. I want to thank the ranking member for yielding. I mean that very sincerely, because as the senior woman in this House, this is a day I had dreaded. I see us really rolling back on women's rights.

I think what we are doing here today is bad medicine, it's bad law, it's bad public policy, and it's intrusive Government at its very, very worst.

What this bill is doing is saying that doctors should put aside their best medical judgment in favor of some political judgments made my Washington politicians. I do not know of any other area where we go in and legislatively mandate medical practices. In other words, some of the written testimony I have seen on this has said that what we are really doing is legislatively mandating malpractice.

First of all, the partial-birth procedure is not a medical term. It is a political term. We all know that what people are really trying to get at here is the fundamental right of women to receive medical treatment that they and their doctors determined to be safest and best for them. That is the essence. That is a constitutional right. That right has

been around for more than 20 years. Today we are moving to try and tamper with that.

Today we are going to try and make a procedure sound so terrible and so awful that only women who are demons would consider doing this. Only doctors who are demons would consider doing this. It is almost reinciting witchcraft of a sort, trying to see women as witches. Well, let's talk about this.

There are very, very, very few of these procedures. These procedures are heartbreak procedures. These are procedures that nobody wants to engage in. But sometimes everything goes wrong. Everything goes wrong and it is left to a woman, her spouse, her doctor, to sit down and make hard choices. I do not think we want the Government in Washington taking those choices away.

When you hear from some of the women who had to make these hard choices, they came to them by medical science. Things that we thought were progressive. Things such as amniocentesis and many of the procedures now that tell us more about what is happening along the different markers of birth. I must ask, are we going to do away with those things too? Are we going to do away with all medical procedures and go back to the Dark Ages?

I remind you that in World War I, more women died in childbirth in this country than American solders died in World War I. We have gone a long way to making all of this safer for women. I hate to see us rolling back.

We are going to see a gruesome parade of photos today. That is going to be part of why they are going to say this should all be banned. But I must say that you could do that with almost any medical procedure. All of us are a little squeamish about medical procedures of almost any kind. Do you want to see liver transplants? Do you want to see heart transplants? Do you want to make people squirm? You can start doing all of that.

The issue is, is this a valid life-saving medical procedure that a doctor could reach under reasonably difficult situations. I think that we have all agreed, yes.

I want to say there are some very brave women that are sitting here in this hearing. I don't know how they are doing it. First there is Vicky Wilson, who is a nurse married to an emergency room physician. She had to end a wanted pregnancy because of devastating fetal malformations. She is standing. I want to say I salute you and your husband for being here and listening to this.

There is also Tammy Watts, a California woman, who terminated a wanted pregnancy because the fetus was so horribly deformed and could not live outside the womb. I think you are a very brave woman to be here and stand up to this too.

Vicky Smith, who is an Illinois mother of two children ages 7 and 11, had to end a wanted pregnancy because again, the fetus was microcephalic, had multiple fetal deformations. Vicky Smith is now pregnant again. Vicky, thank you for having the courage to come here.

I also want to say that none of these people engaged in this process lightly. I think that is why they have the courage to come here and say do not demonize them. These were very difficult decisions for them to make and their doctors to make. Who are we, as politicians, to say we know better?

Also, I would like to offer for the record a letter from Rabbi Shira Stern and her husband Rabbi Donald Weber. They wrote to count their experience with abortion. They said, you don't have to show us pictures of fetuses in jars. We held our own shortly after the abortion. Don't talk to us of pain. We worked for 5 years as volunteer chaplains on the pediatric floor of the Memorial Sloan Kettering Cancer Center in New York, and we watched countless children die in agony. Our baby would have died at birth with pain sensors that were much more sophisticated at its full gestational age than they did at the time of the abortion. We have all sorts of problems. This is very painful.

I think because this bill begins the imposition of restrictions on abortion, and that will also increase the medical risks to the life and health of women, it should be considered unconstitutional. I know and I hope that the American women will say this is unacceptable. This is a beginning of chopping away at a right we have spent much too long in trying to ascertain. One of the fundamental rights under the constitution is one, to health care, and to be treated fully as an adult.

I must say again, as the only woman, what a sad day this is. I hope that the women in America will wake up, realize what is happening. Your rights are at stake today. My rights are at stake today. Physicians' rights are at stake today. If we want the physicians to treat us to deal with their best medical judgment and not have political judgments slapped all over their training, this is the day to draw the line in the sand and say, ''No more.'' It's our choice. It is not politicians' choice. I thank the gentleman from Massachusetts again for yielding.

Mr. CANADY. Mr. Hyde.

Mr. HYDE. Well, I thank the chairman. It's always instructive to hear the gentlelady from Colorado. I radically disagree with her. She cited some tragic examples of children born with deformities who were aborted because of that. When I hear cases like that I think of Terry Wiles, who was born from a woman who had taken phalitimide. He was born without arms, legs, with one eye, a little lump of flesh left in an ally in London, found by a bobby, and taken to a home run by an eccentric, wealthy woman called The Guild of the Brave Poor Things.

Little Terry was there until he was aged 10, when he was adopted by a couple in Britain who had lost their own three children, had been taken away from the mother by the court. She was adjudicated an unfit mother, but she was fit enough to adopt Terry, and her husband, and unemployed war veteran. They became quite a family. Terry wrote a book called, ''On the Shoulders of Giants.'' Prince Phillip comes to visit occasionally to get his spirits bolstered, because this little grotesque lump of flesh was so grateful that his mother permitted him to live, at least didn't exterminate him, which is what abortion is, even though he was a little lump of flesh.

I think of Gregory Wattin, whom I watched get an Eagle Scout badge, although he was confined to a wheelchair, profoundly affected by cerebral palsy, could not speak, pointed to letters on an alphabet card. I saw him with a chest full of merit badges I couldn't have earned in the best day of my life, the best year of my life. Hike 10 miles. He crawled on his knees 1 mile, pushed himself 9 miles in a wheelchair.

Do we need people like that? People that have gotten the short end of the stick. When we get depressed, when we think the world is piling up on us, people who have been given so little and have done so much. I think so.

So for all of these cases, there are other cases that inspire us. Beethoven conducting his premier of the Ninth Symphony in the Vienna Opera House and can't hear a note. He said, ''I am wretched. I cannot hear.'' Yet he wrote and conducted this divine music and had to be turned around to face the audience so he could see what he couldn't hear.

So there are cases and there are cases and there are cases, that abortion is the intentional and direct killing of a human life once it has begun. To do that, some people may say is a right. I say for every right there is a responsibility. We have a responsibility to protect human life where and when we can.

So this is an endless discussion. It never ends. It goes on and on and on. Perhaps that's a good thing in a democracy. I thank the gentleman.

Mrs. SCHROEDER. Would the gentleman yield?

Mr. HYDE. Sure. With pleasure.

Mrs. SCHROEDER. I just want to say that I think all of us would attribute great inspiration to the cases that you talk about. But I hope that we also listen with open ears, and I think we'll find that the women did exercise these rights with great responsibility. Their lives were in jeopardy, or maybe other things. I think there's two, you know, we really need to listen to the whole thing, because there is the woman's life that we are also looking at. I know the gentleman from Illinois——

Mr. HYDE. I would say to my dear friend, that a life for a life is certainly an even trade. And that when a mother's life is threatened, that the tradeoff is equal. But when something less than a life is at risk, then I don't think the trade is equal. I stand in awe of the gentlelady of Colorado, who presumes to speak for all women. I certainly wouldn't pretend to speak for——

Mrs. SCHROEDER. Well, if the gentleman will yield further. I don't believe I ever said I spoke for all women. I must say that I do think that when we start talking about how we start measuring rights and responsibilities, those are very serious issues. But one of the great things about this country is that we have tried to keep the Federal Government out of coming down very hard on one side or the other. I think that's what I am——

Mr. HYDE. I couldn't agree more with the gentlelady. When they force taxpayers to pay for abortions, they are involving us coercively in something that we abhor. Again, it seems to me the purpose of Government is to protect the weak from the strong. Otherwise, there's no reason for Government.

While I am a Republican, I am no libertarian. I believe there is a use for the Government, sometimes a unique use. When a pregnant woman, who should be the natural protector of her child in her womb, becomes her child's deadly adversary, the Government ought to intercede to protect the weak, there's nothing weaker than the defenseless pre-born child, from the strong. But you and I can go on indefinitely. Let's do that some time. We'll hire a——

Mrs. SCHROEDER. Well, Mr. Chairman, I'd be more than happy. Again, let's not demonize.

Mr. CANADY. Mr. Frank.

Mr. FRANK. I should note first that everything that gentleman from Illinois has said applies not to partial-birth abortions or however you want to describe them. It applies to all abortions. The gentleman from Illinois has given, with his usual eloquence, his objection to any form of abortion whatsoever.

That is relevant because this is the first step in a sincere effort by some people who believe that all abortion should be outlawed, and if they can not be outlawed because the Supreme Court will not be made to change its position, they should be made as unavailable as possible. As I said, this is the first step.

People should understand that nothing in what the gentleman from Illinois said differentiates this particular type of abortion from any other. He is consistently and conscientiously against all abortions. This is the first step in that effort.

But I have some problems even with it as done. The gentleman from Illinois said when

the pregnant woman who should be protector turns on the child. Well, why then would you pass a law if you believe that the woman who volunteers to have such an abortion, if you believe that the woman who seeks out a doctor, and by the way, as far as speaking for all women, I believe myself that on this issue, the gentlewoman from Colorado speaks for most women, but the key point is, that none of us are proposing to——

Mr. CANADY. Let me tell the members of the audience that we appreciate your being here, but no matter which side you are on, we would ask that you not express your approval or disapproval of the statements by the members or of the statements of any of the witnesses. Thank you.

Mr. FRANK. I think making faces is OK. The key point is this. The gentlewoman from Colorado and I are not proposing a law for all women. We are not presuming to tell all women what to do. We recognize that this choice, the choice that was described of some of the brave people who were here, is a very difficult one. We don't think the Federal Government ought to make it for them. We are not saying all women must do one thing or must do another. We are saying this is the most intimate and difficult choice, and people should make it within their own families and within their own views.

But what does this bill say? If you commit an act that people here are describing as a terrible act, if you the woman do that, not only are you subject to no penalty whatsoever, but you can sue the doctor who you asked to perform it. That is in this bill.

What about your notions of personal responsibility? We are told on the conservative side that people should be held to a standard of personal responsibility. We are presented with a bill which says you can seek out a doctor, ask that doctor to perform this procedure which you think is a terrible procedure, voluntarily participate in the procedure. Indeed, you are obviously indispensable at procedure. And then turn around and sue the doctor and get money from the doctor who did what you asked him to do, and which you participated in.

That goes so contrary to your notions of personal responsibility that it is puzzling. It can only be a recognition that for all the rhetoric, this is obviously not something that you want to really treat as criminal. Why else would you take the woman whose participation is the essential element in all this? The woman who makes the decision, the woman who seeks out the doctor, the woman who goes to the doctor and submits to the procedure. She comes out in this as someone who has a right to sue the doctor who simply did what she wanted.

That shows to me a fundamental ambivalence in the minds of the people who say this. Because if it were everything that you said it was, you would be at least punishing, you would be punishing the woman in a logical sense if she has participated in a murder. You certainly would not be empowering her to sue. Now would you be empowering others to sue, and for psychological damages.

That is just the other great inconsistency we have here. We have been told on the conservative side that we should return things to the States. This is a matter the States have full jurisdiction over right now. This is not anything preempted by the Federal Government. I am not talking constitutionally now. I am talking about the matter of public policy.

How can people who talk about how they want to return things to the States now come and say we're going to have this Federal statute regulating abortion. The States are fully free to do it. If the overwhelming majority in a State think this is a bad thing and they have a way to do it constitutionally, then they can do it. In some States, provisions like this do exist.

The argument for doing it on the Federal level is, that there are some States that have chosen not to ban it. My conservative colleagues believe that the States have no business exercising their judgment in this regard. I understand that. I have never claimed to be Thomas Jefferson without the wig. But don't come to me on the one hand and say, ''We're for State's rights. We are going to undo this Federal monolith.'' And then for the first time in my memory, inject intimate decision.

So I think that this is flawed in several regards. I would just reaffirm what the gentlewoman from Colorado has said. We are not trying to make any decision for anybody. We are respecting the individual integrity of this very difficult decision, and therefore, I hope that this legislation does not go anywhere.

Mr. CONYERS. Mr. Chairman.

Mr. CANADY. Yes.

Mr. CONYERS. I would like to make a comment or two.

Mr. CANADY. Well, you will be recognized in turn. Mr. Inglis has been here. I will recognize him now. We'll come back to you.

Mr. CONYERS. Thank you.

Mr. INGLIS. Thank you, Mr. Chairman. I start any comments I make by saying this. That we're now on the probably one of the most volatile issues that we can possibly face. I always try to start that discussion by indicating compassion for the victims of abortion that are walking around today. The fact is, there are a lot of victims of abortion that are alive. They are the women that were deceived, and now realize that they wish they had not had an abortion.

If we look in our families, somewhere in the family somebody has had an abortion, a sister, a mother, a cousin, an aunt. Somebody in almost every family has had an abortion. That is why this is such a huge tragedy.

So I start anything I say by way of compassion for the victims of abortion who are walking around today, that are still dealing with the guilt of what they now realize they did. With that opening, I would also say that I am really quite disappointed. I thought we might have found some common ground here. I thought that there wouldn't be anybody who would rise in defense of this type of abortion. I guess I'm too Pollyanna. I thought the gentlelady from Colorado, for example, would say well surely this is a case where we can agree, that this is a horrible procedure and one that we should not make legal.

But I guess I am finding out just how radical the other side is on this issue. It's a really interesting thing to see the radical nature of someone who would defend a procedure in which a live child is halfway delivered and then killed on the way out. I just can not imagine anything more radical than that position.

So I thought really we would find some common ground here and agree that yet this is something that people of good faith can agree on. That surely this is a type of abortion that we can't abide in a civilized society, where a child if it were just literally inches in a different realm, inches away from life, inches away from the protection of the Constitution, is murdered, and a civilized society defends it as some sort of a right.

I think what it rises to is it indicates that this is really some sort of sacrament in a very perverted religious system almost. Some sort of a statement that we've got to have abortion and you can't stop us from having it. Some sort of an assertion of—I'm really not sure what it is, but a rather strange assertion that literally inches from life and protection of the Constitution, we murder a child. I am really surprised that we wouldn't have found some common ground, particularly, I look forward to the panelists making it clear that the real world here is that this is not going on that often in the cases that the gentlelady from Colorado cited about people in hard decisions. It is rather going on in people's minds who choose conscientiously to go to a place that is going to, in the gentleman's word from Illinois, exterminate a living human being. They are not involved in a normal healthy delivery. They are going to a place that specializes in the extermination of human life.

So in the real world, contrary to what the gentlelady has indicated, the real world, this is happening in abortion chambers. This is happening where people pay another person to exterminate a human being that is literally inches from life and protection of the Constitution.

Mrs. SCHROEDER. Would the gentleman yield?

Mr. INGLIS. I'd be happy to. Maybe you could explain to me why this isn't radical.

Mrs. SCHROEDER. This is happening by some of our best educated medical minds making a decision that this is the safest procedure for the woman's health. Now I think it's——

Mr. INGLIS. Let me reclaim my time. Let me reclaim my time because—let me reclaim my time because the gentlelady persists in not living in the real world. The gentlelady is not living in the real world. We are talking places where one consciously decides to go to pay another person——

Mrs. SCHROEDER. A doctor's office.

Mr. INGLIS. To exterminate.

Mrs. SCHROEDER. A doctor.

Mr. INGLIS. Another human being.

Mr. FRANK. Would the gentleman yield?

Mr. INGLIS. I will not because I'm not finding any common ground. I'm not finding any rationality in what the woman has to say.

Mr. FRANK. Will the gentleman yield to me?

Mrs. SCHROEDER. You are trying to——

Mr. INGLIS. Reclaiming my time, I want to make clear that this is a very—I mean, I listened as the gentlelady talked about how hard decisions and medical professionals—you are not in the real world.

The real world is that people are going to a place, consciously deciding to engage the services of a specialist who is good at pulling a baby within inches of life and then sucking the brains out of the child. That is not a medical specialist who is involved in a hard decision.

Mr. CONYERS. Would the gentleman yield?

Mr. INGLIS. That is a radical procedure.

Mr. CANADY. The gentleman's time is expired. Mr. Conyers.

Mr. FRANK. Would the gentleman yield to me for 15 seconds at the outset?

Mr. CONYERS. Thank you, Mr. Chairman, I would yield to Mr. Frank.

Mr. FRANK. I would just then say to my friend from South Carolina, he talks about someone who makes this conscious choice to go and do this, and then apparently he votes for a bill which would allow her to then to sue and get damages for it.

So if this is such a terrible decision this woman is making, why are you then going to vote for a bill if you are going to vote for this, which lets her then sue the person? I am just baffled by that evaluation of human life. The person who submits to what you consider murder, who is indispensable to the murder, then makes a profit off it.

Mr. CONYERS. Ladies and gentleman, it is obvious that this is one of these subjects that are very personally and tenaciously held by people that oppose abortion. It is the law that allows abortion. It is the law that we are examining.

But what we are doing here today is continuing a strategy, an obvious one, of limiting abortion rights since we can't—we don't have the support or the legal justification for changing the law, is that we're going to begin in this new conservative Congress to cut back in every place we can. What more convenient strategy than to start off here in one of the most painful, difficult, unhappy decisions in the abortion arena than this politically claimed decision or title that we have on this subject matter here today.

I submit to you that there is no medical term called partial-birth abortion. I am getting drawn further and further into this dispute because I sense the difference between those who fight to curb abortion and their difficulty in helping to deal with the children who are born, who come out of the birth circumstance, and what do we do after they get a life? What do we do in terms of training them and educating them and trying to build up their families? Well, we cut back. That's what we do.

We say well, this is an incredible right, that we know when life occurs in the fetus. But after it does, let's abolish the Department of Education. Let's cut back on Aid to Families With Dependent Children. Let's reduce the budgets for the children of the poor. All these wonderful statements that are being made about this period from the beginning of life to the existence as a fetus. Yet we are faced with a society with more and more dysfunctional families, more children that are leading lives of despair, more joblessness. But those are different subjects, these are people alive. But when we get to this, we're going to impose our views on you.

So I see this as a strategy. I am prepared to withstand it. I always like to hear people talking about Government funded abortions. Why should taxpayers pay for abortions. Why should taxpayers that don't like war pay for wars? Why should taxpayers that don't like anything else have to pay for it? Because we have determined that is the appropriate way that we have to run a system to raise money for the government.

So I don't see any real value in Beethoven not being raised as a case on one side or the other on this issue. I think the fact that he was deaf is totally irrelevant to these proceedings.

But it is a sad moment when we are in the biggest frenzy of cutting the funds necessary for children and families and health to flourish in this country, that we are now here meeting in a committee of this importance over a subject which I think is probably very low on the list, Partial-birth Abortion Ban Act of 1995. I deplore it.

Mr. CANADY. The gentleman's time is expired. Mr. Goodlatte.

Mr. GOODLATTE. Thank you, Mr. Chairman. I very much appreciate you holding these hearings. I appreciate your courage in addressing this issue, because I think it's an issue that every American should be aware of and consider and think about. Quite frankly, I am appalled that there would be objection to not being willing to ban a procedure like this, that if the doctor would bring that baby a few inches further into full delivery, would clearly have the full protection of the law.

Mr. Frank and Ms. Schroeder have spoken eloquently about a woman's right to choose. You know, if there were only one right involved, if there were only one life involved, I think there would be nobody in this room who would disagree with that. But therein lies the responsibility of Government, and responsibility of every one of us to have Government intercede when there is more than one right involved. We do have to act responsibly in protecting those who can not protect themselves.

One of the individuals on the other side mentioned bringing this up about what could be the most unhappy decision that not only a woman, but hopefully a man too, might be involved in making a decision about this. Well here we have the opportunity to take away what is clearly not only an unhappy decision, but a wrong decision, to be allowed to do something like this. I think that we are clearly on the right track in addressing this issue today. Thank you, Mr. Chairman.

Mr. CANADY. Thank you, Mr. Goodlatte. Mr. Hoke.

Mr. HOKE. Thank you, Mr. Chairman. I will be brief because I want to hear the testimony of the witnesses, as do you. I want to thank you as well and commend you for bringing this hearing today. I think it takes a tremendous amount of courage and is the sort of thing that this committee should be doing. I am very grateful that you decided to do it.

I also want to make a quick observation regarding the State that I come from, Ohio, where we recently outlawed or made this specific procedure illegal. It was the right thing to do there. It will be the right thing to do here as well.

I am particularly looking forward to the testimony of Dr. White, who is one of this Nation's most preeminent neurosurgeons. He is from Cleveland. I mentioned him particularly, because I am interested in not only what he has to say about the ability of a fetus to experience pain, but also because I make the observation that he trained my own father who is also a neurosurgeon, I won't say how many years ago, to protect all of those that are involved.

Finally, the other observation I would like to make is that I am particularly appalled at this procedure for the reasons that have been described already, but also because this is a procedure that can only take place, that only takes place after the 20th week, and usually takes place much later than that. I have been consistently opposed to any abortions that would take place in the second or third trimesters, except under the most extraordinary circumstances to save the life of the mother. So I look forward to this hearing, Mr. Chairman. Thank you.

Mr. CANADY. Thank you, Mr. Hoke. I'd like to now ask that the other witnesses on our first panel please come forward and take their seats. I'll introduce all the members of our panel, and then we'll recognize them in turn.

First we will hear from Dr. Pamela Smith, who comes to us today from the Department of Obstetrics and Gynecology at Mt. Sinai Hospital in Chicago, where she is the Director of Medical Education. In addition to serving as president-elect of the American Association of Pro-Life Obstetricians and Gynecologists, Dr. Smith has written several articles for medical journals on the subject of pregnancy and issues relating to complications during pregnancy.

Second, Dr. J. Courtland Robinson will testify. Dr. Robinson is from the school of hygiene and public health at Johns Hopkins University.

Third, we will hear from Dr. Robert J. White. Dr. White is Professor of Neurosurgery at the Case Western Reserve University School of Medicine, and is director of the Division of Neurosurgery and the Brain Research Laboratory at the Metro Health Medical Center. He is internationally known for his expertise in clinical brain surgery. He has been the recipient of several honorary doctorate degrees and visiting professorships.

Fourth, we will hear from Ms. Tammy Watts, with us today from California. Ms. Watts has had personal experience with abortion.

Finally, Mary Ellen Morton, a nurse specializing in neonatal care will testify. Mrs. Morton has developed a program on neonatal and pediatric pain control that she presents to health care professionals. For the past 5 years she has practiced as a flight nurse with Med Flight, an air medical program in Columbus, OH, where she helps to stabilize and transport premature or ill infants to Columbus Children's Hospital.

I would like to ask each of our witnesses to please summarize your testimony in no more than 10 minutes. If you can summarize it in less than 10 minutes, that would also be appreciated. Without objection, the entirety of your prepared statements will be placed in the record.

Our first witness, Dr. Smith.

STATEMENT OF PAMELA SMITH, DIRECTOR OF MEDICAL EDUCATION, MOUNT SINAI HOSPITAL; ACCOMPANIED BY J. COURTLAND ROBINSON, JOHNS HOPKINS UNIVERSITY, SCHOOL OF HYGIENE AND PUBLIC HEALTH, ROBERT J. WHITE, PROFESSOR OF SURGERY, CASE WESTERN RESERVE UNIVERSITY, TAMMY WATTS, AND MARY ELLEN MORTON, NEONATAL SPECIALIST

Statement of Pamela Smith

Dr. SMITH. Thank you, Mr. Chairman, and honorable members of the subcommittee. Abortion provides claim that participation in intrauterine dismemberment or a D&E, dilation and evacuation techniques, often cause severe psychological ill effects in counseling staff and surgical providers. Partial-birth abortion techniques, which are distinctly different surgical procedures, compound this problem even further.

The partial-birth abortion method is strikingly similar to the technique of internal podalic version, or fetal breech extraction. Breech extraction is a procedure that is utilized by many obstetricians with the intent of delivering a live infant in the management of twin pregnancies, or single infant pregnancies complicated by abnormal positions of the pre-born infant.

In fact, when I describe the procedure of partial-birth abortion to physicians and lay persons who I know to be pro-choice, many of them were horrified to learn that such a procedure was even legal.

The development and growing use of the partial-birth abortion method is particularly alarming when one considers the recent actions of the Accreditation Council for Graduate Medical Education. This council, whose members include a nonvoting Federal official, has tremendous power. It is responsible for accrediting medical education programs. Nonaccredited programs are not eligible for Federal funding, and students who graduate from nonaccredited programs may not be able to obtain State licenses, hospital privileges, or board certification.

ACGME is requiring obstetrics and gynecology residency training programs to provide abortion training either in their own program or at another institution. This policy will undoubtedly be used to coerce individuals and institutions to participate in procedures that violate their moral conscience. Physicians throughout this country therefore will encounter the ethical dilemma of participating in an abortion procedure which under Roe versus Wade is literally seconds and inches away from being classified as a murder by every State in the union. I believe that this factor among others, fully justifies the banning of this particular abortion technique.

What I would like to do at this time is to demonstrate for you, using this model, which is a replica of how small the average baby would be that is subjected to this procedure. This is the length and a model of a 19 to 20 week old infant. I would like to just go through this very quickly, the procedure, to

show you the similarities between this procedure and the procedures that are used by obstetricians not to destroy the baby's life, but to save the baby's life.

Breech presentation is when the buttocks or the feet are coming first. This area here is the bottom of the womb of the cervix. Normally, when you are trying to deliver a premature baby that may be breech, what you would like to do is to have the bag of waters intact around the baby, because that serves two things. It can buffer the baby as you are pulling the baby out. It also serves to keep the cervix open, so that the head does not get trapped.

When you do partial-birth abortion, however, because you want the head to be trapped, you don't want the bag of waters there, particularly when the baby is premature. So the bag of waters is ruptured.

You then grab the feet. If the infant is very small, you would use the forceps that are there. If the infant is larger, you would probably put your hand in, the same way we would do if we did an internal podalic version, grab the feet and start to pull the baby down the cervix and into the vagina.

Normally when I do this with the intention of delivering the baby alive, I like to have the back toward the mother's bladder, which would be here, because it will be easier for me once the head gets to the level of a cervix to flex the head and deliver the baby safely.

When you do partial-birth abortions, you want the head here in this position, so that you can have access to the neck. Again, when you are delivering a breech baby, cervical entrapment is a complication. It's a complication that we basically handle by either cutting the cervix with a certain kind of incision to release the head, or by doing a cesarian section sometimes. Especially if it's a large baby and that doesn't work.

With the abortion technique that we are describing today, however, you want the head to get trapped, because if the baby gets passed there and slips out, then his status changes from an abortus to a living person. So what you do to make sure that the baby does not move the few inches that is required is you hold your hands here. Basically, when you want to deliver the baby live, you use your hands in this position to buttress the baby. Again, you usually have an assistant up here pressing and flexing the mother's abdomen to deliver the head.

But when you are doing an abortion technique, you are steadying the baby so that the baby won't slip out. Then you take the Metzenbaum scissors, which are these scissors here. Put them in the back of the baby's head. Push them in to try to sever the cord, the spinal cord, open the scissors up to create a hole big enough to put a catheter in. You then put the catheter in and suck out the baby's brains. That way, the baby is dead. When the baby comes out that ends the abortion technique.

Of course when you are doing this to deliver a live baby, the differences are primarily at the level of the cervix. If by change the cervix is floppy or loose and the head slips through, the surgeon will encounter the dreadful complication of delivering a live baby. The surgeon must therefore act quickly to ensure that the baby does not manage to move the inches that are legally required to transform its status from one of an abortus to that of a living human child.

Although the defenders of this technique proclaim that it is safe, they have not substantiated these claims. Only two individuals have provided any kind of data to evaluate. Included in this scanty amount of data, there is a report of a hemorrhagic complication that required 100 units of blood to stabilize the patient, along with an infectious cardiac complication that required 6 weeks of antibiotic therapy.

I have also been shown a copy of a letter dated June 12, signed by the executive director of the National Abortion Federation. This memo makes a number of remarkable claims regarding the partial-birth abortion method, claims that are flatly inconsistent with the recorded statements made by physicians who specialize in performing these procedures. I will refer to statements made by Dr. Martin Haskell, who wrote a monograph explaining in detail how to perform this type of procedure, which was distributed by the National Abortion Federation in 1992. I will also refer to statements made by Dr. James McMahon in various interviews and in written materials that he has distributed.

The National Abortion Federation letter states that fetal demise is virtually always induced by the combination of steps taken to prepare for the abortion procedure. But in interviews with the American Medical News, quoted in an article published on July 5, 1993, edition, both Dr. Haskell and McMahon said that the majority of fetuses aborted this way are alive until the end of the procedure.

Dr. Haskell himself further elaborated in an interview published December 10 in the Dayton News, that it was the thrust of the scissors that accomplished the lethal act. I quote him, ''When I do the instrumentation of the skull, it destroys the brain sufficiently so that even if the fetus falls out at that point, it's definitely not alive.''

Professor Watson Bowes of the University of North Carolina at Chapel Hill, a prominent authority on fetal and maternal medicine, and coeditor of the Obstetrical and Gynecological Survey, reviewed Dr. Haskell's article and noted that Dr. Haskell quite explicitly contrasts this procedure with other procedures that do induce fetal death within the uterus. Professor Bowes concurred that the fetuses are indeed alive at the time that the procedure is performed.

The National Abortion Federation letter also claims that the drawings of the partial-birth procedure distributed by Congressman Canady and others are highly imaginative and misleading. But Dr. Haskell himself validated the accuracy of these drawings, as reported in the American Medical News. Again I quote. ''Dr. Haskell said the drawings were accurate from a technical point of view, but he took issue with the implication that the fetuses were aware and resisting.''

Professor Bowes also reviewed the drawings and wrote that they are an accurate representation of the procedure described in the article by Dr. Haskell.

I would invite the members of the subcommittee to review the drawing of the fetal breech extraction method that I have attached to my written testimony, reproduced from Williams Obstetrics, a standard textbook. You can see that the method described by Dr. Haskell is an adaptation, or I would rather say a perversion, of the fetal breech extraction and that the textbook drawings are strikingly similar to the disputed drawings of the partial-birth procedure. I would also invite the members of the subcommittee to examine an accurate model of a fetus at 20 weeks and the Metzenbaum surgical scissors that are used in this procedure, and decide for yourselves who is being misleading.

The National Abortion Federation letter also suggests that these partial-birth abortions are commonly done in a variety of unusual circumstances, such as when the life of the mother is at grave risk. I have practiced obstetrics and gynecology for 15 years and I work with indigent women. I have never encountered a case in which it would be necessary to deliberately kill the fetus in this manner in order to save the life of the mother.

There are cases in which some acute emergency occurs during the second half of pregnancy that makes it necessary to get the baby out fast, even if the baby is too premature to survive. This would include for example, HELLP syndrome, a severe form of preeclampsia that can develop quite suddenly. But no doctor would employ the partial-birth method of abortion, which as Dr. Haskell carefully describes, takes 3 days.

Dr. McMahon also lists maternal conditions such as sickle cell trait, uterine prolapse, depression and diabetes as indications for this procedure, when in fact, these conditions are frequently associated with the birth of a totally normal child.

The National Abortion Federation letter of June 12 also states, ''This is not a different surgical procedure than D&E.'' This statement is erroneous. The D&E procedure involves dismemberment of the fetus inside the uterus. It is cruel and violent, but it is quite distinct in some important respects from the partial-birth method. Indeed, Dr. McMahon himself has provided to this subcommittee a fact sheet, that he sends to other physicians in which he goes into a detailed discussion of the distinctions between intrauterine dismemberment procedures, which he calls disruptive D&E, and the procedure that he performs, which he calls intact D&E.

This brings us to another important point. There is no uniformly accepted medical terminology for the method that is the subject of this legislation. Dr. McMahon does not even use the same term as Dr. Haskell, while the National Abortion Federation implausibly argues that there is nothing to distinguish this procedure from D&E.

The term you have chosen, partial-birth abortion, is straightforward. Your definition is straightforward, and in my opinion, covers this procedure and no other.

Mr. CANADY. Doctor, if you could summarize and continue and conclude in another couple of minutes, I'd appreciate it.

Dr. SMITH. I'll just summarize by saying partial-birth abortions are being heralded by some as safer alternatives to D&E. But advances in this type of technology do not solve the problem. They only compound it. In part because of its similarity to obstetrical techniques that are designed to save a baby's life and not destroy it, this procedure produces a moral dilemma that is even more acute than that encountered in dismemberment techniques. The baby is literally inches away from being declared a legal person by every state in the union. The urgency and seriousness of these matters therefore require appropriate legislative action. Thank you.

Mr. CANADY. Thank you, Dr. Smith. Dr. Robinson. I will point out before Dr. Robinson's testimony that the two doctors, McMahon and Haskell that Dr. Smith referred to in her testimony, were the doctors we had invited and who had agreed to appear for this hearing, but who canceled at the last minute. We wanted to give them the opportunity to be here to testify and explain the procedure. But they were——

Mrs. SCHROEDER. If the Chairman will yield. I think one of the reasons that we have to be very honest about this, is doctors have been harassed and sometimes don't feel very secure in this environment that we live in. I think it is only fair to put that on the record.

Mr. CANADY. Thank you. Dr. Robinson.

Statement of J. Courtland Robinson

Dr. ROBINSON. I would like to thank the Chairman and the members of the subcommittee for inviting me to be here today. My name is J. Courtland Robinson, associate professor on the full-time faculty in the Department of Gynecology and Obstetrics at the Johns Hopkins University School of Medicine, and a joint appointment with the

Johns Hopkins School of Hygiene and Public Health.

I have been involved in all aspects of reproductive health care for women for over 40 years, including complete obstetrical care, abortion, special oncologic and gynecological care, with an extra interest in family and sterilization. I am here on behalf of the National Abortion Federation, the national professional association of abortion providers.

My experience with abortion began in the 1950's, when as a house officer at the Columbia Presbyterian Medical Center in New York City, I watched women die from abortions that were poorly done. Over a 5-year period when in training at the medical center, many women died before our eyes. Many survived only with aggressive pelvic surgery. On occasion, we did save the very sick.

These are not events learned from books, but reality that I painfully experienced and witnessed. This experience with poorly performed abortions was further extended during my 11 years as a medical missionary with the Presbyterian Church while I worked and taught in Korea.

In 1971 at Baltimore City Hospital, we were already doing legal first and second trimester abortions before the Roe versus Wade decision came down. We did about 1,000 a year. Thirty percent were second trimester. At that time, the method of management of second-trimester abortions was saline induction. When the saline did not work, it was often my task to carry out an evacuation in order to meet the patient's needs in a safe and timely manner. I have performed abortions in different settings, and have performed second-trimester abortions using different techniques, depending upon the clinical situation.

When a woman is faced with a need to terminate a pregnancy, the physician can manage the surgical procedure using a number of techniques, hypotonic glucose, saline, urea, prostoglandins, potossin, suction, D&C, D&E. We have used different techniques over the years as our skill and understanding of basic physiology has become clearer. As in all of medicine we develop techniques which are more appropriate, study the long-term impacts, and determine which is safer.

The physician needs to be able to decide, in consultation with the patient, and based on her specific physical and emotional needs, what is the appropriate methodology. The practice of medicine by committee is neither good for patients or for medicine in general.

This legislation appears to be about something you are referring to as partial-birth abortion. I now am beginning to learn a little about what you think it means, but I did not know it until a few days ago. Never in my career have I heard a physician who provides abortions refer to any techniques as a partial-birth abortion. That, I suspect, is because the name did not exist until someone who wanted to ban abortions made it up. Medically, we do not do partial-birth abortion. There is no such thing.

When an intact fetus is removed in the process of abortion, as is sometimes done, fetal demise is induced either by an artificial medical means or through the combination of steps taken as the procedure is begun. Thus, in no case is pain induced to the fetus. If neurologic development at the stage of the abortion being performed even made this possible, which in the vast majority of cases it does not, analgesia and anesthesia given to the women neutralizes any pain that may be perceived by the fetus.

So when I read in your legislation that you seek to, ''Ban an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery,'' my reaction is that you are banning something that does not happen. To say partially vaginally delivers is vague, not medically oriented, just not correct. In any normal second-trimester abortion procedure done by any method, you may have a point at which a part, an inch of cord, for example, of the fetus passes out of the cervical os, before fetal demise has occurred. This does not mean you are performing a partial birth.

I have seen the sketches that have been passed around. I have read your description of a particular physician's method of performing this procedure, a method by the way which is not at all common. It represents a particular surgical decision by that physician, one which works in his practice. The sketches in any case are not particularly correct. They may in a very technical sense represent an approximation of what occurs in some cases, but they do not represent medical or scientific accuracy. Rather, they are designed to be upsetting and inflammatory for the lay person. They do not advance medical practice.

The words of the legislation are equally inflammatory. No one doing this procedure is partially delivering a fetus. So then, I have to wonder what you are trying to ban with this legislation. It sounds to me as if you are trying to leave any late abortion open to question, to create a right of action, and in fact, a criminal violation. To force doctors to affirmatively prove that they have not somehow violated such a law.

I know that a number of physicians who have performed abortions for years who are experts in the field, look at this legislation and do not understand what you mean or what you are trying to accomplish. It seems as if this vagueness is intentional. I, as a physician, can not countenance a vague law that may or may not cut off an appropriate surgical option for my patient.

Women present to us for later abortions for a number of reasons, including congenital anomalies, of which I have a few pictures if necessary. I can tell you from my long experience that women do not appear and ask for any abortion, particularly those that I saw die in the 1950's, particularly a later abortion, cavalierly or lightly. They want an answer. It is a serious and difficult decision and has been for centuries for women to make. It is not my place to judge my patient's reason for ending a pregnancy, or to punish her because circumstances prevented her from obtaining an abortion earlier.

It is my place to treat my patient, a woman with a pregnancy she feels certain she cannot continue, to the best of my ability. That includes selecting the most appropriate surgical technique using my skill and knowledge developed from experience, to determine what method is safest for this woman at all times and in all circumstances.

Sometimes, as any doctor will tell you, you begin a surgical procedure expecting that it will go one way, only to discover that a unique demand, the case requires you to do something different. Telling a physician that it's illegal for him or her to adapt a certain surgical method for the safety of the patient is absolutely criminal and flies in the face of the standards for the quality of medical care.

For many physicians, this law would amount to a ban on D&E entirely, because they would not undertake a surgery if they were legally prohibited from completing it in the best way they saw fit at the time the procedure was being done. Because the law itself is so vague and bizarre, leaving them to wonder whether they are open to prosecution or not.

This means that by banning this very rare technique, you end up banning D&E, essentially recognized as the safest method of performing secondary-trimester abortions. That means that women will probably die. I know. I have seen it happen.

With all due respect, the Congress of the United States is not qualified to stand over my shoulder in the operating room and tell me how to treat my patient. If we are to allow women of this country the right to decide when and whether to bear children, we, as their doctors, must be allowed to be doctors and treat them to the best of our abilities and according to their sense of personal control. Thank you.

Mr. CANADY. Thank you Doctor. Dr. White.

Statement of Robert J. White

Dr. WHITE. Mr. Chairman, members of this distinguished panel. I am delighted to have the opportunity to testify before you. I appreciate Mr. Hoke's remarks, whether true or otherwise.

I come before you as not an obstetrician or an gynecologist. I come before you as a brain surgeon and as a neuro scientist. When I was undergoing my training at Harvard Medical School and was working at Children's Hospital in Boston, when I saw the efforts that the pediatricians and the neonatalogists were putting forward to save children, infants, it had a mark on my consciousness and on my practice. I have been trained through all of my years, including many years at the Mayo Clinic, to save lives. Not to take lives.

I go back to a time in American medicine when abortion was abhorred by the medical profession. The things that we have to consider here is we are dealing with a human being, a fetus. By the 20th week of gestation and beyond, has in place the neurocircuitry to appreciate pain. Now I'm not going to bore this distinguished panel by going through the neuroanatomy and the neurochemistry and the studies that are on board that reflect that these fetuses can perceive and appreciate pain. As a matter of fact, there are studies that demonstrate at 8 weeks through 13 weeks, there's enough neurocircuitry present so that pain noxious stimuli could be perceived.

It is well to remember at this particular time, beyond the 20th week of gestation, that not only are the fiber tracks in place from the surface of the skin in through the spinal cord and to special areas of the brain where pain can be appreciated. But the system which is equally important in the modulation and suppression of pain is not yet as mature as the one conducting pain. Some authorities feel that fetuses at this age can perceive pain to a greater degree than the adult. So I would like to come before you emphasizing that within the framework of the fetus, his nervous system, pain can be perceived and appreciated.

Now, I am not an obstetrician. But as I view and understand this particular procedure, the compression, the pulling, the distortion must be a painful experience for the fetus as it is advanced into the birth canal. But for me, what is most disturbing is the procedure itself. You are talking about a brain operation on a fetus who could have reached an age where I would be called upon as someone trained and experienced in pediatric neurosurgery to operate.

We operate on preemies within this range, conducting brain surgery to save their lives. We would never consider any procedure giving us access to that preemie's central nervous system without sophisticated anesthesia.

As I read as you do that the procedure to terminate the fetus' life requires the opening of the scalp, the entering of the spinal canal. Now interestingly, I am really wondering if these people who conduct this procedure really know what they are doing in a technical way. We operate on infants beyond the 24th week of gestation using magnification.

Some of the most sophisticated instrumentation allows us to enter these areas.

I can conceive that these people eventually sucking out the brain have not even divided the upper cervical cord, which incidentally, and we should think about that, is the area where Mr. Reeves has been injured. We're bringing to bear the greatest technology, and he's being treated by some of the finest neurosurgeons in this country, to save his life.

The obstetrician who conducts this type of partial abortion, is attempting to undertake brain surgery. There is no description in any of the doctors' articles or responses who do these procedures, to give me any indication whether they are operating on the upper cervical spine or cord, or on the brain stem.

Now it is true, once you sever that area, then of course the capability of respiration and so forth has been separated, as has happened to Mr. Reeves. But I can believe that these are not trained neurosurgeons. In the process of terminating this child by removing its brain, could be even conducted in a poor infant whose pain situation, capabilities, the tracks, the neurocircuitry, could be in place because they are not trained to carry out even this dastardly procedure.

Members of the panel, we are talking about a procedure, and I have no idea how often it is conducted, by individuals who are not trained neurosurgeons. We are trained to save lives.

Since I became involved in this, as I sit at the operating table, spending hours utilizing intensive medication, special instrumentation, to remove blood from the brain, to direct specially developed hydraulic tubing into the fluid passages of the brain, in infants of this age or perhaps a little older, to save their lives it frankly disgusts me to think that other medical professionals are undertaking these procedures that we have spent years of study and training to undertake to save lives, are being conducted to terminate lives.

I would also remind you that the animal rights groups in this country have displayed great concern over animal rights, particularly as it relates to pain and to medical experimentation. It seems to me that we have reached a point where far greater care would have to be exercised by the veterinarian or the medical scientist experimenting on animals in terms of pain reduction or elimination, than is a part of this particular procedure. It is almost as if, from an ethical standpoint, it would be more disturbing, even morally incorrect and inappropriate, to cause pain in a rat than a human fetus.

I doubt very much, ladies and gentlemen, if this type of procedure, and as I said before I am not an expert as to how often it would be undertaken, were conducted within the framework of the lower animal, I am sure that the animal rights groups would be able to bring sufficient pressure on Congress and within the media to have it totally eliminated.

In conclusion, the fetus is at an age of gestation where he or she can perceive pain and possibly more exquisitely, than he or she would if they were allowed to go on to be born. The procedure itself is a brain operation. But the details of it are so limited and so ghastly, that it seems to me that it is impossible to believe that medical colleagues at another specialty would carry it out. Thank you, ladies and gentlemen.

Mr. CANADY. Thank you, Dr. Ms. Watts.

Statement of Tammy Watts

Ms. WATTS. Good morning. My name is Tammy Watts. I would like to thank the subcommittee for inviting me here today. My story is one of heartbreak, one of tragedy, but also one of compassion.

When I found out I was pregnant on October 10, 1994, it was a great day, because on the same day, my nephew, Tanner James Gilbert was born. We were doubly blessed. My husband and I ran through the whole variety of emotions, scared, happy, excited, the whole thing. We immediately started making our plans. We talked about names, what kind of baby's room we wanted, would it be a boy or girl. We told everyone we knew, and I was only 3 weeks pregnant at the time.

It was not an easy pregnancy. Almost as soon as my pregnancy was confirmed, I started getting really sick. I had severe morning sickness, and so I took some time off of work to get through that stage. As the pregnancy progressed, I had some spotting, which is common, but my doctor said to take disability leave from work and take things 1 month at a time.

During that leave, I had a chance to spend a lot of time with new newborn nephew, Tanner, and his mom, Melanie, my sister-in-law. I watched him grow day by day, sharing all the news with my husband. We made our plans, excited by watching Tanner grow, thinking, ''This is what our baby is going to be like.''

Then I had more trouble in January. My husband and I had gone out to dinner, came back and were watching TV when I started having contractions. They lasted for about a half an hour and then they stopped. But then the doctor told me that I should stay out of work for the rest of my pregnancy. I was very disappointed that I couldn't share my pregnancy with the people at work, let me watch me grow. But our excitement just kept growing, and we made our normal plans, everything that prospective parents do.

I had had a couple of earlier unltrasounds which turned out fine. I took the alphafetoprotein test, which is supposed to show fetal anomalies, anything like what we later found out we had. Mine came back clean.

In March, I went in for a routine seven month untrasound. They were saying this looks good, this looks good. Then suddenly, they got really quiet. The doctor said, ''This is something I did not expect to see.'' My heart dropped. He said he was not sure what it was, and after about an hour of solid ultrasound, he and another doctor decided to send me to a perinatologist. That was also when they told us we were going to have a girl. They said, ''Don't worry. It's probably nothing. It can even be the machine.''

So we went home. We were a little bit frightened so we called some family members. My husband's parents were away and wanted to come home, but we told them to wait. The next day the perinatologist did ultrasound for about 2 hours, and said he thought the ultrasound showed a condition in which the intestines grow on the outside of the body, something that is easily corrected with surgery after birth. But just to make sure, he made an appointment for me in San Francisco with a specialist.

After another intense ultrasound with the specialist, the doctors met with us along with a genetic counselor. They absolutely did not beat around the bush. They told me, ''Your daughter has no eyes. Six fingers and six toes, and enlarged kidneys which were already failing. The mass on the outside of her stomach involves her bowel and bladder, and her heart and other major organs are also affected.'' This is part of a syndrome called trisomy-13, where on the 13th gene there's an extra chromosome. They told me, ''Almost everything in life, if you've got more of it, it's great, except for this. This is one of the most devastating syndromes, and your child will not live.''

My mother-in-law collapsed to her knees. What do you do? What do you say? I remember just looking out the window. I couldn't look at anybody. So my mother-in-law asked, ''Do we go on? Does she have to go on?'' The doctor said, ''no,'' that there was a place in Los Angeles that could help if we could not cope with carrying the pregnancy to term. The genetic counselor explained exactly how the procedure would be done if we chose to end the pregnancy, and we made an appointed for the next day.

I had a choice. I could have carried this pregnancy to term, knowing that everything was wrong. I could have gone on for 2 more months doing everything that an expectant mother does, but knowing my baby was going to die, and would probably suffer a great deal before dying. My husband and I would have to endure that knowledge and watch that suffering. We could never have survived that, and so we made the choice together, my husband, and I, to terminate this pregnancy.

We came home, packed, and called the rest of our families. At this point, there wasn't a person in the world who didn't know how excited we were about this baby. My sister-in-law and best friend divided up our phone book and called everyone. I didn't want to have to tell anyone. I just wanted it to be over with.

On Thursday morning, we started the procedure. It was over about 6 p.m. Friday night. The doctor, nurses, and counselors were absolutely wonderful. While I was going through the most horrible experience of my life, they had more compassion than I have ever felt from anybody. We had wanted this baby so much. We named her Mackenzie. Just because we had to end the pregnancy didn't mean we didn't want to say goodbye. Thanks to the type of procedure that Dr. McMahon uses in terminating these pregnancies, we got to hold her and be with her and love her and have pictures for a couple of hours, which was wonderful and heartbreaking all at once. They had her wrapped in a blanket. We spent some time with her, said our goodbyes, and went back to the hotel.

Before we went home, I had a checkup with Dr. McMahon and everything was fine. He said, ''I'm going to tell you two things. First, I never want to see you again. I mean that in a good way. Second, my job isn't done with you yet until I get the news that you have had a healthy baby.'' He gave me hope that this tragedy was not the end, that we could have children just as we had planned.

I remember getting on the plane, and as soon as it took off, we began crying because we were leaving our child behind. The really hard part started when I got home. I had to go through my milk coming in and everything you go through if you have a child.

I don't know how to explain the heartache. There are no words. There's nothing I can tell you, express or show you, that would allow you to feel what I feel. If you think about the worst thing that has happened to you in your life and multiply it by a million, maybe then you might be close. You do what you can. I couldn't deal with anybody, couldn't see anybody, especially my nephews. It was too heartbreaking. People came to see me, and I don't remember them being there.

Eventually, I came around to being able to see and talk to people. I am a whole new person, a whole different person. Things that used to be important now seem silly. My family and my friends are everything to me. My belief in God has strengthened. I never blamed God for this. I am a good Christian woman. However, I did question.

Through a lot of prayer and talk with my pastor, I have come to realize that everything happens for a reason, and Mackenzie's life had meaning. I know it would come to

pass some day that I would find out why it happened, and I think it is for this reason. I am supposed to be here to talk to you and say, you can't take this away from women and families. You can't. It is so important that we be able to make these decisions, because we are the only ones who can.

We made another painful decision shortly after the procedure. Dr. McMahon said, ''This will be very difficult, but I have to ask you. Given the anomalies Mackenzie had so vast and different, there is a program at Cedars-Sinai which is trying to find out the cause for why this happens. They would like to accept her into this program.'' I said, ''I know what that means, autopsies and the whole realm of testing.'' But we decided how can we not do this? If I can keep one family from going through what we went through, it would make her life have more meaning. So they are doing the testing now. Because Dr. McMahon does the procedure the way he does, it made the testing possible.

I can tell you one thing after our experience, I know more than ever that there is no way to judge what someone else is going through. Until you have walked a mile in my shoes, don't pretend to know what this was like for me. I don't pretend to know what someone else is going through. Everybody has got a reason for doing what they have to do. Nobody should be forced into having to make the wrong decision. That's what you'll be doing if you pass this legislation. Let doctors be free to treat their patients in the way they think is best, like my doctor did for me.

I understand this legislation would make my doctor a criminal. My doctor is the furthest thing from a criminal in the world. Many times I have called him my angel. They say there are angels working around the world protecting us, and I know he is one. If I was not led to Mr. McMahon, I don't know how I would have lived through this. I can't imagine where we would be without him. He saved my family, my mental stability, and my life. I could not have made it through this without him and I know there are a great many women out there who feel the same.

I have still got my baby's room and her memory cards from her memorial service. Her foot and hand prints. Those are good things and good memories, but she's gone. The best thing I can do for her is continue this fight. I know she would want me to. So for her, for Mackenzie, I respectfully ask you reject this legislation. Thank you.

Mr. CANADY. Thank you. Mrs. Morton.

Statement of Mary Ellen Morton

Ms. MORTON. Mr. Chairman, members of the committee, thank you for the opportunity to testify. With your permission, could I use slides to illustrate my testimony?

Mr. CANADY. Certainly.

Ms. MORTON. Could we lower the lights? Thank you. My name is Mary Ellen Morton. I am here today to challenge and to dispel the notion that unborn babies would not feel agonizing pain before they are reduced to human rubble during the partial-birth abortion procedure.

Now I have practiced as a nurse for 12 years. Nine of those have been in the neonatal intensive care units. Taking care of babies like this little neonate.

[Slide.]

Now a neonate is defined as a baby that is born, whether premature or full term, until the time they about 4 weeks of age. As you see, this little baby is about 1½ pounds. He falls right into the time line of when this partial-birth abortion procedure is routinely done. He is not even on life support systems. As you see, that's an adult 02 mask there for size. This little boy, named Al, is just about 26 weeks along at this point along in the picture.

As the Chairman stated, I am a flight nurse in Columbus, OH. A portion of my flights is dedicated to picking up the smallest of premature babies and transporting them via air back to Columbus Children's Hospital in an isolet. Viability is an arbitrary term to medical people like myself. The reason for that is, is because it's a measure of the sophistication of the external life supports that is available to us. We know that that is ever changing.

[Slide.]

In fact, this little boy, Donnie, is in the midst of all that technology. He was born at 24 weeks. He is now at about three pounds. That is him laying on his tummy under an oxygen hood.

Now the reason viability is arbitrary, because it varies from institution to institution in my experience. It also varies from baby to baby, because neonatologists, when they call a gram weight or a gestational age as when a baby is viable, you will always have a baby that will prove the definition wrong. It also increases, of course, with our sophisticated technology.

[Slide.]

Now this little baby, it's kind of hard to see, but she was born at 23 weeks gestation in Columbus, OH. She had multiple operations done. One of them was to restore intestines that were born outside of her tummy. It is the standard of care that a baby like this would receive narcotic analgesics for pain control after surgery. It is also the standard of care that these babies would receive skeletal muscle relaxant drugs, such as valium. Also, that has kind of an amnesic effect, so the baby will not remember the painful experience. Also, an antianxiety effect.

It is also the standard of care that these babies receive anesthetic for any kind of surgical procedure. That could be from a central line insertion, chest tube insertion, even to a circumcision. Now the reason we have standards of care, nurses know that it promotes the physical well-being of that baby. More importantly, it is the compassionate thing to do for these little ones, and it holds the medical community accountable for what we do.

I fought long and hard for 12 years to get adequate pain control for these little babies. As Dr. White can probably testify, it has been a long time coming. It has been a struggle. But finally, we are using more and more pain technology and we realize that hospitals should not be a place of torture and torment, but use the adequate pain technology available to us.

[Slide.]

Now I have ample experience as a nurse to assess the pain experience in the smallest of babies. Just to give you an idea from this drawing, there are breathing tubes, there are oral gastric tubes that need to be inserted. We do vena punctures, arterial punctures. We draw blood from the heels of these babies. Their skin, especially the 21 to 23 week babies, they have very sensitive skin. So it requires that we take much caution when we remove electrodes from their skin. We use electrodes for heart monitoring, for oxygen monitoring through the skin, for temperature monitoring. So how is it that nurses know that this little babies are in pain? What it is that I have discovered over the 12 years of taking care of them?

[Slide.]

Well, this just kind of sums it up for you. But basically, we see differences in their vocalizations. There's different kinds of cries. Even your small babies can actually moan, just like an adult would. The facial expressions. We see chin quivering, eye squeezing, we see eye rolling, all kinds of brow bulge, a square chin when they are experiencing pain activity. We see differences in their sleep wake cycles. We see a lack of consolability. Their sucking ability changes when they are in pain. There general appearance, their color actually deteriorates because they deoxygenate their blood when they are in severe pain. We also see posture motor responses, such as jitteriness and arching, when they are exhibiting a pain stimulus.

[Slide.]

Now this little girl, Sarah, she's under a pound. She is only 420 grams with 454 grams being 1 pound. When she was born at 23 weeks gestation, it required that she have a medication called Adavan, which is like valium, administered to her, and also she was on a fentanyl drip at different points. That is actually a pain killer for the discomfort of all the technology.

[Slide.]

This is her a little bit older. As you see, it was very important to even swaddle her while she's on a breathing machine there. It was important for her parents to put a tape into her isolet, where she could be nurtured by the parents verbally. We even gave a pacifier that she can suck on around that breathing tube. We also play internal womb sounds to these babies to kind of console them.

[Slide.]

Now here she is several years ago with the same little doll. As you can see, she has grown quite a bit. But nurses have known this for years, that babies that have adequate pain control and they have people, whether it just be the nurses or adoptive parents, whoever is caring for the child, to give them emotional care. Those babies fare better. They gain weight better. They have less incidence of inner-cranial bleeds. We see a lot of good outcomes.

[Slide.]

Now unquestionably as Dr. White has said, the research has shown that these premature babies, they possess full sensation. This is a summary of the research that has been done. I just want to show you that this validates what nurses have always known for years. I have already told you a few of these, eye rolling, breath holding, jitteriness, eye squeezing, chin lip quivering, limb withdrawal. We also see physiological changes. Their heart rates will race when they are in pain. Or small babies, it will go down. Their oxygen levels, they also have stress hormones that go off the wall. Cortisol, adrenalin levels, will increase during pain.

[Slide.]

Now this is Kelly Thorman of Toledo, OH, born in 1971. As you see, she doesn't require much sophistication of external life supports. In the 1970's, there probably wasn't very much.

[Slide.]

This is her at 368 grams. That is three-quarters of a pound. That is her nurse's wedding ring on her wrist.

[Slide.]

Now as depicted on the front of Life Magazine. This is a baby that is the same age and weight as Kelly Thorman, the baby I just showed you. I have to ask, what is the difference? Both of those babies, whether inside or outside the womb, can perceive pain and experience it. But the difference is, the baby outside the womb is required to have humane care inside of the hospital. But this baby inside of the womb can be pulled violently down into a breech position, partially delivered, only to experience an agonizing death.

[Slide.]

Now this little girl from Columbus, OH, is shown here in two different stages of her life. At 23 weeks gestation and just over a pound, she is full of technology there you can see at

the bottom. But you know, as a premature neonate at the bottom and also as a preschooler, do you know that she can experience the same things. She can breath, digest, swallow, taste, hear. This baby can feel pain at both stages in her life. In fact, at both of these stages in her life, she had a learned response to pain. I will show you one of the reasons we know this.

[Slide.]

This baby on his 3-month birthday, when he reached about 3½ pounds.

Mr. CANADY. Ms. Morton. There's a vote taking place on the floor. If you could conclude your remarks in about a minute or two. We are going to have to go to the floor to vote.

Ms. MORTON. I am closing right now. This is the last statement. This baby, before he has blood drawn, it requires that we warm his heel as you see on his right heel. After doing this several times to these babies, they actually know when that pain response is coming, because they will start to become agitated. Their heart rates will race when we put the warm pack on.

In closing, as a nurse and also as a mother, I am really disturbed that this abortion procedure could be permitted on these babies. I believe that I have shown that there is unmistakable humanity. I hope with proposed legislation before you, that it will stop that. Thank you.

Mr. CANADY. Thank you, Mrs. Morton. I want to thank all the members of this panel. As you know, there is a vote taking place on the floor of the House. The members of the subcommittee must go to the floor to vote. We will return and reconvene as soon as the vote is concluded. The committee will now stand in recess.

[Recess.]

Mr. CANADY. The subcommittee will come to order. I apologize to our panel for the interruption. I will also tell you that the subcommittee will have to conclude its proceedings somewhat in advance of 1 o'clock due to the fact that the full Judiciary Committee has a meeting scheduled at that time. I regret that. I wish we could have an extended session here of questions, but that is not going to be possible

In light of that, I would like to at this point recognize Mr. Hyde. We're going to switch places, and I'll let Mr. Hyde proceed with questions at this point. Then when it would have been Mr. Hyde's turn, it will be my turn. Mr. Hyde.

Mr. HYDE. Well, I thank you for that gesture. Dr. White, I have yet to find a doctor who performs abortions that calls himself an abortionist. They all say they specialize in reproductive health. I have racked my brain and I try to find something reproductive about abortion. It is contrary, reproductive. Of course health is irrelevant for the fetus that has been exterminated. It just seems ironic that this is the surgery that dares not speak its name.

Dr. Robinson, over the years, about how many abortions have you performed?

Dr. ROBINSON. I really have great difficulty going back to 1953 when in New York City, we didn't do them except under rather limited and special conditions when a committee of four or five physicians would get together and have vote concerning was this a reasonable reason for this young woman to interrupt this pregnancy, just as we had committees to decide whether a woman could have her tubes tied or not. This was all done by committee.

In Korea, since I was working with the Presbyterian Church, I was active in teaching, therefore others in the community were doing the abortions.

When I came back in 1981 or 1971, then at City Hospital I began getting involved in it. I can't give you any sense. It has not been a major job. On the other hand, I have on many occasions introduced myself at church meetings as an abortionist.

Mr. HYDE. You have?

Dr. ROBINSON. Oh, yes.

Mr. HYDE. You are the first then.

Dr. ROBINSON. I'm a Christian abortionist.

Mr. HYDE. That is an interesting juxtaposition.

Dr. ROBINSON. Well, we have Christian crusaders. We have the Christian inquisition in Spain. We have a lot of Christian militants. We have lots of Christians——

Mr. HYDE. Some more nominal than others, I daresay.

Dr. ROBINSON. I daresay.

Mr. HYDE. I have read a statement by Dr. Bernard Nathanson, who was one of the founders of the modern abortion movement and who ran the biggest abortion clinic in New York for years. He said that he can't escape the notion, he said, I can't escape the notion that I have presided over 50,000 deaths. Do you think your record could equal that?

Dr. ROBINSON. I doubt it.

Mr. HYDE. Or is Dr. Nathanson ahead of you?

Dr. ROBINSON. I doubt if that number—on the other hand, the thing that he left out of his statement is that he found 50,000 women who were incredibly pleased.

Mr. HYDE. Who were what?

Dr. ROBINSON. Incredibly pleased with the outcome.

Mr. HYDE. No doubt.

Dr. ROBINSON. One of the pleasures of doing abortions is that no longer do I have to go to a committee. When women leave on the occasions that I have been involved or where the units do, these are very happy women.

Mr. HYDE. Do you ever find that remorse sets in? Do you ever find women who have had an abortion are troubled by it in later years?

Dr. ROBINSON. I find remorse occurs in many women. I do a hysterectomy in women and they grieve later on, because they have lost their ability. Grieving over illness and problems is very common. I think careful studies have indicated that grieving over this issue, as Koop said many years ago as Surgeon General, that this isn't any more common than anybody else. It is an event of life.

Mr. HYDE. You have said that you have spent in your medical experience, you have witnessed women who have died from botched abortions. We are aware that that happens. The statistics are there. The mortality rate for the unborn in abortions is 100 percent though. Isn't it?

Dr. ROBINSON. It better be.

Mr. HYDE. It had better be?

Dr. ROBINSON. Yes.

Mr. HYDE. Thank you Doctor. I have no more questions.

Mr. CANADY. Thank you, Mr. Chairman. I would like to continue, Dr. Robinson, with a couple questions for you.

Dr. Martin Haskell prefers an abortion technique which he calls dilation and extraction. Dr. James McMahon prefers a similar technique and calls it intact dilation and evacuation. The same basic technique has also been called interuterine cranial decompression. Are you familiar with the abortion techniques that are used by Dr. Haskell and Dr. McMahon that are referred to by these particular terms?

Dr. ROBINSON. I must confess, Mr. Chairman, that up to about a week ago, I had never heard anything about this at all. I am in an academic center in which varying issues are discussed. I was totally unaware that even people were talking about it.

Mr. CANADY. Well that was a week ago. So you didn't know anything about the subject you came to testify on today until starting a week ago?

Dr. ROBINSON. I know a lot about abortion. I know a lot about the attempts to describe what is being done. But as a medical piece of information, this is not widely known. It is not generally known. It has not been published in literature. It has not been published in scientific journals. It hasn't even been mentioned in throw-away journals.

Mr. CANADY. Let me ask you this. Would you consider yourself to be familiar, have some familiarity with the subject now? You have been expressing opinions on it.

Dr. ROBINSON. I am very familiar with the subject right now.

Mr. CANADY. OK. Very good. Glad to hear that. Now are you familiar with the paper by Dr. Haskell entitled, Second Trimester DNX 20 Weeks and Beyond, which was presented as part of the National Abortion Federation's Second Trimester Abortion From Every Angle Risk Management Seminar held in September of 1992?

Dr. ROBINSON. As I have testified before, I did not attend that particular meeting of NAF. I was not present. I have not seen that publication.

Mr. CANADY. Oh. You have not seen Dr. Haskell's publication on that subject at all?

Dr. ROBINSON. I have not seen what he has published.

Mr. CANADY. Have you consulted any other literature on this subject?

Dr. ROBINSON. There is no published literature in what we consider the normal medical literature. If I did a Med-Line search, I would not find this term anywhere in the Med-Line search covering about 6,000 medical journals.

Mr. CANADY. What term is that?

Dr. ROBINSON. Med-Line search, it's a way——

Mr. CANADY. No, no, no, no. You said you would not if you did a Med-Line search find this term.

Dr. ROBINSON. The term being used in the legislation.

Mr. CANADY. I refer to some other terms. Dilation and extraction, intact dilation and evacuation, interuterine cranial decompression. What about those terms?

Dr. ROBINSON. If I was to look up the word dilation and extraction, a standard D&E, this is an accepted and considered by many one of the safer methods of accomplishing a second trimester abortion. With that I am familiar with and have done it.

Mr. CANADY. Dilation and extraction?

Dr. ROBINSON. D&E.

Mr. CANADY. OK. Let me ask you this. Now a letter has been sent out by the National Abortion Federation in which you were quoted as saying that the drawings in some materials that I distributed, which are identical to these drawings on the posters, had little relationship to the truth or to medicine.

Now in your prepared testimony, which you submitted to the subcommittee, you said I have seen the sketches that have been passed around. They are medically inaccurate and not designed to advance proper understanding of a surgical procedure. Rather, they are designed to be upsetting and inflammatory to the lay person. Now there you said they were medically inaccurate. When you were giving your testimony a few minutes go, I thought you said something a little different than what is in your written statement. Could you tell me what your current view is of these?

Dr. ROBINSON. I apologize to the committee. Coming down here I took advantage to read what I had prepared and did a little maintaining.

Mr. CANADY. I have no problem with people changing their minds if they get additional

information that convinces them that an earlier view is not correct.

Dr. ROBINSON. My view is essentially that those drawings would not appear in a textbook. These drawings would not appear in a journal.

Mr. CANADY. Do you think they are technically correct?

Dr. ROBINSON. They describe, the first one where he is reaching up there. I think they have taken some artistic license to sort of move things around.

Mr. CANADY. But you do think they are technically correct?

Dr. ROBINSON. That is exactly probably what is occurring in the hands of the two physicians.

Mr. CANADY. OK, well, I appreciate that. I think that's a very different thing than what was referred to in the letter sent out by the National Abortion Federation, in which you were quoted as saying they had little relationship to the truth or to medicine. I am glad to clarify that point.

Now, there's some controversy here about whether a baby is, in fact, being delivered or whether it is correct to call this partial-birth abortion. I just want to quote this paper you have not seen. I will be happy to provide a copy of it to you, you might find it of interest, that was prepared by Dr. Haskell, in which in describing this procedure he says, ''With the lower extremity in the vagina, the surgeon uses his finger to deliver the opposite lower extremity, then the torso, the shoulders, and the upper extremities.'' The term deliver is specifically used by I think one of the leading practitioners of this particular procedure. I just wanted to note that.

I will now turn to Mr. Frank and recognize him.

Mr. FRANK. Thank you, Mr. Chairman. I'd like to ask I guess Ms. Smith, Dr. White, Ms. Morton, your opposition to abortion on the various grounds, does that extend beyond this particular procedure, Ms. Smith?

Dr. SMITH. Dr. Smith, please.

Mr. FRANK. Sorry. Dr. Smith.

Dr. SMITH. Excuse me. You want to know whether or not I have a problem with abortion in general?

Mr. FRANK. Do your objections extend beyond this particular procedure?

Dr. SMITH. OK. I was asked today to come and speak about this procedure.

Mr. FRANK. I understand, but I'm asking you to talk about other things.

Dr. SMITH. As the president of the American Association of Pro-Life OB/GYN's, I think that should be quite obvious that I have a problem with abortion.

Mr. FRANK. I will be honest with you. I don't always read people's biographies. I like to ask them questions and get answers.

Dr. SMITH. I'm sorry. I thought you knew. I'm sorry.

Mr. FRANK. I'm sorry you find that an imposition, but I'm asking you your position. I won't do that again, if that's bothersome. Dr. White.

Dr. WHITE. The answer is yes.

Mr. FRANK. Now do you feel that one of the points you made and I heard Ms. Morton make too, was that the fetus, the baby, feels pain. That is true with regard to other procedures besides this one, I assume? That the fetus would feel pain?

Dr. WHITE. I so testified.

Mr. FRANK. Yes. Again, I apologize. I can't always be everywhere at the same place. So the pain point then applies to others as well. Ms. Morton.

Ms. MORTON. You are saying the babies, that it would undergo any other surgical procedure?

Mr. FRANK. Would also feel pain?

Ms. MORTON. Yes. They certainly do.

Mr. FRANK. OK. Well, my point then is that if there is consensus that pain is felt in every situation, to my mind that does not become a basis for differentiating between abortion and this situation and abortion elsewhere. I understand there are people who think abortion is wrong. But the question is, why we would single this out.

Let me then ask also the three witnesses whom I just addressed. This particular legislation says that not only would the pregnant woman be subject to no penalties whatsoever, but she could, in fact, sue the doctor who performed the procedure.

Dr. White, do you think that is appropriate, that a woman who decided to have this done, sought out the doctor, went to the doctor's office voluntarily, submitted to the procedure, and then with no malpractice or anything, we're not talking here about malpractice, because I don't want to get doctors really upset. We are talking only about the doctor who performs the procedure exactly as described and it has exactly the results projected, and the woman then can sue him. Do you agree with that part of the law?

Mr. CANADY. Could I just——

Mr. FRANK. If I get extra time.

Mr. CANADY. Absolutely. You'll get extra time. It is my understanding that under tort law, it is generally the case that it is considered malpractice to perform a procedure which is illegal. I just would point that out.

Mr. FRANK. Yes. I understand. But this statute, if it was simply general tort law you wouldn't have to do it in the statute. I assume this is not going on my time, because I am responding to the gentleman, but what the gentleman is saying is, please don't pay attention to the law I broke. I mean if that was general tort law, what did you put it in the statute for? You clearly meant to do more than general tort law. That's the principle that is explicitly written in here.

So Dr. White, do you think that a woman in that situation should be allowed to recover damages from the doctor who performed the procedure exactly as she asked him to?

Dr. WHITE. I'm no legal expert, Mr. Frank.

Mr. FRANK. This is a matter of policy. It is not a question of what the law is.

Dr. WHITE. But I find the procedure so inhumane and so nonscientific, that if this particular part of the bill became law, I could accept it.

Mr. FRANK. You think the woman should be allowed to sue. Dr. Smith?

Dr. SMITH. I would like to answer your question. First of all, I don't know how the people who do abortions do their practice. I do know that most of the times when women ask about abortion, and people do come to me and talk to me about it, they don't usually go in saying I want a particular procedure. They usually go in saying I don't want to be pregnant any more, or in a particular case if they find out that they have a baby that has an abnormality that is incompatible with life, they generally don't ask you, do you do D&Es.

Mr. FRANK. What if they do? Ms. Watts said she did, and she had it explained to her.

Dr. SMITH. I'm telling you——

Mr. FRANK. I understand, but I am asking the question.

Dr. SMITH. I am answering your question.

Mr. FRANK. No, you are not, Dr. Smith.

Dr. SMITH. Well, let me try to. OK?

Mr. FRANK. You are not answering it. Let me explain to you why. Maybe I better rephrase the question better. The bill covers every situation. You are talking about there may be situation where the woman was mislead. The bill would allow the woman to sue in situations where it was explained to her exactly, as it apparently was to Ms. Watts.

My question to you is, where it was explained to a woman exactly what was going to happen, and that's what happened, should she be allowed, as this bill would allow her, to sue the doctor?

Dr. SMITH. If the doctor is doing something illegal and he hurts the woman, then first of all, if it's a law, he is breaking the law.

Secondly, if he is doing an experimental procedure.

Mr. FRANK. No——

Dr. SMITH. I am trying to answer your question. If he is doing an experimental procedure——

Mr. FRANK. You are not answering my question.

Dr. SMITH. We must tell the woman that this is what I am doing, and therefore, do you agree to it. Most patients do not ask their doctors for a specific abortion technique.

Mr. FRANK. You are evading the question.

Dr. SMITH. They ask, I don't want to be pregnant.

Mr. FRANK. Yes, Dr. Smith. You are deliberately evading the question.

Dr. SMITH. I am not evading the question.

Mr. FRANK. Excuse me, Dr. Smith. I am going to finish. You are deliberating evading the question. I said to you where we have circumstances where the woman explicitly is told by the doctor what is going to happen, it's not experimental, et cetera.

Mr. CANADY. The gentleman's time is expired.

Mr. FRANK. With my extra time?

Mr. CANADY. Yes. I think you got more than the time I took.

Dr. SMITH. Can I just ask question? Can I ask him a question, please?

Mr. CANADY. No. I'm sorry. We're going to have to recognize Mr. Inglis at this point. Then we'll have another round of questions. Hopefully, Mr. Frank will have another opportunity on the second round. Mr. Inglis.

Mr. INGLIS. I would love for you to ask your question.

Dr. SMITH. I would like to know, you are setting up a situation where you are telling me that my patient is coming in and asking me to do something that I know is against the law? And then you are supposing that the doctor knows this is against the law and then is going to ask, cahoots with the patient to do something that is against the law when they have another alternative to help that person if they don't want to be pregnant not to be pregnant?

I guess the reason I didn't understand your question is that I don't assume that doctors break laws that they know they are not supposed to be breaking. So if you are asking me if two people want to conspire together to do something that is criminal, I don't know how to respond to that. You'd have to ask a doctor who does that. I don't do that.

Mr. FRANK. Would the gentleman yield for me to answer the question?

Mr. INGLIS. Sure. Just briefly though. I've got another question.

Mr. FRANK. Well, you yielded to her to ask me a question. It would seem to be only fair.

The answer to you is that you seem to think it was a stupid question. But what you really mean is that it is a stupid bill, because I asked you the question that came from the bill. It is the bill that sets up those circumstances. You say you are presuming these circumstances. I am reading from the bill. The bill is the one that assumes that there will be a doctor who will do that and the woman will sue. So your discussion——

Mr. INGLIS. Let me reclaim my time.

Mr. FRANK. Is about the bill itself. I was asking you a circumstance from the legislation.

Mr. INGLIS. I'm going to reclaim my time and yield to the Chairman for a response to that attack on the bill.

Mr. CANADY. I hope and presume that there will never be any prosecutions under this law

once it is enacted. I believe that respectable practitioners will not violate this law. So I think what we have in the bill is a mechanism to ensure that there is a consequence if they do. That will encourage their compliance with the law. I will yield back to the gentleman——

Mr. FRANK. Will the gentleman yield?

Mr. INGLIS. No, no. I am going with the question. I have got another question. I am very interested in, and understand I am running back and forth between two subcommittee hearings, but I understand that Dr. Robinson, you testified that partial birth is a misnomer, that this is not really what it is. I would ask you, sir, distinguish for me the difference between the child let's say on these charts that is—I'm not a medical expert, but I assume it's about 5 inches, maybe less than that. Maybe 2 inches difference.

In other words, when the child is once delivered, which is a matter of inches I take it, can you explain to me the difference in your opinion, between the child that has been delivered and the difference between the child whose head is still in utero?

Dr. ROBINSON. Actually, I am not clear what the question is.

Mr. INGLIS. You said that there was not a——

Dr. ROBINSON. We have in our tradition we have other terms. I am surprised the word partial extraction was not used. This is a standard term in obstetrics that we use for delivering. That could have been used. The use of the word living, these types of——

Mr. INGLIS. Let me refine the question a little bit. Do you understand that if you did this procedure it would be legal, but if the child were delivered out of the canal, and you took your same instruments and whacked off its head, do you understand a legal difference between the way you might be treated there?

Dr. ROBINSON. Well, as a younger resident before we had a lot of sophisticated techniques, I was often faced with the delivery of a breech, in which I found the baby at that point still alive, with an enormous head. Yes. I have upon occasion——

Mr. INGLIS. No, no, no, no, no. You are missing the question. Let me explain the question. I want you to explain to me the difference between the child that you may legally kill inside, with its head inside the canal, and the situation that would occur if you were once it was delivered those last few inches, to whack off its head. What is the difference between what would happen to you?

Dr. ROBINSON. If the law was passed, I have no idea what would happen. The law has not passed. I know that I am under law right now, permitted to meet my patient's needs in providing her an abortion.

Mr. INGLIS. OK. Let me ask you this. Now we are talking about the legal. Tell me how you justify in your own soul, if you will, the difference in treatment between the last few inches. I mean describe for me the status difference of that human being. What is the difference in status? One, it's almost all out. In fact, I think the shoulders are out, are they not, and the head is simply in. In the other, the head is out.

I have witnessed four beautiful births of my four children. I recall that that's a rather triumphant moment. Can you tell me the difference in the status in your own mind, between those children? The one that's head is inside, and the one that's head is outside?

Mr. CANADY. If you could do so briefly, please, because the gentleman's time is expired.

Dr. ROBINSON. In my situation, I am dealing with a woman who has come to me for reasons that she wants to interrupt her unplanned, unwanted pregnancy. There are congenital anomalies. In some cases, the babies may be partially dead or won't live when it is on the outside. The conditions under which I, my staff, the nurses in which we are delivering this, as was described, the support and the concern.

The other than you are describing when I am dealing with a patient who is desperately trying to have a live child, and through the mistake of nature, delivers early, prematurely. In most cases, I would probably not have delivered that baby this way. I would have done a caesarian section.

Mr. CANADY. The gentleman's time is expired. Mr. Hoke.

Mr. HOKE. Dr. Robinson, you had stated that in no case is pain induced to the fetus. The fetus feels no pain at all. We have heard a lot of conflicting testimony regarding that, from a nurse and a neuro scientist.

If the baby is alive right up until the very end of the procedure, do you still stand by that testimony?

Dr. ROBINSON. I am not a neuroscientist. I have read some of the literature, although it's not an area that I spend a great deal of time at. I have listened to the nurse testify as to what instinctively she has learned. Instincts, of course, are not the way we learn.

Mr. HOKE. What do you base your statement that there is no pain?

Dr. ROBINSON. Because I'm not sure I know what pain is. Spinosa called it a chronic condition. I am an expert in chronic pain. I deal with a lot of people with chronic pelvic pain. What is it, where does it start.

Mr. HOKE. How about when like if you took a knife and you were cutting a tomato and you sliced into your finger, would you experience something that you might describe as pain?

Dr. ROBINSON. That would be an acute pain reaction. Yes.

Mr. HOKE. Al right. Well then if we can use that definition, which I think is probably one that many people share. Using that kind of definition, are you saying that in no case is that kind of pain induced to the fetus? Is that what you meant by your testimony?

Dr. ROBINSON. I am sure that if you had the fetus outside and had it sophisticated, you would see EKG changes, you would see certain reactions. But this simply the passage of information from a no-susceptive sensor up to the brain. Whether that is pain or not pain, I do not know the answer to that.

Mr. HOKE. Well, Dr. White, the testimony that we had heard from Dr. Robinson was that if there was pain, and apparently there is some question in Dr. Robinson's mind about that, whether or not there is pain, that it wouldn't be felt because under the circumstances there's an anesthetic that has been given to the patient, to the woman. Would an anesthesia, would local anesthesia affect the fetus or would the fetus be inside the uterine sack, would it be different, a different set of circumstances?

Dr. WHITE. Well, there are certain pharmacological agents that are administered as anesthetics, mainly in the use of general anesthetics, which do transfer through the placenta, and at a significantly reduced amount do reach the child.

There isn't the number of studies that we need on that. I think the difficulty is that under these circumstances and the evidence we have in terms of cardiovascular responses, certain chemistries that have been drawn from the fetus under these circumstances, demonstrate the fact that there is considerable stress and indeed, overwhelming pain.

There are enough studies in children of this age. Much in the age range that the nurse has demonstrated to us. I think there is really very little argument any longer that the fetuses that we are talking about in the gestational age, the idea is, they do receive pain and appreciate it. I don't want to bore you certainly in the question period, evidence and so forth. I personally think it is incontroversial.

But going back to what is said here, that when you actually attempt to divide, and it's not clear whether it's the spinal cord or the brain stem, and then suck out the brain, in a sense, modern medicine feels that the brain is the very essence of human existence. That is what the concept of brain death is based on, equals human death. You might as well cut the head off under those circumstances, because you are destroying the very organ that is the essence of humanhood.

But it is the procedure itself. The idea as Dr. Smith has shown, of a scissors being introduced into this area. I doubt these people even know where they are operating. I need a microscope to see this area. So it is very possible they could be removing this brain in this tragic way of extraction, sucking, whatever you want to call it, when the child is still alive under those circumstances.

Mr. HOKE. I guess what I don't understand about this when I hear the testimony is why those who are proponents of the procedure are trying to jump through such extraordinary hoops to say that it is not painful or that it is not inhumane, or that somehow there is—I mean, let's call it exactly what it is, and then if in fact under those circumstances it's something that a nation can tolerate, then that's fine. But let's not pretend that somehow this is not grotesquely painful to the fetus that it's been subjected upon.

I wanted to, there's one other—yes, Doctor.

Dr. WHITE. Sorry to interrupt. You are absolutely correct. Because the two papers that have been cited over and over again, and unfortunately Dr. Robinson hasn't read it, are the two experts in this field that do this sort of abortion. You will note that in their papers they do not stress the fact that because of the anesthesia administered to the mother, if indeed any, that the child, the infant, the fetus, is not suffering pain. That is not a part of their written remarks.

Mr. CANADY. The gentleman's time has expired. The time for this meeting has about expired. We're going to have to adjourn this hearing.

Mrs. SCHROEDER. Mr. Chairman.

Mr. CANADY. I'm sorry. There's a——

Mr. FRANK. Excuse me, Mr. Chairman. I thought we had a 1 o'clock meeting of the full committee. But Mrs. Schroeder not to be able to ask questions, we do have until 1 o'clock.

Mr. CANADY. The Republicans on the committee have a caucus which we are late for at this point, preliminary to the meeting.

Mrs. SCHROEDER. Mr. Chairman.

Mr. FRANK. Mr. Chairman, I do have to object. You guys scheduled these two meetings. To deprive our members of a chance to ask questions. Then be a few more minutes late or leave one person behind. But to deprive Ms. Schroeder and Ms. Jackson-Lee of a chance to answer questions while the panel is here, over 10 minutes.

Mr. CANADY. Mrs. Schroeder, you will be recognized for 5 minutes. I'm sorry, Ms. Jackson-Lee, you are not a member of this subcommittee. We will have to conclude at the end of your 5 minutes. Please proceed.

Mrs. SCHROEDER. Well, Mr. Chairman. I appreciate that. I was a little startled. I am sorry. I had an amendment on the floor so I was a little late getting back.

But let me just say my understanding is while I was gone, that the witnesses that testified for the bill said they really were against abortion at any stage. I take it that all of you would agree with the premise that this bill should go forward even if a doctor were to ascertain this medical procedure was

much better for a woman who was seeking abortion. Is that correct?

Dr. SMITH. No. First of all, there has been no proof that this procedure is safe for anybody.

Mrs. SCHROEDER. Wait a minute. Let me take back my time. That was not my question. I said if it is proven, and if a doctor says this is safer for the woman, would you still want this to pass? You still want to outlaw this procedure?

Dr. WHITE. I don't think that is possible. It is not scientific. I mean, you are going to violate science.

Mrs. SCHROEDER. I mean we have two big views of what science really is. We are hearing about pain. My understanding, birth is also painful for babies.

But one of the things I think we should do as we—Dr. Robinson, I understand you had some slides. Is that correct?

Dr. ROBINSON. Just pictures of congenital anomalies such as has already been adequately discussed here. I don't think it would necessarily enhance the proceedings. It would prolong it. They are simply standard pictures of babies in very poor shape.

Mrs. SCHROEDER. Because of the interest. I think it is very important that we have some balance there.

Dr. White, when you were talking about humanity comes from a brain. Does that mean if a baby does not have a brain then this procedure would be OK? Is that then not human?

Dr. WHITE. Well, even the anacephalic child has a brain stem. While we have a great deal of difficulty defining brain death, as we can do in adults, in children and certainly in infants, it is not true that under ordinary circumstances, a child would be born or would be at these gestational ages, totally without even a brain stem. I mean it's not impossible, but I mean the thing is, in general, the anacephalic child has a brain stem. Therefore, they have a part of a brain.

Going to your question, would I consider this appropriate under those circumstances, that is, with the brain stem retained. My answer would be no.

Mrs. SCHROEDER. And then what if it were a mole? Well, never mind.

Dr. WHITE. I don't know what you mean.

Dr. SMITH. He doesn't know what a mole is.

Mrs. SCHROEDER. I guess I feel a lot of pressure because the Chairman doesn't want me to ask questions. I have got many questions that I want to ask here.

One of the things I am so troubled by is I think as Congress moves in and starts micromanaging what OB/GYN's can teach, what the medical profession is saying, what kind of procedures are legal and illegal, where is the line, are you going to have Federal people in these operating rooms watching this?

You know what I think is going to happen is it is going to be very difficult to get high quality docs ever wanting to deal with women's issues, women's health issues, because who needs this, who needs this. It is the only area of medicine where I know that there is this kind of micromanaging.

I see two distinguished members of the medical profession sitting side by side. I think traditionally you would say that they have had very high ethics. You have had your own oath, you have had your own policing.

Mr. CANADY. There are three physicians here and another medical practitioner.

Mrs. SCHROEDER. Three physicians, I'm sorry. Three sitting side by side and a nurse. So we have four, OK. But let me say, you have had high standards. I don't think we probably need to get Congress into micromanaging down to the details of what is going on. That is why I am very troubled by this beginning, because I see this as a tremendous erosion. I see it as a backsliding.

I have talked to many deans of medical schools who are very troubled by this, who say, you know, we're not sure we really want to continue even dealing with obstetrics and gynecology. Long term, I think that hurts all women, because you don't have the safe standards. We know women's health has not been dealt with very well in this country any way. To begin this, I think is very troubling.

So, Mr. Chairman, I have a lot of questions that I would like to ask for the record, if that's OK, since you would like me to be quiet. I would like to yield the remaining time to Ms.——

Mr. CANADY. I have not wanted you to be quiet. As a matter of fact, we recognized you at the beginning of the hearing, and you will have the last word in the hearing as well, because your time is now expired. The full committee is commencing a meeting in about two minutes. In light of that, we're not going to be able to continue with this subcommittee meeting. I wish we could. There's an additional witness. Prof. David Smolin of the Cumberland Law School, who has come for the hearing today. I apologize to you, Professor, that due to this meeting of the full committee, that it was only scheduled yesterday, because of our inability to finish the work we had to conclude yesterday. We will not be able to continue.

I want to again thank all of the members of this panel for being here. We appreciate your valuable testimony. The subcommittee is adjourned.

Mr. SPECTER. Mr. President, how much time remains on my side?

The PRESIDING OFFICER. The Senator has 68½ minutes.

Mr. SPECTER. I thank the Chair and yield the floor to my distinguished colleague from New Hampshire.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Who yields time to the Senator from California?

Mr. SPECTER. How much time would the Senator—5 minutes.

Mrs. FEINSTEIN. I will do my best.

Mr. SPECTER. We have a number of Senators who have already requested time. I yield the Senator 5 minutes.

I say to my distinguished colleague from California that I wish we had more time, but we have many requests. I think it is important to hear the intentions of those in opposition who wish to respond. But I do yield 5 minutes to the Senator from California.

Mrs. FEINSTEIN. I thank the Senator.

Mr. President, I rise to support the motion to commit to the Judiciary Committee, and I do that as the only woman in the U.S. Senate on the Judiciary Committee. This is a matter which basically affects women, and I think it really is appropriate to have the hearings that have been requested and to come to grips with some of the problems that are inherent in this legislation.

I would like to give you my major reasons for suggesting that hearings in the Judiciary Committee are appropriate.

I believe that the language in this bill is unduly vague. It is not based on medical terminology. The bill holds a doctor criminally liable for a procedure that is defined not in medical terms but in a description devised by legislators. I think we need to come to grips with that and find out exactly which procedures would be impacted by this legislation.

Second, Roe versus Wade already provides for States to legislate in the third trimester. And, in fact, 41 States do already have statutes on the books which govern abortions in the third trimester. There are also very strong writings and beliefs that this bill would violate the Constitution. I think that is worthy of a hearing.

Finally, there is a very real human dilemma in this. Unfortunately, the genetic code which carries out God's creation is sometime's tragically faulty. And this produces heartbreaking circumstances in which children have developed in the fetus without brains, children have developed with the brain outside of the skull, children develop without eyes or ears, whose stomachs are hollow, and the materials having to do with intestines and bladder are created outside of the physical structure of the individual.

When we consider the nature of these heartbreaking pregnancies, these very dire circumstances, we must also consider the life and health of the mother. So I believe very strongly that this is the correct action to take, to have these hearings and to report this bill back to this body within a specified period of time.

Let me just very quickly speak to certain issues. In 1973, in Roe versus Wade, the Supreme Court established a trimester system to govern abortions. In that system, in the first 12 to 15 weeks of a pregnancy, when 95.5 percent of all abortions occur, and the procedure is medically the safest, the Government may not, under Roe, place an undue burden on a woman's right to an abortion.

In the second trimester, when the procedure in some situations poses a greater health risk, States may regulate abortion, but only to protect the health of the mother. This might mean, for example, requiring that an abortion be performed in a hospital or performed by a licensed physician.

In the later stages of pregnancy, at the point the fetus becomes viable and is able to live independently from the mother, Roe recognizes the State's strong interest in protecting potential human life. On that basis, States are allowed to prohibit abortions, except in cases where the abortion is necessary to protect the life or the health of the woman. I repeat, the life or the health of the woman.

Contrary to the many myths put forward by opponents, abortion in the latest stages of pregnancy is extremely rare and performed almost exclusively under the most tragic of circumstances—to protect the life or health of a woman who very much

wanted that pregnancy, or in the case of a severe and fatally deformed fetus.

As I said, 41 States have enacted laws restricting abortions in the later stages of pregnancy. Even when such abortions have been restricted, States have, in nearly every case, made exceptions to protect the life and the health of the mother.

States such as Alabama, Arkansas, Florida, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Missouri, Nebraska, Nevada, North Carolina, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, and Utah—all these States, and many more, have recognized the crucial need to consider risks to a woman's health, in addition to risks to a woman's life, in balancing the important considerations of both the fetus and the mother. To do otherwise would be to fail to accord consideration to the safety and well-being of our Nation's women. To do otherwise would be callous, and cruel.

Certain States have chosen to remain silent on the issue—most likely because these abortions are so rare and considered so tragic, that new laws are not necessary to interfere with what many believe is a medical decision between a woman and her doctor.

THE FEDERAL GOVERNMENT SHOULD NOT BE STEPPING IN HERE

There are several compelling reasons why the Federal Government should not step in and interfere in this medical decision between a doctor and a patient.

First, there is no need to. Except in the rarest of cases, abortions late in the pregnancy simply do not occur, and when they do, as I have said, it is due to the most tragic of circumstances. Only one-half of 1 percent of all abortions are performed after the 20th week of pregnancy. Fewer than four one-hundredths of 1 percent (.04) occur in the third trimester, and nearly all of these are performed due to severe fetal abnormalities or grave risks to the health or life of the pregnant woman.

Many of the people pushing this legislation profess to believe in States' rights, and keeping government off our backs. Why, then, do they suddenly think Big Brother should step in when the issue is abortion? Roe versus Wade gave States the authority to regulate and even ban abortion after viability. Why, then, is there a compelling need for the Federal Government to interfere?

Lets be candid. Although this Congress has seen a host of back-door efforts to restrict women's access to abortions, this legislation represents a direct, and blatant, challenge to Roe versus Wade. Proponents of this measure openly admit that this is a strategic milestone in the road toward making abortion illegal in this country. If this measure passes and is enacted into law it will be a significant victory for the antichoice forces.

THIS IS A MEDICAL DECISION

Finally and most importantly, the reason politicians should stay out of this is because this is a medical decision, not a political one. It is important to remember that in the heartbreaking cases where medical intervention in pregnancy is warranted—these were wanted pregnancies. The decision to have an abortion for these women and their families was one that they desperately tried to avoid. And the Federal Government has no business making that decision any harder on these families. Take the case of Viki Wilson:

Viki Wilson is a nurse who lives in Fresno, CA, with her husband, Bill, an emergency room physician, and their two children, Jon and Kaitlyn. Viki and Bill very much wanted more children and she became pregnant in August 1993 with a baby girl.

After what seemed to be a normal, healthy pregnancy filled with baby showers, a freshly painted nursery, and family members touching Viki's stomach to feel the baby kick, Viki received the worst imaginable news: her beautiful baby girl had a fatal deformity, known as encephalocoeles—a condition where the brain forms outside the skull and is always, unconditionally, fatal.

Viki and Bill would have done anything on Earth to save their baby girl, whom they named Abigail. But she had no chance of survival.

Viki was warned that, if she continued the pregnancy, she risked rupturing her uterus, or causing a massive infection that would leave her unable to have more children. After consulting with their physicians, Viki and Bill decided that the safest thing to do was to abort the pregnancy.

An abortion at this late stage of pregnancy is not easy, and Viki's doctor recommended a procedure known as intact dilation and evacuation. In layperson's terms, it means attempting to induce cervical dilation artificially and removing the fetus intact. In cases such as Viki's, the deformed head of the fetus could not fit through the cervix, and fluid had to be extracted in order to complete the delivery safely.

This abortion procedure saved Viki Wilson's health and perhaps her life. It is the same procedure that opponents of abortion have called a ''partial birth abortion,'' in order to mislead people into believing that a live and healthy fetus is being disposed of. Nothing could be further from the truth.

After Viki Wilson's story was published, I received a letter from a constituent of mine who had been through a similar tragedy. She wrote:

My husband and I lost our baby on March 10, 1995. Our baby was diagnosed with a herniated diaphragm . . . preventing its heart and lungs from growing normally. My husband and I had to make the most devastating decision of our lives during my 19th week of pregnancy. This baby was our first child, and we had so much love and excitement for its birth. The doctors gave us two choices: terminate the pregnancy, or continue the pregnancy with surgery in utero, understanding that [the baby] would only live for a few weeks under life support after birth . . . My health was at risk if I carried to term and my baby would not live for even one month on this earth.

This woman needed the same procedure that Viki Wilson had, the same procedure that this bill would outlaw.

And a woman named Karen Ham became critically ill with diabetes during her second trimester and had to be flown 450 miles to a clinic in Colorado for an abortion necessary to save her life. When she arrived, she was in shock and about to go into cardiac failure.

THE NEED FOR HEARINGS

This body is attempting to legislate a complicated medical decision without even so much as an adequate public hearing on the matter. I listened to Senator SMITH on the floor some months ago. It was the first time I had seen photos depicted on C-SPAN full screen. With all due respects, I believe that his presentation was one-sided and fully misleading. If this legislation is to go forward, it is essential that the Judiciary Committee hold hearings on the bill, as this bill would create criminal liability for doctors who perform this late-term procedure.

We need to hear from the experts—the doctors and other health professionals, and from the parents who have been through this procedure.

There are many health risks that women can face during pregnancy, risks that could worsen during pregnancy, requiring a late-term abortion: heart disease, cancer, diabetes, just to name a few. These risks cannot be dismissed as we consider legislation that would ban what may be the only medically safe option to terminate a pregnancy.

S. 939 REPRESENTS A DIRECT CHALLENGE TO ROE VERSUS WADE

Every Senator in this Chamber should make no mistake about what this bill is: This bill is a direct challenge to Roe versus Wade.

Roe versus Wade firmly established that, after viability, abortion may be banned as long as an exemption is provided in cases where the woman's life or health is at risk. This provision was explicitly reaffirmed by the Court in Planned Parenthood versus Casey.

This bill is unconstitutional on its face because it allows for no exception in the case where the banned procedure may be necessary to protect a woman's health. Even further, the bill holds the doctor criminally liable unless he or she can prove that the banned procedure was the only one that would have saved a woman's life. The doctor must go to court to prove this. This places an undue burden on access to late-term abortions to save a woman's life under Roe versus Wade.

The Smith bill also ignores the viability line established in Roe and reaffirmed in Casey. The bill would criminalize use of a particular abortion procedure, virtually without exception, even before fetal viability. This again constitutes an undue burden—prohibiting a procedure that for some women would be the safest in light of their medical condition.

The proponents of this bill know quite well the challenges to Roe this legislation presents. That is their intent. The magnitude of this bill is enormous for the long-term preservation of safe and legal abortion in this country. It will have an immediate and direct effect on the lives of women facing tragic and health-threatening circumstances. This bill needs to be considered thoroughly before it is brought to the floor for a vote.

I urge my colleagues to vote for the motion to commit S. 939 to the Senate Judiciary Committee for hearings.

I would like to enter into the RECORD a letter written to the American Medical Association by a San Francisco physician, David Grimes.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. FEINSTEIN. May I have 1 minute?

Mr. SPECTER. The Senator may. Let me say we are going to have to proceed on a limited basis. I already have requests from about 10 Senators to speak. The Senator may have 1 additional minute.

Mrs. FEINSTEIN. I thank the Senator very much.

I would like to enter a letter into the RECORD from a physician, an obstetrician, a surgeon, who served as chief of the Abortion Surveillance Branch at the Centers for Disease Control in Atlanta, where he did some preliminary work in evaluating third-trimester abortions, and finds this issue to be largely a smokescreen for those opposed to abortion. He points out the rarity of these abortions. He points out that in a study in Atlanta, the rate of third-trimester abortions was 4 per 100,000 abortions. I think this letter provides some accurate and vital testimony.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

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

UNIVERSITY OF CALIFORNIA,
SAN FRANCISCO,
San Francisco, CA, October 11, 1995.

Re H.R. 1833/S. 939.

ROSS RUBIN, J.D.,
Legislative Council, American Medical Association, Chicago, IL.

DEAR MR. RUBIN: As a member of the AMA and a long-time provider of abortions, I write to express my concern about the reported intention of the AMA to endorse a ban of certain abortion techniques. As background, I have conducted research on the safety of abortion for two decades. Some of that research has appeared in JAMA. I am Board certified in both obstetrics and gynecology (for which I am an Examiner) and in preventive medicine. In the 1980's, I served as Chief of the Abortion Surveillance Branch at the Centers for Disease Control in Atlanta, where I was the principal federal agent responsible for determining the safety of abortion in the U.S. I have served as a consultant to the Planned Parenthood Federation of America and the American College of Obstetricians and Gynecologists concerning abortion issues. I currently chair the Steering Committee for the World Health Organization Task Force on Post-Ovulatory Fertility Control, which studies abortion internationally. I have testified before Congressional subcommittees several times concerning abortion issues.

First, the term being used by abortion opponents, ''partial birth abortion,'' is not a medical term. It is not found in any medical dictionary or gynecology text. It was coined to inflame, rather than to illuminate. It lacks a definition.

As I understand the term, opponents of abortion are using this phrase to describe one variant of the dilation and evacuation procedure (D&E), which is the dominant method of second-trimester abortion in the U.S. If one does not use D&E, the alternative methods of abortion after 12 weeks' gestation are ''total birth abortion:'' labor induction, which is more costly and painful, or hysterotomy, which is still most costly, painful, and hazardous. Given the enviable record of safety of all D&E methods, as documented by the Centers for Disease Control and Prevention (Lawson et al. Abortion mortality, United States, 1972 through 1987. Am J Obstet Gynecol 1994;171:1365–1372), there is no public health justification for any regulation or intervention in a physician's decision-making with the patient.

Second, the issue of alleged ''third-trimester abortion'' is largely a smoke screen of those opposed to abortion. Abortions after 24 weeks are exceedingly rare in the U.S. Indeed, my colleagues and I at the Centers for Disease Control investigated two years' worth of reports of such abortions in Georgia. Nearly all were coding errors concerning gestational age or fetal death in utero. We found two uterine evacuations for anencephaly, and one case with inadequate documentation. The rate of third-trimester abortion was 4 per 100,000 abortions. (Spitz et al. Third-trimester induced abortion in Georgia, 1979 and 1980. Am J Public Health 1983;73:594–595)

According to Congress Daily, the legislative council felt that some unspecified D&E variation is not a recognized medical procedure. If so, this may reflect only the composition and medical background of the legislative council. Several variations of the D&E technique have been widely used in the U.S. over the past twenty years (Grimes et al. Midtrimester abortion by dilation and evacuation: a safe and practical alternative. N Engl J. Med 1977;296:1141–1145) and are well known to gynecologists and others who provide abortions.

In summary, abortions after 24 week's gestation are exceedingly uncommon and are done for compelling fetal or maternal indications only. Variations of D&E are by far the most common means of abortion in the U.S. after 12 weeks' gestation. Outpatient D&E dramatically reduces medical costs and patient suffering, while having morbidity and mortality comparable to labor induction. From a public health perspective, any intrusion of Congress into this medical issue is both unwarranted and unjustified. I hope that the AMA will strongly oppose any such regulation of the practice of medicine by anti-abortion activists.

If I can be of help to the legislative council by providing references or by meeting with your group in Chicago, I would be glad to do so. Thanks very much for your consideration.

Sincerely yours,
DAVID A. GRIMES, M.D.,
Professor and Vice Chair.

Mrs. FEINSTEIN. I thank the Chair, and I yield the floor.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from New Hampshire.

Mr. SMITH. Mr. President, I yield whatever time I may consume to myself.

The PRESIDING OFFICER. The Senator from New Hampshire [Mr. SMITH] is recognized.

Mr. SMITH. Mr. President, I rise in opposition to Senator SPECTER's motion to refer H.R. 1833 to the Committee on Judiciary.

Make no mistake about what this motion is. Let us not kid ourselves. It is a motion made by the opponents of the bill that is intended to get the bill off the Senate floor, to get it out of the public spotlight, to spare the full membership of this body from having to face up to the grisly reality of partial-birth abortions. That is what this motion is all about. Nothing else.

They do not want to see what happens in this grisly, disgusting procedure. They do not want the American people to see it. That is why they want to move this bill off the floor and send it back to Judiciary.

But frankly, Mr. President, the American people are sick and tired of politicians doing just this: Ducking and weaving and dodging. The Ali shuffle, that is what it is here in the Senate: Let us not face up to reality, do not make the tough choice, do not give us a recorded vote, do not come out here and vote your conscience; shuffle it off to committee.

Originally, the Senator from Pennsylvania was going to make it a 45-day motion, which would have taken us to December 23, which means it would have taken us into the next year. Then he surprised us, I suppose, in this element of surprise which is so common here, and he now brought it back to December 7, 19 days, where he says we will report the bill with amendments, if any. Of course, what he does not say is they could report the bill with a recommendation to defeat it. He does not point that out.

This is dilatory. It is an act of cowardice. It is a refusal to face reality, to face the issue. That is what this is about.

I want to make it very clear to my colleagues, I may lose on this motion today. I hope not. I think when we get finished with the debate you will know why I hope not. But if I do, and this motion carries, I want my colleagues to understand that we are going to vote on this. We will vote on it on the next bill that comes in here if it is an hour after this, a day after this, a week after this, a month after this. The next time I can get this amendment attached, it is going on and we are going to vote on it because I am not going to let the U.S. Senate back off from going on record on this issue.

Not tomorrow, not after some hearings. We have already had hearings. The House has had hearings. The House has had a subcommittee markup, a committee markup, a report. We have had all of that. We have had a debate. Senator BOXER and I debated last night on two national programs.

Everybody knows what happens here, especially the opponents. They know what happens here in this process. I am going to show you what happens here in this process in a few moments. Everybody knows what happens, and you will notice the opponents do not talk about that. ''What we are talking about here is broad legal concepts, legalese,'' I hear from the Senator from Pennsylvania. This is not legalese.

Three inches from the head coming into the world with the rest of the baby's body, 3 inches and maybe 3 or 4 seconds, the difference between when that needle or if that needle, Mr. President, is injected into the head of that child. That is what we are talking about here, I say to my colleagues. That is what the issue is. That is why nobody wants to talk about it on the other side. Of course, they do not want to talk about it because it is a horrible, grisly, grotesque, gruesome killing of a child that is 3 inches from completion through the birth canal.

So 3 inches and 3 seconds before that happens, you insert the scissors in the neck, you open up a wound, you insert the catheter and you suck the brains out. But for 3 more seconds and 3 more inches, that child is under the full protection of the Constitution of the United States and, as the Senator from Pennsylvania pointed out, under the protection of the law. Three seconds and 3 inches; 3 seconds and 3 inches.

The opponents voted down an effort to send the matter back to the Rules Committee and did the job the American people sent them here to do in the House of Representatives 288 to 139—288 to 139. The House of Representatives had the courage to face this issue. It was debated, they had hearings, they had markups, subcommittee and full committee hearings, votes, full floor debate, committee report.

As if the American people would not know, as if the Senators here do not know what is going on. Does anybody really believe some Senator is going to change their vote as a result of 19 more days? Give me a break.

I have been called an extremist for pointing this out, I say to my colleagues—an extremist. It was said on the floor yesterday, not directly attributed to me, but it was said on the floor that those of us who support this bill are extremists. Senator KENNEDY said it. Senator BOXER said it. Others have said it.

Well, here is a list of some of those extremists: The Democratic leader in the House, RICHARD GEPHARDT; Democratic Whip DAVID BONIOR; Representative JOHN DINGELL, ranking Democrat on the Commerce Committee; Representative LEE HAMILTON, ranking Democrat on International Relations; Representative DAVID OBEY, ranking Democrat on Appropriations; Representative JOE MOAKLEY, ranking Democrat on the Rules Committee; Representative JOHN LAFALCE, ranking Democrat on the Small Business Committee; Representative PATRICK KENNEDY, Democrat of Rhode Island; Representative BLANCHE LAMBERT LINCOLN, Democrat of Arkansas, and on and on and on. MARCY KAPTUR, Democrat of Ohio, all extremists. Welcome aboard.

This is not an extremist issue. If we are extremist for wanting to stop this, what are the people who do it, who commit this act? It is really fascinating to hear the defense of this procedure on the floor of this Senate.

Let me tell you how they defend it. Listen carefully, I say to my colleagues, as you listen to the debate. Find one individual, just one, who will point to these charts that I am going to show you in a minute and talk about what happens to this baby when it comes out of the birth canal. Find me one.

No, no, we are not going to hear about that. We are going to hear about legal procedure, legalities, hearings. That is what we hear about, because nobody wants to accept reality here, and not only that, they do not even want to vote on it. The Senator from Pennsylvania does not even want to vote on it.

I want my colleagues to know what it is. I want them to know what this procedure is and, as I said yesterday on the floor of the Senate, I hope this time the press will get it right because last time, in case you missed it—I said this yesterday, I will repeat it—the press accused me of showing photographs of aborted fetuses, showing photographs of women giving birth, showing photographs of dead babies. None of it was true but, of course, that does not matter, just put it out there.

Here is what I am showing you: A medical drawing approved by the American Medical Association. A medical drawing.

Here is what happens. This is supposed to be an emergency, I hear the Senator from California say, and others, to save the life of a mother. If it is an emergency to save the life of the mother, why does the process take 3 days? Can anybody tell me that? Why is it that when the head is ready to come through the birth canal, the abortionist stops the child from being born by holding it, not letting the child come out of the birth canal, and stops it to kill it?

Tell me how that helps preserve the life of the mother. My God, this is the United States of America. Do we not have more important things to do than this? This is not a simple debate about pro-choice and pro-life. There are people who differ on this issue, and I respect that. That is not what this debate is about. This is about a specific, brutal, cruel way to kill a child. But for 3 inches, or 3 seconds, it is a child—after 3 inches more and 3 seconds. Here is a fetus that we can destroy.

I ask you—anyone, any of my colleagues, any American citizen listening to me now, if tomorrow morning you picked up your newspaper and the announcement in your community was on the headline of your paper that the local humane society, with a surplus of pets, reluctantly had to come to the conclusion to destroy surplus pets because nobody would adopt them, and they said they would use this method to destroy them, no anesthetic, open up the back of the skull with a pair of scissors, insert a catheter, suck the brains out of the dog or cat or horse, whatever it is; how would you feel about that? You would be outraged. There would be people screaming.

But do you know what? Not here on the floor of the U.S. Senate. We cannot even get a vote on it. We want to refer it back to committee, let alone stop it.

Let us look at what happens. They hate to hear this. I have to say it again, as I said it yesterday, because you are not going to hear this from the other side, but you need to know. This baby is inside this womb, anywhere from 20 weeks on, snug and warm inside womb. You know that baby has feelings, moves its fingers, its feet, kicks, it hears its mother. It is in that womb, snug and warm. Then come the forceps. Those forceps go up there and they take the feet of that child and turn the child so that the feet come out first.

As you can see in the next picture, why do we do that? Why do we do that? You know why? Because if the child is born head-first, it is breathing, it is alive. Now we have a problem, do we not? We cannot have a live birth. Oh, no, we cannot have that. So the baby, tiny little legs, moving toes—moving—clamp it on and pull the child from the birth canal.

The third illustration. This is the part that is the worst, the most sickening. If you think I enjoy standing on the floor of the U.S. Senate having to talk about this, you are wrong. If you think I enjoy standing on the floor of the U.S. Senate having to defend against this, to stop this, you are wrong. We should not have to be doing this. This is a basic right for this little baby to come into this world. It is a basic right.

I do not care what Senator SPECTER says about all his legal jargon. This is a baby. This is not some vague concept about choice. This is a baby. And that doctor, or abortionist—call him what you may—takes that child in his hands and those of you that have had children—and I have witnessed the birth of all three of mine and know what a beautiful thing that is—he takes that baby, moving feet, moving legs, moving fingers, holds it in his hands, feels the legs, feels the feet, feels that little bottom, soft as they are with these little babies, takes the torso, brings the arms and shoulders out and then stops it—stops it firmly, holds it. Do not let the baby be delivered.

The next picture. Then what? No anesthetic, no painkiller at all. Scissors are inserted into the back of the skull, open up the scissors, insert the catheter, and that little moving child is now hanging limp, dead—in the United

States of America. People here on the Senate floor—it is bad enough they would vote not to stop it; they do not want to vote. The Senator from Pennsylvania and seven of his colleagues do not want to vote on it. They want to have more hearings on it. One baby a day dies like this that we know of. So 19 will die by the time we get the bill back here, if we do not stop it.

As I said yesterday, 19 babies—who knows who might be in that 19, the first black President, the first woman President, another Senator, somebody who cures cancer or AIDS? Who knows? We will never know, will we? Snuffed out. But that is choice, is it not? That is the nebulous concept of choice. That is what that is.

Ladies and gentlemen, this is a brutal procedure that is not necessary. We have statements everywhere that it is not necessary to do this. If it is truly an emergency, why do we stop the baby from being born? Why do we stop it from being born? Why do we hold the head, refuse to allow the head to be delivered? It has nothing to do with the life of the mother—nothing. It has to do with the life of the child because when this child is born, that is the problem for the abortionists.

I am absolutely amazed—amazed—at the number of people who have taken the floor and spoken on this issue and have talked about deformities, as if we had the right to play God on deformities. What do you tell a young man or woman today with Down's syndrome, or some other deformity—perhaps a missing limb, perhaps they had some disease and they are in a wheelchair, but they are human beings and they are contributing to their country, making a life for themselves? What do they tell them? ''Gee, if we only thought of this procedure when you were in the uterus, we could have gotten rid of you and would not have had to deal with you.''

I am absolutely flabbergasted that we would make those kinds of decisions—that anybody would want to make those kinds of decisions. Down's syndrome—what do you use? What is the excuse? Let me be honest with you. Even though the deformity case is a horrible reason, the truth of the matter is that 80 percent of these types of cruel abortions—80 percent, and this is testimony from the doctors who perform them, not my numbers—80 percent of these types of abortion, they say, are elective. They are elective. It has nothing to do with deformities or anything else. It is just elective. We do not want the child and we are going to do it this way.

Now, that is Dr. Haskell himself. He stated, ''I will be quite frank. Most of my abortions are elective in that 20-to-24-week range. In my particular case, probably 20 percent are for genetic reasons, and the other 80 percent are purely elective.''

Pamela Smith said, ''In the situation where a mother's life was in danger, no doctor would employ the partial-birth method of abortion, which, as Dr. Haskell carefully describes, takes 3 days.''

It is all a phony argument. It is a phony argument to keep from getting to the facts of what is happening.

I say to my friends who claim to be pro-choice, let me repeat and go back to the basic issue here: 3 inches, 3 seconds. That is what we are talking about, the difference between living and dying.

What is the difference, Senator SPECTER, what is the difference between a child whose head is in the womb 3 inches from birth, 3 seconds from birth, and a child whose head is removed from the womb, 3 inches and 3 seconds later? Who are we to say that one should live and one should die? What is the difference?

Mr. SPECTER. Does the Senator yield for a response to a question?

Mr. SMITH. I yield for a response to that particular question.

Mr. SPECTER. The difference is the standards established by the laws of the United States as determined by State assemblies, by Congress, and permitted by the courts.

How does that differ upon a C section? Or how does that differ before the child has gone into the vaginal cavity or the vaginal canal?

Does the Senator from New Hampshire say that those late-term abortions are satisfactory? There you have a situation where you do not have the 3 inches which you talk about but you have reaching the fetus the same substantive contents, through a C section.

I ask the Senator to address that question. If you reach the fetus through a C section or you reach the fetus some other way before the fetus comes into the vaginal cavity, does that make it satisfactory in terms of the Senator from New Hampshire?

Mr. SMITH. No.

The Senator from New Hampshire believes wherever that fetus is, that is a life. That is not what we are talking about here.

I assume from the Senator's response that he assumes that this process is acceptable, that this process is acceptable because the head still remains in the vaginal canal; therefore, this is an acceptable procedure.

Mr. SPECTER. If I may respond.

Mr. SMITH. Is it acceptable?

Mr. SPECTER. I have not said it is acceptable. I do not know, and I do not know because I do not know the facts. I describe it as a chilling matter.

When the Senator from New Hampshire cites two doctors, neither of those doctors has testified, I want to know a little more than the short statement which appears on the chart. That is not enough for this Senator to legislate on a matter of great importance. That is just not enough.

If the Senator from New Hampshire says that it is not acceptable to have a C section on a late-term abortion or not acceptable to have an abortion which occurs before going into the vaginal canal, then let us make this legislation effective, if you really want to deal with this problem.

Does the Senator from New Hampshire disagree with the conclusions I stated in my opening statement, that this legislation would not reach a C section on a late-term abortion?

Mr. SMITH. This is a very specific, I say to the Senator from Pennsylvania, this is a very specific procedure that is so cruel in the way that it is performed that it ought to be outlawed.

The Senator knows, and I think I know his position—he knows mine—on the issue of abortion. That is not what we are talking about here.

We are talking about a specific process, procedure, which is cruel, which is used to abort a child. And indeed, some would say, to kill a child. I say to kill a child. That is the issue.

I do agree, I say to the Senator, I believe it is the taking of a life, yes, when it is a C section. That is my personal opinion. I am not engaging in that personal opinion in this debate. I am engaging in the particular procedure that we are talking about.

This procedure, when a child is that close to being born, whether or not this is not a cruel procedure to use against an unborn child that is 90 percent born, with feeling. That is the issue here.

Mr. SPECTER. If the Senator would yield for one final question on this subject, would the Senator not prefer a statute which dealt with a late-term fetus, in the same medical condition which also precluded a C section?

Mr. SMITH. The answer to that question is yes, but that is not what we are talking about here.

Mr. SPECTER. You may have that if it is referred back to the Judiciary Committee.

Mr. SMITH. I am smarter than that. I know what will happen when it goes back to the Judiciary Committee. I know full well what the Senator's position is.

The issue here is whether or not this type of abortion, and indeed whether it is an abortion—is that what we define as an abortion—a child that is brought purposely into the birth canal, 90 percent of which comes into the world with only 10 to 15 percent of the child still remaining in the birth canal, whether or not that is a birth or not. So we talk about partial birth.

Mr. INHOFE. Would the Senator yield for a couple of minutes, and before yielding, would the Senator read a statement from the registered nurse I discussed yesterday? I want to have that read before I make a comment.

Mr. SMITH. We have that and are happy to provide that to the Senator from Oklahoma.

Mr. INHOFE. If the Senator would not mind reading the statement of Brenda Shafer.

Mr. SMITH. This is a nurse named Brenda Pratt Shafer, an RN who assisted Dr. Haskell, I believe, in the clinic, or at least assisted a doctor who performed this. She was so overcome by what she saw that she basically

quit—she quit the clinic where this was performed and then became an advocate against this procedure.

What she says is very heartrending, frankly. I will read what she says, and it is up here on the chart.

The doctor kept the baby's head just inside the uterus. The baby's little fingers were clasping and unclasping, and his feet were kicking. Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinch, a startle reaction, like a baby does when he thinks that he might fall.

Then she goes on to say, ''I'm Brenda Pratt Shafer, a registered nurse with 13 years of experience.'' And she goes on to talk about being there. She said she thought this assignment would be no problem for her to work in this clinic because ''I am pro-choice, but I was wrong. I stood at the doctor's side as he performed the partial-birth abortion procedure and what I saw is branded in my mind forever.''

The mother is 6 months pregnant, the baby's heart beat was clearly visible on the ultrasound. The doctor went in with forceps and grabbed the baby's legs and pulled them into the birth canal. Then he delivered the baby's body and the arms—everything but the head. The doctor kept the baby's head inside the uterus. ''The baby's little fingers were clasping and unclasping and his feet were kicking.'' Then the doctor put the scissors through the back of the head, the baby's arms jerked out and the doctor opened up the scissors, stuck a high-powered suction tube into opening and sucked the baby's brains out. Now the baby was completely limp.

The last line, and I yield to the Senator, that the nurse said is particularly compelling: ''I never went back to that clinic. But I am still haunted by the face of that little boy—it was the most perfect angelic face I have ever seen.''

I yield to the Senator from Oklahoma whatever time he may consume.

Mr. INHOFE. First of all, Mr. President, I was not planning to make any remark, but as I was presiding a few minutes ago and listening to some of the arguments, I remember that yesterday I had an occasion to meet the registered nurse, Brenda Shafer.

What was impressed upon me was that she went into that position as an acknowledged pro-choice nurse. That was the way she felt. When she went through the experience that was just expressed by the Senator from New Hampshire in such an emotional way—I have a hard time listening to that and maintaining composure—she changed her whole philosophy because she saw a child, a living child, dying in their hands and she was in some way a part of that.

I wish there were a way of getting her on the Senate floor to tell the story she had to tell. I say to the Senator from Pennsylvania, I do not mean this in a personal way, but as I was presiding a few minutes ago, I have never been so thankful that I am not a lawyer, because to have to try to find provisions in the law where you can almost rejoice in saying we found a loophole so we can take this baby's life and expand this whole idea of abortion to someone who is just about to take that first breath. And, when you say perhaps we need—that is the subject of this discussion right now, submitting it to a committee, if we did that.

Let us just say the committee reported it out and it passed. Let us say it took 3 weeks, that is an average time for something like this. We are talking about 400 more of these little babies who would have this procedure done to them.

Then the Senator talked about, under the 10th amendment, this is, perhaps, something that should be addressed by the States. I have been a defender of the 10th amendment. I think it has been abused too much, and I agree this is something that should be approached on a State level. But during that period of time, you are not talking about 4 weeks, now. You are talking about months and years. To quantify that in lives—I have not done the math yet so I cannot do that. But if you see one of these procedures, then you do not have to quantify it because one is enough.

Then we talk about how much pain there is. This is something that is difficult to quantify, too. But when you have this procedure taking place, as was described in such an articulate way by the Senator from New Hampshire, you know there is pain. You know the pain would be unbearable. But there is a loophole in the law that allows us to inflict that pain.

My wife and I have four children and we have three grandchildren. Actually, our third grandchild is not yet born, but it is still a grandchild. I am looking forward to Christmas Day when he will be born.

I do not think there has ever been any woman who has gone through a pregnancy and has reached, say, the 9th month or 8th month and has not gone through some degree of depression during that time. Certainly my wife did. It is a very difficult thing to go through.

I think this particular procedure is one where these people can fall prey, because in the event you go through some type of depression and you want to have this procedure, think of what that person must go through the rest of her life if she realizes what she has done.

I will conclude by only saying, if we had read that someplace back in ancient history, in some barbaric land or sometime in our history, this procedure had been used to perform abortions or to kill young children, we would look back and say, how in the world, back in those paganistic days, could they have taken a life in such a cruel way?

I think history, 400 years from now or 500 years from now, will reflect back to this moment saying here this body met in a deliberative way to stop this barbaric practice.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, before yielding to the distinguished Senator from Maine, I want to make a few further comments.

I find the comment by the Senator from Oklahoma curious, to put it mildly, that he has never been so thankful he is not a lawyer.

I hope the Senator from Oklahoma never needs a lawyer. But if he does, he might like to have a lawyer, especially a good lawyer, to protect his interests and to protect his constitutional rights. Sometimes we lawyers help to get it right. This is not a matter for broad gestures and grandiose statements. We are dealing here with matters which involve the Constitution. Pardon me——

Mr. INHOFE. Does the Senator yield?

Mr. SPECTER. No. And, pardon me—and pardon me if we need a lawyer or judges to help interpret the Constitution of the United States, which protects the rights of all of us.

Now that I finished my sentence, I will be glad to yield if it is on the time of the opponents of the motion.

Mr. INHOFE. I do want to respond. I hope I have made it abundantly——

Mr. SPECTER. Is it on Senator SMITH's time? I will yield on Senator SMITH's time.

Mr. SMITH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Hampshire has 54 minutes 30 seconds.

Mr. SMITH. I yield the time.

Mr. INHOFE. Mr. President, I hope the Senator from Pennsylvania was listening when I said I mean nothing personal about it. I have a great deal of respect for him. When I talk about being thankful that I was not a lawyer at this time, I was talking about looking for ways, loopholes around this thing, so this procedure can take place.

I acknowledge to the Senator that on two occasions in my 60-year life I have needed lawyers and I was thankful to have them at that time.

Mr. SPECTER. If I may respond——

Mr. INHOFE. On your time.

Mr. SPECTER. I am not getting involved now, as to whether I take it personally or not. But it has not just been this lawyer. It is the whole profession. It is the whole profession that somehow comes into disrepute, not just when we are talking about tort reform or product liability or medical malpractice—we are talking about the Constitution.

How about those nine lawyers across the street, the Supreme Court of the United States? How about Justice Thomas? Did Justice Thomas ever need a lawyer? How about all those pro-life Justices whom this Senator has supported because, as a matter of principle, they are lawyers and they have some useful function to perform?

So, when the comment is made that this Senator is engaged in legalese—and now, Mr. President, I will go to my time because I want to respond to the Senator from New Hampshire—I am just a little concerned, candidly, about some of the personal invective.

When the Senator from New Hampshire says that the Senator from Pennsylvania does not even want to look to see this, he is wrong. As soon as he puts his chart up, I go down and take a look at it.

When the Senator from New Hampshire says, I don't care what Senator SPECTER says about—legal jargon, I would say to the Senator from New Hampshire two things. First of all, he ought to be concerned about the Constitution. If he wants to call that legal jargon and minimize it, that is up to him. But these are not unimportant matters.

And when the Senator from New Hampshire says that there are people who do not want to see this matter come to the vote, that he is ''sick and tired of the ducking,'' this Senator does not duck. I have proved that again and again and again.

When the Senator from New Hampshire says people do not want to come out here and vote their conscience, I object to that. I do vote my conscience. And I do not call the Senator from New Hampshire an extremist. I do not get involved in those pejorative, name-calling matters. But I do expect that there be an accurate representation, that I am not talking legalese when I start off and I say the first two considerations that I have are the humanitarian matters and the matters of the medical procedure. That is before I get to the Constitution, before I get to statutory interpretation. Not that those matters are insubstantial.

I have heard the Senator from New Hampshire say ''grisly'' three times and ''cruel'' four times and ''brutal'' and ''horrible'' and ''grotesque'' and ''sickening.''

This Senator is very concerned about that. This Senator also witnessed the birth of his two sons, and this Senator held the placenta of his older son right after his son was born. And this Senator has a grandchild. And, like the Senator from Oklahoma, this Senator has another grandchild expected in December. And I am very much concerned about the pain and suffering.

When the Senator from New Hampshire says that there is no anesthetic, no pain killer, he may be right. And if he is right, there ought to be something done about it. That ought to be done in terms of what this body takes into consideration in the law. If the Senator from New Hampshire is right that this is an unacceptable procedure, then let us not just limit it to the vaginal canal. Let us cover C sections or let us cover conditions before it gets to the vaginal canal, if the Senator from New Hampshire is right.

If he says this Senator changed the 45 days, that is not true. Others had talked about the 45 days. My staff had talked about the 45 days. They do not make decisions for me. When I took a look at it, I said we ought to do it as fast as possible. And I will be willing to do it in 9 days. Let the Senate report it back by a week from Friday.

But the fact is, we are going to be in recess for 10 days beyond that time. So the 10 days do not really hurt anyone. It may be necessary in the hearings to call some other witnesses. We may not be able to get it all done in the snap of a finger. It is a matter which may require some time. So what I want to do is find out what this case is all about, what this statute is all about, and what this medical procedure is all about. I do not want to have it decided on a poster with three sentences from two doctors. I want to hear what they have to say. I may have a question or two that I want to ask.

When the Senator from New Hampshire and the Senator from Oklahoma say when the time passes other children are going to be involved—they could have brought this matter to the floor last week, last month, last year if they want to legislate on the subject, if they are concerned about every day. And this Senator is concerned about every day. That is why I talked about 9 days plus the recess time. So that is what I want to accomplish.

I now yield 5 minutes to my distinguished colleague from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, first of all, I want to thank the Senator from Pennsylvania for offering this motion. I am pleased to join him as a cosponsor to commit this bill to the Judiciary Committee for where it should be so that we can hold hearings on this legislation. As a Member of the Senate, I think it is absolutely critical that we have a hearing on an issue that raises profound constitutional questions. As a woman, I believe the failure of this body to hold hearings on this legislation represents an appalling disregard for the life and health of the mother.

I am concerned that all of a sudden we are saying we do not need to have hearings on this very significant piece of legislation. We have heard that the House has had hearings. The House had debate. The House heard the proponents and the opponents of this legislation. The last time I checked this was the U.S. Senate. We are two distinct bodies, and we are entitled to hold our own hearings, to make our own decisions, to ask our own questions on this very, very important question.

To hear the debate, at times I think that people actually believe that women casually and blithely make this decision about having an abortion under any circumstances. It is a difficult decision, but even more so when we are talking about late-term abortions. They are rare. They are exceptional. They are there because a woman's health is in danger. So it makes this decision all the more tragic. And it certainly is a nightmare for the woman. It is not something that she just does casually.

I think it is unfortunate that many have made this sort of impression about how women arrive at their decision. Twenty-two years ago the U.S. Supreme Court issued a landmark decision in the form of Roe versus Wade. It carefully crafted and balanced that decision, and said that a woman's interest in making the decisions about her reproductivity is paramount. But it also said that imposed a liability; that the States had the right to prohibit abortion so long as they allowed an exception for when a woman and her health is in danger. That is an important exception that this legislation does not allow. No matter what the Senator from New Hampshire says, it does not allow it. Oh, sure. Offer it as an affirmative defense. Once the doctor performs this procedure the doctor ends up in court and then he has to prove that. That burden of proof is going to be enormous.

So that is what we are talking about. There is no exception for the doctor making that medical decision. So now we are saying in this climate today where the doctors have already been killed on the issue of abortion—with death threats, intimidation, and harassment—they are now saying you are going to face criminal prosecution because you performed a procedure in order to save the life of the mother. That is what we are saying in this legislation.

I think they say, ''Well, what are the alternatives to this?''—which is what we should be discussing in the hearings—but what are the alternatives? It is easy for them to say the alternative is a Caesarean section, which interestingly enough has four times the risk of death, or induce labor, or potentially a life-threatening disorder such as cardiac edema, a hysterectomy, which means a woman cannot have any more children.

So that is what we are talking about in terms of tradeoff in this legislation—the life and health of the mother in order to avoid criminal and civil prosecution of her doctor. That is how this legislation is structured.

I hope that we will give this matter serious regard and hearings because this is an unprecedented intrusion in what should be properly a decision made between the doctor and his or her patient on what is a very, very critical decision for a woman having to make in these rare instances. I emphasize that because these are rare instances. And when the Senator from New Hampshire says, ''Well, these are elective procedures, that 80 percent are elective,'' let us talk about that. There is no medical definition for ''elective.'' It is when someone has to make the decision.

For example, if a person had a heart attack and they are in a coma and somebody performed CPR, that is not

elective because they were not involved in the decision. But if a person went to a doctor and the doctor said you have a serious heart condition, if you do not go tomorrow to the hospital and have surgery, you will die, that is elective because that person has made the decision.

So I think that there has been a lot of misrepresentation. This is a serious issue. We should have hearings. I cannot understand why anybody would be afraid of the facts. Why are we so afraid of the facts? Why are we so concerned that we cannot in opposition have hearings and hear the facts, and everybody have a chance to speak before the legislative committee?

So I urge the Members of this Senate to support the motion made by the Senator from Pennsylvania.

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

The PRESIDING OFFICER. Forty-eight minutes.

Mr. SPECTER. Mr. President, I yield 5 minutes to the distinguished Senator from Vermont, Senator JEFFORDS.

The PRESIDING OFFICER. The Senator from Vermont [Mr. JEFFORDS] is recognized for 5 minutes.

Mr. JEFFORDS. Mr. President, I rise today in support of the motion to commit the bill before us to the Judiciary Committee, and in defense of the constitutional right to privacy, as well as to protect the life of mother.

This bill has not been considered by any Senate committee, nor have Senators had the benefit of learning more about this bill from Senate hearings. It passed the House less than a week ago. I suggest that we need more time to study the broad-ranging implications of this bill. This motion suggests a time limit of 19 days, a very short time considering the complexity of this issue. But at least we will have an opportunity to learn more about what this procedure is, and why it is being utilized.

Mr. President, for the committee to consider and hold hearings on this far-reaching bill is of critical importance. I am disturbed by the misinformation that is floating around about this bill. This bill outlines a particular late-term abortion procedure subjecting the doctor who performs it to both criminal and civil suits. It matters not whether a procedure is medically necessary to save the life or health of the woman. That is the critical question here.

We all need to be clear about what exactly it is that we are not voting on today. We are not voting on whether or not we believe in the sanctity of human life. We are not voting on whether or not certain medical procedures can be described in grisly detail. We are not voting on whether or not we will intercede between pregnant women and their doctors to determine what medical procedures are or are not personally medically and ethically appropriate for all women in all circumstances. No. The women who have had these procedures speak passionately about their children, their families, and their sorrow at losing their pregnancy.

They also speak patiently in defense of keeping this procedure, this best of several difficult options for them and their families—to keeping it safe, available, and legal. Their lives were, and their lives are at stake.

This is an unprecedented intrusion into the practice of medicine. Congress has never before acted to ban any medical procedure. The American College of Obstetrics and Gynecologists, in writing about the bill—and I quote them:

> . . . does not support H.R. 1833, the Partial-Birth Abortion Ban Act of 1995. The college finds it very disturbing that Congress would take any action that would supersede the medical judgment of trained physicians and criminalize medical procedures that may be necessary to save the life of the woman.

Twenty-two years ago, the U.S. Supreme Court handed down a landmark decision, Roe versus Wade. The Court's decision established, under the right to privacy, a woman's right of self-determination in matters regarding her pregnancy and reproductive health, and I emphasize ''especially when her right to life is threatened.'' Since that time, we have seen many challenges to Roe in both Congress and in the courts, but the wisdom and structure of that decision has for the most part endured.

This bill has been designed as a direct challenge to that historic decision's protection of women's lives and health. While the decision acknowledged a State interest in fetuses after viability, the Court wisely left restrictions on postviability abortions up to the States. This strikes me as quite consistent with much of the legislation we have recently considered on many other matters, choosing to leave regulation to the States.

Roe versus Wade had a caveat, though, about these State-imposed postviability restrictions. States may not—may not—under any circumstances outlaw abortions necessary to preserve the life or health of the woman.

Also, subsequent Supreme Court decisions have held that States may not outlaw using specific abortion procedures in cases that endanger the woman's life or health.

These court decisions and, in my view, decency and common sense dictate that doctors must be able to put the welfare of their patient, the woman, first. Doctors must be able to use whatever procedure will, in their professional judgment, be safest for their patients.

This is a basic tenet of the practice and regulation of medicine in this country.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JEFFORDS. There are expert professional licensing boards, accreditation councils, and medical associations that guide doctors' decision-making in the complicated and difficult matters of life and death. Let us continue to leave it to the professionals.

The PRESIDING OFFICER. Who yields time?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. Who yields to the Senator from Nebraska?

Mr. EXON. Will the Senator yield?

The PRESIDING OFFICER. Does the Senator from New Hampshire yield time? Who yields time to the Senator from Nebraska?

Mr. SMITH. I yield to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair and I thank my friend. I have been following this debate with great and keen interest, and I have listened to the ''Nightline'' program last night that featured Senator BOXER and Senator SMITH. I have listened to the debate this morning as much as I could.

After the remarks just made by my great friend and colleague from Vermont, it leads me to ask this question which is troubling to this Senator. I have heard lots of remarks about people's experience in this regard in this Chamber. I do not know that I am a champion, but for 25 straight years I have been privileged to represent my constituents in high public office, and during that 25 years the matter of abortion keeps coming up again and again and again, and here we are again. It is one of these things that troubles America today. I am not sure that regardless of where you fall on the pro-life or pro-choice spectrum, anyone is always totally comfortable with their position. But we have to make these decisions, and therefore I think this is a very important vote.

As a father of three and a grandfather of eight, I have had some experience with regard to family and to family values that I hold very, very dear. From the very beginning on abortion, I have held, rightly or wrongly, that I was not in support of abortion except to save the life of the mother—underline that, save the life of the mother—or in promptly reported cases of rape or incest.

Now, a lot of people disagree with me, but at least that has been my position from the beginning all the way through these 25 years. What I come back to is the matter of conscience that I am very much dedicated to. So I ask this question of my friend and colleague from New Hampshire with regard to the saving the life of a mother.

I have heard the Senator from New Hampshire say on numerous occasions that if the life of the mother is in jeopardy, under the procedures that we are debating right now, there are provisions in the bill that would allow the doctor to proceed even with this late-term abortion, call it what you will, the doctor could do that if the doctor was convinced that this was the only procedure that would likely save the life of the mother if, indeed, the life of the mother was in danger.

Would the Senator from New Hampshire please explain to me if I have this correctly interpreted because it will be a key factor in the way I vote on this matter.

Mr. SMITH. I respond to the Senator from Nebraska by saying the Senator has it exactly right. There is a life-of-the-mother exception here. I will specifically refer to it in a moment. I would just say that in this process, this partial-birth abortion process, a lot of the medical experts that we have have indicated it is a very rare opportunity when the mother's life would be in danger, but if it is, we take care of that, and I will point that out in a second.

However, the issue here is that where you forcibly stop a birth by not allowing the head to be delivered, it would just seem to me, if the mother's life was threatened at that point, you would allow the baby to be born. Whatever happens to the baby after that, if your focus is on the mother, then let the baby be born. I cannot see how keeping the baby from being born and then going through the process that we have already described here helps or enhances the mother's health or life.

Mr. EXON. If I might interrupt then, if I understand what the Senator is saying, since for all practical purposes under the procedure outlined the birth has already taken place and therefore the mother's life could not be more in danger by allowing the head to emerge into the world—in other words, at this particular point it is not a test of whether or not the mother's life is in danger?

Mr. SMITH. At that point. Were that to be the case, then there are provisions here, and let me specifically refer to it so that the Senator will not have any concerns.

If it were to be the case—and I cannot imagine where it would be, but were it to be the case in subsection (e) of the bill, which we have here, it says that if a doctor reasonably believes that a partial-birth abortion is necessary to save the life of the mother, then he or she, that doctor, simply proceeds and cannot be convicted of the violation of the law, simple as that. So the life of the mother exception is there.

Again, I just want to point out that where you have a procedure that takes a period of 3 days, including dilation and anesthesia and all the things in preparation for this, the preparation is for the abortion so this is not an emergency as has been described on the floor by others in the sense there is some immediacy to save the life of the mother. Were there to be a complication—I am not a doctor, I do not want to interfere with the doctor-patient—this is a matter that the doctor would deal with and simply would not be convicted.

We have the right of self-defense. If someone broke into your home and you shot them, somebody could accuse you of murder, but you certainly were within your rights to do what you did to protect yourself, as a mother would be within her rights to protect her rights should this child, fetus, whatever, be an immediate threat to her life. We protect that.

Mr. EXON. I thank my friend for that explanation, and I thank him for yielding time to straighten this out to make sure I understood what I thought I understood. After listening to the Senator, I think that he has given me a satisfactory explanation of the legitimate concern in this Senator's mind.

Mr. SMITH. I appreciate the Senator's inquiry, and I am delighted to respond to it.

The PRESIDING OFFICER. Who yields time?

Mr. SMITH. Madam President, no one else at the moment is interested in time. How much time is remaining?

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from New Hampshire has 47 minutes, 48 seconds.

Mr. SMITH. Madam President, I yield myself whatever time I may consume.

I just want to respond to a couple of points; they are minor points at this point in the debate. But in response to Senator SPECTER regarding this motion, we received a copy of a motion to commit with 45 days written on it. We came here today on the floor expecting to see that. Then it was changed to 19. It was crossed out. I will accept the Senator from Pennsylvania's word that he changed his mind or overruled his staff. That is fine. But this Senator received information from the Senator's staff that said 45 days, which would have delayed the bill on to the next year.

But regardless, in any case, the issue here is still dilatory and it is also the issue of killing the bill. You would have to not have any sense of humor whatsoever to not realize what is going on here.

There was a press conference yesterday with Kate Michelman.

Question: ''Do you have any read on the breakdown on the Judiciary Committee if it goes to the Judiciary Committee?'' [That is the bill.] ''And does it differ from the Senate as a whole? Do you have a better shot at getting the kind of changes you might want in it?''

Michelman: ''Which is our goal, is to have it end there.''

Question: ''What is the read on the committee makeup?''

Michelman: ''So the committee, the constitution of the Judiciary Committee and where we hope to see the demise of this legislation really is a mirror of the Senate as a whole. There—I think that there are some anti-choice Democrats, some pro-choice Republicans, but I think the committee—I don't remember the whole committee—but I would say it's going to be very close, a very close vote. But it does give us the possibility of really making some very important rational arguments, presenting some expert testimony that we won't have the opportunity to do if this bill comes up today in such a rush, a mad rush to pass this legislation.

''So I think there's a great chance of, again, having a more moderating influence over the House-passed legislation if we can get it to the committee today.''

In other words, it is to kill the bill. That is all there is to it. I respect the right of the Senate to defeat the bill. I respect that. Of course, I do. That is democracy. But I would also like to have Senators step up to the plate and vote yes or no.

I am going to again repeat that this Senate will vote on this before we go out for the Thanksgiving recess. We will vote on it on the debt limit, or on Bosnia, or on anything else that comes hear. The next vote that comes through here that I can get this on, it is going on if this thing goes to committee. We are going to vote on it because I want Senators on record either saying yes to this procedure or no to this procedure.

We are going to have that vote. I make that commitment. I promise you we will have this vote. So I am hopeful that we are not going to have this thing referred to committee to basically repeat a process that has been going on for weeks and weeks and weeks, months in the House of Representatives.

There has been plenty of materials written and plenty of studies, been plenty of hearings—a hearing in the House, markups, committee meetings, and so forth. So that is not the issue. If we were going to use as a prerequisite in the U.S. Senate not voting on anything that has never had a hearing, we could reduce the votes around here dramatically, believe me, probably by as much as 75 percent, because about 75 or 80 percent of our votes are on things we never had hearings on. So when it comes to something like this, one of the most important issues of our time, we want to shuffle it off to committee and try to kill it, because that is exactly what the goal is here as stated by Kate Michelman and other opponents of this bill.

Madam President, at this time I yield whatever time the Senator may consume to the Senator from Indiana.

Mr. SPECTER addressed the Chair.

Mr. COATS. I thank the Senator for yielding.

I wonder if my colleague from Pennsylvania has a question or——

Mr. SPECTER. No.

Mr. COATS. I would be happy to yield for a question.

Mr. SPECTER. I would be glad to withdraw my request for recognition.

Mr. COATS. Madam President, I thank the Senator from New Hampshire for yielding. I had asked him for some time, and I appreciate the opportunity to speak to this issue.

This is not a pleasant issue to debate on the Senate floor. It is not a comfortable issue to debate on the Senate floor, but we are not elected to come here just to discuss and debate pleasant issues. We are likely to face some

of the most difficult issues that the country has to face, face them honestly and openly, and in the end cast our position either for or against.

There probably is no issue that is potentially more divisive and certainly more emotional than the issue of abortion because it goes to the issue of the meaning of life itself. I am a pro-life Senator. I have argued on this floor a number of times that we, as a nation, as elected representatives of the American people, as individuals of conscience and conviction ultimately need to confront the issue of abortion, its impact on the question of life, and the meaning of life, to talk about the broader issue itself.

Advances in science and medical technology clearly will require that we will confront, both now and in the future, some ethical questions and some judgmental questions that are profoundly disturbing and profoundly important.

Science and medical technology reveals the unborn child as undeniably and uncomfortably human. We treat the unborn as a patient. We provide it with blood transfusions. We perform surgery. We know it is sensitive to pain. We know that it can be a victim of drug and alcohol abuse. And I think all of our best impulses are to reach out to help those that are considered the weakest in society.

Our history as a nation, our history as a Senate, has been to broaden access to participation in this wonderful experiment in democracy. Our history has been one of inclusion, not exclusion, and to try the find ways to incorporate into the human family ever-larger classes, to reach out to the disadvantaged and to the weakest. I find it somewhat ironic that some of the most outspoken, courageous, forward leaders of the movement of inclusion takes such a firm stand against inclusion of the weakest in our society.

And I think that is a debate that we have to pursue and continue. However the debate today is not on that issue. The debate today is on a much more specific medical procedure. It has been well-discussed on the floor, well-documented on this floor. It is difficult to discuss, difficult to view the graphic illustration of the procedure itself. Yet I think it is necessary. I will not repeat that graphic discussion.

But I think it is incumbent on every Senator before they vote to fully understand the medical procedure involved, fully understand just exactly what is taking place surgically and medically in the partial-birth abortion, or whatever term any Senator wants to place on this procedure. You do not have to call it partial-birth abortion. You do not have to label it at all. But it is extraordinarily important, I believe, for everyone to at least avail themselves of an understanding of what is taking place here medically, what the procedure is, because I think an understanding of this procedure, regardless of what label you give it, has to do more than just give us pause. It forces us to ask ourselves some very basic questions concerning whether or not we, as a society, have an obligation to state in law whether or not we condone or support such a procedure.

If this procedure were done in another country, we would not be standing here labeling it as a violation of human rights. If it were done in a war, we would call it a crime against humanity. But here we are trying to calmly, rationally discuss a procedure which is shocking in its description and which many have called descent into almost barbarism.

Madam President, I do not believe this is just another skirmish in the running debate between left and right. I believe this is an issue that raises some of the most basic questions that ought to be asked in any democracy: Who is my neighbor? Who is my brother? Who do I define as inferior and cast beyond my sympathy and beyond my protection? Who do I embrace and who do I value in both law and in love?

I do not believe this should be a matter of ideology. I think it is a matter and a question of humanity. It should not be a matter of what constituency we ought to side with. This is not just a matter of our Nation's politics, but a matter of our Nation's soul and how our Nation will be judged by God and by history.

In this body, we can agree and disagree on other matters of social policy, yet I think we ought to come together and agree on this: That a born child should not be subject to violence and to death. Surely, there is no disagreement on that. The question is, should an unborn child be subject to the same protection?

I hope that at least in this body we could come together, Republicans and Democrats, liberals and conservatives, and begin to define those situations in which an unborn, yet almost born, seconds from being technically born, but clearly a child defined by its physical appearance, defined by its medical condition, defined by its very aliveness can receive some protection from violence, can receive some protection which every other human being in this country receives.

Can we at least acknowledge there is a line that we will not cross, a line that we can say, ''While we may have disagreement over other aspects of when life begins, whether abortion is appropriate or not, at least here with this procedure, with this so obvious, visible view of the beginning at least of life that we will not terminate that, that we will refuse as a body to cross that line''?

This vote today is an opportunity to take a different path, an opportunity for Republicans and Democrats, liberals and conservatives, even for those who oppose abortion and those who support it, because by voting for this measure, we can begin to define some common ground: that every child born in America will be embraced by our community; that no one is expendable; that no one will be turned away from participation in this experiment in freedom and democracy.

We are faced with a vote in a short amount of time on a motion to commit. We have all participated in this exercise. We all know what it means. It means that we do not want to vote, we do not want to vote on the issue itself, we do not want to stand up and be counted on one side or the other; it is too politically sensitive, it is too uncomfortable, it is too difficult; I do not want to have to deal with this issue. So we are attempting to retreat to a time-honored procedural technique: We need to know more about this; we need to consign this to a committee so that they can study it and they can have hearings.

There is not anybody in this body who does not know what we are dealing with here. There is not anybody who has not had an opportunity to examine the medical procedure, to think through the question, to come to a conclusion. We are not elected to commit difficult issues, uncomfortable issues to an abyss of committee consideration that we know will paper over and delay and push a decision to some unknown point in the future. There is no lack of information available to Members. There are no unanswered questions outstanding relative to this procedure. All the materials are available for every Senator to look at and to discuss and to examine and to form a conclusion over.

So the motion to commit is what it is: It is a procedure to allow us to avoid dealing with an uncomfortable subject. Everyone needs to know that a motion to commit is simply an unwillingness to take a stand, to let people know where you stand.

There is nothing that is going to be gained by committing this to a committee so that they can deep six the issue. It is an issue we are going to be confronted with in the future anyway, so we might as well deal with it now. Let us have some courage to stand on our convictions one way or the other. Those who have spoken on the floor both for and against this procedure speak out of conviction. I am not here to question their motives. I accept their conviction. But we are not elected to avoid expressing that conviction by our vote. If cynicism exists in our electorate, it is because we keep playing these games.

The scriptural injunction is let your yea be yea and your nay be nay. Do we not at least have the courage to let our yea be yea and our nay be nay on the most fundamental question and issue probably facing this body, the very issue of the meaning of life? Are we going to take a pass? Are we going to say that is too tough for us to take? Are we going to say it is politically too sensitive?

Now, if we have learned anything about the opinion of the electorate toward this elected body, it is that it has

almost gotten to the point of dangerous cynicism about our ability to stand up and say what we believe and accept the consequences of that. I think what the public is looking for are some people with conviction one way or another, who are willing to stand up in front of a group of people back home and say, ''Look, this is what I believe. If you support that, I would like your vote. If you do not support that, that is fine, my life does not begin or end on whether or not I am elected to this office or any other office.'' But this is what I believe. We are not here to bide our time. We are here to express our convictions, as supported by the people in our States.

If this legislation is passed, it will mean that the circle of protection in our democracy begins to expand just a little bit more. We have brought in people of different ethnic backgrounds, different racial backgrounds, people with disabilities, an ever-expanding circle of protection provided by a democracy that promotes independence and liberty, but also guarantees the right to life.

This is a test of a just civilization. I think it is a standard by which each of us is going to be tested as well.

Madam President, I thank the Senator from New Hampshire for the time.

I yield the floor.

Mr. SPECTER. Madam President, before yielding to my colleague from Michigan, I want to make a few comments in response to what has been argued in opposition to the pending motion.

I agree with a good bit of what the distinguished Senator from Indiana just had to say, and I think that it is necessary to draw a line. I am prepared to do that. I must say that this Senator is not unwilling to take a stand. This Senator is not unwilling to have the courage of my convictions. I understand that I have been elected to take stands on tough issues and not to avoid expressing my views. And I concur that on the meaning of life, life does not begin or end on an election to the U.S. Senate. I have lost my share of elections, and I am prepared to do so in the future if my constituents do not agree with my views. I intend to express them forcefully and forthrightly.

But I point to the calendar here—if I may have the attention of the Senator from Indiana—as to what happened. This is not a matter of delay. This is not a matter to kill this bill in the Judiciary Committee. Whatever may be said by others—and the Senator from New Hampshire has quoted a Miss Michelman, who is not on the committee, and the idea to commit was ARLEN SPECTER's idea. My staff had a lot of ideas, like for 45 days, but we all know that sometimes Senators make their own decisions as to how we are going to proceed. The Senator from New Hampshire chuckles, and we agree on one item. Occasionally, it is healthy and helpful for Senators to make decisions instead of staffers.

So when the Senator from Indiana talks about sending this to an abyss, delay it until some unknown time in the future, that is not what is going to happen here. Under the express terms of the motion to commit, it has to be reported back and it has to be reported back, really, what is in 9 days of the life of the Senate. We would go out on recess on the 17th, so it is 9 days from today that we will be in session and 10 days when we come back, and it has to be reported on the 27th. It may be that in the interim, during Thanksgiving week, we will have hearings on that. I am prepared to do that in the Judiciary Committee. But it will be back in this Chamber, so that when the Senator from Indiana talks about the meaning of life, I am prepared to come to terms with that.

I would just like to know what the medical profession says about the pain and suffering, what the medical profession says about alternatives, if it is a C section, if it is not in the vaginal canal. I am not prepared to accept the debate on ''Nightline.'' I have been on ''Nightline,'' and sometimes on ''Nightline'' not a whole lot of usefulness is accomplished. So that when you have the sequence of events in the House of Representatives—this is really quite a sequence—I think we ought to focus on it.

This bill was introduced on June 14 in the House. The next day they had a 2½-hour hearing and did not get some medical experts on the other side of the issue. They marked it up the same day. That is on June 15. Then we know what our congressional schedule has been. It has been hectic, to put it mildly. We did have some time off in August and in September, and October we have been fully occupied on the reconciliation bill and the budget. Then it came up on November 1, where they voted. That is the state of the record. Now it comes to this body and we are asked to pass upon it without any hearing having been held. I have taken a look at the rules of the Senate—rule XIV and rule XV. It was only relatively recently in the life of the Senate that we have had no hearings on a bill. It used to be mandatory that the bill be referred under rule XXV. And now there is more latitude under rule XIV. But I question the propriety, or at least the wisdom if not the propriety, of putting this bill on the calendar for this kind of action. But I am not going to delay.

Mr. COATS. Will the Senator yield for an observation?

Mr. SPECTER. Yes, on the time of Senator SMITH.

Mr. COATS. My only observation is that the Senator indicated that a 45-day procedure is only 9 days of Senate time. Only in the U.S. Senate could an institution take 45 days to accomplish 9 days of work. I understand that is how this process works.

I thank the Senator for his explanation of the procedure in terms of the way this bill will be handled.

Mr. SPECTER. I thank my colleague from Indiana for those comments. I think we are entirely too dilatory around here. We had an issue that came to my Judiciary subcommittee on the Bureau of Alcohol, Tobacco and Firearms, and we had some problems with the Justice Department getting the witnesses in. We got them in and we did it in prompt time. Whenever we could find hearing days, we did it. We are about ready to issue a report. I think we ought to move with dispatch.

I am prepared to see us work on the Thanksgiving recess to come to terms here. When the Senator from New Hampshire says he is going to get a vote on it, he may or may not. This may be a matter of filibuster. I suggest we will not lose any time in this commitment.

I yield 5 minutes to the Senator from Michigan.

How much time remains on our side?

The PRESIDING OFFICER. The Senator has 36 minutes. There are 26 minutes on the other side.

The Senator from Michigan is recognized.

Mr. LEVIN. I thank my friend from Pennsylvania. I, too, think the Senate should vote, but only after there has been a reasonable length of time, and a few weeks is a reasonable length of time for the Judiciary Committee to consider and to report back to us on a number of very, very important issues in this case.

Under this bill, the Congress would be imposing a determination not of when an abortion may be performed, but of how it may be performed. The procedure addressed by this bill would be prohibited from being used even in the second trimester.

So this is a question of whether or not we should make a particular procedure criminal, whenever it is used. There are a number of important issues. Why have the States—with, I think, one exception—not criminalized this procedure? Under Roe versus Wade, States are given the authority to regulate abortions in the third trimester, except they cannot prohibit an abortion where the life or the health of the mother is at risk. Why have 49 States not made this particular procedure illegal, even in the third trimester?

The States are the place where Roe v. Wade says that abortion should be regulated in the third trimester, and yet with, I think, one exception States have left this particular procedure legal.

Now, this bill not only makes illegal and criminal a procedure that is not made criminal in all but one State, this bill leaves legal other procedures which can be used in the third trimester.

Are those other procedures as safe for the mother? Are those other procedures different in terms of the vividness as to the impact on the fetus? What are those other procedures? Why are they left legal, although at least

arguably, less safe for the mother, while one procedure, which in the eyes of many doctors is the safest for the mother, is made criminal?

Surely, it would be worth spending a few weeks to have a hearing in the Judiciary Committee to find out why one procedure is made criminal and other procedures are not. Other procedures, including inducing labor and delivery with drugs, is left legal despite the evidence of risk to the mother. Other procedures, including a Caesarean operation called a hysterotomy, is left legal even in the third trimester to save the life or protect the health of the mother.

Another procedure left legal by this bill is called standard D and E. This procedure does not deliver the fetus intact, but instead removes the fetus from the uterus piece by piece. Again, this procedure is left legal by this bill.

Should we not be told by the Judiciary Committee following a hearing from medical witnesses as to why other procedures, arguably in many cases apparently less safe for the mother, are left legal while this one procedure is made criminal, again, although all but one State has left the procedure at issue in this bill legal? That is worth finding out.

Of course, we should vote. I happen to agree with my good friend from Indiana; we should vote on this issue. But there is something else we should do. We should vote based on information from reliable and credible sources that have had an opportunity to present evidence at a hearing before a Judiciary Committee that can explore these kinds of issues.

There are other issues which I think we can usefully obtain some guidance on. One of those is the question of the affirmative defense. Of course, affirmative defenses have been approved by the Supreme Court in many cases but not in cases where there is a constitutional right as exists here, a right to have an abortion even in the third trimester where the life of the mother is involved.

We have a Congressional Research Service opinion on this issue. The Congressional Research Service has written us that cases that have permitted affirmative defenses have not permitted a Government to turn a constitutional right into an affirmative defense. If you have a constitutional right to an abortion to save the life of the mother, can we then make it a crime to provide such an abortion unless the doctor carries the burden of proof that he is acting constitutionally? Not according to the cases analyzed by the CRS.

Madam President, I ask unanimous consent that I have printed in the RECORD at the end of my statement the full report of the CRS on this issue and a Department of Justice letter that also addresses this issue.

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

(See exhibit 1.)

Mr. LEVIN. I simply say that there are a number of very important issues for which we should have at least some guidance and witnesses in a report from the Judiciary Committee. This is not a case of trying to evade an issue. It is a case of trying to deal with an issue based on a record of witnesses testifying on some very, very critical issues and some excruciatingly difficult issues for everyone.

In the situation we are discussing, the Supreme Court has ruled that the Constitution prohibits the Government from criminalizing abortions that are necessary to save the life of the mother. In the context of this bill Congress cannot constitutionally criminalize the abortion procedure at issue if such abortion were necessary to save the life of the mother.

The CRS memo explains it this way:

> In *Patterson* and *Martin* [the leading cases authorizing affirmative defenses in criminal cases], the Court specifically noted that the legislature was fully within its legislative authority to establish all the elements of the underlying offense, and that the defenses were established as affirmative grants to a defendant. As one commentator has indicated, a key factor in the Court's holding in *Patterson* was that the state could have constitutionally criminalized and punished the crime in question as defined, even absent the defense provided.

The opposite is true here. Under established law the Government cannot criminalize an abortion necessary to save the life of the mother. It would seem, therefore, that under the applicable Supreme Court cases, the Government must prove beyond a reasonable doubt that the mother's life was not at risk. It cannot, it would seem, shift its burden on this element of the case to the defendant the way the bill before us does. Surely we should at least have the benefit of a hearing to address this issue, and the benefit of a Judiciary Committee report.

Finally, even if an affirmative defense approach is allowed, the vagueness of the bill's affirmative defense language requiring the defendant to prove that no other procedure would suffice, leaves it unclear how a physician defendant would prove that no other procedure except intact D and E would have sufficed. What if the physician defendant could have performed another procedure that would have doubled the risk of death to the mother? Does that suffice? Under the bill before us, what is the measure of how much greater risk another procedure would or could impose on the mother's life in order not to suffice?

I don't think doctors facing criminal charges when acting to save a woman's life should face such uncertainties. But what do experts think? What does the Judiciary Committee think? Is it worth taking a few weeks to find out? I think so.

There are a number of serious issues raised by this legislation. We should send this bill to the Judiciary Committee for prompt hearings and report back. We should then vote. The impact of this legislation is potentially too grave to do less.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, November 7, 1995.

Hon. ROBERT DOLE,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: This letter represents the Department's views on H.R. 1833, a bill that would ban what it calls ''partial-birth abortions.'' This legislation violates constitutional standards recently reaffirmed by the Supreme Court. Most significantly, the bill fails to make adequate exception for preservation of a woman's health. Even in the post-viability period, when the government's interest in regulating abortion is at its weightiest, that interest must yield both to preservation of a woman's life and to preservation of a woman's health. *Planned Parenthood* v. *Casey*, 112 S. Ct. 2791, 2804, 2821 (1992). This means, first of all, that the government may not deny access to abortion to a woman whose life or health is threatened by pregnancy. *Id*. It also means that the government may not regulate access to abortion in a manner that effectively ''require[s] the mother to bear an increased medical risk'' in order to serve a state interest. *Thornburgh* v. *American College of Obstetricians and Gynecologists*, 476 U.S. 747, 769 (1986) (invalidating restriction on doctor's choice of abortion procedure because could result in increased risk to woman's health). That is, the government may not enforce regulations that make the abortion procedure more dangerous to the woman's health. *Id.; see also Planned Parenthood of Missouri* v. *Danforth*, 428 U.S. 52, 79 (9176) (invalidating ban on abortion procedure after first trimester in part because it would force ''a woman and her physician to terminate her pregnancy be methods more dangerous to her health than the method outlawed'').

If Congress were to ban this method of abortion, it appears that ''in a large fraction of the cases'' in which the ban would be relevant at all, *see Casey*, 112 S. Ct. at 2830 (discussing method of constitutional analysis of abortion restrictions), its operation would be inconsistent with this constitutional standard. It has been reported that doctors performing this procedure believe it often poses fewer medical risks for women in the late stages of pregnancy.[1] If this is true, then it is likely that in a ''large fraction'' of the very few cases in which the procedure actually is used, it is the technique most protective of the woman's health. Accordingly, a prohibition on the method, in the absence of an adequate exception covering such cases, impermissibly would require women to ''bear an increased medical risk'' in order to obtain an abortion.

H.R. 1833 would provide for an affirmative defense to criminal prosecution or civil claims when a partial-birth abortion is both (a) necessary to save the life of the woman, and (b) the only method of abortion that would serve that purpose. This provision will not cure the bill's constitutional defects. First, as discussed above, the provision is too narrow in scope, as it fails to reach cases in which a woman's health is at issue. Second,

[1] *See Hearings on H.R. 1833 Before the Subcomm. on the Constitution of the House Judiciary Comm.* (June 23, 1995) (statement of James T. McMahon, M.D., Medical Directive, Even Surgical Centers) (procedure shown to be safest surgical alternative late in pregnancy); *Id*. (June 15, 1995) (statement of J. Cortland Robinson, M.D., M.P.H.) (same); *see also* Tamar Lewin, *Wider Impact is Foreseen for Bill to Ban Type of Abortion*, The New York Times, November 6, 1995, at B7; Diane M. Gianelli, *Shock-Tactic Ads Target Late-Term Abortion Procedure*, American Medical News, July 5, 1993, at 3; Karen Hosler, *Rare Abortion Method Is New Weapon in Debate*, Baltimore Sun, June 17, 1995, at 2A.

the provision does not actually except even life-threatening pregnancies from the statutory bar. *Cf. Casey*, 112 S. Ct. at 2804 (even in post-viability period, abortion restriction must ''contain[] exceptions for pregnancies which endanger a woman's life or health''). Instead, the provision would require a physician facing criminal charges to carry the burden of proving, by a preponderance of the evidence, both that pregnancy threatened the life of the woman and that the method in question was the only one that could save the woman's life. By exposing physicians to the risk of criminal sanction regardless of the circumstances under which they perform the outlawed procedure, the statute undoubtedly would have a chilling effect on physicians;' willingness to perform even those abortions necessary to save women's lives.

Sincerely,

ANDREW FOIS,
Assistant Attorney General.

EXHIBIT 1

LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, November 6, 1995.

To: Senator Carl Levin, attention: Peter Levine.

From: American Law Division.

Subject: Validity of requiring a defendant to bear the burden of persuasion regarding a constitutionally mandated defense.

This is to respond to your rush request to evaluate the validity of requiring a defendant to bear the burden of persuasion regarding a constitutionally mandated defense. Specifically, you requested an analysis as to the constitutionality of the requirement under S. 939[1] that, in order to avoid criminal liability, a defendant prove that the performance of a ''partial-abortion'' was necessary to save the life of the mother.[2]

H.R. 1833 provides that a person who performs a ''partial-birth'' abortion shall be fined or imprisoned not more than two years.[3] If the person can prove, however, that the ''partial-birth'' abortion was necessary to save the life of the mother, and that no other procedure would suffice for that purpose, then the person is relieved of criminal liability.[4] Under the proposed bill, the defendant must carry the burden of persuading the judge or jury of this defense by a preponderance of the evidence.

The Supreme Court has held that the Due Process Clause of the Fourteenth Amendment protects a defendant against conviction unless the government establishes every fact necessary to constitute the crime beyond a reasonable doubt.[5] The Court has extended this reasoning to provide that legislation may not impose a burden of persuasion upon a defendant regarding an element of a crime which the government is required under the relevant statute to prove as part of its case.[6] Thus, in the case of *Mullaney* v. *Wilbur*, the Court held that because the Maine homicide statute included a requirement of malice aforethought in order to obtain a murder conviction, that the government could not then require a defendant to carry the burden of disproving malice aforethought by showing that a killing occurred in the heat of passion.[7]

Two years later, however, the Court held that a state could require a defendant accused of murder to carry the burden of persuasion that the defendant had acted under the influence of extreme emotional disturbance. In *Patterson* v. *New York*, the Court distinguished the case by noting that the definition of murder under New York law merely required an intentional killing, and did not include a requirement of malice aforethought.[8] Consequently, the defense of extreme emotional disturbance did not go to disproving an element of the underlying crime, but was a separate issue which the defendant could be required to carry as the burden of persuasion.[9]

The Court reaffirmed this holding in *Martin* v. *Ohio*, noting that even if the elements of a case and a defense overlapped, that a statute which did not shift the full burden of that element to the defense would be valid.[10] In *Martin*, the Court upheld an aggravated murder statute which required that the government prove that the killing had been planned, but which also required a defendant pleading self-defense to carry the burden of proving self-defense.[11] The Court held that, because a defendant could theoretically have planned a murder but then have subsequently killed the victim in self-defense, the defense was not inherently inconsistent with an element of the crime.[12] Thus, the requirement that the defendant prove that the killing was in self-defense was upheld.

In the bill in question, it could be argued that the proposed crime of knowingly committing a ''partial-birth'' abortion, like the New York statute, simply forbids the intentional performance of the described procedure. Consequently, the proposed defense, that the procedure was necessary to save the life of the mother, does not appear to require the defendant to negate any of the elements of the proposed crime. Thus, the argument can be made that under *Patterson* and *Martin*, the affirmative defense requirement as set forth in S. 939 is constitutional.

It would appear, however, that the cases of *Patterson* and *Martin* can be distinguished. In *Patterson* and *Martin*, the Court specifically noted that the legislature was fully within its legislative authority to establish all the elements of the underlying offense,[13] and that the defenses were established as affirmative grants to a defendant.[14] As one commentator has indicated, a key factor in the Court's holding in *Patterson* was that the state could have constitutionally criminalized and punished the crime in question as defined, even absent the defense provided.[15] Thus, the question arises as to whether the Congress has the authority to pass S. 939 without including a defense for when a ''partial-birth abortion'' is necessary to save the life of the mother.

It would appear that Congress does not have the authority to punish a person for performing a ''partial-birth'' abortion which is necessary to save the life of a mother. In the case of *Roe v. Wade*, the Supreme Court held that the ''privacy'' interest of the Constitution limited the ability of a state to restrict a woman's ability to have an abortion during the first two trimesters, and provided that even in the third trimester a state could not restrict a woman from having an abortion that is necessary to preserve her life and health.[16] Consequently, it would appear that Congress could not pass a statute banning ''partial-birth'' abortions where such an abortion was necessary to save the life of the mother.

As the government would appear to be constitutionally required to include an exception for abortions to save the life of the mother, it can be argued that it is a required element of the government's case, and that the reasoning of *Patterson* and *Martin* does not apply. Consequently, should a court find that *Patterson* and *Martin* are distinguishable, it would appear that the government would be under an obligation to carry the burden of persuasion that a ''partial-birth'' abortion was not necessary to save the life of a mother, and that a requirement that a defendant carry such a burden would be unconstitutional.

KENNETH R. THOMAS,
Legislative Attorney, American Law Division.

FOOTNOTES

[1] 104th Cong., 1st Sess.

[2] This memorandum does not address the issue of whether the prohibition on ''partial-birth abortions'' contained in S. 939 is a violation of the right to privacy protected under the Fourteenth Amendment.

[3] S. 939, 104th Cong., 1st Sess. §2(a) & (b) provides the following:

(a) Whoever, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than two years, or both.

(b) As used in this section, the term 'partial-birth abortion' means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

[4] S. 939, 104th Cong., 1st Sess. §2(e) provides the following:

(e) It is an affirmative defense to a prosecution or a civil action under this section, which must be proved by a preponderance of the evidence, that the partial-birth abortion was performed by a physician who reasonably believed. (1) the partial-birth abortion was necessary to save the life of the woman upon whom it was performed; and

(2) no other form of abortion would suffice for that purpose.

[5] *In Re* Winship, 397 U.S. 358, 364 (1969).

[6] Mullaney v. Wilbur, 421 U.S. 684, 701 (1974).

[7] 421 U.S. at 704 (1974).

[8] 432 U.S. 197, 212–16 (1976).

[9] 432 U.S. at 207 (1976).

[10] Martin v. Ohio, 480 U.S. 228 (1996).

[11] 480 U.S. at 230 (1986).

[12] 480 U.S. at 234.

[13] 480 U.S. at 233 (''[t]he State did not excess its authority in defining the crime of murder as purposely causing the death of another with prior calculation and design''); 432 U.S. at 197 (1976) (''[b]ut in each instance of a murder conviction under the present law, New York will have proved beyond a reasonable doubt that the defendant has intentionally killed another person, an act which it is not disputed the State may constitutionally criminalize and punish'').

[14] 432 U.S. at 197 (''[i]f the State nevertheless chooses to recognize a factor that mitigates the degree of criminality or punishment, we think the State may assure itself that the fact has been established with reasonable certainty).

[15] Paul Robinson, *Criminal Law Defenses* §5(b)(3)(1984).

[16] 410 U.S. 113, 163–64 (1972).

Mr. SPECTER. Madam President, I am delighted to yield 5 minutes to the Senator from Washington.

Mrs. MURRAY. Thank you, Madam President.

Madam President, I rise in strong support of the motion offered by my colleague from Pennsylvania, Senator SPECTER, to commit S. 939 to the Judiciary Committee for a public hearing. This legislation deserves full and comprehensive hearings before we vote on it, and I am very concerned about the implications of proceeding without the benefit of a full, open committee process.

I was very disturbed by the debate on this bill in the House of Representatives; the misinformation and factual distortions put forth by the proponents of this legislation were staggering. And, now here in this Chamber, there is an effort to bring the bill before the full Senate without first going through the traditional committee process.

There is no justification for moving ahead without fully examining the consequences of this bill. I appeal to my colleagues to send this bill to committee where we can hear from the public

Footnotes at end of article.

and the experts about its impact and ramifications.

Because, make no mistake, this bill has dangerous, far-reaching, and precedent-setting implications.

Madam President, this is the first time in our Nation's history that Congress is even attempting to get involved in telling physicians what medical procedures are and are not acceptable. And this is the first time in our Nation's history that Congress is considering banning an abortion procedure. This bill directly challenges the Supreme Court ruling, Roe versus Wade. And this bill carries with it severe consequences for the women of this country whose health and lives will be compromised, and possibly even sacrificed, to further the agenda of an extreme few.

I cannot imagine the U.S. Senate would railroad this bill through without a single public hearing. To do so would be an appalling disrespect for the legislative process, and for the lives and health of the women involved.

This legislation sets a dangerous precedent—it criminalizes doctors for performing a legal, rare, and medically necessary procedure. Surely, there is not a Member of this body who could defend the notion that a bill with this intent is not worthy of a committee hearing. Surely, I am not the only Member of this Senate with questions, concerns, and reservations.

I do not want to get into the details of this bill. We have all seen the graphic photographs; we have heard the vivid and disturbing rhetoric. But, what many of us haven't seen or heard are the tragic stories of the women who have lived through the tragedy of a difficult pregnancy, or of a life-threatening complication which required them to have this procedure.

And, many of us have not had the benefit of the facts—as presented by the doctors and health professionals who can set the record straight.

I have spoken with women who had no choice but to give up a baby they desperately wanted to have. I have listened to their tragic stories. And, I have heard from doctors who are angry and offended by the misrepresentation of facts and mischaracterization of a life-saving, emotionally traumatic medical procedure.

That is what is at issue here today; we have the ability to ensure access to accurate and complete information. We need to do the right thing, and let the public and all the Members of this body have a real opportunity to look at this bill, and examine what it will mean for doctors, for women, their lives and their health.

I urge my colleagues to vote for the Specter motion to commit, so that we can have the opportunity to fully understand what this bill means for our Nation. Madam President, it is the right thing to do.

I yield my time back to the Senator from Pennsylvania.

Mr. SMITH. How much time is remaining?

The PRESIDING OFFICER. The Senator from New Hampshire has 26 minutes and 30 seconds; the other side has 25 minutes.

Mr. SMITH. In just a moment I will yield to the Senator from Ohio.

I might just ask the Senator from Washington while she is here if she wishes to respond and answer a question on my time, I am happy to have her do it.

Does the Senator from Washington support an abortion for the purpose of sex selection? If a woman wanted to have an abortion because she was having a female baby, would the Senator from Washington say that she has a right to do that?

Mrs. MURRAY. I will comment on the time of the Senator from New Hampshire and respond to the question that that is not what is being debated on this floor.

The procedure that we are debating is a medical procedure that is done at the end of a pregnancy or midterm of a pregnancy when a woman's life is at stake. That is a critical decision that we have not had the information on to make a decision at this time.

Mr. SMITH. Assume she wants to make that decision herself, which you say she has the right to do because it is a female baby, is that all right?

Mrs. MURRAY. I respond to my colleague, the legislation in front of us has to do with women making a decision because of a medical procedure that is involved, not because of sex.

Mr. SMITH. I am willing respond to the Senator from Washington back on my time. She did not answer my question, of course, which is typical in this debate. This is not a medical procedure that deals with the life of a woman. This is a medical procedure—it is a procedure that takes the life of a child.

We have had all kinds of testimony here on the Senate floor saying how one can explain to me—I have not had it explained to me yet—why preventing a fetus from being born, literally restraining the fetus from coming into the world, how that helps the life or protects the life of the mother? I am intrigued by the fact that no one will answer that question. Senator BOXER refused to answer it last night on ''Nightline,'' and we see it not answered again today on the floor.

I will, at this time, yield 5 minutes to the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Madam President, I have had the opportunity to listen to this debate on the last 2 days. I will try very briefly to respond to a couple of points that have been made on the other side.

Yesterday, the senior Senator from Massachusetts very eloquently said the proponents of this bill employ terminology that is not recognized by the medical community. He said that the term ''partial-birth abortion'' is not found in medical school textbooks or in medical schools. I would say he is absolutely correct. I guess he and I come to a different conclusion, though, as to what relevance this has.

The Senator is correct. This procedure does not have an official medical name. The medical schools do not have a name for it. The medical textbooks do not have a name for it and doctors do not call it by that name. That really is exactly the point. The reason medical authorities do not have a name for it and the reason schools do not teach it is because the procedure is so inappropriate, so medically unnecessary, so bad that the medical community never had a reason to name it.

The doctors, the healers, will not even give it a name. They will not put it in their textbooks. They will not described it in their medical journals. It is so bad, in fact, that in September the American Medical Association, council on legislation, described the procedure as ''basically repulsive,'' and voted unanimously this procedure was ''not a recognized medical technique.'' That is why the procedure should clearly be banned.

Let me turn to another point that has been brought up by my friend and colleague from Maine as well as my friend and colleague from Michigan, that has to do with the affirmative defense issue.

It was stated earlier today by my colleague from Maine that having the affirmative defense in this bill creates an enormous burden on the defense. I respectfully disagree. It does not create an enormous burden. In fact, we have over 30 examples in the code, in the Federal Code, where the affirmative defense is used.

I know, as a former prosecutor at the State level and county level, it is used in virtually every State in the Union. The burden it places on the defense is a very, very low burden. It says, basically, in those instances where the defense has a unique capability of knowing and understanding the facts of what this defense would be, it is peculiarly in the knowledge of that person, that they then, after the prosecution has proven everything beyond a reasonable doubt, they have to prove by a preponderance of the evidence, the defendant does, which basically means it is more likely than not, that the procedure was in fact reasonable.

If you do not do it this way and if you place it into the statute, do not have an affirmative defense but put the exception in the statute, what it means is the prosecution would have to prove beyond a reasonable doubt that the partial-birth abortion was not necessary to save the life of the mother and would have to prove beyond a reasonable doubt that it was not true that no other procedure would suffice for that purpose. So this is, in the law, a commonly accepted way of dealing with this particular issue.

Let me conclude, if I could, by commenting on some of the debate I have heard. It seems to me the debate on the other side of the issue has really been

stretching, really been reaching to try to justify this procedure. Maybe a more fair way of describing their argument is not that they were trying to justify the procedure—because I really did not hear very much of that, if any of that—but rather that we just should not talk about it, we just should not deal with it.

My reaction to that, to my pro-choice friends, is simply this. Even if you are pro-choice, is there some limit to what a civilized society will accept? Is there not something that you view as so bad, so repulsive that in limited cases we say no, you simply cannot do this?

Let me just say that we spent a lot of time on this floor. I think my colleague from New Hampshire did a great job of stripping away the rhetoric and getting to the facts of this procedure. I would like to do the same thing about this motion to commit. Let no one who comes on this floor in the next hour and votes have any misconception about what this vote is about. This is not a procedural vote. It may be technically a procedural vote but what it really is, is a vote on the merits. This is the vote. This is the defining moment. As we vote, I would simply ask my colleagues to recall—particularly my colleagues on the other side of the aisle—one of my favorite quotes.

Madam President, I ask unanimous consent for 1 additional minute?

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

The Senator is recognized for 1 additional minute.

Mr. DEWINE. Hubert Humphrey, in 1977, defined the proper role of Government. This is what he said. I think, when you listen to this, it summarizes very well what this debate is all about.

> It was once said that the moral test of government is how that government treats those who are in the dawn of life, those who are in the twilight of life, and those who are in the shadow of life—the sick, the needy, the handicapped.

That is what this debate and vote is all about. This is a vote that we will be casting on the merits. It is not just a procedural vote. This vote will determine whether or not this bill moves forward or does not.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, I agree totally with the Senator from Ohio, there should be no misconception what this vote is about. And it is not to eliminate the bill. It is to send it to committee where there has been no hearing, and to do so for 9 days plus another 10-day recess. That is what the vote is about.

I agree totally with the Senator from Ohio about having a civilized society. What we are trying to do is to figure out what is an appropriate course in terms of humanitarian considerations on this matter. There was a colloquy earlier today about whether there was an exception for the life of the mother. I submit that the answer given by the Senator from New Hampshire to the question by the Senator from Nebraska was not correct. A number of Senators have raised this with me in the interim.

I have sent for the statute which shows how you make it an exception. In the current bill there is not an exception for the life of the mother. It is an affirmative defense, which is totally different. The way you provide an exception for the life of the mother is the way it was done in Public Law 103–333, on September 30, 1994, as follows:

> None of the funds appropriated under this Act shall be expended for any abortion except [then some irrelevancies] that such procedure is necessary to save the life of the mother * * * That is the way to provide an exception on the life of the mother, not by having it as an affirmative defense.

Before yielding to the distinguished Senator from Kansas, Madam President, I inquire as to how much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 23 minutes.

Mr. SPECTER. How much time would the Senator from Kansas like?

Mrs. KASSEBAUM. Madam President, if I could have 4 minutes.

Mr. SPECTER. So granted.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 4 minutes.

Mrs. KASSEBAUM. Madam President, I heard earlier today on the floor that those of us who would support the amendment to commit to the Judiciary Committee are not willing to take a stand. I would like to just say that I do not believe that is the case. This has always been a very difficult and troubling issue. But most of us have taken a stand. For myself, I have always believed abortion should be legal. I also think there should be restrictions. But I have always been really very concerned when the life of the mother and the life and health of the mother are at stake.

In Kansas, we have a law which bans third trimester abortions except for the health and the life of the mother. I do not have a problem with that personally, and I support the Kansas law, but there is an exception for the life and the health of the mother. Those are rare cases, and they should be rare cases.

It was debated here earlier between Senator EXON and Senator SMITH about whether there really is an exception for the life of the mother. I would suggest there is not an exception for the life of the mother. There is an affirmative defense after the doctor has been charged with criminal action. The burden of proof then would be on the doctor, as I understand it, at that point. So there is not an exception. There is merely a matter of legal procedure with affirmative defense.

I believe that is an important distinction, Madam President, because I think we here in the Congress cannot get into trying to determine medical procedures, no matter how tragic it appears. That should be left to the medical community, and with the consultation of the mother, the family, and the doctor.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SMITH. Madam President, I yield 5 minutes to the distinguished Senator from Texas, Senator GRAMM.

The PRESIDING OFFICER. The distinguished Senator from Texas, Senator GRAMM.

Mr. GRAMM. Madam President, let me thank you for the recognition.

I want to begin by congratulating our dear colleague, the senior Senator from New Hampshire. I want to thank him for his leadership on this issue.

I first spoke on this issue when I came over to the floor of the Senate to speak on another issue. The distinguished Senator from New Hampshire was talking about partial-birth abortions. He was explaining how the process worked in its total gruesome details, and another Senator rose and talked about how offended that Senator was by the description that Senator SMITH had given. I felt compelled at that point to make what I think is the relevant point. If we are offended by the description of this brutal, violent act that the Senator's bill seeks to stop in America, should we not also be offended that the act is occurring? If the description of the act is offensive to us, then the fact that it is happening to living babies should be doubly offensive to us.

I think this is a very fundamental issue, Madam President. We have all heard the distinguished Senator from New Hampshire describe the partial-birth abortion, but it really comes down to this: This is a baby that is several inches away from the protection of the law. This is a baby that is in the process of being delivered. Only its head remains in the birth canal. It is several inches away from being protected by the law and by the Constitution as currently interpreted by the courts. And at this very moment, when the decision is life or death, this abortion process occurs which terminates the life of the child and crushes its skull. This is a process that I believe is offensive to any civilized society.

So the issue we are debating here, it seems to me, can be reduced down to a very simple issue. This is an act that any civilized society should find offensive. Even those who support allowing this to occur are offended by its description.

I believe America and the civilized world should be offended by the fact that it is occurring in our country. I think no civilized society can condone this action. I think it is very clear that if this bill is sent to the committee, it is going to be killed. We have an opportunity, since the House has acted by an overwhelming vote, to adopt this bill and to send it to the President.

I want to urge my colleagues to vote against the effort to send this bill to a

committee where we will not see it again, where we will not have the opportunity to vote on it again, and where the righteous indignation of a civilized people will be thwarted because we do not take action to stop what we know is wrong and unacceptable in a civilized society.

I want to conclude, Madam President, by again congratulating Senator SMITH. I think it took great political courage to raise this issue. I think it is always very difficult when you are talking about the kind of act that we are debating here today. It is offensive. It is hard to talk about. I do not feel comfortable talking about it. But most importantly, I do not feel comfortable about the fact that it is happening in the United States of America. That is the point.

If it is hard for us to talk about in the environment of the greatest deliberative body in the history of the world, it seems to me that it ought to be hard for us to continue to condone. I do not condone it. I want it to stop. And that is why I am going to vote for the Smith bill. That is why I am going to vote against this motion to kill it.

I believe this bill should be passed, and we, as a civilized nation, should say no to these partial-birth abortions.

Thank you, Madam President.

Mr. SPECTER. Madam President, if the Senator from California seeks recognition, she may have 5 minutes of our time. But first let me inquire how much time remains.

The PRESIDING OFFICER. The Senator has 20 minutes and 40 seconds.

Mr. SPECTER. I yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Thank you very much, Madam President. I want to thank the Senator from Pennsylvania for offering us this very sensible amendment.

We have never in this Senate voted to outlaw a medical procedure. We have never, never voted to outlaw a medical procedure. When I was debating this issue with the Senator from New Hampshire, yes, we voted to outlaw the mutilation of the genitals of a girl. We voted a sense of the Senate. I was glad to do that. That is a battery; that is not a life-saving procedure. We have never voted to ban a life-saving procedure. And if that is what we are going to do, we are going to become physicians, and we are going to go down that slope.

We ought to have a hearing and have people who know what they are talking about appear before the Judiciary Committee, which is very fairly divided between people who vote pro-choice and people who vote anti-choice.

So what is before us is a bill to outlaw a medical procedure that is rare, that is used in the most tragic circumstances. It is not used for sex selection.

Let me repeat that. It is not used for sex selection. It is not used as a whim. It is not used because a woman at the end of her pregnancy said, ''You know, maybe I shouldn't have done that.''

It is a dangerous procedure, a late-term abortion. It is a rare thing that happens. To make it look like it is a whim is a great disservice to the families of this country, deeply religious families often, that are faced with these terrible circumstances.

In Roe v. Wade, the judges in their wisdom knew that late-term abortion was a different situation, and so they gave the States full authority to regulate late-term abortions. And what are we doing? We are stepping right in, big brother. And of course, it was most of my friends on the other side who said let the States decide everything else. They even voted to repeal nursing home standards, Federal nursing home standards because the States know better. But now they are saying we are going to step over all of these State laws and get into the operating room and tell a doctor that he or she cannot use an emergency procedure.

There is no exception in this bill for life of the mother. I tell my friends to turn to page 3. We have made exception for life of the mother before in Medicaid funding. This is an affirmative defense. In other words, you arrest the doctor, charge him if he uses the procedure, and then you tell him:

> Oh, yes, Doctor. By the way, when you are in court, you can use as a defense the fact that this was your only choice, and you have to show a preponderance of evidence and that there was no other procedure.

Very nice. Very nice way to treat someone who has just saved a life. My friend from Ohio quoted Hubert Humphrey. I love Hubert Humphrey. I just got a Hubert Humphrey award. I am so proud of that. The shadow of life, we must think of someone in the shadow of life, and a woman whose life is threatened is in the shadow of life. Whether that call comes in to any Senator here, I say to my friends, think about it, that it is your daughter. I am a grandma, and we have a lot of grandmas and grandpas here. It is your baby; it is your daughter who is going to have a child, and the doctor calls in the middle of the night and says, ''There is a horrible emergency. If I do not end this pregnancy, you will lose your child''—your baby.

I got a call yesterday during the debate from a woman from Santa Barbara who said, ''Remind these Senators that I have a baby''—yes, she is 36 and she got pregnant—''she is always going to be my baby, and we had to make that horrible choice.''

People like Viki Wilson, a registered nurse, a practicing Catholic, and her husband, Bill, a physician, were the parents of two children and planning a third. In the 8th month of pregnancy, they found out the baby's brain was growing outside the skull. The brain was twice the size of her actual head and lodged in Viki's pelvis.

May I have unanimous consent for 2 additional minutes off Senator SPECTER's time.

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

Mrs. BOXER. The brain was twice the size of her actual head and lodged in Viki's pelvis, causing pressure on what little brain the baby had. If Viki had carried Abigail to term—yes, they had a name for the baby—Viki's cervix could not have expelled Abigail. Viki's cervix would have torn or ruptured causing massive hemorrhages and possible infection, and, yes, Viki would have been in the shadow of life. And if Viki was your daughter and the call came in, you would say to the doctor, ''Did you do everything? Are you sure? Did you check? Did you doublecheck? Is there another way? Can we save the baby? Can we do an operation to save the baby?'' And if the answer came back no, I believe in my heart, subject to anyone who wants to say anything different, that, yes, you, as a United States Senator, would say, ''By the grace of God, save my child.''

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mrs. BOXER. We should support the Senator from Pennsylvania. He is rational about this. Let us bring forward the people who know about this and then let us vote.

I thank my friend.

Mr. PELL. Mr. President, in recent weeks, there has been much press attention given to a heretofore obscure procedure used to terminate late-term pregnancies. With this attention has come substantial public distress and alarm regarding the nature of this procedure, a discomfort that indeed, I share and understand. I must certainly agree that the procedure, as described by the proponents of the pending legislation, is repugnant on its face and one that is hopefully resorted to in only the rarest circumstances.

But today as the Senate considers legislation to ban the use of this procedure, we must make sure that our deliberations are thoughtful, reasoned, and considered.

It is very unfortunate that we are here debating this bill without having the benefit of the normal, established procedure of committee referral, hearings, and review from which a comprehensive record would have evolved detailing the pros and cons of the many complex and controversial issues at stake. This is particularly troubling because the issue at hand is so divisive and charged with emotion that, absent a thorough airing of the issues involved, it would be all too easy to retreat to a position on doctrinaire certitude and defiantly declare normal victory regardless of whether or not it is appropriate public policy.

The Senate has a long and established tradition of careful deliberation precisely because of its rules and procedures for legislating such difficult issues with thorough and adequate review. It is only rarely that we circumvent those procedures and then

only when the matters are noncontroversial and relatively noncomplex.

Here, the bill was introduced and not referred to any Senate committee. Consequently, no hearings have been held in the Senate despite a myriad of questions that need to be answered about the bill's provisions. These include: What are the alternatives? What are the ramifications for other abortion procedures as a consequence of the current vague definitions in the bill? Is it wise or desirable to create a Federal criminal statute governing medical procedures? I believe that it would be premature to attempt to come to a conclusion about whether to support or oppose this legislation without having the answers to these and other troubling questions.

Therefore, I intend to support the motion to refer this legislation to the Judiciary Committee where I hope it will be thoroughly reviewed and made the subject of public hearings to discuss the issues involved. At that point, the Senate will have a much more adequate record than it does now upon which it can make the reasoned, careful decision that is incumbent upon us as elected representatives to make.

Mr. KERRY. Mr. President, the U.S. Government is one of the least intrusive governments in the world. We pay the lowest taxes of any industrialized country. We have a constitution that guarantees an extensive list of freedoms upon which the government cannot infringe. Many believe that one of the causes of the 1994 election results was a desire by the public to minimize government's role in the everyday lives of its citizens. Yet Senators have brought a bill to the floor that would require women to risk their lives.

Perhaps the sponsors of this bill do not understand the issue at hand. The Supreme Court has ruled that abortions are legal. It is completely legal for a woman who wants to have an abortion to obtain the services of a doctor who is willing to provide an abortion. Now we as a legislature are going to start decreeing to both pregnant women and their physicians which procedures a woman can choose? This is not our role. We are not obstetricians, and we should not insert ourselves in this picture.

Yet proponents of this bill come to the floor to introduce legislation that would force women whose lives are most at danger, whose fetuses are usually malformed in some way, to either endure the painful and life-threatening procedure of birth or to endure another form of abortion that may be more dangerous or painful. This is tantamount to torture and I am appalled that we are standing here debating this issue.

But I know why we are here. In fact, every Member of this body knows why we are here. We are here because abortion opponents are exploiting this painful, rare surgical procedure to try to convince the public that all abortions are similar to this procedure.

Mr. President, any surgical procedure is disgusting if described to a layman. I could stand here and describe any number or legal medical procedures and probably convince someone out there that the procedure sounds terrible and wrong. But describing and discouraging a legal medical procedure is not my job. I could also stand here and describe the horrible details of a birth of a malformed fetus that kills both the fetus and the mother and does so in the worst and most chilling fashion. But unlike others who have held this floor, I see no benefit to scare tactics.

Mr. President, proponents of this bill hope that this bill and the proceedings surrounding it will further stigmatize abortion and humiliate women who have had or who may someday have legal abortions. They also hope to chip away one piece at a time the constitutional right to terminate a pregnancy. Theirs is an unbecoming effort.

I believe this effort will fail. I believe that the public knows more and is more perceptive than this bill's proponents think. I urge my colleagues to stand in opposition to this bill. Send it to the Judiciary Committee when it can be properly analyzed.

Mr. CRAIG. Mr. President, there are very few issues that provoke the kind of passionate debate abortion policy continues to provoke. It's unfortunate the debate has deteriorated into pro-choice and pro-life labels because, in reality, it is a hugely significant conflict over when life begins and what life comprises. That's perhaps why it divides people along unpredictable lines; even in my State of Idaho, people of like political beliefs can take different positions on this issue.

I mention this because today we are dealing with an aspect of the abortion issue that even causes divisions among those who generally find abortion acceptable. What we saw in the House of Representatives just a few days ago demonstrated this. The overwhelming vote in support of the bill included many who usually identify themselves as pro-choice.

Let me repeat that: Even those who accept abortion found this particular procedure so objectionable they voted in favor of banning it.

A ban is an extraordinary step for Congress to take—but then, this is an extreme and hideous abortion procedure. We've heard it described in detail; we've seen diagrams that those performing this procedure have certified to be accurate. And Mr. President, I have seen strong men and women look away, to avoid dealing with the reality of this procedure.

I urge any of my colleagues who have reservations about this bill to take the time to understand exactly what's involved. Then you will understand why even abortion proponents draw the line here.

To put it simply, we're talking about causing and then stopping a delivery, to kill a baby mere inches and seconds before he or she is protected by our laws as a living human being.

Some would like to defend this procedure by claiming it is only used when the life of the mother is at stake or when the baby is shown to have genetic deformities. However, the testimony from those who perform these late-term abortions contradicts these arguments. Even Dr. Martin Haskell, who originated the technique, estimated as many as 80 percent of the procedures he performed were elective, not for genetic or life-saving reasons.

It's important to note that this bill contains an exception for situations in which the life of the mother truly is at stake and no other procedure can save it. Those who are honestly worried about this issue should be reassured. But it's also important to note that this procedure is hardly risk-free to the mother; medical professionals agree it poses dangers to both the lives and the future reproductive health of the women involved.

Mr. President, we all are thankful for today's life-saving advances in medical technology. It's appalling to think this particular procedure twists those advances in a legalistic game, with a human life in the balance.

In closing, I urge all my colleagues not to let political labels blind them to the facts. This radical, barbaric procedure goes much too far. Let's draw the line here, now, and pass the Partial-Birth Abortion Ban Act.

Mr. ABRAHAM. Mr. President, during the debate on the partial-birth abortion ban, opponents have made claims about this procedure and this legislation that simply are not supported by the facts. I ask unanimous consent that a fact sheet by the National Right to Life entitled ''Partial-Birth Abortions: A Look Behind the Misinformation'' and a letter from Barbara Bolsen of the American Medical News along with the accompanying material be printed in the RECORD.

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

PARTIAL-BIRTH ABORTIONS: A LOOK BEHIND THE MISINFORMATION

(Congress is currently considering legislation that would place a national ban on the partial-birth abortion method (H.R. 1833, S. 939). The bill was approved by the House Judiciary Committee on July 18. Pro-abortion lobbying groups have made claims regarding this abortion method, and about the legislation, that are contradicted by substantial evidence. Yet, some of these erroneous claims have been uncritically adopted by various editorial commentators and reporters. This factsheet addresses some of the major disputed issues. All documents quoted in this factsheet may be obtained from the National Right to Life Committee, Federal Legislative Office, (202) 626–8820)

WHAT TYPE OF ABORTION IS BANNED BY H.R. 1833/S. 939?

H.R. 1833 is sponsored by Congressman Charles Canady (R–Fl.), with 150 House cosponsors. The companion bill, S. 939, is sponsored by Senator Bob Smith (R–NH). The

purpose of the legislation is to ban those abortions that are performed by (1) partially delivering a living fetus into the vagina, and then (2) killing him or her. Under the bill, this method of killing a human fetus/baby could only be used if there was no other way to save a woman's life.

The bill is aimed at the basic method described and practiced by Dr. Martin Haskell of Dayton, Ohio, and Dr. James McMahon of Los Angeles—and by some other abortionists who have not chosen to widely publicize the fact.

The Los Angeles Times accurately described this abortion method in a June 16 news story: ''The procedure requires a physician to extract a fetus, feet first, from the womb and through the birth canal until all but its head is exposed. Then the tips of surgical scissors are thrust into the base of the fetus' skull, and a suction catheter is inserted through the opening and the brain is removed.''

In 1992, Dr. Haskell wrote a paper on this abortion method, which was sent out to members of the National Abortion Federation (those being abortionists and abortion clinics). The paper (''Dilation and Extraction for Late Second Trimester Abortion'') described in detail, step-by-step, how to perform the procedure, which Dr. Haskell said that he employed beginning at 20 weeks—4½ months in layman's parlance—through 26 weeks into pregnancy. (Dr. McMahon uses essentially the same procedure to a much later point—in some cases, to 40 weeks, which is full term.) [1]

Dr. Haskell's ''how-to-do-it'' paper was obtained and publicized by the National Right to Life Committee. The National Abortion Federation (NAF) quickly claimed that NRLC was making distorted claims about the procedure. During the course of investigating this controversy, the American Medical News—the official newspaper of the American Medical Association—in 1993 conducted tape-recorded interviews with both Dr. McMahon and Dr. Haskell. These interviews originally were quoted in an article titled ''Shock-tactic ads target late-term abortion procedure,'' which appeared in the July 5, 1993 edition of American Medical News. The American Medical News article is often quoted by supporters of the proposed legislation; the article is cited several times in this factsheet.

Recently, for the first time, the National Abortion Federation and Dr. Haskell attempted to disavow some of the most revealing quotes from the article. In response, on July 11, 1995, American Medical News released transcripts of the portions of a tape-recorded 1993 interview to prove that Dr. Haskell was indeed quoted accurately on certain key points (e.g., that ''80%'' of the partial-birth abortions he performs are ''purely elective''), and that the fetuses are usually alive when he performs the procedure on them.

ACTIONS BY THE AMERICAN MEDICAL ASSOCIATION

On September 23, the national Council on Legislation of the American Medical Association (AMA) voted unanimously to recommend AMA endorsement of the Partial-Birth Abortion Ban Act (H.R. 1833). (Congress Daily, Oct. 10.) The Council on Legislation is made up of about 12 physicians of different specialities, who are charged with studying proposed federal legislation with respect to its impact on the practice of medicine. According to an October 23 letter from AMA headquarters in Chicago, ''The AMA Board of Trustees has determined that it will not take a position on H.R. 1833 at this time.''

THE CASE OF VIKI AND ABIGAIL WILSON

Critics of the bill have relied heavily on the personal account of Viki Wilson, whose unborn daughter Abigail died at the hands of Dr. McMahon during the ninth month of the pregnancy. Abigail's brain had developed partly outside of her skull. Setting aside for the moment all that might be said about the ethics of what was done to Abigail, the procedure utilized in this case, if performed as described in published accounts quoting Mrs. Wilson, would not be banned by the Partial-Birth Abortion Ban Act. That is because the baby's life was ended before the baby was moved into the birth canal (according to Mrs. Wilson); under the bill, this is not a ''partial-birth abortion.'' Moreover, Mrs. Wilson has asserted that continuing the pregnancy ''possibly'' would have endangered her life. H.R. 1833 allows a physician to utilize the defined procedure on the basis of a reasonable belief that no alternative medical intervention would save the mother's life.

HOW MANY PARTIAL-BIRTH ABORTIONS ARE PERFORMED?

Dr. Haskell said in his 1992 paper that he begins using the procedure at 20 weeks (4½ months). There are 13,000 abortions annually after 4½ months, according to the Alan Guttmacher Institute (New York Times, July 5, 1995), which should be regarded as a conservative estimate. The National Abortion Federation now says that Drs. McMahon and Haskell between them perform about 450 such abortions every year. [2]

Both practitioners have been enthusiastic advocates for the method; Dr. Haskell's paper explains in detail how to perform it, and Dr. McMahon is director of abortion training at a major teaching hospital. There is no way to know how many other abortionists are now using the method, but without writing papers or giving interviews on the subject as Drs. Haskell and McMahon have done. The National Abortion Federation acknowledges that the method is probably employed at times by other practitioners, and the 1993 American Medical News report spoke of ''a handful of other doctors'' employing the method. In short, there is insufficient information on which to base a reliable estimate of how many partial-birth abortions are performed in the United States.

Even with respect to Drs. Haskell and McMahon alone, the figure of ''450'' may be low. Dr. McMahon has circulated literature in which he refers to having performed a ''series'' of ''more than 2,000'' abortions by the method. However, in the article by Karen Tumulty that appeared in the January 7, 1990 issue of Los Angeles Time Magazine, Dr. McMahon was quoted as saying, ''Frankly, I don't think I was any good at all until I had done 3,000 or 4,000,'' referring to abortions ''in later pregnancies.'' That article also reported that Dr. McMahon performs 400 ''later abortions'' a year. In literature he has circulated seeking abortion referrals, Dr. McMahon strongly advocates the partial-birth method for later abortions, so presumably most of his late abortions are being done using this method.

As for Dr. Haskell, he said in his 1992 paper that he had performed ''over 700'' such abortions.

His wife recently told an Ohio paper that he performs ''less than 200'' a year.

Defenders of partial-birth abortions often stress that they are ''a small percentage'' of all abortions. Yet, for each individual, unique human being who ends up at the pointed end of the surgical scissors, each such procedure is a 100 percent proposition.

SHOULD THE PROCEDURE BE CALLED THE ''PARTIAL-BIRTH ABORTION METHOD,'' OR BY SOME OTHER TERM?

In his 1992 paper, Dr. Haskell referred to the method as ''dilation and extraction'' or ''D&X''—noting that he ''coined the term.'' However, that nomenclature is rejected by Dr. McMahon, who refers to the method as ''intact dilation and evacuation'' and (in an interview in the Los Angeles Times Magazine in 1990) as ''intrauterine cranial decompression.'' There are also some variations in the procedure as performed by the two doctors. Dr. Haskell's 1992 paper refers to Dr. McMahon's approach as ''a conceptually similar technique.''

Some critics of the bill, such as the National Abortion Federation (a trade association of abortion providers) complain that the term ''partial-birth abortion'' is ''a non-medical term,'' is ''inaccurate,'' and is ''offensive and upsetting.'' They also insist that it is ''vague.'' It is quite evident, however, that NAF's problem with the term ''partial-birth abortion'' is not that it is too vague, but precisely that it is much too explicit. They prefer euphemistic pseudo-medical jargon that conveys nothing substantive regarding the nature of the procedure.

However, none of the terms that the abortion practitioners prefer would be workable as a legal definition. The bill creates a legal definition of ''partial-birth abortion,'' and would ban any variation of that method—no matter what new idiosyncratic name any abortionist may invent to refer to it—so long as it is ''an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.''

Congress establishes such legal definitions all the time—often, in ways not entirely pleasing to the industries or practices being regulated. For example, by act of Congress, firearms that incorporate certain specified features are now legally defined as ''assault weapons,'' even though manufacturers, gunsmiths, and users refer to these same firearms in other fashions. Likewise, if H.R. 1833/S. 939 is enacted, abortions that involve partial vaginal delivery of a live baby, followed by killing, will be legally defined as ''partial-birth abortions,'' even if apologists for late-term abortions would continue to prefer a term that is not so explicitly descriptive.

Beyond the legal point, the term ''partial-birth abortion'' is accurate and in no way misleading. In explaining how to perform the procedure in his 1992 instruction paper, Dr. Martin Haskell wrote: ''With a lower [fetal] extremity in the vagina, the surgeon uses his fingers *to deliver* the opposite lower extremity, then the torso, the shoulders and the upper extremities.'' [Haskell paper at page 30, emphasis added]

Dr. J. Courtland Robinson, a self-described ''abortionist'' who testified on behalf of the National Abortion Federation at a June 15 hearing before the House Judiciary Constitution Subcommittee, said, ''Never in my career have I heard a physician who provides abortions refer to any technique as a 'partial-birth abortion.'\'' But Dr. Robinson's objection seems a mere quibble in light of his later testimony: ''In our tradition we have other terms. I am surprised the word 'partial-extraction' was not used. This is a standard term in obstetrics that we use for delivering. That [term] could have been used.''

Professor Watson Bowes of University of North Carolina at Chapel Hill School of Medicine, co-editor of the Obstetrical and Gynecological Survey and a leading authority on maternal and fetal medicine, wrote in a letter dated July 11, 1995: ''The term 'partial-

birth abortion' is accurate as applied to the procedure described by Dr. Martin Haskell in his 1992 paper entitled 'Dilation and Extraction for Late Second Trimester Abortion,' distributed by the National Abortion Federation. . . . There is no standard medical term for this method. The method, as described by Dr. Haskell in his paper, involves dilation of the uterine cervix followed by breech delivery of the fetus up to the point at which only the head of the fetus remains undelivered. At this point surgical scissors are inserted into the brain through the base of the skull, after which a suction catheter is inserted to remove the brain of the fetus. This results in collapse of the fetal skull to facilitate delivery of the fetus. From this description there is nothing misleading about describing this procedure as a 'partial-birth abortion,' because in most of the cases the fetus is partially born while alive and then dies as a direct result of the procedure . . . ''

IN WHAT CIRCUMSTANCES ARE PARTIAL-BIRTH ABORTIONS PERFORMED?

Misinformation: The New York Times (June 19, 1995): ''[H.R. 1833/S. 939 is] a bill to outlaw one of the rarest types of abortions—a highly specialized procedure that is used in the latter stages of pregnancy to abort fetuses with severe abnormalities or no chance of surviving long after birth.'' National Public Radio Morning Edition (July 14, 1995): ''Anti-abortion groups call it partial-birth abortions . . . Doctors resort to this rare procedure only for late-term abortions if the fetuses have severe abnormalities and no chance of survival.''

Critique: Alarmed by the progress of H.R. 1833 in Congress, lobbying groups representing the abortion industry and pro-abortion advocacy groups have recently claimed that the partial-birth abortion method is used mainly in rare circumstances involving danger to the life of the mother or very grave disorders of the fetus. Many editorial writers and columnists (e.g., Ellen Goodman, Richard Cohen) have uncritically embraced such claims. So have some reporters, such as those quoted above. Indeed, the NPR assertion that the procedure is used ''only . . . if fetuses have severe abnormalities and no chance of survival'' is an even more egregiously erroneous statement than the claims made by the abortion-clinic lobby itself.

In truth, there is ample documentation to establish that many—indeed, most—partial-birth abortions do not involve ''severe abnormalities and no chance of survival'' or danger to the life of the mother.

In 1992, after NRLC's publicizing of Dr. Haskell's paper engendered considerable controversy, the American Medical News—the official newspaper of the AMA—conducted a tape-recorded interview with Dr. Haskell, in which he said: ''In my particular case, probably 20% [of this procedure] are for genetic reasons. And the other 80% are purely elective.''

This single statement from Dr. Haskell's own lips shreds the most widely disseminated piece of disinformation regarding partial-birth abortions. But there is much more.

Dr. James McMahon—who has performed at least 2,000 of these procedures—told American Medical News that he also uses the method to perform what he calls ''elective'' abortions up to 26 weeks (six months). Moreover, after the 26-week point, Dr. McMahon said, he uses the method to perform ''non-elective'' abortions (all the way to 40 weeks, which is full term). In materials provided in June to the House Judiciary Constitution Subcommittee, Dr. McMahon revealed that his definition of ''non-elective'' is extremely expansive. For example, he listed ''depression'' as the largest single ''maternal indication'' for such so-called ''non-elective'' abortions.

Dr. McMahon's materials also show that he uses the method to destroy ''flawed fetuses,'' as he calls them. These include unborn humans with a wide variety of disorders, including conditions compatible with a long life with or without disability (e.g., cleft palate, spina bifida, Down syndrome). True, some of the babies have more profound disorders that will result in death soon after birth. But these unfortunate members of the human family deserve compassion and the best comfort-care that medical science can offer—not a scissors in the back of the head. In some such situations there are good medical reasons to deliver such a child early, after which natural death will follow quickly.

After conducting interviews with Dr. McMahon, reporter Karen Tumulty wrote in the Los Angeles Times Magazine (January 7, 1990): ''If there is any other single factor that inflates the number of late abortions, it is youth. Often, teen-agers do not recognize the first signs of pregnancy. Just as frequently, they put off telling anyone as long as they can.''

It is also noteworthy that when NRLC originally publicized the partial-birth abortion procedure in 1993, the then-executive director of the National Abortion Federation (NAF) distributed an internal memorandum to the members of that organization which acknowledged that such abortions are performed for ''many reasons'': ''There are many reasons why women have late abortions: life endangerment, fetal indications, *lack of money or health insurance, social-psychological crises, lack of knowledge about human reproduction, etc.*'' [emphasis added]

Likewise, a June 12, 1995 letter from NAF to members of the House of Representatives noted that late abortions are sought by, among others, ''very young teenagers . . . who have not recognized the signs of their pregnancies until too late,'' and by ''women in poverty, who have tried desperately to act responsibly and to end an unplanned pregnancy in the early stages, only to face insurmountable financial barrier.''

DOES THE BILL MAKE ALLOWANCE FOR JEOPARDY TO THE LIFE OF THE MOTHER?

The bill contains a provision under which a doctor could utilize the partial-birth abortion method if no other medical procedure would suffice to save the mother's life. Eminent medical authorities, including Prof. Watson Bowes of the University of North Carolina at Chapel Hill and Dr. Pamela Smith, head of the obstetrics teaching program at Mt. Sinai Hospital in Chicago, have said that no such case would ever arise—nevertheless, the bill makes allowance for such a circumstance. In a letter to Congressman Charles Canady (R-Fl.), prime sponsor of HR 1833, Prof. Bowes said: ''Critics of your bill who say that this legislation will prevent doctors from performing certain procedures which are standard of care, such as cephalocentesis (removal of fluid from the enlarged head of a fetus with most severe form of hydrocephalus) are mistaken. This procedure is not intended to kill the fetus, and, in fact, is usually associated with the birth of a live infant . . . [Also,] the technique of the partial-birth abortion could be used to remove a fetus that had died in utero of natural causes or accident. Such a procedure would not be covered by the definition in your bill, because it would not involve partially delivering a live fetus and then killing it.''

ARE THE DRAWINGS OF THE PARTIAL-BIRTH ABORTION METHOD CIRCULATED BY NRLC ACCURATE, OR ARE THEY MISLEADING?

Misinformation: On June 12, the National Abortion Federation—an association of abortion providers—sent a letter to House members in which NAF claimed—on the authority of Dr. J. Courtland Robinson of Johns Hopkins Medical School—that the drawings of the partial-birth abortion procedure distributed by Congressman Canady in a letter to House members were ''highly imaginative'' and ''misleading.'' These drawings had earlier been distributed by the National Right to Life Committee.

Critique: Three days after the mailing of the letter quoted above, Dr. Robinson testified before the House Judiciary Constitution Subcommittee, representing the National Abortion Federation. However, under questioning from subcommittee chairman Rep. Charles Canady, Dr. Robinson admitted he had not to that day even read Dr. Martin Haskell's unique 1992 paper describing how to perform the procedure. Questioned by Mr. Canady about the drawings—which were displayed in poster size next to the witness table—Dr. Robinson agreed that they were ''technically accurate,'' and added: ''That is exactly probably what is occurring at the hands of the two physicians involved.''

Moreover, American Medical News (July 5, 1993) reported: ''Dr. Haskell said the drawings were accurate 'from a technical point of view.' But he took issue with the implication that the fetuses were 'aware and resisting.'

Professor Watson Bowes of the University of North Carolina at Chapel Hill, wrote in a letter to Congressman Canady: ''Having read Dr. Haskell's paper, I can assure you that these drawings accurately represent the procedure described therein. Furthermore, Dr. Haskell is reported as saying that the illustrations were accurate 'from a technical point of view.' Firsthand renditions by a professional medical illustrator, or photographs or a video recording of the procedure would no doubt be more vivid, but not necessarily more instructive for a non-medical person who is trying to understand how the procedure is performed.''

IS THE BABY ALREADY DEAD BEFORE BEING PULLED INTO THE BIRTH CANAL DURING THE PROCEDURE?

In the partial-birth abortion method, a woman visits the abortion clinic on three successive days. On the first two days, her cervix (the opening to the uterus) is mechanically dilated with materials called laminaria. The baby is removed on the third day. American Medical News reported in 1993, after conducting interviews with Drs. Haskell and McMahon, that the doctors ''told AM News that the majority of fetuses aborted this way are alive until the end of the procedure.''

Recently, after introduction of the proposed federal ban, Dr. Haskell and NAF for the first time disputed this and other revealing quotes in the American Medical News story. In response, the editor of American Medical News sent a letter to the Judiciary Committee, dated July 11, stating: ''AM News stands behind the accuracy of the report. . . . We have full documentation of these interviews, including tape recordings and transcripts.'' She also released the transcript of the tape recording of the pertinent portions of the interview with Dr. Haskell. The transcript contains the following exchange:

American Medical News. Let's talk first about whether or not the fetus is dead beforehand.

Dr. HASKELL. No it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress—intrauterine stress during, you know, the two days that the cervix is being dilated [to permit extraction of the fetus]. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken. And

so in my case, I would think probably about a third of those are definitely are [sic] dead before I actually start to remove the fetus. And probably the other two-thirds are not.

In another interview, quoted in the Dec. 10, 1989 Dayton News, Dr. Haskell again conveyed that the scissors thrust is usually the lethal act: ''When I do the instrumentation on the skull * * * it destroys the brain tissue sufficiently so that even if it (the fetus) falls out at that point, it's definitely not alive, Dr. Haskell said.''

On July 9, 1995, Brenda Pratt Shafer, R.N., sent a letter Congressman Tony Hall (D-Ohio), in which she related her experience as a nurse whose agency assigned her to work at Dr. Haskell's Dayton abortion clinic in 1993. Nurse Shafer said she had no difficulty accepting the assignment because she was strongly ''pro-choice.'' But she quit after witnessing three partial-birth abortions close up. ''It was the most horrifying experience of my life,'' she wrote.

Here''s how Nurse Shafer described the end of the life of one six-month-old ''fetus'': ''The baby's body was moving. His little fingers were clasping together. He was kicking his feet. All the while his little head was still stuck inside. Dr. Haskell took a pair of scissors and inserted them into the back of the baby's head. Then he opened the scissors up. Then he stuck the high-powered suction tube into the hole and sucked the baby's brains out. I almost threw up as I watched him do these things.''[3]

That the babies are generally alive at the time of their ''extraction'' is further supported by the account of an eyewitness very sympathetic to Dr. McMahon: Dr. Dru Elaine Carlson, who is a perinatologist and director of Reproductive Genetics at Cedars-Sinai Medical Center in Los Angeles. In a June 27, 1995 letter to Congressman Henry Hyde opposing the bill, Dr. Carlson wrote: ''Since I refer Dr. McMahon a large number of families, I have gone to his facility and seen for myself what he does and how he does it * * * Essentially he provides analgesia for the mother that removes anxiety and pain and as a result of this medication the fetus also is *sedated*. When the cervix is open enough for a safe delivery of the fetus he uses altrasound guidance to gently deliver the fetal body up to the shoulders and then very quickly and expertly performs what is called a cephalocentesis. Essentially this is removal of cerebrospinal fluid from the brain *causing instant brain herniation and death*'' [emphasis added]

It is impossible to reconcile eyewitness accounts such as those of Nurse Shafer and Dr. Carlson with the claim made by NAF in a July 27 letter to Congress that ''fetal demise does in fact occur early on in the [three-day] procedure.''

DOES THE BABY FEEL PAIN DURING THE PARTIAL-BIRTH ABORTION PROCEDURE?

In his 1992 paper, Dr. Haskell says that he performs the procedure after giving the woman ''local anesthesia'' and nitrous oxide (''laughing gas''), neither of which would prevent pain in the baby.

Dr. McMahon says in a June 23 written submission to the House Judiciary Constitution Subcommittee: ''The fetus feels no pain through the entire series of procedures. This is because the mother is given narcotic analgesia at a dose based upon her weight. The narcotic is passed, via the placenta, directly into the fetal bloodstream. Due to the enormous weight difference, a medical coma is induced in the fetus. There is a neurological fetal demise. There is never a live birth.''

The New York Times (July 5, 1995) interpreted this statement by Dr. McMahon to mean that the drug causes ''brain death'' in the baby, which does indeed seem to be the impression that Dr. McMahon attempts to convey. But his claim cannot survive critical scrutiny.

Dr. Watson Bowes, an internationally recognized authority on maternal and fetal medicine, is a professor of both obstetrics/gynecology and pediatrics at the University of North Carolina at Chapel Hill School of Medicine. In a July 11 letter, Professor Bowes wrote: ''Dr. James McMahon states that narcotic analgesic medications given to the mother induce 'a medical coma' in the fetus, and he implies that this causes 'a neurological fetal demise.' This statement suggests a lack of understanding of maternal/fetal pharmacology. It is a fact that the distribution of analgesic medications given to a pregnant woman result in blood levels of the drugs which are less than those in the mother. Having cared for pregnant women who for one reason or another required surgical procedures in the second trimester, I know that they were often heavily sedated or anesthetized for the procedures, and the fetuses did not die. . . . Although it is true that analgesic medications given to the mother will reach the fetus and presumably provide some degree of pain relief, the extent to which this renders this procedure pain free would be very difficult to document. I have performed in-utero procedures on fetuses in the second trimester, and in these situations the response of the fetuses to painful stimuli, such as needle sticks, suggest that they are capable of experiencing pain.''

In June 15 testimony before the House Judiciary Constitution Subcommittee, Professor Robert White, Director of the Division of Neurosurgery and Brain Research Laboratory at Case Western Reserve School of Medicine, said: ''The fetus within this time frame of gestation, 20 weeks and beyond, is fully capable of experiencing pain.'' Prof. White analyzed the partial-birth procedure step-by-step and concluded: ''Without question, all of this is a dreadfully painful experience for any infant subjected to such a surgical procedure.''

DOES THE BILL CONTRADICT SUPREME COURT PRECEDENTS?

In written testimony submitted to the House Judiciary Constitution Subcommittee, David Smolin, a professor at Cumberland Law School at Samford University, testified that he believed that the Partial-Birth Abortion Ban Act could be upheld even under the Supreme Court precedents that block most government limitations on abortion. ''The spectre of partially delivering a fetus, and then suctioning her brains, may mix the physician's disparate roles at childbirth and abortion in such a way as to particularly shock the conscience. . . . It is possible that at least some of the fetuses killed by partial-birth abortions are constitutional persons. The Supreme Court in *Roe* v. *Wade* held that the word 'person', as used in the Fourteenth Amendment, does not include the unborn.'' The Court, however, has never addressed the constitutional status of those who are ''partially born.'' [Prof. Smolin's complete testimony is available on request.]

However, pro-abortion advocacy groups insist that even the partial-birth abortion procedure is completely protected by *Roe* v. *Wade*. If this is true, it will be news to a lot of people—and it is a powerful argument for re-examining *Roe* v. *Wade*.

ENDNOTES

[1] Unfortunately, some lawmakers and some other observers demonstrate bias or ''denial mechanisms'' that resist exposure even to impeccable documentation. For example, after sitting through a July 12 House Judiciary Committee meeting in which many of the documents quoted herein were cited and circulated, Associated Press reporter Nita Lelyveld wrote, ''Opponents of the bill say the scissors method is very rare if it exists at all.'' Actually, however, not even the National Abortion Federation has been audacious enough to suggest that the ''scissors method'' may not ''exist at all.'' Dr. Haskell's readily available paper, which has been provided to Ms. Lelyveld and other reporters, refers five times to the use of scissors. For example, Dr. Haskell writes, ''the surgeon forces the scissors into the base of the skull.'' The scissors are described as a Metzenbaum surgical scissors, which is about seven inches long.

[2] Some press accounts have mistakenly reported that the bill would affect only ''third-trimester'' abortions. In fact, the bill would ban use of the partial-birth abortion method in either the second or the third trimester of pregnancy. It is noteworthy that there is a dispute over how many third-trimester abortions, by all methods, are performed every year. American Medical News (July 5, 1993) reported. ''Former Surgeon General C. Everett Koop, MD, estimated in 1984 that 4,000 *third-trimester* abortions are performed annually. The abortion federation [National Abortion Federation] puts the number at 300 to 500. *Dr [Martin] Haskell says that 'probably Koop's numbers are more correct.' '' [Emphasis added]*

[3] At a July 12 meeting of the House Judiciary Committee, Congresswoman Patricia Schroeder (D-Co.) charged, based on a July 12 letter from Dr. Haskell, that Brenda Shafer had never worked at the clinic. Rep. Schroeder abandoned this charge (although without apology) after committee members were provided with copies of the bill sent to Dr. Haskell's clinic by the nursing agency, which contained the nurse's license and social security numbers. Dr. Haskell's letter also disputed Shafer's account of witnessing abortions at 25 and 26½ weeks because, he claimed, he observes a ''self-imposed and established limit of 24 weeks.'' But Dr. Haskell's own 1992 paper, explaining how to perform the procedure, said that he employs the method from 20 to 26 weeks into pregnancy.

AMERICAN MEDICAL NEWS,
Chicago, IL, July 11, 1995.

Hon. CHARLES T. CANADY,
Chairman, Subcommittee on the Constitution, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE CANADY: We have received your July 7 letter outlining allegations of inaccuracies in a July 5, 1993, story in American Medical News, ''Shock-tactic ads target late-term abortion procedure.''

You noted that in public testimony before your committee, AMNews is alleged to have quoted physicians out of context. You also noted that one such physician submitted testimony contending that AMNews misrepresented his statements. We appreciate your offer of the opportunity to respond to these accusations, which now are part of the permanent subcommittee record.

AMNews stands behind the accuracy of the report cited in the testimony. The report was complete, fair, and balanced. The comments and positions expressed by those interviewed and quoted were reported accurately and in-context. The report was based on extensive research and interviews with experts on both sides of the abortion debate, including interviews with two physicians who perform the procedure in question.

We have full documentation of these interviews, including tape recordings and transcripts. Enclosed is a transcript of the contested quotes that relate to the allegations of inaccuracies made against AMNews.

Let me also note that in the two years since publication of our story, neither the

organization nor the physician who complained about the report in testimony to your committee has contacted the reporter or any editor of AMNews to complain about it. AMNews has a longstanding reputation for balance, fairness and accuracy in reporting, including reporting on abortion, an issue that is as divisive within medicine as it is within society in general. We believe that the story in question comports entirely with that reputation.

Thank you for your letter and the opportunity to clarify this matter.

Respectfully yours,

BARBARA BOLSEN,
Editor.

Attachment.

AMERICAN MEDICAL NEWS TRANSCRIPT

AMN. Let's talk first about whether or not the fetus is dead beforehand . . .

HASKELL. No it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress—intrauterine stress during, you know, the two days that the cervix is being dilated. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken. And so in my case, I would think probably about a third of those are definitely are (sic) dead before I actually start to remove the fetus. And probably the other two-thirds are not.

AMN. Is the skull procedure also done to make sure that the fetus is dead so you're not going to have the problem of a live birth?

HASKELL. It's immaterial. If you can't get it out, you can't get it out.

AMN. I mean, you couldn't dilate further? Or is that riskier?

HASKELL. Well, you could dilate further over a period of days.

AMN. Would that just make it . . . would it go from a 3-day procedure to a 4- or 5-?

HASKELL. Exactly. the point here is to effect a safe legal abortion. I mean, you could say the same thing about the D&E procedure. You know, why do you do the D&E procedure? Why do you crush the fetus up inside the womb? to kill it before you take it out?

Well, that happens, yes. But that's not why you do it. You do it to get it out. I could do the same thing with a D&E procedure. I could put dilapan in for four or five days and say I'm doing a D&E procedure and the fetus could just fall out. But that's not really the point. He point here is you're attempting to do an abortion. And that's the goal of your work, is to complete an abortion. Not to see how do I manipulate the situation so that I get a live birth instead.

AMN, wrapping up the Interview. I want to make sure I have both you and (Dr.) McMahon saying 'No' then. That this is misinformation, these letters to the editor saying it's only done when the baby's already dead, in case of fetal demise and you have to do an autopsy. But some of them are saying they're getting that misinformation from NAF. Have you talked to Barbara Radford or anyone over there? I called Barbara and she called back, but I haven't gotten back to her.

HASKELL. Well, I had heard that they were giving that information, somebody over there might be giving information like that out. The people that staff the NAF office are not medical people. And many of them when I gave my paper, many of them came in, I learned later, to watch my paper because many of them have nver seen an abortion performed of any kind.

AMN. Did you also show a video when you did that?

HASKELL. Yeah. I taped a procedure a couple of years ago, a very brief video, that simply showed the technique. The old story about a picture's worth a thousand words.

AMN. As National right to Life will tell you.

HASKELL. Afterwards they were just amazed. They just had no idea. And here they're rabid supporters of abortion. They work in the office there. And . . . some of them have never seen one performed.

Comments on elective vs. non-elective abortions:

HASKELL. And I'll be quite frank: most of my abortions are elective in that 20–24 week range . . . In my particular case, probably 20% are for genetic reasons. and the other 80% are purely elective . . .

[From the American Medical News, July 5, 1993]

SHOCK-TACTIC ADS TARGET LATE-TERM ABORTION PROCEDURE—FOES HOPE CAMPAIGN WILL SINK FEDERAL ABORTION RIGHTS LEGISLATION

(By Diane M. Gianelli)

WASHINGTON.—In an attempt to derail an abortion-rights bill maneuvering toward a congressional showdown, opponents have launched a full-scale campaign against late-term abortions.

The centerpieces of the effort are newspaper advertisements and brochures that graphically illustrate a technique used in some second- and third-trimester abortions. A handful of newspapers have run the ads so far, and the National Right to Life Committee has distributed 4 million of the brochures, which were inserted into about a dozen other papers.

By depicting a procedure expected to make most readers squeamish, campaign sponsors hope to convince voters and elected officials that a proposed federal abortion-rights bill is so extreme that states would have no authority to limit abortions—even on potentially viable fetuses.

According to the Alan Guttmacher Institute, a research group affiliated with Planned Parenthood, about 10% of the estimated 1.6 million abortions done each year are in the second and third trimesters.

Barbara Radford of the National Abortion Federation denounced the ad campaign as disingenuous, saying its ''real agenda is to outlaw virtually all abortions, not just late-term ones.'' But she acknowledged it is having an impact, reporting scores of calls from congressional staffers and others who have seen the ads and brochures and are asking pointed questions about the procedure depicted.

The Minneapolis Star-Tribune ran the ad May 12, on its op-ed page. The anti-abortion group Minnesota Citizens Concerned for Life paid for it.

In a series of drawings, the ad illustrates a procedure called ''dilation and extraction,'' or D&X, in which forceps are used to remove second- and third-trimester fetuses from the uterus intact, with only the head remaining inside the uterus.

The surgeon is then shown jamming scissors into the skull. The ad says this is done to create an opening large enough to insert a catheter that suctions the brain, while at the same time making the skull small enough to pull through the cervix.

''Do these drawings shock you?'' the ad reads. ''We're sorry, but we think you should know the truth.''

The ad quotes Martin Haskell, MD, who described the procedure at a September 1992 abortion-federation meeting, as saying he personally has performed 700 of them. It then states that the proposed ''Freedom of Choice Act'' now moving through Congress would ''protect the practice of abortion at all stages and would lead to an increase in the use of this grisly procedure.''

ACCURACY QUESTIONED

Some abortion-rights advocates have questioned the ad's accuracy.

A letter to the Star-Tribune said the procedure shown ''is only performed after fetal death when an autopsy is necessary or to save the life of the mother.'' And the Morrisville, Vt., Transcript, which said in an editorial that it allowed the brochure to be inserted in its paper only because it feared legal action if it refused, quoted the abortion federation as providing similar information. ''The fetus is dead 24 hours before the pictured procedure is undertaken,'' the editorial stated.

But Dr. Haskell and another doctor who routinely use the procedure for late-term abortions told AMNews that the majority of fetuses aborted this way are alive until the end of the procedure.

Dr. Haskell said the drawing were accurate ''from a technical point of view.'' But he took issue with the implication that the fetuses were ''aware and resisting.''

Radford also acknowledged that the information her group was quoted as providing was inaccurate. She has since sent a letter to federation members, outlining guidelines for discussing the matter. Among the points:

Don't apologize: this is a legal procedure.

No abortion method is acceptable to abortion opponents.

The language and graphics in the ads are disturbing to some readers. ''Much of the negative reaction, however, is the same reaction that might be invoked if one were to listen to a surgeon describing step-by-step almost any other surgical procedure involving blood, human tissue, etc.''

LATE-ABORTION SPECIALISTS

Only Dr. Haskell, James T. McMahon, MD, of Los Angeles, and a handful of other doctors perform the D&X procedure, which Dr. McMahon refers to as ''intact D&E.'' The more common late-term abortion methods are the classic D&E and induction, which usually involves injecting digoxin or another substance into the fetal heart to kill it, then dilating the cervix and inducing labor.

Dr. Haskell, who owns abortion clinics in Cincinnati and Dayton, said he started performing D&Es for late abortions out of necessity. Local hospitals did not allow inductions past 18 weeks, and he had no place to keep patients overnight while doing the procedure.

But the classic D&E, in which the fetus is broken apart inside the womb, carries the risk of perforation, tearing and hemorrhaging, he said, So he turned to the D&X, which he says is far less risky to the mother.

Dr. McMahon acknowledged that the procedure he, Dr. Haskell and a handful of other doctors use makes some people queasy. But he defends it. ''Once you decide the uterus must be emptied, you then have to have 100% allegiance to maternal risk. There's no justification to doing a more dangerous procedure because somehow this doesn't offend you sensibilities as much.''

BROCHURE CITES N.Y. CASE

The four-page anti-abortion brochures also include a graphic depiction of the D&X procedure. But the cover features a photograph of 16-month-old Ana Rosa Rodriquez, whose right arm was severed during an abortion attempt when her mother was 7 months pregnant.

The child was born two days later, at 32 to 34 weeks' gestation. Abu Hayat, MD, of New York, was convicted of assault and performing an illegal abortion. He was sentenced to up to 29 years in prison for this and another related offense.

New York law bans abortions after 24 weeks, except to save the mother's life. The

brochure states that Dr. Hayat never would have been prosecuted if the Federal ''Freedom of Choice Act'' were in effect, because the act would invalidate the New York statute.

The proposed law would allow abortion for any reason until viability. But it would leave it up to individual practitioners—not the state—to define that point. Postviability abortions, however, could not be restricted if done to save a woman's life or health, including emotional health.

The abortion federation's Radford called the Hayat case ''an aberration'' and stressed that the vast majority of abortions occur within the first trimester. She also said that later abortions usually are done for reasons of fetal abnormality or material health.

But Douglas Johnson of the National Right to Life Committee called that suggestion ''blatantly false.''

''The abortion practitioners themselves will admit the majority of their late-term abortions are elective,'' he said. ''People like Dr. Haskell are just trying to reach others how to do it more efficiently.''

NUMBERS GAME

Accurate figures on second- and third-trimester abortions are elusive because a number of states don't require doctors to report abortion statistics. For example, one-third of all abortions are said to occur in California, but the state has no reporting requirements. The Guttmacher Institute estimates there were nearly 168,000 second- and third-trimester abortions in 1988, the last year for which figures are available.

About 60,000 of those occurred in the 16- to 20-week period, with 10,660 at week 21 and beyond, the institute says. Estimates were based on actual gestational age, as opposed to last menstrual period.

There is particular debate over the number of third-trimester abortions. Former Surgeon General C. Everett Koop, MD, estimated in 1984 that 4,000 are performed annually. The abortion federation puts the number at 300 to 500. Dr. Haskell says that ''probably Koop's numbers are more correct.''

Dr. Haskell said he performs abortions ''up until about 25 weeks'' gestation, most of them elective. Dr. McMahon does abortions through all 40 weeks of pregnancy, but said he won't do an elective procedure after 26 weeks. About 80% of those he does after 21 weeks are nonelective, he said.

MIXED FEELINGS

Dr. McMahon admits having mixed feelings about the procedure in which he has chosen to specialize.

''I have two positions that may be internally inconsistent, and that's probably why I fight with this all the time,'' he said.

''I do have moral compunctions. And if I see a case that's later, like 20 weeks where it frankly is a child to me, I really agonize over it because the potential is so imminently there. I think, 'Gee, it's too bad that this child couldn't be adopted.'

''On the other hand, I have another position, which I think is superior in the hierarchy of questions, and that is: 'Who owns the child?' It's got to be the mother.''

Dr. McMahon says he doesn't want to ''hold patients hostage to my technical skill. I can say, 'No, I won't do that,' and then they're stuck with either some criminal solution or some other desperate maneuver.''

Dr. Haskell, however, says whatever qualms he has about third-trimester abortions are ''only for technical reasons, not for emotional reasons of fetal development.''

''I think it's important to distinguish the two,'' he says, adding that his cut-off point is within the viability threshold noted in Roe v. Wade, the Supreme Court decision that legalized abortion. The decision said that point usually occurred at 28 weeks ''but may occur earlier, even at 24 weeks.''

Viability is generally accepted to be ''somewhere between 25 and 26 weeks,'' said Dr. Haskell. ''It just depends on who you talk to.

''We don't have a viability law in Ohio. In New York they have a 24-week limitation. That's how Dr. Hayat got in trouble. If somebody tells me I have to use 22 weeks, that's fine. . . . I'm not a trailblazer or activist trying to constantly press the limits.''

CAMPAIGN'S IMPACT DEBATED

Whether the ad and brochures will have the full impact abortion opponents intend is yet to be seen.

Congress has yet to schedule a final showdown on the bill. Although it has already passed through the necessary committees, supporters are reluctant to move it for a full House and Senate vote until they are sure they can win.

In fact, House Speaker Tom Foley (D, Wash.) has said he wants to bring the bill for a vote under a ''closed rule'' procedure, which would prohibit consideration of amendments.

But opponents are lobbying heavily against Foley's plan. Among the amendments they wish to offer is one that would allow, but not require, states to restrict abortion—except to save the mother's life—after 24 weeks.

Ms. MOSELEY-BRAUN. Mr. President, today, as it has been since the landmark 1973 Supreme Court Decision of Roe versus Wade, the concept of reproductive freedom is under assault.

Choice is a matter of freedom. Choice is a fundamental issue of the relationship of female citizens to their Government. Choice is a barometer of equality and a measure of fairness. Choice is central to our liberty. While I do not believe in abortion, I do believe, fundamentally, in choice.

In spite of the fact that the majority of the American people embrace the freedom to choose reproduction, the efforts to use Government intervention as a bar to the right to choice have taken on a new ferocity. And today, some in the U.S. Senate would prevent Senators and citizens alike from the chance to even hold hearings on the latest assault on a woman's right to choose.

The newest assault is H.R. 1833/S. 939, an unconstitutional, vague ban on a rare medical procedure used to terminate pregnancies late in the term, when the life or health of the mother is at risk, and or when the fetus has severe abnormalities.

The procedure that is the intended focus of this bill involves giving anesthesia to a mother over a period of days while gradually dilating her cervix—the fetus dies during the first dose of anesthesia—then draining the brain fluid after death so that the cervix is forced to withstand less trauma as the fetus is removed, preserving the woman's ability to conceive.

H.R. 1833/S. 939 would make it a criminal offense to perform certain types of late term abortions. A doctor who performed such an abortion would face up to 2 years in prison and fines.

The doctor and the hospital or clinic where he or she worked would also be liable for civil action brought by the father of a fetus or the maternal parents of the woman if she was under 18.

Instead of providing an exception for cases where the banned procedure is used to save the life of the mother, doctors would be required, after being reasonably believed that no other method would have saved the woman's life.

Before I talk about the constitutional and policy implications of H.R. 1833/S. 939, I want to tell the story of Vikki, she is from Naperville, in my home State of Illinois.

Vikki and her husband were expecting their third child. At 20 weeks she went for a sonogram and was told by her doctor that she and her child were healthy. She named the boy Anthony.

At 32 weeks Vikki took her two daughters with her to watch their brother on the sonogram. The technician did not say a word during the sonogram and then asked Vikki to come upstairs to talk with the doctor. Vikki thought maybe it was because the baby was breach. She is a diabetic and any complications could be serious.

The doctor was too busy to see Vikki, but called at 7 a.m. the next morning to say that the femurs—leg bones—seemed a little short. He assured her that there was a 99 percent chance that nothing was wrong, but asked her to come in for a level 2 ultrasound.

Vikki and her husband found out that their child had no brain. There were eight abnormalities in all.

Vikki had to make the hardest decision of her life. This is how she explained it: ''I had to remove my son from life support —that was me.''

For Vikki, the hardest thing for a parent to do is to watch her child hurt. It is hard enough just watching a child get teased at the bus stop.

The procedure took four visits to the doctor. She received anesthesia on the first visit. Her son stopped moving the first night. She knew he was gone. This was before the procedure to remove the fetus took place.

Having an D&E procedure was particularly important because Vikki wanted to know if this was something that she would pass on to her two daughters.—With a D&E an autopsy can be performed.—Luckily, it was just one of those things and her girls will be able to have children of their own.

Vikki's D&E was the closest thing for her body to natural birth. She was able to preserve her fertility, and I am happy to say is now 30 weeks pregnant. The baby looks fine.

I wanted to tell my colleagues that story, because it is true, it is about a real woman, and it is about a family handling an awful, horrible situation in the best way that it can.

This is the kind of case where my colleagues want to substitute their judgement for the judgement of the family and their doctor.

Now what are the implications for banning these abortions, beyond the affect that it would have on the lives of women like Vikki and their families?

Doctors are going to be too scared to perform legal abortions and medically necessary abortions because of the threat of criminal or civil prosecution. H.R. 1833/S. 939 is vague. The definition of abortions covered under this legislation is ''partial-birth.'' That is a term used for its shock value, not its medical value. There is no such medical term and doctors cannot agree on what the legislation is intended to ban.

Women are going to face life and health risks as well as the loss of fertility as they undergo more dangerous procedures. H.R. 1833/S. 939 is dangerous. If a doctor chooses to perform an abortion covered by this bill, it is because he or she considers the procedure to be the most medically sound for the woman. By choosing to arbitrarily prohibit one type of procedure, but not others, regardless of which procedure most protects the life, health, and fertility of the woman, Congress is micro-managing decisions best made in a doctor's office.

Women's constitutional rights will be taken away. H.R. 1833/S. 939 is unconstitutional. Under Roe versus Wade and Planned Parenthood versus Casey, the Supreme Court standard is that a state may not prohibit post-viability abortions necessary to preserve the life or health of a woman. Under H.R. 1833/S. 939, there is an exception only for life and then only by way of an affirmative defense.

While H.R. 1833/S. 939 is focused on late-term abortions, doctors who perform early-term abortions by the loosely defined means covered by the bill are subject to the same liability. Choosing to have an abortion when the fetus is not yet viable is clearly a constitutionally protected right under Roe versus Wade.

These are some of the policy implications of H.R. 1833/S. 939. This threat to a doctor's ability to care for his or her patient, disregard of a woman's health, and attack on a woman's constitutional rights are all part of a broader attack on choice.

The 104th Congress has already seen a dramatic erosion in the right of a woman to choice.

First came the Hyde amendment. Poor women were limited in their reproductive choices because Government contributed to payment of their health care. Their rights became more than their pocketbooks could protect.

Then came the battle of parental notification. Very young women were limited in their reproductive choices, except in cases of rape or incest, because of their age—not their condition—teens became the victims of bad timing and thus the State asserted a right to intervene.

Then came the women in the military—who by virtue of their own decision, or that of their spouse, to serve their country, would be limited in their reproductive choices.

Then came legislation earlier this year, which eliminated abortion coverage from Federal health insurance. Employee benefits for Federal workers are now restricted in ways which, I hope, would be unthinkable in the private sector.

Now comes a bill to fine or jail doctors who perform abortions for women who need them late in their term because their life and health are in danger or because of the severity of the deformities of their fetus.

These actions remind me of a famous poem by Martin Niemoller, a Protestant minister interred in a German concentration camp for 7 years. I would like to read you my own, more contemporary version of his parable. I call it ''The Assault on Reproductive Rights.''

First they came for poor women
and I did not speak out—
because I was not a poor woman.
Then they came for the teenagers
and I did not speak out—
because I was no longer a teenager.
Then they came for women in the military
and I did not speak out—
because I was not in the military.
Then they came for women in the federal government
and I did not speak out—
because I did not work for the government.
Then they came for the doctors
and I did not speak out
because I was not a doctor.
Then they came for me—
and there was no one left
to speak out for me.

What we are faced with here today is another attempt to erode a woman's right to choose. And we must remember, the fight for choice is a quintessential fight for freedom.

I do not favor abortion. My own religious beliefs hold life dear, and I would prefer that every potential child have a chance to be born.

But I am not prepared to substitute the Government's judgement for the judgements of women, their families, and their doctors in this most personal of all decisions.

When Vikki made the decision to remove her child from life support—her body—she made a decision, with the help of her husband and her doctor, that only she could make.

And the fact that the Senate would even consider placing our judgement above hers without holding hearings—without fully understanding the consequences of our actions, without hearing from women, their families, and their doctors first hand—is appalling.

For the first time in history, the Senate is attempting to make a specific medical procedure criminal, and none of the work has been done. The Senate is attempting to prohibit a woman from undergoing a medical procedure that could save her life and her ability to conceive, and none of the work has been done. Well I say, we must do the work.

The State has no right to intervene in this relationship between a woman and her body, her doctor, and her God.

At the very least, I urge my colleagues to support Senator SPECTER's motion to commit this legislation to the Judiciary Committee.

Ms. SNOWE. Mr. President, I rise to speak as a cosponsor of the motion made by my colleague from Pennsylvania, Senator SPECTER, to commit this bill to the Senate Judiciary Committee for hearings.

I rise to speak because I am deeply concerned that we stand here on the floor today to discuss legislation on such a serious issue, without ever having held any hearings on the matter.

As a Member of the Senate, I am deeply concerned that hearings have not been held on this legislation which raises significant constitutional questions.

But as a woman, I believe that the failure of this body to hold hearings demonstrates an appalling disregard for the lives and health of women across this Nation.

There is no question that any abortion is an emotional, wrenching decision for a woman and her family under any circumstance. When a woman must confront this decision during the later stages of a pregnancy because she knows that the pregnancy presents a direct threat to her own life, such a decision becomes a nightmare.

Mr. President, 22 years ago, the Supreme Court issued a landmark decision in Roe versus Wade, carefully crafted to be both balanced and responsible while holding the rights of women in America paramount in reproductive decisions.

This decision held that women have a constitutional right to abortion, but after viability, States could ban abortions as long as they allowed exceptions for cases in which a woman's life or health is endangered.

Let me repeat—as long as they allowed exceptions for cases in which a woman's life or health is endangered.

The Supreme Court has reaffirmed this decision time and time and time again. And to date, 41 States—including my home State of Maine—have exercised their right to impose restrictions on post-viability abortions. All, of course, provide exceptions for the life or health of the mother, as constitutionally required by Roe.

H.R. 1833, however, does not provide an exception for the life or health of the mother. Let me repeat, it does not provide an exception for the life or health of the mother. And, as a result, it represents a direct, frontal assault on Roe and on the reproductive rights of women everywhere.

And despite the apparent unconstitutionality of this legislation, the Senate has not held hearings on the subject. Not in the Judiciary Committee. And not in the Labor and Human Resources Committee.

I find the Senate's lack of hearings on this issue deeply disturbing for another reason as well. Not since prior to Roe versus Wade has there been efforts to criminalize a medical procedure in this country. But that's exactly what this bill does.

This legislation is an unprecedented expansion of congressional regulation of women's health care. Never before has Congress intruded directly into the practice of medicine by banning a safe and legal medical procedure that is absolutely vital to protect the health or lives of women.

In effect, the Senate is clearly attempting to substitute congressional judgment for that of a medical doctor regarding the appropriateness of a medical procedure.

As quoted in the New York Times, one doctor said: ''I don't want to make medical decisions based on congressional language. I do not want to be that vulnerable. And it is not what I want for my patients.'' He is right.

This legislation sets new, frightening precedents for congressional action to limit on a wide range of medical procedures. It is open to even wider legal interpretations that may have an even broader impact on women's lives.

Because of the vagueness of the bill, doctors across the Nation may interpret the language differently at the expense of the health and life of the mother involved.

Now, some of my colleagues may rise to insist that the legislation somehow contains an exception for the life of the mother. However, this is simply untrue, and I urge my colleagues not to be misled by this rhetoric.

As it now reads, the legislation only provides doctors with a so-called affirmative defense. I say so-called because there is nothing affirmative about this law for doctors. And there is no genuine defense allowed for them under this legislation because the guilty verdict is rendered the moment they attempt the medical procedure.

It means that a doctor cannot avoid criminal prosecution if he or she uses their best medical judgment and decides that it is necessary to perform this procedure to save the life of a patient.

Mr. President, it is only after that doctor is on trial that he is finally given an opportunity to prove that the procedure was necessary to save the life of that patient and that no other procedure would have sufficed—an almost impossible burden to prove. But that is exactly the intent of this bill.

In other words—in a twisted angle on one of our most cherished judicial tenets—these doctors are presumed guilty until proven innocent. Thus, doctors will refuse to perform this procedure, which they know to be medically safer for their patient, even when the woman's life is threatened.

Not only that, but doctors would also be subject to civil lawsuits brought on by the parents of the mother who undergoes the procedure or by the father. This opens up an entire new realm of judicial proceedings and civil lawsuits.

Even if a doctor is able to survive the trial phase of affirmative defense, then he or she would be subjected to a further judicial hurdle of civil lawsuits. The possibilities go on and on.

But—in the larger context—look at what this legislation does overall, and its intent is perfectly clear: First, intimidate doctors with prison terms.

Second, threaten them with horrendous Federal fines in the vicinity of $250,000. Third, harass them with possibility of civil lawsuits—and that should keep anyone from wanting to perform any kind of medical procedure involving women's reproductive health.

We're going to do this in a climate where—according to a recent statistic—94 percent of all American counties no longer have or never had a provider of full reproductive services for women. We're going to do this in a climate where doctors already face demonstrations, death threats against them and their family, and even violence.

Now, we are telling them they must face the additional concern of criminal prosecution, jail, and costly trials. We are doing this to doctors who are only really trying to save the lives of women in dire circumstances to the best of their medical expertise. In this sense, it is a chilling frontal assault on every women's rights.

How chilling? The proponents of this legislation are willing to risk the lives and health of women facing medical emergencies.

My opponents will say that a number of other alternatives are available to these women.

What alternatives? The only alternatives I know of are far more dangerous and traumatic. Has anyone asked the physicians? Has anyone looked at the medical evidence? This is another reason why we should be holding hearings:

Are C-sections, which cause twice as much bleeding and carries four times the risk of death as a vaginal delivery—really an option?

Is induced labor, which carries its own potentially life-threatening risks such as cardiac edema—really an option?

Are hysterectomies, which leave women permanently unable to conceive—really an option?

In the end, this legislation would order doctors to set aside the paramount interests of the woman's health, and to trade-off her health and life and future fertility in order to avoid the possibility of criminal prosecution.

Yes, despite these significant risks to a woman's life and health created by this legislation—and despite the historic new precedents that are set—the Senate has never held hearings on this subject.

We enter this debate today on H.R. 1833 with profound and critically important questions—legal, moral, and medical—unanswered and unconsidered. Why the rush? Why the hurry?

That's why hearings deserve to be held. And that's the course of action that this Chamber must take. No one truly knows the legal ramifications. No one here truly knows the medical statistics or facts. No one has had the time to ask questions and receive answers. No one has anticipated the court challenges that will ensue.

Doctors will be threatened. Physicians will be intimidated. The medical profession will wonder where the next assault on health care by the Federal Government will come from or where it will be felt.

And what about the women? Who has thought about them? They will be more scared than ever before. Their rights will be more restricted than ever before. Their lives—their lives—will be more threatened than ever before.

Mr. President, I urge my colleagues to think of the women who are faced with this procedure. I urge my colleagues to consider the effect on doctors. And I urge my colleagues to support the motion to commit this bill to the Judiciary Committee.

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

Mr. HATCH. Will the Senator from New Hampshire yield some time to me?

Mr. SMITH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 12 minutes, 45 seconds.

Mr. SMITH. How much time does the Senator need?

Mr. HATCH. If the Senator will yield 5 minutes, I will try to conserve that.

Mr. SMITH. I will yield 5 minutes to the distinguished chairman of the Judiciary Committee, Senator HATCH.

Mr. HATCH. I thank my dear friend.

Mr. President, a number of my colleagues have inquired of my view toward referring the pending bill to the Judiciary Committee. I have no objection to the full Senate taking up H.R. 1833 at this time, and I intend to vote against this motion.

The Senate over the years has conducted a lot of hearings on the subject of abortion. The other body has done the same. There is nothing unique about this bill except its approach toward what really amounts to third trimester abortions, something that I have trouble understanding why anybody would fight.

I remind my colleagues that on February 10, 1964, the other body overwhelmingly voted in favor of the Civil Rights Act of 1964, a sweeping landmark civil rights bill—one that I would have voted for had I been here at the time. Then-Senate majority leader Mike Mansfield placed the bill on the Senate Calendar, just like this one was. A motion was made to refer the bill to the Judiciary Committee. The Senate rejected the motion. Why? Because it was sincerely believed that such a referral would kill a landmark civil rights bill.

Today, the strategy for killing the pending measure is the same—send it to the committee. As a matter of procedure, if the Senate could take up the sweeping Civil Rights Act of 1964 directly from the Senate Calendar, it can today do the same with a bill that addresses one aspect of the whole abortion issue.

My present purpose in mentioning the procedural precedent of the 1964 Civil Rights Act is not to engage in a comparison of the rights at stake then and the ones at stake in the Chamber today.

I understand that there are strong views on both sides of the underlying issue. I respect those who disagree with my views on this issue. But many of us believe that the rights of the unborn present important enough issues to justify a procedure allowing the Senate to vote up and down on the merits of H.R. 1833. There is, indeed, Senate precedent for doing so if the cause is urgent enough.

I believe the cause is sufficiently urgent, and I ask my colleagues to keep in mind we are talking about one particular abortion procedure that kills the fetus in the most heinous way by sucking the brain out of the baby. It is hard for me to understand why anybody would fight this bill. We are not even talking about the entire framework of abortion rights here, but just one procedure.

Let me also say that if I had my way, we would abolish all late-term abortions except to save the life of the mother. There are between 14,000 and 20,000 of those abortions a year. I think morally it is very difficult to justify that type of a thing.

One final thing. As the chairman of the Judiciary Committee, I must correct a legal misunderstanding being expressed here. The Clinton administration and other opponents of this bill claim that this bill is unconstitutional because it permits a doctor to justify a partial-birth abortion only as an affirmative defense to a prosecution. The fact that the bill provides the exception required by the case law in an affirmative defense does not unduly burden the right to an abortion.

Many of our constitutional rights arise only as an affirmative defense. Many of the protections of the Bill of Rights—freedom of speech, freedom of religion, freedom of assembly, freedom of petition, the right to bear arms, freedom from unreasonable searches and seizures, the right to grand jury, the right against double jeopardy, the right against self-incrimination, the right to a speedy trial, the right to indictment, the right to assistance of counsel—sometimes can only be raised as a defense to a prosecution. Indeed, any of us may be innocent of a crime and prosecuted and make our claim of innocence only as a defense in court.

To claim that the right to an abortion is not protected by an affirmative defense demeans the explicit protections of the Bill of Rights, and it raises abortion above any right mentioned in the Constitution.

The PRESIDING OFFICER. The Senator has spoken for 5 minutes.

Mr. HATCH. I ask unanimous consent that I be given another 1 minute.

Mr. SMITH. I yield 1 more minute.

Mr. HATCH. Accordingly, I will vote against the motion to commit to the Judiciary Committee this bill that I believe is fully legal under the true meaning of the Constitution and under the Supreme Court's current abortion jurisprudence.

To me it is amoral, except to save the life of the mother, to kill these infants in this way. We are talking about children after 20 weeks in the mother's womb, most of whom are capable of living outside the womb. We are not talking about when the spirit comes into the body or any of the other questions that have arisen concerning the abortion issue. We are talking about fully developed children.

Now, I can understand both sides of the abortion issue. I know how sincere are those who are on the other side. But on this issue I have trouble understanding the logic that they are using. I know my colleague from Pennsylvania is sincere in his motion here today, but I do not see any reason why we need to go to that motion. I think we ought to face it, and vote up or down. Everybody understands this issue. We ought to face it right here and now.

I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Wisconsin?

Mr. SPECTER. How much time remains?

The PRESIDING OFFICER. The Senator has 13 minutes 47 seconds.

Mr. SPECTER. I yield 5 minutes to the Senator from Wisconsin.

Mr. FEINGOLD. I thank the Senator from Pennsylvania.

Mr. President, I support the motion to commit this bill to the Judiciary Committee for hearings before the Senate acts upon this measure. And I want to particularly thank the senior Senator from Pennsylvania and the junior Senator from California for their leadership and courage in trying to do the right thing on this issue, making sure that there is a proper hearing in the Judiciary Committee on the matter.

This bill, as it is currently drafted, would criminalize the actions of physicians who perform medical procedures which they believe may be necessary to save the life or protect the health of their patient. It is a very serious matter that the Senate ought not to act upon without deliberation and consideration.

There have been no Senate hearings on this measure. The chairman of the Judiciary Committee refers to hearings on abortion as a general subject. But there have been no hearings on this particular and very difficult topic. The bill before us was simply placed on the Senate Calendar.

Unfortunately, there has been a fair amount of misinformation communicated concerning the nature of the procedure being considered. There has been little focus by the proponents of the bill on the risk to the health of women if this alternative is not available, the types of health problems that compel late-term abortions in the first place, and the important question of the constitutional implications of withholding access to a procedure that may, in fact, be necessary to save the life or preserve the health of a pregnant woman facing a tragic pregnancy.

Mr. President, let me stress that I have very grave reservations about the wisdom of this body acting upon a measure that would insert the Federal Government into the decisionmaking process of physicians as to what medical procedures are appropriate in a particular case.

In just this last Congress we had an extensive and heated debate over whether Congress or the Federal Government ought to be designing a national health care system. Yet today many of the very same individuals who argued strenuously against the Federal Government's role in health care policy are now urging that we literally legislate the specific procedure that a doctor may choose in dealing with a very difficult and painful pregnancy. I think the decision about abortion ought to remain a private and personal decision between a woman and her doctor.

I recognize that this is a tremendously divisive and emotional area. And I do respect the views of people on both sides of the issue. But, fundamentally, I do not think we should be substituting the judgment of Members of Congress for the judgment of those directly involved, particularly where issues of the life and health of the woman are at stake.

Late-term abortions under Roe versus Wade can be restricted to those cases where the woman's life or health are at stake. That means that the procedures at issue take place in those most tragic circumstances where a pregnancy threatens a woman's life or health. For the Senate today to step into this area and legislate without even the benefit of hearings, where all sides of this issue can be heard, seems, to me, to be irresponsible at a minimum.

It is particularly important that we exercise caution in this area that is so emotionally charged. The proponents of this measure have made assertions about the procedures at issue that have been strenuously challenged by the opponents. And the opponents have raised a number of serious issues about the circumstances under which alternative procedures will increase the risk to the woman's life or health. These are important questions that actually should be addressed before we vote. If the Senate decides to legislate in this area, it certainly ought to do so only on the basis of a significant record which thoroughly explores these issues.

For example, Mr. President, we need to know what alternatives, if any, would be available to women who must have a late-term abortion. What are the increased risks for these alternative procedures for the survival of the woman or her future ability to bear children? Those are just a couple of the

questions that, at a minimum, must be asked before the Senate acts upon this measure. It is also important that a record be developed which sets out the reason why late-term abortions are performed in the first place. It is estimated we are talking about roughly 600 abortions per year that take place under the most dire circumstances.

Now, some of the proponents of this legislation have distorted the debate by asserting that the majority of late-term abortions are elective, misusing medical terminology to imply that the termination of pregnancy at this stage is somehow by choice. In fact, these abortions take place only when the life or health of the woman is at risk. We need to be fully aware of the pain and suffering that is endured by these families when a much-wanted pregnancy turns into a nightmare. We need to be careful that the Federal Government does not make these tragic situations even more difficult and painful for these families.

Mr. President, let me also say that if the motion to commit this bill to the committee fails, I will support amendments to be offered that will make it clear that this legislation is not to be construed to prohibit any physician from carrying out any medical procedure which the physician in his or her medical judgment determines necessary to preserve the life or health of a woman.

At a minimum, no physician should be placed in a position where he must sacrifice the life or health of his patient, because the Federal Government has chosen to substitute its judgment for professional medical judgment.

I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. SMITH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes 28 seconds.

Mr. SMITH. I will yield 4 minutes to the Senator from Missouri.

Mr. ASHCROFT. Thank you.

Abortion is, and always has been, one of the most divisive moral issues of our day. It strikes at the very core of who we are as a people and as a nation. It challenges us to define life and to measure liberty—difficult things both. But it is an issue that will not go away and so it demands of us civil debate and reasoned discourse. And so I rise to speak today in tempered tones about the untempered terror of partial-birth abortions.

Lest there be any confusion, what we are talking about is an abortion procedure that allows a child to be partially removed from the mother's womb only to have its skull crushed and brain extracted by a doctor pledged to ''do no harm.''

What message do we send by allowing this slaughter of innocents to continue? What does it say about who we are? What does it say about the moral condition of America when people of faith are unfaithful to the most vulnerable among us? I would suggest that a nation that allow this mindless brutality to continue is a nation out of touch with the most basic dictates of humanity.

The procedure in question is so cruel and so inhumane as to defy rational, reasoned support. Advocates of partial-birth abortions are attempting to defend the indefensible—and they cannot. So, instead, they raise the specter of confusion, introduce rhetorical nonsense, and obfuscate with absurdity. We are almost tempted to forget that which we are debating. This amendment is not about the right of choice, it is about the right of this Nation to act in a manner befitting its founding. It is about the right of America to say that it will not allow the brutality of partial-birth abortions to continue.

Over 30 million lives have perished since Roe versus Wade became the law of the land. An almost incomprehensible number. I am pained to my core by this tragedy and stand ready to reverse it. We can begin by putting an end to a medical procedure which takes an unborn child, one able to be sustained outside the womb, and kills it.

The question is simple: Do we want to continue to allow that procedure or do we want to outlaw it? The American people clearly want the latter. They overwhelmingly oppose this barbarism. They know to be true that which we are forced to debate. Namely, that this procedure has no place in a civilized society.

A final point. There is a legitimate place for hearings. They can be important. They can be illustrative. They can be used for probing areas of uncertainty. Mr. President, there is no uncertainty here. We do not need hearings to determine that partial-birth abortions are the monstrous, barbaric, and hideous destruction of human life. We do not need hearings to say, ''No more partial-birth abortions.''

The House of Representatives passed this measure last week with 288 votes. Let us lend our voice to their cause. For our party must be about more than a higher standard of living. It must also be about a higher standard of character.

The task before us is a simple one. It is to reaffirm humanity, reject brutality, and ban partial-birth abortions.

I yield the floor and reserve the remainder of the time.

The PRESIDING OFFICER. Who yields time? The Senator from Pennsylvania has 8 minutes. The Senator from New Hampshire has 2 minutes 30 seconds.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, there have been requests from other Senators to speak in support of the motion. I remind my colleagues that if they choose to do so, we are in the last stage of the debate—it is now 12:22—under a 3-hour time agreement, with the time having started at 9:30.

In the absence of any of my colleagues who choose to speak, I will make a comment or two with respect to the issue on the life of the mother.

I tried to write down what the Senator from Missouri had said contemporaneously with his statement when he said the issue of the life of a mother is nonsense, I believe he put it. I strenuously disagree with him about that. The life of the mother has been a recognized exception to any prohibition on abortion of all time, and the current legislation does not provide for an exception for the life of a mother.

There is a major difference between having an affirmative defense and between having an exception. The customary language that is used in the appropriations bill was cited earlier and illustrated by Public Law 103–333, September 30, 1994, where there is an exception. The language is plain:

None of the funds appropriated under this act shall be expended for any abortion except—

And then irrelevant language, but commenting on any abortion except—

. . . that procedure is necessary to save the life of a mother.

In the pending legislation, there is no such exception. There is a provision only for an affirmative defense so that the criminal prosecution can be brought against the doctor under this statute, because there is no exception for the life of a mother.

After the criminal prosecution is brought, then it is a matter of affirmative defense which has to be proved by the defendant doctor as opposed to having an exception in the statute.

Mr. President, how much time remains?

The PRESIDING OFFICER. Five minutes twenty seconds. The Senator from New Hampshire has 2 minutes 30 seconds.

Mr. SPECTER. Mr. President, in the absence of any other Senator seeking recognition, permit me to summarize briefly, and I yield myself 2 minutes, reserving the remainder of the time for others.

What we have here is a bill which has been placed on the calendar in an unusual way. Until relatively recently, the provisions of rule XXV of the Senate require a referral to committee. That has been changed by an interpretation of rule XIV, but I question the propriety and especially the wisdom of having this matter proceed without having a hearing.

In the House of Representatives, the bill was introduced on June 14 and one day later, there was a hearing, and on the same day there was a markup. Very limited testimony was presented.

The House was then engaged virtually continuously on the budget matters, except for the August recess. They took the matter up on November 1, and they passed the bill. Then it came to the Senate, and now we are on November 8, just 7 days later, when action is requested on this bill without any hearing in the Judiciary Committee.

I have made a motion for referral to committee on a very limited basis, really for 9 days, between today, November 8, and November 10 when the Senate is scheduled to go out of session, and then the extended time over the recess for 10 more days, from November 17 until November 27.

There are very important considerations which we need to inquire into on humanitarian grounds. The question has been raised of anesthetic, which has to be fairly taken up, a very substantial controversy on the medical evidence, complex issues on medical procedures, as well as the humanitarian concept, and then the formulation of the law itself, since this statute can be circumvented in a number of ways on medical procedures through C section or otherwise.

Mr. President, how much time remains?

The PRESIDING OFFICER. Two minutes thirty seconds.

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

Mr. SMITH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Two minutes twenty-five seconds.

Mr. SMITH. I yield the remainder of my time to the only physician in the U.S. Senate, Dr. FRIST.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise today in support of the partial-birth abortion ban and against the motion to refer this bill to committee. I have had the opportunity over the last several weeks to consult with a number of my colleagues in obstetrics and gynecology, and with those at academic health care centers and tertiary health care centers who would most likely be faced with performing this procedure. And I can say after these consultations that I know of no doctor who uses or approves of this procedure as described in this bill.

Among these colleagues that I contacted are people who perform abortions in the third trimester under very selected circumstances, and they have told me that they condemn this procedure. They tell me that it is an unnecessary procedure and has no place in the medical armamentarium.

Mr. President, it is understandable that over the last 2 days a number of people have expressed concern for the life of the mother. But this bill provides for the mother. It only requires a doctor to show that he or she reasonably believed that this procedure was necessary to save the mother's life. I will repeat, this bill does not endanger the life of a mother in any way.

I do not want new laws. As a physician, I can tell you that physicians do not want new laws dictating their practice in any way. No physician does. But this procedure is so brutal, so uncalled for, so inhumane, and so unnecessary that this ban is justified.

We have broad bipartisan support for this bill, both pro-life and pro-choice, and I think that shows this is an important issue that goes beyond the debates of pro-life and pro-choice. We have that support because the partial-birth abortion procedure, as described specifically in the bill, deeply offends our sensibilities as human beings, and as people who care for one another and feel people deserve to be treated with respect, dignity, and compassion.

The PRESIDING OFFICER. The Senator's time has expired. The Senator may ask for additional time with consent.

Mr. FRIST. I ask unanimous consent for an additional 1 minute.

Mrs. BOXER. Reserving the right to object, and I will not object. I want to make sure that I can ask my friend a question before he gets the additional minute. I ask unanimous consent to make it a 2-minute request.

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

Mrs. BOXER. I say to my friend, he said he talked to a lot of doctors—gynecologists and obstetricians. Is he aware that the American College of Obstetricians and Gynecologists has written a letter to Senator DOLE objecting very strenuously to this bill?

Mr. FRIST. Yes, he is.

Mrs. BOXER. I thank the Senator.

Mr. FRIST. Mr. President, this procedure, as described, is a brutal procedure. It is a procedure that I consider inhumane, as do a number of people, including obstetricians. I just got off the telephone with one who, again, performs abortions in that third trimester. He told me, point blank, that ''it is unnecessary.''

Those of us who oppose this procedure do care deeply about women, about their health care, and about the horrific circumstances and situations they face. But how can we answer to our children, to our patients, to our constituents, and to others if we continue to allow babies to be aborted through this unnecessarily brutal partial-birth procedure?

Mr. President, it is with compassion, but with steadfast resolve, that I register my support for the partial-birth abortion ban.

The PRESIDING OFFICER. The Senator from Pennsylvania has 2 minutes 30 seconds.

Mr. SPECTER. Mr. President, I express my very high regard for the distinguished Senator from Tennessee, who is our only doctor in the Senate. I can understand the consultations which he has had, but I emphasize as forcefully as I can that consultations that anyone has are not the same as having hearings. The Senate has had no hearing on this matter. The House had only one limited hearing, and the pending motion is a very limited one, for 9 working days in the Senate, from today, November 8, until November 17, including the weekend and then the recess period. I think the comprehensive answer to the submission by Senator FRIST is from the American College of Obstetricians and Gynecologists, who wrote to Senator DOLE on November 6.

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

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

THE AMERICAN COLLEGE OF,
OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC, November 6, 1995.

Hon. ROBERT DOLE,
Majority Leader,
Washington, DC.

DEAR MAJORITY LEADER DOLE: The American College of Obstetricians and Gynecologists (ACOG), an organization representing more than 35,000 physicians dedicated to improving women's health care, does not support HR 1833, the Partial-Birth Abortion Ban Act of 1995. The College finds very disturbing that Congress would take any action that would supersede the medical judgment of trained physicians and criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, HR 1833 employs terminology that is not even recognized in the medical community—demonstrating why Congressional opinion should never be substituted for professional medical judgment.

Thank you for considering our views on this important matter.

Sincerely,

RALPH W. HALE, MD,
Executive Director.

Mr. SPECTER. Mr. President, I ask unanimous consent that the opinion of the U.S. Department of Justice that the pending legislation is unconstitutional be printed in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
Washington, DC, November 7, 1995.

Hon. ROBERT DOLE,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR MR. LEADER: This letter represents the Department's views on H.R. 1833, a bill that would ban what it calls ''partial-birth abortions.'' This legislation violates constitutional standards recently reaffirmed by the Supreme Court. Most significantly, the bill fails to make an adequate exception for preservation of a woman's health. Even in the post-viability period, when the government's interest in regulating abortion is at its weightiest, that interest must yield both to preservation of a woman's life and to preservation of a woman's health. *Planned Parenthood* v. *Casey*, 112 S. Ct. 2791, 2804, 2821 (1992). This means, first of all, that the government may not deny access to abortion to a woman whose life or health is threatened by pregnancy. Id. It also means that the government may not regulate access to abortion in a manner that effectively ''require[s] the mother to bear in increased medical risk'' in order to serve a state interest. *Thornburgh* v. *American College of Obstetricians and Gynecologists*, 476 U.S. 747, 769 (1986) (invalidating restriction on doctor's choice of abortion procedure because could result in increased risk to woman's health). That is, the government may not enforce regulations that make the make the abortion procedure more dangerous to the woman's health. Id,; see also Planned *Parenthood of Missouri* v. *Danforth*, 428 U.S. 52, 79 (1976) (invalidating ban on abortion procedure after first trimester in part because would force ''a woman and her physician to terminate her pregnancy by methods more dangerous to her health than the method outlawed'').

If Congress were to ban this method of abortion, it appears that ''in large fraction

of the cases'' in which the ban would be relevant at all, see Casey 112 S. Ct. at 2830 (discussing method of constitutional analysis of abortion restrictions), its operation would be inconsistent with this constitutional standard. It has been reported that doctors performing this procedure believe it often poses fewer medical risks for women in the late stages of pregnancy.[1] If this is true, then it is likely that in a ''large fraction'' of the very cases in which the procedure actually is used, it is the technique most protective of the woman's health. Accordingly, a prohibition on the method, in the absence of an adequate exception covering such cases, impermissibly would require women to ''bear an increased medical risk'' in order to obtain an abortion.

H.R. 1833 would provide for an affirmative defense to criminal prosecution or civil claims when a partial-birth abortion is both (a) necessary to save the life of the woman, and (b) the only method of abortion that would serve that purpose. This provision will not cure the bill's constitutional defects. First, as discussed above, the provision is too narrow in scope, as it fails to reach cases in which a woman's health is at issue. Second, the provision does not actually except even life-threatening pregnancies from the statutory bar. Cf. Casey, 112 S. Ct. at 2804 (even in post-viability period, abortion restrictions must ''contain [] exceptions for pregnancies which endanger a woman's life or health''). Instead, the provision would require a physician facing criminal charges to carry the burden of proving, by a preponderance of the evidence, both that pregnancy threatened the life of the woman and that the method in question was the only one that could save the woman's life. By exposing physicians to the risk of criminal sanction regardless of the circumstances under which they perform the outlawed procedure, the statute undoubtedly would have a chilling effect on physicians' willingness to perform even those abortions necessary to save women's lives.

Sincerely,

ANDREW FOIS,
Assistant Attorney General.

Mr. SPECTER. Mr. President, on a matter of this enormous import, where we are talking about the meaning of life, as articulated by the Senator from Indiana earlier, we ought to have a hearing in a limited period of time. We ought not to rely upon hearsay statements that are brought to the floor of the Senate, where we do not have an opportunity to question and elicit more detailed information.

We ought not allow ''Nightline,'' as urged by some on the floor of this body, to substitute for deliberations by the U.S. Senate. This is a matter which could have been brought to the floor at any earlier time, and certainly for the world's greatest deliberative body, it is not asking too much to have a very brief period of time—some 19 days—for the Judiciary Committee to hold hearings, report this matter back, and then the Senate could express its will in accordance with Senate procedures.

The PRESIDING OFFICER. The controlled time has expired.

Mr. SPECTER. Has all time expired on the amendment, Mr. President?

The PRESIDING OFFICER. The time for controlled debate has expired.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

Mrs. BOXER. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the call of the roll.

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

Mrs. BOXER. Mr. President, I object.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Objection is heard. The clerk will continue to call the roll.

The bill clerk continued with the call of the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, that I be allowed to speak for 5 minutes as if in morning business, and that the business of the Senate will then return to a quorum call and to its present state.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Mr. President, reserving the right to object—I will not object—I want to make sure from my friend that morning business is nothing about the pending bill.

Mr. PRESSLER. It is nothing about the pending bill.

Mrs. BOXER. I shall not object.

The PRESIDING OFFICER. Without objection, it is so ordered, and the Senator from South Dakota [Mr. PRESSLER] is recognized to speak as if in morning business for 5 minutes.

AIR SERVICE OPPORTUNITIES IN CONTINENTAL EUROPE

Mr. PRESSLER. Mr. President, I rise today to discuss existing and emerging air service opportunities on the European Continent for U.S. passenger and cargo carriers. These opportunities include not only serving destinations within Europe, but also points beyond such as the Middle East and Asia-Pacific markets. As the British continue to refuse to open their skies to our carriers, developments in other countries represent alternatives that are increasingly attractive and are taking on greater significance.

Unfortunately, recent negotiations with the United Kingdom seeking to liberalize our air service relationship with that country have hit an impasse. At this time, it is unclear whether that impasse is insurmountable. As is often the case with the British, the primary sticking point is our request for greater access to London Heathrow Airport, the main hub of British Airways. Access to Heathrow is particularly important to our carriers since it is an international gateway airport offering connecting service opportunities beyond the United Kingdom to markets virtually worldwide.

Another key and often overlooked area of disagreement is our request for full liberalization of air cargo services between and, importantly, beyond our two countries. Currently, the ability of our cargo carriers to serve the United Kingdom, load additional freight there, and fly on to other countries is severely limited by the United States-United Kingdom bilateral aviation agreement. British negotiators continue to reject our requests for fully liberalized air cargo opportunities, despite a March 1994 recommendation by the House of Commons Transport Committee to that effect. What does all this mean?

The answer to that question is contained in the insights of one aviation authority who wrote recently ''[a]irlines and passengers are free agents. If extra capacity is not developed at Heathrow, the airport will not be able to satisfy demand and airlines will expand their business at continental airports.'' The author added ''if airlines are denied the opportunity to grow at Heathrow, many will choose Paris, Frankfurt, or Amsterdam.''

Mr. President, this is not rhetoric. It is not a threat by U.S. interests designed to gain negotiating leverage. To the contrary, the author of these quotes is BAA plc, the British company that owns and operates Heathrow as well as other United Kingdom airports. BAA is very perceptive. Obviously, BAA recognizes that in today's global economy the long-term consequence of protecting one's air service market amounts to little more than the stimulation of competitive opportunities elsewhere. One need only look across the English Channel to continental Europe to confirm that already is taking place.

There was a time when geographic factors and the limited range of commercial aircraft made the United Kingdom the international gateway of necessity for United States carriers serving Europe and beyond. Times have changed. New generation long-range aircraft have made the option of overflying the United Kingdom viable from both an operational and economic standpoint. Simply put, if the British do not want the business of our air carriers, United States carriers can and will look to the European Continent for new gateway airport opportunities. Today, I wish to discuss a few of these existing, emerging, and potential air service opportunities.

First, there is tremendous growth in international passenger traffic at Amsterdam's Schiphol Airport. This is

[1] *See Hearings on H.R. 1833 Before the Subcomm. on the Constitution of the House Judiciary Comm.* (June 23, 1995) (statement of James T. McMahon, M.D., Medical Director, Eve Surgical Centers) (procedure shown to be safest surgical alternative late in pregnancy); *id.* (June 15, 1995) (statement of J. Cortland Robinson, M.D., M.P.H.) (same); *see also* Tamar Lewin, *Wider Impact is Foreseen for Bill to Ban Type of Abortion*, The New York Times, November 6, 1995, at B7; Diane M. Gianelli, *Shock-Tactic Ads Target Late-Term Abortion Procedure*, American Medical News, July 5, 1993, at 3; Karen Hosler, *Rare Abortion Method Is New Weapon in Debate*, Baltimore Sun, June 17, 1995, at 2A.

due, in large part, to the successful alliance between Northwest Airlines and KLM Royal Dutch Airlines, and clearly demonstrates BAA's prediction already is coming to pass. How did it happen? Recognizing the significant mutual benefits that result from free trade among nations, in 1992 the Netherlands signed an open-skies agreement with the United States. That agreement permits the marketplace, not Government restrictions, to determine air service between the two countries. The results speak very loudly.

Between 1992 and 1994, total passenger traffic between the United States and the Netherlands grew an astounding 56 percent while total passenger traffic between the United States and the United Kingdom grew just 7.5 percent. In 1992, 18.6 million international passengers arrived and departed from Schiphol. By 1994, that number grew to 22.9 million passengers—an increase of more than 23 percent. It is anticipated this growth will continue with nearly 28 million international passengers using Schiphol by 2000. What does this illustrate? Among other things, it clearly demonstrates Schiphol is drawing passenger traffic originating in the United States away from United Kingdom airports, particularly Heathrow.

Cargo opportunities also are booming at Schiphol. In 1992, nearly 725,000 metric tons of international cargo were loaded and unloaded at the airport. By 1994, that number grew to 838,127 metric tons, an increase of nearly 12 percent. By the year 2000, it is estimated 1.2 million metric tons of international air cargo will pass through Schiphol.

Consistent with that forward-looking view of aviation relations, the Dutch also have in place a long-term airport growth plan to enable Schiphol to accommodate the rapidly expanding traffic the United States-Netherlands open skies has spurred. The goal is no less than making Schiphol one of the major European hubs for intercontinental passenger and cargo traffic. By the year 2015, that plan calls for Schiphol to have the capacity to serve up to approximately 56 million passengers and 4 million metric tons of cargo annually.

Mr. President, the Dutch clearly want the business of United States carriers. Based on the growth of international passenger and cargo traffic at Schiphol, it is clear U.S. carriers are responding to this message.

Second, our recently completed ninenation European open-skies initiative should stimulate additional new continental gateway airport opportunities. The nine European countries with which the United States recently signed open-skies agreements are Austria, Belgium, Denmark, Finland, Iceland, Luxembourg, Norway, Sweden, and Switzerland.

Brussels Zaventem Airport illustrates my point well. Even before the United States-Belgium open-skies agreement was signed a few months ago, international passenger and cargo growth at Brussels Airport was impressive. For instance, between 1993 and 1994 international passenger traffic grew to more than 11 million, a 12-percent increase. During the same period, international freight passing through Brussels Airport rose a remarkable 24 percent to more than 380,568 metric tons.

No question, Brussels Airport is emerging as an important European gateway airport for intercontinental traffic. The recent open-skies agreement should cause existing growth to accelerate. To ensure this comes to pass, the Belgians recently expanded Brussels Airport to put it in a position to fully capitalize on new service opportunities. Earlier this year, a new terminal opened at Brussels Airport which has more than doubled the airport's capacity from 10.5 to 21 million passengers annually. This terminal expansion initiative, coupled with significant runway capacity, will make Brussels very attractive to U.S. carriers.

Indeed, a number of U.S. passenger carriers already provide nonstop service from the United States to Brussels. Delta Air Lines, through its code-sharing alliance with the Belgian national carrier Sabena, also provides nonstop service from key United States gateway cities including New York, Boston, and Chicago.

One clear indication the United States-Belgium open-skies agreement will be a catalyst for increased transatlantic service from the United States to Belgium appeared in a recently filed application by Delta seeking antitrust immunity for its alliances with Sabena as well as Swissair and Austrian Airlines. In that filing, Delta indicated it plans no less than to use the Delta-Sabena alliance to make Brussels Airport one of a multihub network in continental Europe. No wonder, Brussels Airport is regarded as Europe's only true hub-and-spoke operation.

Third, a potentially tremendous opportunity for United States carriers may soon emerge in Germany. The United States and Germany commenced air service negotiations in July which I very much hope will result in an open-skies agreement. It is my understanding those talks are progressing well.

What would an open-skies agreement with Germany mean for United States carriers? In short, it would mean significant new air service opportunities for our carriers between the United States and Germany. Equally important, German airports would provide well-situated gateway opportunities for our carriers to serve points beyond Germany such as the booming Asia-Pacific market.

One such opportunity is the airport in Frankfurt which already is being used by some U.S. carriers as an alternative to Heathrow. Frankfurt-Main Airport's ideal location in Europe already has fueled tremendous growth for that facility. As a matter of fact, it already ranks as the second busiest airport in Europe next to Heathrow. Last year, for instance, 27.6 million international passengers passed through Frankfurt as well as more than 1.2 million metric tons of air freight. Each total represented nearly a 10-percent increase over 1993 traffic levels.

Frankfurt Airport is not resting on its laurels. In fact, the Germans have ambitious plans to ensure Frankfurt Airport can meet rapidly expanding demand. Last year, a new terminal complex was completed which enables the airport to handle an additional 12 million passengers annually. In addition, the runways at Frankfurt Airport already have the capacity to handle nearly as many aircraft movements per hour as those at Heathrow.

By the year 2010, forecasts indicate Frankfurt Airport will handle approximately 53 million passengers. As far as air cargo is concerned, new freight facilities are expected to more than double air cargo passing through Frankfurt from its current level of 1.2 million metric tons. Unquestionably—particularly under an open-skies regime—Frankfurt represents an attractive option for U.S. carriers who are frustrated by their inability to gain or expand access at Heathrow.

There also are other important air service opportunities elsewhere in Germany. Last year, 8.3 million international passengers passed through the airport in Munich. Plans by Lufthansa to make Munich its second largest hub, including using it as a gateway for some Asia-Pacific service, should spur additional international passenger growth at the airport. An additional option is Dusseldorf's Rhine-Ruhr Airport which last year served 10.3 million international passengers.

A United States-Germany open-skies agreement undoubtedly will foster additional growth in the number of international passengers using the airports in Frankfurt, Munich, and Dusseldorf. Also, it could accelerate construction of a planned new airport in Berlin. The new Berlin-Brandenburg airport would offer yet another gateway opportunity for U.S. carriers.

Mr. President, as I have said on other occasions in statements to this body, we must continue pressing for a liberalized air service agreement with the United Kingdom. We owe that to consumers on both sides of the Atlantic who unquestionably would be the biggest winners if such an agreement were reached.

Concurrently, however, I believe we should intensify our efforts to secure an open skies agreement with Germany. In combination with existing and emerging opportunities for United States carriers in continental Europe, such an agreement would put tremendous competitive pressure on the British to open Heathrow to United States carriers. Moreover, if the British doubt that the restrictive United States-United Kingdom bilateral agreement is forcing United States carriers to

overfly the United Kingdom to European continental airports, an open-skies
agreement with Germany that furthers the exodus of United States flights to the continent would dramatically make this point. If Britain does not want our business, clearly there are other nations who do.

Mr. President, may I proceed for 2 more minutes on the same subject?

The PRESIDING OFFICER. Is there objection?

No objection is heard. Without objection, it is so ordered. The Senator is recognized for 2 additional minutes.

Mr. PRESSLER. Mr. President, to summarize what I have said, as a chairman of the Commerce Committee and a member of the Aviation Subcommittee, I am very eager to see us move forward on efforts to liberalize our bilateral aviation agreement with the United Kingdom. I am very concerned about the problem of access to Heathrow and resulting limitations on the ability of our carriers to serve markets beyond the United Kingdom. Also, I am disturbed by British restrictions on the beyond rights of our cargo carriers. Similarly, I am also concerned about attempts by the Government of Japan to prevent our carriers from fully participating in the booming Asia-Pacific market beyond Tokyo.

Very frankly, what these countries try to do is they have a system to block out U.S. passenger and cargo carriers as well as to prevent our carriers from serving beyond markets. I believe we should put the emphasis on jumping over Heathrow if the British are unwilling to cooperate by opening their skies to United States carriers. I have urged our Secretary of Transportation, Secretary Peña, who I think does a good job in international aviation negotiations, to treat international aviation as a trade issue and to focus on maximizing economic benefits for our country. I understand this is very difficult for Secretary Peña to do since each time he attempts to follow this course, a group of Senators and Representatives who represent a certain airline criticize what he is doing. We have to support our Secretary of Transportation when he is trying to negotiate these difficult agreements. We need to put the interests of the U.S. economy first.

The situation with the British is very frustrating and unacceptable. Britain is dragging its feet on liberalizing our air service agreement. They are stalling. I think we should make it very clear to the British if they continue to severely restrict opportunities for our carriers to serve the United Kingdom and points beyond, United States passenger and cargo carriers will turn to Germany and Amsterdam and other points in Europe. I would hope that continued progress in liberalizing our aviation relations with countries in continental Europe, and the continued exodus of United States carriers to capitalize on these opportunities, will drive home this point. Simply put, our carriers are not being treated fairly by the British. Unfortunately, the same is true in Japan where the Government of Japan is trying to prevent our carriers from fully participating in the rapidly expanding Asia-Pacific market.

I hope our Secretary of Transportation stands firm with the British and the Japanese. I support him, and I urge the Members of this body to do so. He is doing a good job in international aviation matters under difficult circumstances.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent to be able to continue as in morning business, not in reference to the pending business, but another matter, with the understanding that, if there is someone seeking recognition not under the same standard, then we return to a quorum call.

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

TRIBUTE TO YITZHAK RABIN

Mr. LEAHY. Mr. President, my wife and I were in California visiting my youngest son and his wife this past weekend. After what had been a very pleasant day out hiking and walking about, we came back to their home, and there were a series of messages for me from the White House and my chief of staff. I called back and heard the terrible news about Yitzhak Rabin. I was also asked if it would be possible to make the connection back to Washington in time to accompany the President and the others to Israel.

Mr. President, like so many millions of people, I turned to the radio and the television in disbelief. I hoped, even though the first news was so discouraging, that somehow he had survived the assassin's bullet. It seemed inconceivable that an old soldier who had survived so much, who had risked his life so many times, could be struck down this way, following a rally for peace.

Those unable to attend the ceremony in Jerusalem watched it and wept. For all the reasons said so eloquently by so many people—and I think of our own President, President Clinton, Jordan's King Hussein, the man who had a close personal relationship, one based on trust and respect, with Prime Minister Rabin, and Egypt's President Mubarak, and perhaps most of all Prime Minister Rabin's granddaughter Noa. We listened to them and know we will not forget Yitzhak Rabin.

Prime Minister Rabin was a man of great courage, of great vision, of great warmth, and, above all, great love for his country. In fact, for me it is almost impossible to think of Israel without thinking of him. My heart's hopes go out, not only to his family, but to Shimon Peres, who now takes on the awesome duties of Prime Minister at such a difficult time. To him I offer my support with the deep respect he knows I feel for him.

In remembering Prime Minister Rabin, it was his undying love for Israel, his absolute commitment to Israel's survival, that enabled him to change course, to choose the path of peace in his final years. It was a choice and a challenge for all of us, but especially the people of the Middle East. It was a choice that was embraced by a majority of Israelis and Palestinians. It was spurned only by those too blinded by hate to see the historic opportunity that Yitzhak Rabin had seized.

Like so many others in the Senate, I was fortunate to know Yitzhak Rabin, for nearly a generation. I am going to miss him very, very much. I will miss that great and wonderful voice, and his strength and his wisdom which you could feel just standing next to him.

I had the privilege to accompany President Clinton to Aqabah last October, a year ago, for the signing of the Israeli-Jordanian peace agreement. I remember standing there in 110 degree heat, the wind blowing across the desert, as I listened to those two soldiers, Yitzhak Rabin and King Hussein, men who had fought against each other but who now stood with voices filled with emotion speaking of the need for peace.

I knew from my private conversations both with Prime Minister Rabin and with King Hussein that these were men who could rely totally and utterly on each other's words, on each other's commitment, on each other's integrity and on each other's ability for leadership. And when the ceremony ended and the grandchildren of those who had fallen in the war, Jordanians and Israelis, came and presented flowers to the leaders, you knew that it was the leadership of Yitzhak Rabin and those who joined with him made that moment possible.

Israel and the world have suffered a terrible and irreplaceable loss. We all remember the immeasurable loss after the assassination of President John Kennedy. I was not old enough to vote for President Kennedy. I was a student here in Washington when he died. And like everybody else who was old enough to know that day, I remember precisely where I was, exactly what I was doing, and the emotions I had at the time. And like so many other Americans, I wondered how we might go on.

I know that there are those same feelings in the minds of people in Israel today. But I do not fear for Israel because we can find hope in the outpouring of love and respect for Yitzhak Rabin's memory by Jews, by Arabs, by people of all faiths around the world, because more than anything, it was Yitzhak Rabin's commitment to peace that inspired that outpouring of love and respect. So many generations have yearned for it, but it was Yitzhak Rabin who defied the prejudice, hatred, and violence of the past to make it possible for us to believe that peace is possible in the Middle East. That was the message of the handshake on the White House lawn. It is our challenge and our

duty to complete Prime Minister Rabin's vision.

The Congress can be a potent force for peace. Too often we have seen some Members of Congress make fervent speeches and sponsor amendments that may have won points with constituencies here or at home but actually serve to sow divisiveness and undermine progress toward peace in the Middle East.

Just as Prime Minister Rabin pleaded so passionately at the White House for an end to blood and tears, let us put an end to partisan political maneuvering on a subject so important and fragile as peace in the Middle East. Let us stop conceiving of ways to legislate obstacles to the very policies of those who are risking their lives for peace. Let us remind ourselves that even though we might get some short-term political gain by trifling legislatively with the peace process in the Middle East, we do it here in the safety of this Chamber, we do it in the safety of our home States, but it is the lives and the aspirations and the hopes and the dreams of the people in the Middle East who are affected. Let us put an end to these political games and wholeheartedly support peace in the Middle East.

Let us do that for the memory of Yitzhak Rabin. Let us be united in continuing his legacy. Let each of us join the millions of Israelis who put their faith in him to prove the enemies of peace wrong. Let us listen to the words of Leah Rabin, his wife of so many decades, that wonderful woman who calls on us to unite in support of peace.

Mr. President, it was only a couple of weeks ago, here in this building, that I and Leah Gluskoter of my office last spoke with Prime Minister Rabin. I remember him coming over and putting his arm around me and we chatted as the friends I was proud we had become.

We talked a little bit about a longer conversation we had a couple of weeks before. In that conversation, he had thanked me for something I had been able to do for him that he felt helped the peace process. He said I had taken some political risks. I said, ''Mr. Prime Minister, you are the one who takes the real political risk. You risk your political life every day.'' I paused and I said, ''No, you risk your life, your actual life every day.''

In that deep and wonderful voice, he responded he did not worry about that. He really did not fear for his life. He only feared for the continuation of the peace process. This is a man whose own political life, his own future, his own actual life was secondary to what he was trying to accomplish.

I told him in that conversation that I felt when the history of this century is written, there will be a handful of people who will stand out as true peacemakers of this century, and he will be among them. He will be one of the most noted, certainly, of my lifetime.

Now he is gone, and it is our job to go forward. Let me say again that we can give the greatest respect to Yitzhak Rabin's memory by supporting those who believe, as he did, that Israel and its Arab neighbors have seen enough of hatred, of occupation, of bloodshed, and that there is another way. The other way is the peace process he began and which will now be carried on by acting Prime Minister Shimon Peres. Our country remains a partner with Israelis and Arabs in this effort. Let us go forward in the memory of a great man who gave his life for it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PARTIAL-BIRTH ABORTION BAN ACT OF 1995

The Senate continued with the consideration of the bill.

Mr. SMITH. Mr. President, I ask unanimous consent that a vote on the pending question occur on the motion to commit at 3:30 this afternoon, and that the time divided between now and then be equally divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SMITH. Mr. President, at this time, I will say for my colleagues that Senator SPECTER is en route to the floor.

At this point, I suggest the absence of a quorum, and ask unanimous consent that the time be equally divided between the two sides.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. SNOWE). Without objection, it is so ordered.

Mr. DASCHLE. Madam President, so much has already been said about the pending legislation, but, prior to the vote, I want to very briefly articulate my position and urge my colleagues to express themselves in the vote at 3:30 in opposition to the legislation as currently drafted and in support of the Specter motion to refer the bill to Judiciary and report back in 19 days.

I say that for a couple of very important reasons. First of all, there are extraordinarily complex issues surrounding this medical procedure that ought to be explored through the normal hearing process.

There are medical issues. There is the need to hear from physicians and others on the ramifications of a strict ban on late-term abortions. This is an emergency medical procedure reserved for cases where the life and health of the mother could be endangered or where severe fetal abnormalities are a major factor in the decision made by a woman and her physician. Whether or not we can delineate very clearly and legislatively when a doctor should and should not perform that very difficult procedure is something that ought to be explored in ways other than those we have employed so far on the Senate floor. So, clearly there are medical issues that this debate simply does not allow us to discuss and consider adequately prior to making a fundamental decision about the legality or justifiability of this procedure in various cases.

Second, there are constitutional issues. As the distinguished Senator from California and others have laid out very clearly, this is a challenge to the fundamental decision made in Roe versus Wade. Decisions relating to whether or not States ought to have the ability to restrict late-term abortions in cases where the life and health of the mother is endangered—that, to me, is a question that ought to be pursued much more carefully, much more deliberately, much more clearly than we have done in the debate in the last couple of days.

Finally, there are legal issues. This bill would criminalize a medical procedure for the first time. There ought not be any mistake about that. It would be an unprecedented intrusion by Congress into the practice of medicine. If a doctor is convinced it is an emergency procedure needed to save the life of the mother, he can use that affirmative defense only in the context of a criminal prosecution. Should doctors be prosecuted for saving a woman's life? I do not think so. In an emergency situation, do we want doctors hesitating to perform life-saving measures because they fear they will face criminal prosecution for doing so? I do not think we ought to put any doctor, or any woman, in that position.

So there clearly are situations here where we owe it to doctors, we owe it to mothers, we owe it to women, we owe it to the American people, to explore far more carefully than we have so far the far-reaching implications of this legislation. So, for those reasons if nothing else, this legislation ought to be referred to the committee for very, very careful consideration.

Second, Madam President, if the procedure is being abused, then we should consider restricting it. But it is unclear that it is being abused. There is a lot of confusion and misinformation about this procedure. We need hearings to clarify whether or not abuse has ever been documented and, if so, how best to stop it.

There have been no hearings in the Senate and only one hearing in the House. Without having had the opportunity to listen to one expert, every Senator in this Chamber is being asked

to make a decision that I do not think they are prepared to make. I am not prepared to make it.

I doubt that anyone, regardless of whether they have read the record or not, is capable of deciding today whether in these extraordinary circumstances a woman is going to be protected from life-threatening circumstances, a doctor is going to be protected from criminal prosecution for saving a life, and the rights of all Americans are going to be considered.

So let us let the experts give us their guidance. Let us make a considered decision, not a rush to judgment.

The motion to refer to the Judiciary Committee is completely reasonable. But if the facts show that restrictions are necessary, we can base our actions on those facts at that time. Let us take time to get the facts and consider the implications.

All we are asking is for the bill to be considered in the next 19 days. Is that too much to ask? Is it too much to ask to give the Senate 19 days to consider this issue more carefully, to bring in the experts, to look at each one of these concerns, and make a decision? There is nothing wrong—in fact, there is everything right—with delaying our decision to make sure we get it right.

That is what this vote is all about at 3:30. That is why it is so important that the majority of Members of this body now support the Specter motion. And that is why I strongly support it this afternoon.

With that, I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SMITH. Madam President, how much time remains?

The PRESIDING OFFICER. Two and one-half minutes.

Mr. SMITH. As I said yesterday, this bill is a straightforward and much needed remedy to a procedure that deserves to be condemned. Senator DOLE and I believe, as many of my colleagues do, that this procedure cannot be defended on its merits. But as I understand it, opponents of this bill are arguing that they need a hearing in committee to explore the issues involved here.

Senator DOLE and I have discussed this. While neither one of us think this is necessary, we do think it may not be a bad idea in that the more one learns about this horrible procedure the harder it is to defend it. So our view is that we are willing to be fair. Let us go ahead and hold a hearing. After that, this bill will return to the calendar in 19 days, and we can consider it again.

Senator DOLE and I hope to take the bill up again, and I hope that the opponents of this bill will be as fair to us as we are being to them. And, when the time comes, I hope they will allow us to have an up-or-down vote on the merits and not engage in procedural tactics designed to kill this important bill.

So with that, Madam President, in behalf of Senator DOLE and myself, we are asking our colleagues to support the Specter amendment.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Madam President, I ask for a couple of minutes of leader time to respond to the distinguished Senator from New Hampshire.

I am very pleased with this announcement. This comes as somewhat of a surprise. But I think it confirms what we have said—that, obviously, having the opportunity to listen more carefully to the experts, to consider more carefully the ramifications of something that is certainly in everyone's best interests, there is an acknowledgment of that on both sides of the aisle.

I expect now a unanimous vote. I want to thank him, thank the majority leader, and thank those, including the distinguished Senator from Pennsylvania and the Senator from California, for their work on this effort in the last couple of days.

I yield to the distinguished Senator from California.

Mrs. BOXER addressed the Chair.

Mr. SMITH. Parliamentary inquiry. How much time is remaining?

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senate minority leader has minority leader time.

Mr. SMITH. Did the minority leader yield?

Mr. DASCHLE. That is correct.

Mrs. BOXER. I thank the distinguished Democratic leader for yielding. I thank my friend from New Hampshire. I think what happened as a result of this is we avoided a very, very difficult split in this Senate, a split that really was not along party lines at all.

I think this is a wise decision. I think with a hearing in the Judiciary Committee, which is really equally divided on this issue, which is important, every side would be heard. Physicians who deal with this will come forward and testify to this; nurses; families who have gone through the tragedy; and then all of us can make a far more reasoned judgment.

I thank the Senator from Pennsylvania [Mr. SPECTER], for his extraordinarily courageous leadership on this issue. I think the way he handled debate was exemplary. I also want to say to my friend from New Hampshire, we are friends, and we were never disagreeable. We just disagreed. This is, I think, a good thing for the Senate.

I thank again the Democratic leader for yielding me this time. I yield the floor.

The PRESIDING OFFICER. The question is now on agreeing to the motion.

Mr. SPECTER. Madam President, I ask for the yeas and nays, if they have not been ordered.

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

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Indiana [Mr. LUGAR] is necessarily absent.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

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

The result was announced—yeas 90, nays 7, as follows:

[Rollcall Vote No. 563 Leg.]

YEAS—90

Abraham	Ford	McCain
Akaka	Glenn	McConnell
Ashcroft	Gorton	Mikulski
Baucus	Graham	Moseley-Braun
Bennett	Grams	Moynihan
Biden	Grassley	Murkowski
Bingaman	Gregg	Murray
Bond	Harkin	Nickles
Boxer	Hatch	Nunn
Breaux	Hatfield	Pell
Brown	Heflin	Pressler
Bryan	Hollings	Pryor
Bumpers	Hutchison	Reid
Burns	Inhofe	Robb
Byrd	Inouye	Rockefeller
Campbell	Jeffords	Roth
Chafee	Johnston	Santorum
Cohen	Kassebaum	Sarbanes
Conrad	Kempthorne	Shelby
Coverdell	Kennedy	Simon
Craig	Kerrey	Simpson
D'Amato	Kerry	Smith
Daschle	Kohl	Snowe
Dodd	Kyl	Specter
Dole	Lautenberg	Stevens
Domenici	Leahy	Thomas
Dorgan	Levin	Thompson
Exon	Lieberman	Thurmond
Feingold	Lott	Warner
Feinstein	Mack	Wellstone

NAYS—7

Coats	Faircloth	Helms
Cochran	Frist	
DeWine	Gramm	

NOT VOTING—2

Bradley	Lugar

So the motion to commit was agreed to.

Mr. SPECTER. Madam President, I move to reconsider the vote by which the motion was agreed to.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. FORD. Madam President, may we have order, please? We need to hear the Senator.

The PRESIDING OFFICER. May we have order in the Chamber? We cannot

proceed unless we have order in the Chamber.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho has recognition.

Mr. CRAIG. Madam President, I yield to the majority leader.

MORNING BUSINESS

Mr. DOLE. Madam President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

The Senator from Idaho.

Mr. CRAIG. I thank the Chair.

(The remarks of Mr. CRAIG pertaining to the introduction of S. 1402 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

(Mr. BENNETT assumed the chair.)

THE DEMOCRATS ARE ALIVE AND WELL

Mr. DORGAN. Mr. President, on November 6, 1995, one of the leading periodicals in our country hit the newsstands—U.S. News & World Report. It says ''The Democrats: Is the Party Over?'' It is one of those stories about ''the Democrats are dead.''

Well, I encourage the U.S. News & World Report to get some airline tickets for some of those reporters and move them around the country today and ask what happened in the country yesterday. I suggest that they go to Kentucky, go to Maine, travel to New Jersey, visit with some folks who have pitched their tents on principles, once again, and see the campfires all around this country of Democrats, who stand for things that are important to the future of this country.

I think it was Mark Twain who said, in response to a report in the newspaper that he had died, ''The reports of my death are greatly exaggerated.'' Well, those who, for months, have been dancing around the bonfire chanting about ''the death of the Democratic Party,'' the resurrection of the Republican Party, and the lasting control of the Republicans in the American political system, might want to take a deep breath and look around at the results of yesterday's elections in our country.

Yes, it is true that yesterday, as is almost always the case, the Democrats were badly outspent. In many cases in these races, it was 4-to-1, 6-to-1, 8-to-1. The Republicans had more money. But the Democrats were never outworked, and never will be in our political system. Yesterday, county to county, town to town, all across this country, Democrats sent a message that we are alive, well, fighting, and winning, for things that are important to our country's future.

I think part of it yesterday was the American people responding again to our agenda about creating a growing economy, building good jobs with good incomes, educating our children in the world's finest schools, cleaning up our environment, and standing for the values and virtues that made this a great country and will make it a great country in the future. And, yes, even more than that, people from Kentucky, to Maine, to New Jersey, to the west coast, yesterday, also stood up and not only spoke for Democratic candidates—candidates who ran on a platform of hope and opportunity, a platform of building for the future, understanding we have always had the burden of being the builders.

If you look at almost anything that has been built in this country that represents hope and progress, it has been the Democrats who decided that is what ought to be done for America's future. We have had folks that always had seat belts on saying, no, we do not want to move ahead, do not want to do this or do that.

I am proud of our legacy and heritage, and I am proud to note that although we may be outspent, we are not outworked, and there are lots of Democrats across this country who are willing to stand for and fight for the kind of policies that will build a better future in America.

Yesterday, voters also spoke, in my judgment, about another agenda, the agenda of the new Speaker, Mr. GINGRICH, the Contract With America, and leadership in that direction.

I think the American people rejected yesterday an agenda that has as its centerfold tax cuts for the wealthiest Americans and budget cuts for the rest of Americans; an agenda that says we do not have enough money to provide an entitlement for a poor kid to have a hot lunch at school, that says we do not have enough money for health care for the elderly and the poor, but an agenda that says we have plenty of money for star wars, we have plenty of money for B–2 bombers nobody ordered, F–16's and F–15's that nobody asked for, for planes, ships, and submarines that nobody wanted. We have lots of money for those things, but we do not have enough money for the 55,000 kids now on Head Start who get kicked off.

That is what the voters were saying. Those priorities are out of whack. Those are not mainstream values. Those are extreme kinds of positions that the voters have told Speaker GINGRICH and others we reject.

I am proud, today, proud that so many around our country, men and women, State after State, were willing to stand up and speak out as part of our political process and stand for the values and the things that we believe in as Democrats—fought and won, in many cases, against the odds. When you are outspent, when the other side has more resources, you have to work harder.

I say in the context of this, I am proud of everybody that participates in this political process, Republicans and Democrats. The easiest thing for people to do is do nothing and complain about it. The toughest thing is to stand in the ring and stand up and speak out for things you believe in.

I believe everyone who participates is owed a debt of thanks in our system, but I am especially proud in light of the kind of things we see in our country, written about a party that I am proud of, things that say the Democrats maybe are dead; the Democratic Party, the party is over for you folks.

I am particularly proud yesterday that all across this country we had people, American people—yes, Democrats—sending a message back to those who pronounced our death, and say, as Mark Twain did, ''Reports of our death are greatly exaggerated.''

We believe in something special for the future of this country. We preach hope and opportunity. We preach values and virtue. We preach a return to the days in this country where everybody can understand that we are doing things for America as a whole.

We believed, in North Dakota years ago when the wagon trains forged West, we believed in that lesson that was learned the hard way, that no wagon train ever moves ahead by leaving some wagons behind.

We have a policy in this country these days by those who have the votes to enforce it that says some folks are out of fashion. If you are poor, tough luck. If you are old, that is even tougher luck. Somehow if you did not make your way, you are left behind.

That is not the best of our country. Our country will be strongest and our country will meet the future with the kind of opportunity we should have forever, when we decide that public policies that invest in jobs, expanded opportunities and education are the kind of policies that will come out of the U.S. House and the U.S. Senate.

In the coming weeks and months, my hope is the American people, having sent a message yesterday through the ballot box, my hope is the American people will see the best of this political system. The best of this system will provide that those on the Republican side of the aisle and those on the Democratic side of the aisle will offer their best ideas and will choose from those good ideas, that menu of good news that comes from all sides, and then use those ideas to move America ahead. That will be the best our political system can offer to the American people. It is my hope for the coming months.

I wanted to take the floor today to say that yesterday, at least for me, was wonderful news. I think for our country it was good news. Our country needs a healthy two-party system. Those who believe somehow that on this side of the aisle we do not have the strength, vitality or ideas to compete in America's political system any more are dead wrong. That was proved yesterday in the elections across America, and it will be proved again and again leading up to the Presidential elections and

elections for Congress and State and local offices all across this country in November 1996.

Then, I think U.S. News and other periodicals will write another headline, another cover page. I have a hunch I know what that cover page will be. I hope to come on the floor with a broad smile and say that happy days are here again and the vision and the hope and the dreams of Democrats for a better America will be realized again and again and again in the future.

I yield the floor. I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. GRAHAM. Mr. President, I ask unanimous consent I be allowed to proceed for up for 25 minutes.

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

RECONCILIATION

Mr. GRAHAM. Mr. President, on Friday of last week and again yesterday, I began a series of talks on the Medicaid Program. In my first discussion, I pointed out to the successes of Medicaid —successes at reducing infant mortality by 21 percent in this Nation between 1984 and 1992.

Yesterday, I discussed trends that have led to the growth in Medicaid spending. These included: demographic changes, including the fact that our population is living longer and that this greater longevity means more people are relying on Medicaid for longer periods; problematic changes that have expanded coverage to combat infant mortality among our Nation's children and to provide long-term care for our Nation's frail elderly and disabled; and the loss of private-sector health insurance, the fact that a shrinking percentage of America's children are insured through their parents' employer.

This last point, Mr. President, was reaffirmed in today's Journal of the American Medical Association, which says that 3 million children lost private health insurance between 1992 and 1993.

Mr. President, I ask unanimous consent that today's article in the Washington Post, entitled ''Medicaid's Safety Net for Children Could Be Imperiled,'' be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. GRAHAM. These, Mr. President, are major factors that have contributed and will contribute to Medicaid growth.

Today, I want to talk about the policies of the Senate which have been adopted for the future of Medicaid.

Mr. President, Halloween came early this year. In the dark of night, immediately prior to the passage of the Budget Reconciliation Act on the Friday before Halloween, the Medicaid formula was written by the architects on the reconciliation package.

Amazingly, the rewritten, revised Senate bill handed out treats—treats in the form of $10.2 billion mainly to States that were the prime abusers of Medicaid disproportionate share hospital funds in recent years. The Senate is preparing to reward States that have manipulated the Medicaid system by making permanent their past misdeeds.

How did the authors of this amendment pay for these treats dished out on the Friday night before Halloween? They imposed trickery on the elderly by raiding $12 billion from the Social Security trust fund.

What are these Medicaid misdeeds that are about to be rewarded and made permanent? They are what is referred to in Medicaid as the disproportionate share hospital program, known as DSH.

What is disproportionate share? The intent of the disproportionate share hospital payments originally enacted in 1981 is to assist hospitals that treat high volumes of Medicaid and low-income uninsured patients with special needs. Recognizing that these hospitals would have a small private insured patient base with which to recover funding for the cost of treating these uninsured, Congress intended that these disproportionate share hospitals receive payments to supplement their other Medicaid payments.

In fiscal year 1989, Federal funding for Medicaid DSH payments was just $400 million.

However, in coming up with their share of those funds, some States begin to see the huge potential in the use of donations and provider tax revenue as the State share of Medicaid expenditures.

Provider taxes and donations allowed States to draw down Federal Medicaid funds while backing out of providing their State matching share and sometimes effectively pocketing the Federal share of money meant for disproportionate share hospitals.

The original good intention, to meet the special need of hospitals, was creatively abused by States across the Nation.

Abuse was so great that, between fiscal year 1989 and fiscal year 1993, Federal spending for Medicaid disproportionate share hospital payments grew, if you can believe this, from $400 million in 1989 to $14.4 billion in 1993, a 3600-percent increase.

By 1993, DSH payments amounted to one-of-every-seven Medicaid dollars.

According to the Kaiser Commission on the Future of Medicaid, DSH payments were roughly equal to the sum of Medicaid spending for all physician, laboratory, x ray, outpatient, and clinic services that year.

In Alabama, Connecticut, Louisiana, Maine, Missouri, New Hampshire, and South Carolina, Medicaid disproportionate share hospital payments actually exceeded regular Medicaid payments for inpatient hospital services.

This rapid growth, a 3,600-percent increase in just 4 years, was a major factor in the overall Medicaid growth from 1989 to 1993.

I discussed that issue in more detail in my remarks delivered yesterday.

The Urban Institute, in a 1994 publication, estimated that between 1990 and 1991, DSH payments accounted for 20 percent of all Medicaid spending growth. In that 1-year period, DSH payments were 20 percent. But, between 1991 and 1992, DSH payments were responsible for 51 percent of Medicaid spending growth.

How did this occur? According to the Health and Human Services Inspector General Richard Kusserow, who served during the administration of President Bush, in a report dated July 25, 1991:

> The growing popularity of provider [tax and donation] programs, in our opinion, is due to States' awareness that a window of opportunity exists for them to alleviate their own budget programs to the expense of the Federal Government.
>
> States are fully aware that they had better take advantage of this opportunity while it exists.
>
> One State official went so far to say that ''State officials might be regarded as derelict if they did not take advantage of the Federal law.''

Incredibly, this occurred in a manner that, although named the disproportionate share hospital program, provided some heavily impacted Medicaid hospitals with little or no benefit.

This and other types of scams by States were detailed by the Prospective Payment Assessment Commission in a report requested by Congress and completed on January 1, 1994.

As the Commission noted,

> Although State Medicaid programs reported spending $20 billion more in fiscal year 1992 than in fiscal year 1990 for inpatient services in short-term hospitals, these hospitals received substantially less than a $20 billion increase in Medicaid revenue. Part of this discrepancy is attributable to situations in which state Medicaid programs allocate DSH payments to hospitals that never actually received or controlled the payment as revenue.

In an April 1995 report, the General Accounting Office noted that States often churned or even laundered Federal Medicaid dollars through State hospitals.

The GAO report said:

> State hospitals received $4.8 billion in DSH payments. However, hospital officials indicated that only a small share of the gains were actually retained and available to pay for health care services, such as uncompensated care. Instead, most of the gains were transferred back to state general revenue accounts.

In sum, paper transactions without paper money.

In fact, researchers at the Urban Institute concluded that:

> [A] high share of the funds are being diverted from direct health care to general

state coffers. It is reasonable to ask if Medicaid is an appropriate vehicle for general revenue sharing between the Federal Government and the States.

In reviewing such scams, analysts at the Health Care Financing Administration have estimated that the actual Federal share of Medicaid funds in 1993 was 64.5 percent instead of the reported 57.3 percent, primarily because of the manipulation of the DSH Program.

Good news: As a result of these scams, illusory tactics, and raids on the Federal treasury, Congress enacted legislation in 1991 and again in 1993 to create State-specific ceiling limits on each State's spending for DSH payment adjustments to 12 percent of the State's total Medicaid spending for the year. That is, no State could have more than 12 percent of its total Medicaid in the category of disproportionate share hospitals.

This limit, combined with other changes to the amount of money a single hospital can receive and the definition of what constitutes a provider tax, have been effective at controlling these costs.

In fact, the 20 States that have 12 percent of their overall Medicaid spending in DSH payments are capped at the absolute dollars they received in 1993.

For example, New Hampshire, which has over 50 percent of its entire Medicaid Program budget included in disproportionate share payments, is capped at a Federal disproportionate share payment of $196 million.

As a result, according to CBO estimates, Federal Medicaid DSH payments increased slightly from $9.6 billion in 1993 to $9.8 billion in 1994.

In fiscal year 1995, CBO projects that Federal DSH spending to drop to $8.5 billion, then increase by approximately half a billion dollars annually over the next 5 years. That is the good news. The Congress saw the problem. Congress acted. The actions tended to suture the hemorrhage.

Now the bad news. Incredibly, Congress is prepared to reward and make permanent the raids made on the Federal treasury in the past.

How was this done?

This was accomplished in the dead of night on the Friday before Halloween in an amendment that trimmed the Federal reduction in Medicaid from $187 billion to $176 billion.

Some of the winners and losers are well known by now.

Approximately $11.2 billion in additional Medicaid dollars will be distributed to States with two Republican Senators over the next 7 years, in the Senate proposal, while States with two Democratic Senators will lose an additional $3.6 billion. That has been well reported.

Less well known is the fact that States which have excessive Medicaid disproportionate share programs in the past are also the big winners.

New Hampshire and Louisiana, the most renowned examples of excess, have special fixes in the Senate bill which allows those two States to not have to fully match the Federal funding they will receive over the next few years.

Meanwhile, nine other States—Texas, Missouri, Connecticut, Kansas, Alabama, New Jersey, South Carolina, Tennessee, and Michigan—all which have disproportionate share programs that far exceed the national average and some that have been well documented as having schemed the Federal treasury in the past, those nine States will receive $14.8 billion in increased Medicaid funding over the next 7 years as a result of the late Friday evening deal, that currently would cap these ''high-DSH'' States' programs.

The Senate Finance Committee bill would have cut off excessive disproportionate share payments above 9 percent of overall Medicaid Program costs.

That was the bill that we had on the floor on that Friday before the late night raid which eliminated that constraint on the use of disproportionate share, and resulted in $14.8 billion flowing to those States that had been the primary abusers of the disproportionate share program.

However, the late evening deal would allow these States to not only keep what they had in the past and make it permanent, but would also allow them to increase that money annually, based on the larger base year funding which the inclusion of their full disproportionate share amounts allowed them to have. Thus, the $14.8 billion windfall for nine high DSH States.

The rest of the Nation's States—mostly low-DSH States—will lose another $3.6 billion from an amendment that added $10.2 billion to the Medicaid Program.

This is a perverse Washington logic where spending is saving—where bad is good—and locking in the past is heralded as reform.

But rewarding some States that had abused the disproportionate share of the hospital program was not enough bad policy for one night. The Friday night raid went on. The Senate made it worse by paying for these supplemental Medicaid allocations through mandating a 2.6 percent cost-of-living adjustment for 1996.

Mr. President, I ask unanimous consent that a Washington Post editorial on this subject entitled ''Medipork'' printed on November 6 be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. GRAHAM. Mr. President, under the Roth amendment that we adopted on that Friday night before Halloween, the money to fund the additional payments, largely to the States which had previously abused the Medicaid system, this money was found when the Government declared that the cost-of-living adjustment for 1996 would be 2.6 percent, which was lower than the 3.1 percent projected when the budget bills began moving through Congress last spring.

The result of the lower cost-of-living factor, said proponents, would be lower outlays for programs tied to the Consumer Price Index such as Social Security.

Mr. President, at first glance that sounds reasonable. Upon closer inspection, however, the logic fails, and it becomes clear that we have two choices. Either the funding is phony, nonexistent and, therefore, contributes to an additional deficit by spending funds without an equivalent additional source of revenue or—what I am afraid is the more likely alternative—a raid on the Social Security trust fund.

In order to understand this, I want to briefly discuss how the Federal budget is scored.

In March of this year, the Congress established an economic baseline. This baseline forecasts the level of Federal revenues and expenditures for the next 7 years predicated on current law and current and projected economic data. In making these economic projections, the Congressional Budget Office makes assumptions regarding a number of factors. The factors that are included in the assessment of the economic baseline include inflation, interest rates, number of qualified beneficiaries for the principal programs such as the number of beneficiaries for Social Security, the gross domestic product, revenues, and court decisions that might affect Federal policy.

Those are some of the factors which are included in arriving at the economic baseline.

From that baseline, the Congressional Budget Office can estimate the impact that changes in law will have on Federal revenues or expenditures.

Almost 8 months have passed since the economic baseline was established. Some of the assumptions turned out to be too high; others too low. For example, inflation has been lower than expected. The gross domestic product has been slightly higher than expected. Interest rates have been higher than projected. Obviously, if the economic baseline was updated to reflect actual experience in the last 8 months, we would obtain a more accurate picture of our Federal income statement and balance sheet for the next 7 years.

Mr. President, that was not what was done. Instead, we reached in and took just one economic factor—the fact that the Consumer Price Index increased only 2.6 percent and we require that legislation follow this monofactor directive. The Congressional Budget Office says it does not update its economic baseline unless it takes into account all economic and other factors—not just one.

The reason? If it could pick and choose, then Congress would cherry pick the positive economic changes and ignore the negatives. The result would be a budget deficit much greater than anticipated because we had predicated

our economic actions on unsound assumptions because the only economic changes unclaimed would be those generating higher outlays and lower revenues than expected.

In fact, if on October 27 the Congressional Budget Office had taken all economic factors into account—gross domestic product, interest rate, court decisions affecting Federal obligations and inflation—the deficit in the year 2002 would have been higher than anticipated last March. We would not have had a $12 billion false figure to use to finance additional Medicaid payments. We would actually have had to find additional revenue because, taking into account all of those factors, the Congressional Budget Office would have said our deficit had grown—not diminished—since March.

In other words, while the 1996 cost-of-living will be 2.6 percent rather than 3.1 percent resulting in $13 billion in lower outlays, this will be more than offset by other factors, such as higher interest rates, that increase outlays or decrease revenues.

That is why some would say that the Senate's financing of the additional Medicaid funds is phony. That is why I asked Senator DOMENICI on the floor whether these savings were real or not. He responded, ''they are real dollars.'' And I assume that the Republicans intended that they use real money to finance their changes and to finance the additional spending through Medicaid.

So assuming that these funds are not phony, where does this money come from? Let us look at the language of the Roth amendment which was adopted on that Friday night.

Notwithstanding any other provision of law, in the case of any program within the jurisdiction of the Committee on Finance of the United States Senate which is adjusted for any increase in the consumer price index for all urban wage earners and clerical workers (CPI-W) for United States city average for all items, any such adjustment which takes effect during fiscal year 1996 shall be equal to 2.6 percent.

Mr. President, this clearly specifies that the money comes from programs or outlays. Exactly what outlay programs are we talking about? Are we talking about the Pentagon, the Department of Defense outlays? No. Those are not under the jurisdiction of the Finance Committee. Are we talking about funding for roads and bridges? Are we talking about funding for foreign aid? No. Those programs are not under the jurisdiction of the Finance Committee. Just what outlays are within the jurisdiction of the Finance Committee?

There happen to be a number of those programs. But I am afraid that I must report that the overwhelming majority of dollars in those programs—$12 billion of the $13 billion removed—is Social Security.

So the only conclusion is that the Senate has taken $12 billion from the Social Security trust fund to pay for more Medicaid allocations to a selected few States—States which in large numbers had been those that had abused the Medicaid system in the past.

How can that be, you ask? How can a half of 1-percent reduction in the CPI constitute a raid on the Social Security trust fund? Let us look more closely still.

The Roth amendment takes into account only outlays impacted by the lower 2.6 percent cost-of-living adjustment. But there are other ramifications of the lower cost of living. For example, many workers' salaries are tied to the Consumer Price Index, and if those salaries only rise by 2.6 percent rather than the previous estimated 3.1 percent, then what happens to payroll? What happens to payroll taxes? They are both lower, and, therefore, less money will flow into the Social Security trust fund than would have flowed had the cost of living been at the earlier projected 3.1 percent.

The correct question is not how will a lower cost of living impact Social Security outlays. The proper question is what is the net effect of all of the economic changes this year to the Social Security trust fund?

The answer has two components: outlays, expenditures, and revenues.

The Social Security outlays will be reduced by a total of $18 billion—$12 billion from the COLA reduction, the 2.6 percent, and $6 billion from other changes.

But the economic data accumulated since March also will affect revenues going into the Social Security trust fund, and according to the Congressional Budget Office updating the economic baseline will result in a $62 billion decrease—decrease—in Social Security trust fund revenues over the next 7 years.

Accordingly, the net effect to the Social Security trust fund of revising congressional economic estimates is not to increase the size of the trust fund but, rather, to decrease it by $44 billion.

So if we want to face economic reality, the Social Security trust fund will have $44 billion less in it than our budget assumes. And while the Social Security trust fund is losing $44 billion as a result of economic changes since March, the Senate has approved diverting an additional $12 billion from the Social Security trust fund.

It is difficult for me to believe that this Senate actually wants to raid the Social Security trust fund to pay for anything. Just yesterday, House Republicans were threatening to attach provisions to a limited debt ceiling extension that would have had the effect of precluding the Secretary of the Treasury from utilizing Social Security trust funds for anything other than Social Security obligations.

I am afraid this sounds like selective enforcement.

It is ironic that the House Republicans would be so concerned about the Social Security trust fund that they would tie Secretary of the Treasury Rubin's hands to preclude him from even borrowing from the trust fund, but at the same time the Senate Republicans seem quite willing to raid the Social Security trust fund to finance additional Medicaid allocations.

We cannot have it both ways. If the reduction in the cost of living is not a real cut in spending but merely reflecting reality, then it does not represent savings and should not qualify to offset real new Medicaid spending. If, however, the reduction in the cost of living is real, then it constitutes a diversion of funds from the Social Security trust fund.

Either conclusion justifies jettisoning this midnight amendment that changed the Medicaid funding formula, rewarding the States that abused the disproportionate share hospital program.

Mr. President, I conclude by saying we should look instead for an alternative allocation solution, and I will present that alternative solution tomorrow and urge careful consideration of a better way to achieve our goal of fiscal responsibility and fairness.

Thank you, Mr. President.

EXHIBIT 1

[From the Washington Post, Nov. 7, 1995]

MEDICAID'S SAFETY NET FOR CHILDREN COULD BE IMPERILED, REPORTS WARN

CHANGES MAY CUT COVERAGE TO SOME IF PARENTS LOSE PRIVATE INSURANCE

(By Spencer Rich)

For years Medicaid has picked up the slack when children lost health insurance based on changes in their parents' employment situation, but that safety net could be weakened substantially by Medicaid changes moving rapidly through Congress, according to today's Journal of the American Medical Association.

The result could be highly damaging to the health of children and also could eventually increase health costs per child, according to articles in the association journal.

''From 1992 to 1993 an estimated 3 million children lost private health insurance'' as people lost jobs or employers stopped providing health insurance, Paul Newacheck of the University of California and five co-authors said in one journal article.

But until now, increases in Medicaid coverage, resulting from past legislation that broadened eligibility and from more people sinking into poverty and becoming eligible, ''largely offset the changes that occurred in private health insurance coverage,'' the authors said.

Statistics developed by the Urban Institute for the Kaiser Commission on Medicaid support this assertion. In 1988, 66 percent of all children under age 18 had health insurance based on the employment of a family member, and 16 percent were covered by Medicaid. But in 1994, the share with employer-based insurance had dropped to 59 percent and the Medicaid percent had jumped to 26 percent.

However, now that situation is about to end as Republican-sponsored Medicaid changes already approved by both chambers of Congress in different form impose a ''cap'' that would cut the growth of program spending from about 10 percent a year to 4 percent, and give states far more latitude than now in deciding whom to cover, Newacheck and his co-authors said.

''If federal spending is capped as proposed,'' they said, ''states, at a minimum, will have to reduce the scope of their existing Medicaid program'' and will be unable to keep

picking up children who have lost employer-based coverage.

Passage of the Medicaid proposals, said physician Stephen Berman in an editorial, would ''reduce the capacity of the public sector to absorb the increasing number of children losing private insurance [and] would swell the number of uninsured children.'' The impact of gaps in health insurance for children was sketched out in a third journal article, written by Michael D. Kogan of the Centers for Disease Control and Prevention and six others.

The article did not address the current legislative proposals but reported on a nationally representative sample of 8,129 children whose mothers were interviewed in 1991 when the children were about 3 years old.

Based on the survey, the article said, ''About one-quarter of U.S. children (22.6 percent) were without health insurance for at least one month during their first three years of life. Over half of these children had a health insurance gap of more than six months.''

About 40 percent of the children, estimated conservatively, did not receive care continuously at a single site—for example, the office of a family doctor—and breaks in insurance coverage are often the cause of sporadic medical care at this critical stage of physical development.

''Children are in particular need of primary care providers who can track developmental milestones, assure the maintenance of immunization and other health maintenance schedules, monitor abnormal conditions and serve as the first contact of care,'' wrote Kogan and his co-authors, especially in finding and treating ''emerging disabilities, chronic illnesses or birth defects'' and in providing preventive care.

''A schedule of routine primary care is much easier and usually more cost-effective when these activities are carried out in an organized manner over time with successive office visits at the same site,'' they said.

Berman said, ''Having a regular source of care has been shown to reduce child expenditures by 21.7 percent compared with not having a regular source of care.''

EXHIBIT 2

[From the Washington Post, Nov. 6, 1995]

MEDIPORK

When the current Congress set out on the path of turning the major programs for the poor into block grants, Sen. Daniel P. Moynihan (D-N.Y.) issued an interesting warning. Once Washington gives up on making policy and instead just ships off billions and billions to state governments, he said, politics will turn away from substance and instead become one big formula fight as states and regions battle over who will get the biggest pots of cash.

His prediction has become fact, as a report in The Post by Judith Havermann and Helen Dewar documented last week. In the scramble to pass their budget, Republican leaders in the Senate found they had to pass around billions of extra dollars in Medicaid payments to states to buy the votes of—pardon us, we mean secure the support of—Republican senators. It seems that many senators are worried about the impact of the Medicaid proposal on their state budgets.

They should be. The pressure this budget puts on the program that serves the poor and many among the elderly and the disabled is simply too much. Facing potential rebellion, the leadership kept rejiggering the formula to please wavering senators. And given that the leadership knew it would have to find votes for its budget from Republican senators, guess what? The increases largely went to states represented by Republicans. The cuts were mostly reallocated to states with Democratic senators whose votes the leadership knew it couldn't win anyway.

Thus, an analysis by Sen. Bob Graham (D-Fla.) found that states with two Democratic senators lost a net of $3.6 billion in the Medicaid reshuffling; states with two Republican senators gained $11.2 billion. Texas alone (with two Republican senators) gained about $5 billion; California (represented by two Democrats) lost $4 billion.

Ginny Koops, a Senate Finance Committee aide, had it about right when she said: ''This formula will be redone again in conference and again and again. It is just incredibly difficult to come up with something that makes 5 states happy; somebody always complains.''

Ms. Koops' comment goes to the heart of what's wrong with his whole Medicaid approach: Of course many will keep complaining about the formulas of a so-called reform that dumps upon the states the responsibilities of running Medicaid and then asks them do do that job with huge cuts in the rate of expected growth in the program.

Medicaid costs do need to be contained; the Republicans are right about that part. But this budget's approach to Medicaid will not only keep producing comical mathematical games; it will also cause real harm to the states and to the medical care of many among the most vulnerable Americans.

GREAT FALLS CHURCH DESECRATION

Mr. BAUCUS. Mr. President, last weekend, somebody in Great Falls, MT, spray painted satanic icons and racist slogans on the walls of the Mount Olive Christian Fellowship. The congregation of Mount Olive is mostly African-American, and they were the direct target of this perverted mind. But this attack really was on the whole community, and I am very proud to say that the whole community responded.

I congratulate and thank all of the 200 citizens of Great Falls, MT, who came to the church on Monday to show their support for the Reverend Phillip Caldwell. Members of the congregation, city manager Lawton, our State Representative Deb Kottel, and many others turned out. I am proud of them, and like the vast majority of Montanans, I am with them in our State's fight against hate groups. On my next visit to Montana, I hope to attend services at Mount Olive.

The desecration of Mount Olive is a sickening event and one which shows that as a State and a country, we still have a long way to go in our fight against hate. But its aftermath also shows us something else. Many Americans are concerned, and rightly so, about a decline of civic spirit, a growing indifference to our neighbors, and a general loss of moral values in our country.

However, the rally this Monday showed us that our courage, our willingness to meet our responsibilities as citizens, and our basic decency are stronger than the pessimists admit.

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

MIKE WALLACE CAN DISH IT OUT BUT NOT TAKE IT

Mr. GORTON. Mr. President, for 27 years, Mike Wallace has been a hard-hitting, pull-no-punches investigative journalist primarily on ''60 Minutes.'' Relentless in pursuing a story, there are few tactics he will not employ—bullying, insults, confrontation, ambush journalism.

That is fine, because however you feel about Mr. Wallace, he works in America, and here in America the first amendment secures our right to free speech. We Americans can say or write just about anything we like, and, no matter how offensive it may be, how distasteful, repugnant, however uncomfortable it may be to others, we have the right to express our views. Mike Wallace has the inestimable privilege of expressing those views on network television to tens of millions of people.

I had been under the impression that, given his profession and his unorthodox modus operandi, Mr. Wallace was a first amendment advocate, but in today's Washington Post we find evidence that suggests the venerable Mr. Wallace has a peculiarly narrow devotion to free speech.

Yesterday, Marlin Fitzwater, a longtime spokesman for Presidents Reagan and Bush, was waiting to appear on the cable television show ''Politically Incorrect.'' Mr. Fitzwater has just published his memoirs of his time in the White House, and in that book he offers some mild criticism of both ''60 Minutes,'' calling it ''liberal'' and always framed in terms of ''good versus evil,'' and of Mr. Wallace himself. I quote:

> As a small boy . . . I would watch Mike Wallace . . . as he insulted his talk show guests, drove women to cry and performed his pioneering version of talk show extremism.

Mr. Fitzwater's book also mentions Mr. Wallace's son, ABC reporter Chris Wallace, criticizing the younger Wallace for his privileged background.

All this is prefatory to the main event. The studio in which the cable show ''Politically Incorrect'' is taped is located in the CBS building in New York. While Mr. Fitzwater was waiting to go on the air, Mr. Wallace called Mr. Fitzwater in the studio and began shouting at him and then swearing at him over his book. A few minutes later, the Post reports, Mr. Wallace stormed into the studio and continued with the shouting and swearing and obscenities. Mr. Fitzwater, wisely, I believe, and astounded, left the studio posthaste.

Now, as they say, Mr. President, what is the deal? What is going on? The Lexis-Nexis system would blow a fuse if you tried to reach all the times Mr. Wallace criticized others on the air. After all the years that he has been in this peculiarly tough field of journalism, you would think he would be accustomed to criticism. A few years ago, for example, ''60 Minutes'' ran a program on the pesticide Alar and helped

destroy the living of a significant number of Washington State apple growers without justification.

I see no evidence that that bothered Mr. Wallace in the least. But now he throws a temper tantrum over a mere slight. Indeed, Mr. President, after all the hard-hitting pieces Mr. Wallace has run on people, institutions, and even whole governments, one is amazed at his vitriol and verbal attacks on Marlin Fitzwater.

Perhaps, Mr. President, Mr. Wallace's support for the first amendment is a single-edged sword. He can use it, but it cannot be used against him. Perhaps Mr. Fitzwater's criticisms struck a raw nerve. Either way, one fact is certain. Mike Wallace can dish it out, but he cannot take it. Shameful, Mr. President, but funny at the same time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CHANGE OF VOTE

Mr. FAIRCLOTH. Mr. President, on the rollcall vote number 563, I voted aye, and it was my intention to vote no. Therefore, I ask unanimous consent that I be permitted to change my vote, and this will in no way change the outcome of the vote. It has been cleared with the leadership of both parties.

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

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

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

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

TRIBUTE TO BLUEFIELD STATE COLLEGE

Mr. BYRD. Mr. President, a century ago, a college was opened in the city of Bluefield, West Virginia. For the past 100 years, Bluefield State College and its antecedents have performed an outstanding service in providing a reasonably priced and quality education for thousands of students from Southern West Virginia, Southwestern Virginia, and other States throughout our country as well as many foreign nations. Today, I join the alumni, students, the faculty, parents, and admirers of Bluefield State in hailing its 100th anniversary as a premier institution of higher education—an institution oriented toward, and dedicated to, the preparation of men and women of widely separated age groups for quality careers in health care, education, business, and other important occupations.

Following its inception a century ago, Bluefield State College quickly gained acclaim as one of the country's outstanding traditionally black colleges. Bluefield State has built upon its early strengths and has become a major center of practical education in Southern West Virginia and Southwestern Virginia. The college is a fully accredited coeducational institution offering a variety of programs at the associate and baccalaureate degree levels and provides ready educational opportunities to people impacted by the declining coalfields.

Bluefield State College attracts students from a broad segment of the population and helps make the American Dream real for many of them. This institution attracts large numbers of adult students with its extensive evening program, and it provides reasonably priced education with quality standards and quality outcomes, with an emphasis on preparing its students for a solid future.

Created to provide better educational services for black Americans in the area, the college later expanded its regional influence by enhancing its curriculum to provide formal teacher training. In the ensuing years, to keep up with the ever-changing job market, new academic areas such as engineering technology, computer science, business administration, and health science were added to the curriculum.

I particularly salute Dr. Robert Moore for the outstanding leadership that he has provided to this educational institution in my home State, and I congratulate the faculty and staff of Bluefield State for the professional and caring fashion in which they teach and guide their students. In those areas served by graduates of Bluefield State College, the reputation of the graduates of this school is one of growing admiration and esteem—hallmarks of the well-grounded and pragmatic performances being rendered by the alumni of Bluefield State College.

Too often, unfortunately, colleges and universities set themselves above the needs of the communities and the students whom they were instituted to serve. The growing favor that is developing for Bluefield State College throughout its service area is an indication that Bluefield State has not fallen into the trap of academic pride. Rather, Bluefield State has dedicated itself to preparing industrious men and women to play productive and profitable roles in whatever walks of American life they enter, and to contribute patriotically and unselfishly to the upbuilding, both economically and morally, of the cities, towns, counties, and States in which those graduates find themselves.

Again, Mr. President, I congratulate Bluefield State College, Bluefield, WV, as it celebrates its centennial year, and I know that I speak for citizens throughout Southern West Virginia and Southwestern Virginia in expressing my admiration for this institution of higher education and my appreciation for all that it has come to mean to the people of the Southern Appalachian Highlands. Since its founding in 1895, this fine institution has flourished, and I hope that the next 100 years will prove to be as prosperous and as beneficial.

Mr. ROCKEFELLER. Mr. President, I rise with Senator BYRD today to recognize Bluefield State College as it celebrates its centennial.

Since its founding in 1895, Bluefield State College has been committed to providing quality education in southern West Virginia. These many years are a heroic story of hard-won and remarkable achievement, truly an inspiring legacy.

Founded to improve education for African-American students in the region, the college began as the Bluefield Colored Institute [BCI]. It served the segregated schools of turn-of-the-century coal camps. Through the dedication of local citizens and its first president, Hamilton Hatter, BCI flourished, even operating for 2 years without State funds.

As time went on, the school established formal teacher instructions. By 1954, Bluefield became an integrated school serving all students in southern West Virginia.

Over the years, the school has worked to strengthen the institution and to expand its curricula to serve the changing needs of its students. Recent efforts include expanding Bluefield State College's degree program into areas including engineering technology, computer science, business administration, and the health sciences. These new fields of studies are designed to prepare the students of today for the challenges of the 21st century.

Mr. President, as Bluefield State College celebrates its centennial, Senator BYRD and I think it is fitting to praise its dedicated faculty and staff, including current President Robert Moore, for their educational vision and creative spirit.

Bluefield State College, proud of its strong past, stands ready to meet the changing needs of an expanding and dynamic region of the State. It has done an exemplary job of offering educational opportunities to many students in southern West Virginia. We join every West Virginian in congratulating Bluefield State College for 100 years of dedicated education and community leadership. We wish it continued success for the next century. This fine institution has made all of us very proud.

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

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

The bill clerk proceeded to call the roll.

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

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

TRIBUTE TO YITZHAK RABIN

Mr. LAUTENBERG. Mr. President, before the events of the last few days fade from memory, and the recollection of the assassination of Prime Minister Yitzhak Rabin gets obscured by other events in the world, I want to take this opportunity to reflect somewhat on my visit there during the funeral and just to discuss, for a moment, my view of this man, this great man, someone I knew very well for a period of more than 25 years.

Mr. President, the world now knows so well that the Israeli people have lost a courageous, visionary leader, and the world has lost a peacemaker. As Prime Minister Yitzhak Rabin was laid to rest on Monday in the holy city of his birth, Jerusalem, millions witnessed the funeral and grieved at the loss. His brutal assassination represents the worst of so many tragedies in Israel's recent history. It demonstrated too vividly the depths to which intolerance can drag the human spirit. The people of Israel are in shock, stunned and saddened by the senseless, cold-blooded murder of their unique leader, soldier turned peacemaker.

Many felt the pain of the bullet that took away their Prime Minister, and that the assassin tore asunder at the same moment the spirit and the soul of Israel. The residents of the community, and those that know the Jewish people, cannot comprehend how one Jew could kill another in the name of God, when all, at times, have been victims.

I, along with millions of Americans, share their grief and sense of loss. At this delicate time in Israel's history, the United States Government must remain unequivocal in showing its strong support for the Government of Israel and in its leader, acting Prime Minister Peres, as the head of the Government. He has the credentials to ably lead the people of Israel in the tumultuous days ahead. The United States commitment to Israel will remain strong. It cannot be shattered by an assassin's bullet.

Mr. President, during the decades in which Yitzhak Rabin faithfully served his government, the American people observed, with great admiration, his evolution from soldier to statesman to politician to peacemaker. Always, he had our respect as an outstanding leader.

Yitzhak Rabin was a man of great courage and determination. His concern, to his last moments, was for the security of the people of Israel and the attainment of peace. Though his life was cut short by the bullet of an intolerant, self-righteous assassin, his legacy of peace will live on with his countrymen in future generations of Israeli citizens. In his memory, I believe that the peace process will continue to move forward at, perhaps, an even faster pace. Because the Jewish extremists took up arms against the peace process, Israel must not be dissuaded from pursuing and strengthening regional peace. To abandon the process now would give succor to the extremists and terrorists of all religious persuasion.

Because Rabin was a man of such character and courage and so deeply committed to peace, dignitaries and government officials from 80 different nations came to his funeral in Israel to pay him their last respects. Five thousand guests were invited from all around the world. President Clinton and former Presidents Bush and Carter attended the funeral, along with Secretary of State Christopher and former Secretaries Vance and Shultz. Thirty-five Members of Congress attended.

Heads of State, Cabinet Ministers, and government officials from the international community traveled to Jerusalem to mourn the loss of this great leader, many of whom did not really know him but knew about him, read about him, heard about him, and saw his commitment—unyielding commitment—to his people to show support for continuation of the peace process.

The global gathering at his funeral was testament to the fact that under Rabin's leadership Israel had been welcomed into the international family of nations as never before. Nowhere was his accomplishment in ushering in a new era of acceptance for his country more evident than in the reputation from Middle Eastern countries.

Never in their wildest dreams could people imagine that Jordan's King Hussein would stand in Jerusalem, the city where his grandfather was assassinated—which he mentioned in his comments—in 1951 by Islamic militants, people in his own religion, his own communities, the city that was reunified by Israel in 1967. He came to say farewell to his former foe, Yitzhak Rabin calling him a brother—a brother, a colleague, and a friend. I saw him wiping tears from his eyes.

Never did I imagine that the Egyptian President, Hosni Mubarak, who had traveled to Jerusalem to pay Prime Minister Rabin his last respects—even dignitaries from countries like Oman and Qatar, which have no diplomatic relations with Israel, came, beyond their formalities, to cross the border to say farewell to this visionary leader.

I, too, Mr. President, was at the funeral on Mt. Herzl where so many of Israel's military and spiritual leaders are buried. As the siren sounded throughout the country announcing a 2-minute period of silence and mourning for his death, I recalled many of the heroic moments of Yitzhak Rabin's life.

I saw the flag of Israel draped over his coffin and envisioned Soldier Rabin leading the fight to keep the supply link between Jerusalem and the sea in the war of independence. We traveled that road from the airport to Jerusalem where along the roadbed still were the hulk of trucks and tanks and weapons that are left there as a reminder of what the price was that was paid to keep that road open and to create the independent State of Israel.

I remembered reading about his exploits and how heroic this very young man at the time was. He was a brigade commander still in his early twenties.

I envisioned Army Chief of Staff Rabin strategizing to recapture the city of Jerusalem and claim victory in the 6-day war of 1967. I recall the Ambassador to the United States Yitzhak Rabin arguing for a strong United States-Israel relationship from his Embassy office in Washington. I could almost sense Minister of Defense, twice Prime Minister, Rabin's steely determination in defending the security of the people that he loved so dearly, the people of Israel.

Mostly, however, I recalled the day that Prime Minister Rabin did the inconceivable and made peace with enemies. I recalled sitting on the lawn of the White House and how still the world was as he shook hands with Chairman Arafat after signing the Declaration of Principles, then the day that he and King Hussein of Jordan did the same, in the same location, after making peace.

Those are handshakes of courage and of bravery, of hope for attaining, at long last, safety and security through peace as opposed to security with weapons.

History will say that Yitzhak Rabin, who fought in so many of Israel's wars, gave his life for peace, a task to which he devoted himself completely. It is appropriate, therefore, that his last words were of peace.

I was a military man for 27 years. I waged war as long as there was no chance for peace. I believe there is now a chance for peace, a great chance, and we must take advantage of it for those who are standing here, and for those who are not here—and they are many. I have always believed that the majority of the people want peace and are ready to take a chance for peace. Violence erodes the basis of Israeli democracy. It should be condemned and wisely expunged and isolated. It is not the way of the State of Israel. There is democracy. There can be disputes but the outcome will be settled by democratic elections.

He said in his remarks, ''Peace is not only in prayers * * * but it is in the desire of the Jewish people. This rally,'' as he addressed the group, ''must broadcast to the Israeli public, to the world Jewish public and many in the Western and outside world, that the people of Israel want peace, support peace.''

It is my profound hope that the people of Israel will strive to heal the wound and the national spirit that Yitzhak Rabin's assassination has caused and that they will be able to move forward as a unified nation, continuing in the quest for peace.

That would be Prime Minister Rabin's greatest legacy and most fitting tribute. It is something that the United States and all the nations of the world must strongly support.

As I said, I was there to say goodbye to this man who was an old friend, someone who commanded the respect

and affection of millions who did not know him but respected his commitment, respected the fact that he was willing to take the risks that he took, risking his own life.

The most disappointing moments of his days, he told me 2½ weeks ago in New York City, was when people from his own faith, some of them religious leaders, reportedly religious leaders, said he should be a target for assassination because he was giving away too much of his country. This man who fought to create the state, this man who gave his life unflinchingly to the well-being of his people, criticized, called traitor, depicted in Nazi uniforms, outrageously berated in his quest to secure the safety and well-being of the State of Israel and its people.

The messages that came from people who spoke at the funeral, from our President, President Clinton, who said that he was a man chosen by God. King Hussein, who I mentioned, saluted him, his memory as a pro, and compared the assassination of his grandfather to the assassination of Yitzhak Rabin. He was standing there, wearing traditional dress, a headdress common to the Arab world, proud of his heritage, but willing to recognize that this leader of the Jewish people was someone whom had respected and wanted to acknowledge as a friend.

President Mubarak, President of the first Arab nation to make peace with Israel, he was there in his first visit ever to the country. And other leaders who spoke—the President of the European Union, the Prime Minister of Russia, and then, finally, his family.

I think the world listened very attentively as his 17-year-old granddaughter spoke about her grandfather and declared him as a light unto nations. It is almost a Biblical intonation. She said her grandfather's life would continue to light the way for peace, but the light that he gave her was extinguished, that she would no longer see the light nor bask in his glow of love and affection. Elegant, elegant words for a 17-year-old, but expressing what so many failed to see because they did not have the personal contact. But they were reminded that included in the greatness of this individual was a very significant human side.

One of his senior, most dedicated staff members stood, a man named Eitan Haber, who wrote some of Prime Minister Rabin's speeches. I kind of joked with him at a few meetings, because I said I wished that I could find such a speech writer. And he reminded me that the speech writing was the least significant part of a great speech. It took a great speech deliverer to make a memorable talk.

Through his tears, through Mr. Haber's tears as he stood in front of the thousands gathered there and the millions watching across the world, he took out a piece of paper that the prime minister had in his pocket. As Shimon Peres, now the Acting Prime Minister, said, it was the first time in all the years of public service that Yitzhak Rabin had ever, ever agreed to sing in public, and he joined in a chorus in this rally of more than 100,000 people, singing a song of peace that was written to be sung by those gathered there and throughout the country. And he sang the song.

This was a man who was not comfortable making speeches or in large public gatherings. Even though the greatness that he had internally shown through, you could see, when he was with the President or on public platforms, he was always ill-at-ease, always moving around, his body language indicating some insecurity.

He sang the song, the first time and last time that he ever sang a song in public. And Mr. Haber, the speech writer, read from that song at the funeral ceremony when he took out this blood-spattered song. Because the bullet hit close to where the song was stored in Prime Minister Rabin's breast pocket.

What an anomaly, this man singing for the first time in public, for peace, putting the song, the music for the song in his pocket, and then struck down by a bullet. There is something in the coincidence of those movements that perhaps none of us will ever quite understand, but it certainly is a symbol that will always be remembered.

This was quite a week in the history of Israel, the history of democracy, the history of man. Lessons were taught in a short burst of gunfire that must caution us that extremes in language, in gesture, in tone, can turn into much more menacing things. Civility has to come back to our people, to people across the world, to democratic nations.

Mr. President, we see it in the Congress of the United States, where anger and rage takes over discussion. It has an effect that pervades our society. We should not let it happen and this tragic incident should remind us all that we have to control our speech, our relationships, our view, if our mission is to make peace. One does not have to be in a formal war to want to make peace.

So, we say goodbye with heavy hearts to this great man who proved by his own existence, his own experience, that making war could not save lives, it could not have people living in peace together, but a serious effort at shaking hands across a sea of differences could make the difference.

When I saw Chairman Arafat in his traditional dress that I had come to despise over the years—he wore a gun on his hip when he went to the United Nations—I could not forgive him for their terrorist activities. But I forgave him when he came here and shook hands. That was the moment that he earned my respect.

So, from that place where it all began in the Middle East, in those holy sites, perhaps the time has come when we will be, once again, able to make peace with one another. That is the proper place. This is the proper time.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

DIRECT LENDING PROGRAM

Mr. SIMON. Mr. President, it so happens that today is the 30th anniversary of the signing of the Higher Education Act of 1965 by President Lyndon Johnson. Everyone knows it was a great step forward.

Today, according to press reports, the conferees on reconciliation agreed that they would cut back on assistance to higher education and direct lending, which is now used by more than 1,300 colleges and universities in this Nation, including some colleges and universities in Oklahoma, every one of whom wants to keep the system.

There is not a college or university that is using direct lending that wants to shift back into the old system. Let me just say, the new system reduces paperwork, makes it much easier for students and colleges and universities, and the new system is good for taxpayers. The old system has all kinds of paperwork. The old system says, ''If you have a student loan, you have to pay back x number of dollars whether you're employed or unemployed.''

The new system permits a student to have an income-contingent loan, so that if a student wants to become a teacher and not earn so much, then the student could pay back a smaller percentage or a smaller sum; while if a student became a lawyer, or a stockbroker, maybe earning quite a bit of money, that student would pay back a larger sum. If a student was unemployed, while that student was unemployed, you would not pay back anything.

What happened in conference is they have agreed to cut back from 40 percent assistance, 40 percent of the schools, which is the cap now, down to 10 percent.

Now, I do not know who is going to tell those students in Oklahoma which three out of four of them are going to be out of the direct loan program. I am glad I am not going to have to make that decision. And I am pleased that the President, I think, is going to veto this.

Who benefits by cutting it back to 10 percent, giving a 90 percent monopoly to the banks and to the guaranty agencies? The banks and the guaranty agencies do. The guaranty agencies, incidentally, were created by us. These are not free enterprise operations. The guaranty agencies have the Federal Government guarantee. The one in Indianapolis, for example, the chief executive officer of the guaranty agency in

Indianapolis is paid $627,000 a year. We pay the President of the United States $200,000 a year. And they are spending $750,000 to lobby against us.

It is very interesting, Mr. President, my chief cosponsor on direct lending was the distinguished Republican Senator from Minnesota, Senator David Durenberger. And Senator Durenberger said in response, when he was asked about this, ''Shouldn't we let the free enterprise system work?''—that is what I want; I want to see competition; I want to see the schools in Oklahoma and Illinois and every other State have a choice between the old system and the new system and have competition—but Senator David Durenberger said, ''This is not the free market. It is a free lunch.''

It is not competition. We say in the law, banks get the Treasury rate plus 3.1 percent. We write into the law what their profits are, and they do not want to give it up.

Now, if we want to have a banking assistance act, let us call it that. But if we want to have a student assistance act, then let us try and see what we can do to help the students.

I hear all kinds of speeches about paperwork on both sides of the aisle. Here is a program that cuts down dramatically on paperwork, and we are going to put it back in. I just do not think it makes sense.

There is an article in Rolling Stone. I confess, I am not a regular reader of Rolling Stone, Mr. President, but here is an article on this. I ask unanimous consent to have this article printed in the RECORD.

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

[From the Rolling Stone, Oct. 19, 1995]

STUDENT LOANS—THE PRICE OF POLITICS

(By David Samuels)

It was a nightmare,'' says Karen Fooks, director of financial aid at the University of Florida, recalling the bad old days of guaranteed student loans. ''We have about 35,000 students, who come from all over the country, and so every time a student came in to find out what was going on with his loan, it became a game of hide-and-seek: Was it a student problem, a bank problem, a guarantee-agency problem? Nobody knew,'' With 8,000 banks making loans and 38 guarantee agencies backing the loans with support from the government, Fooks' confusion is understandable. ''At the beginning of the year,'' says Susan O'Flaherty, acting director of financial aid at the University of Colorado at Boulder, ''we ran a phone bank with six or seven full-time people. And 70 to 80 percent of the calls that came in had something to do with student loans.''

Vanishing checks and bureaucratic red tape, however, are only bad memories now at Florida, CU-Boulder and more than 100 other schools nationwide, where last year the federal direct-lending program replaced multiple applications, banks and guarantors with a single application and a single lender: the federal government. This fall, direct lending is debuting on an additional 1,400 campuses nationwide and will cover close to 40 percent of all student loans. What should students expect from the new direct-loan system? ''We can answer students' questions,'' O'Flaherty says. ''And our counseling staff was like 'Wow! We're not spending all our time chasing paper. We're actually talking to students.''' Karen Fooks is more enthusiastic still. ''Students understand it; we understand it; the money comes in faster,'' she says. ''We think we died and went to heaven.'' Students have even more reason to like direct lending: They can pay back their loans over 25 years as a percentage of income—between 3 percent and 15 percent, depending on their salary and number of children.

If direct lending is a success on campus, however, a very different story is now unfolding in Washington, where Congressional Republicans are threatening this fall to use the budget-reconciliation process to kill what one Colorado State University student called ''the best thing since microwaveable brownies.'' What is odd here is that direct lending is as much the brainchild of Republicans as of Democrats: Direct lending was proposed—and a pilot program implemented—by George Bush's Department of Education; Rep. Tom Petri, R–Wis., has long been direct lending's leading advocate in the House. With the Republican Congress having promised to balance the federal budget, direct lending should be more appealing than ever: Slashing federal subsidies to banks and guarantors will save taxpayers as much as $12 billion during the next five years.

Why are Republicans turning against a program they sponsored? One explanation may be what Sen. Paul Simon calls ''pure commercial politics'': What students and taxpayers gain under direct lending, banks and guarantee agencies will lose. Short of high-interest credit cards, guaranteed student loans are the most profitable loans a bank can make, miles ahead of auto loans and home mortgages. The ''guarantee'' in every guaranteed student loan means that it is impossible for the banks to lose money: 98 to 100 percent of every loan is guaranteed by the government, along with a built-in profit of 3.1 percent above the prime lending rate, plus fees and bonuses. The subsidies paid out to guarantee agencies alone—including the interest on $1.8 billion in taxpayer funds they control, a bonus of 27 percent of every defaulted loan on which they collect and borrowers' fees that can climb as high as $80 for every $1,000 in loans—add up to an annual $638 million tax-free gift from the federal government. ''This is not the free market,'' former Republican Sen. Dave Durenberger famously remarked of the guaranteed student loan, ''it's a free lunch.''

Students struggling to make ends meet on borrowed dollars will be interested to learn how the guarantee agencies divide their share of the student-loan pie. Assistant Inspector General Steven McNamara, a nonpartisan Education Department employee, has conducted audits of guarantee agencies under presidents Reagan, Bush and Clinton. ''We looked at 12 guarantee agencies, which accounted for 68 percent of new-loan volume,'' McNamara says, citing the inspector general's recent report on the seamier side of the student-loan business. ''Nine of the 12 were affiliated with organizations that they were required by law to monitor, and our conclusion was that these potential conflicts of interest placed about $11 billion in student-loan funds at risk.''

State by state, the guarantee agencies' record of fraud, conflict of interest and other abuses demonstrates that they are as cavalier with taxpayer dollars year-round as they are with loan checks at the beginning of the semester:

In South Dakota, the directors of the Education Assistance Corp. used federal funds to purchase an office building from themselves for $150,000, while buying furs, artwork and cars for the enjoyment of the corporation staff. Board meetings and retreats were held in such educational locales as the Don CeSar resort, in Florida, and the Marriott Desert Springs resort, in California.

Indiana's USA Group built itself a palatial 30-acre headquarters, including a 450-seat employee cafeteria and a 150-seat theater—and paid its CEO, Roy Nicholson, $619,949 in 1993. Nicholson's salary is exceeded only by the amount USA plans to spend this year on lobbying Congress—$750,000, according to one published report.

In Massachusetts, officers of American Student Assistance set up a corporation that billed their own guarantee agency $540,000, a use of public-sector funds that—under current law—is legal.

The Texas Guaranteed Student Loan Corp. gave the Austin law firm of Ray, Wood & Fine a loan-collection contract worth $5 million. Subsequently, the firm contributed at least $10,000 to the reelection campaign of Lt. Gov. Bob Bullock, who sat on the Texas board. ''Buck Wood happens to be a good friend of mine,'' Bullock told the *Houston Chronicle*. ''I talk to him frequently about a lot of things.'' The inspector general's investigation found that Wood's law firm didn't bother to write the required semiannual collection letter to 104 out of 136 randomly selected students. Conflicts of interest at the Texas guaranteed-student-loan agency have reportedly cost taxpayers $178 million.

Pennsylvania's state guarantee agency has 2,000 employees—as many as are employed in the Department of Education's headquarters in Washington. Jobs at the agency are such political plums that President Jay Evans was offered a $1 million ''platinum parachute'' to retire so Gov. Robert Casey could put a top aide in the job. When Evans declined to retire, he was given a no-show job with the agency at a salary $20,000 higher than the governor's.

Inefficiency and outright fraud are so common under the guaranteed-student-loan system that even some Republicans have broken with their party's traditional support for corporate interests. According to Charles Kolb, assistant secretary for planning, budget and evaluation in the Bush Education Department, ''Conservatives in Congress are being terribly misled'' by loan-industry lobbyists anxious about preserving their profits. ''I'm a conservative Republican,'' Kolb says, ''and I'm a big believer in what Newt Gingrich has done. If what you're trying to do is reduce the role of the government, you ought to be in favor of eliminating the middlemen and all the red tape.'' Asked whether direct lending will replace private enterprise with hundreds of government bureaucrats, as some Republicans have charged, Kolb laughs. ''If socialized profits are private enterprise, then, yeah, maybe, sure.''

Rep. William Goodling of Pennsylvania, chairman of the Committee on Economic and Educational Opportunities, which will determine the fate of direct lending in the House, has his doubts. ''We have no idea whether the Education Department can be the biggest bank in the country,'' he says, ''and the biggest debt collector as well.'' Legislation that Goodling sponsored last term in the House would have limited direct lending to 40 percent of existing loans; he is now in favor of eliminating direct lending entirely, he says, because he believes it will save money, and because of the ''arrogance'' of the Education Department officials. ''I'm not the person who drove us to this point,'' Goodling says, sounding—in this moment, at least—less like a believer in the merits of the old guaranteed student loan than like a man whose toes have been stepped on once too often. ''It was their president who said to us, bluntly, 'You go jump in a lake. We're

doing this in two years no matter what happens.''

The fate of direct lending in Congress this fall may have more to do with partisan politics than with the merits of either the old guaranteed student loans or the new direct loans. What Bill Goodling objects to the most, it seems, is what he describes as a White House ploy to turn direct lending into ''the cornerstone of this president's term in office.'' He points to the multimillion-dollar Education Department publicity campaign—including television commercials, print ads and millions of individual letters to borrowers—trumpeting the merits of what it calls ''President Clinton's New Direct Student Loan Program.'' Are the Democrats playing politics with student loans, too? Secretary of Education Richard Riley defends the advertisements, noting that ''if the program was a failure, it would surely be President Clinton's program.''

With both Democrats and Republicans intent on turning direct loans into a political football, students may find themselves facedown in the dust. Which is a shame, because, as Richard Riley puts it, ''borrowing is easier and faster, and students I talk to are almost elated about the difference. And it's clearly a savings for taxpayers.'' The banks and guarantee agencies that disagree with Riley are already having their say in Congress; students, so far, have been silent.

Mr. SIMON. Mr. President, it says:

State by State, the guarantee agencies' record of fraud, conflict of interest and other abuses demonstrates that they are as cavalier with taxpayer dollars year-round as they are with loan checks at the beginning of the semester.

Another quotation:

The fate of direct lending in Congress this fall may have more to do with partisan politics than with the merits of either the old guaranteed student loans or the new direct loans.

It should not be political. One of the things—and I am sure the Senator from Oklahoma, who is presiding, has heard me say this before—one of the things that is bad about Congress, worse than when I came to Congress 21 years ago, is the increasing partisanship on both sides. Both parties are to blame. But this is an issue that should not be partisan. It was originally conceived of by Congressman Tom Petri of Wisconsin, a Republican. I took the idea from him and introduced it in the U.S. Senate.

It is interesting, the ''BOND Buyer,'' a publication also I do not read regularly, I have to say, Mr. President, talking about this new agreement of a 10-percent limit, says:

This is an important step in the right direction for State guarantee agencies.

I want to take an important step for students, for colleges and universities.

It also points out that these agencies have tax-exempt bonds for those who are interested in the tax-exempt bond market. One of the pluses of direct loans is, frankly, they do not use tax-exempt bonds, so the Federal Treasury gets additional income, one of the things that is not calculated in this skewed calculation we make.

This is one program the President of the United States really understands. He came to my office when he was a candidate, and we talked about this. He gave a speech at Georgetown University about direct lending and how we have to simplify loans and reduce the paperwork and do a better job for the students of the United States. He spoke about it frequently on the campaign trail. He was down in Carbondale, IL, which is near my home, just a few weeks ago at Southern Illinois University and spoke about the program. He has spoken about it at Rutgers and elsewhere.

I hope when we get past the Presidential veto; that we sit down and ask ourselves, No. 1, what is best for the students; No. 2, what is best for the colleges and universities; and No. 3, what is best for the taxpayers. I think if we ask those three simple questions, then I hope we will come to the conclusion the best way is to give people the option: If you want to go with the old program, you can go with the old program. If you want to go with the new program, you can go with the new program. But to say to the schools in Oklahoma and Illinois, three-fourths of you who like the new Direct Loan Program, three-fourths of you are going to have to get rid of that program, I do not think we should do that. Talk about unfunded mandates. They not only reduce paperwork, they reduce the work of personnel in colleges and universities. That is what we ought to be about.

So, Mr. President, I hope we do the right thing after we get through this first phase of reconciliation that is going nowhere, and then sit down and work together and come up with what is sensible for the students, for the future of our country.

It is interesting that some years back, prior to your being here or my being here, Mr. President, right after World War II, there was a big debate among veterans organizations. The American Legion wanted to have an education program, and the other veterans groups wanted to have a cash bonus. Fortunately, the American Legion won out, and we had the GI bill, which has been a huge plus for the country. If we had had the cash bonus, it would have been frittered away, and we would have gotten nothing out of it.

We kind of face the same thing now. Do we cut back on assistance to students, or do we have this tax cut? The tax cut is $345 billion, and the cutback on students is only $10 billion. We can have both, but I do not think you build a better, finer America by cutting back on educational opportunities.

THE 30TH ANNIVERSARY OF THE HIGHER EDUCATION ACT—AN UNHAPPY BIRTHDAY

Mr. KENNEDY. Mr. President, 30 years ago today President Johnson signed into law the Higher Education Act of 1965. I served on the committee that approved the bill, and it passed the Senate by voice vote, without opposition.

When he signed the bill at Southwest Texas State College, in San Marcos, TX, President Johnson noted that: ''The President's signature upon this legislation passed by Congress will swing open a new door for the young people of America. For them, and for this entire land of ours, it is the most important door that will ever open—the door to education.''

Yet today, for the first time in 30 years, we are in danger of closing that door. The Republican budget proposes the largest education cuts in the Nation's history—$36 billion over the 7-year budget period. This is an extraordinarily severe cutback that will harm schools and colleges, parents and children across the country.

Under the Republican plan, student loans for college will be cut by $4.9 billion. The remainder of the cuts will come from Pell grants, College Work Study, Head Start, Title One, Goals 2000, and other initiatives that Congress has passed with strong bipartisan support.

This is no time to cut education. When we passed the Higher Education Act, the post-war baby-boom students were entering college in record numbers. In the years ahead, the sons and daughters of that generation will be applying to colleges in record numbers—yet Congress will be slamming the door on them.

The Republican budget means that 1,000,000 students will lose the chance for Pell grants, or see them reduced in value by 40 percent. It will dismantle the direct loan program that has brought lower costs and better service to students and colleges. It will slash aid to public schools across the country. Cutting education as we enter the information age is like cutting defense at the height of the cold war. It is wrong, and it makes no sense.

For 30 years, we have honored the principle that education is the key that unlocks the American dream. On this anniversary, I urge Congress to recommit itself to that fundamental principle. There is still time to do the right thing for education in the current budget battle.

THE 30TH ANNIVERSARY OF THE HIGHER EDUCATION ACT

Mr. SARBANES. Mr. President, today marks the 30th anniversary of the enactment of the Higher Education Act of 1965 and I am pleased to take this opportunity to comment on what is, in my view, a truly landmark piece of legislation in this country.

Every nation puts a premium on education in order to develop the skills and talents of its people in order to succeed in a modern, complex economic society. That is true whether the country is governed as a democracy or a dictatorship or somewhere in between—each is concerned with enhancing the skills of its people in the workplace. Improving the skills of the American worker and providing education opportunities for all are goals which epitomize the spirit of what it

means to be an American. They are worthwhile, honorable goals that have always been a priority of this Senator.

The Higher Education Act, enacted in 1965 to provide disadvantaged students with greater educational opportunities, recognized the shared benefit of providing every American a chance to maximize his or her potential. As a result of the passage of this legislation, doors have been opened to millions of citizens who otherwise would not have had the access or the resources to obtain a higher education. Although the act has been amended over the years through the reauthorization process, the central purposes of the legislation has remained the same—to ensure access, choice and opportunity in higher education.

In light of the tremendous success of this legislation, I am disturbed by the draconian budget cuts being advanced by the current congressional leadership which would effectively undermine the directives of the Higher Education Act. It is particularly distressing when you realize that those who are now seeking to draw back from the American commitment to education through the cuts included in budget reconciliation are, at the same time, propounding the necessity for America to compete more successfully in the world's economy. In my view, they are asserting a basic contradiction. Our success as a competitor in the world's economy rests upon educating our future generations.

Republican budget proposals would dramatically decrease educational opportunity in order to finance tax cuts for the wealthy and to meet arbitrary deficit reduction targets. In my view, Republican budget proposals clearly renege on our historical commitment to improving access to higher education by placing an undue burden on students and their families over the next 7 years. It makes little sense to cut investments in programs which give people the skills to function in a modern, complex society. It makes even less sense to do so in a document which is repeatedly purported to be a budget for our Nation's future.

As you know, the Senate was successful in eliminating several of the more onerous provisions in the education portion of the budget reconciliation—including the .85 percent tax on colleges and universities on their Federal student loan volume, the 6-month post graduation interest-free grace period on student loans, and the interest increase on PLUS loans. However, I remain concerned about what will be contained in the final package.

I also regret that efforts to retain current law with respect to the Federal direct lending program were unsuccessful. The Republican budget plan severely curtails the Federal direct lending program by placing a 20 percent cap on loan volumes. The Department of Education estimates that by the close of the current academic year, direct lending will represent between 35–40 percent of this year's student loan volume. Should this provision become law, nearly half of the students involved in the direct loan program will have their financial aid disrupted, subjecting them to additional conversion fees and the tremendous anxiety involved in having your financial aid in question.

I have heard from students and educators from across Maryland who have expressed their deep concern about proposed modifications to the direct lending program. One of the first campuses to offer direct lending to its students is in my hometown of Salisbury. The president of Salisbury State University, as well as the chancellor of the University of Maryland System—which enrolls more than 130,000 students, strongly support the direct lending program as beneficial to both students and university administrators.

Mr. President, education in this country has always provided an essential ladder of opportunity for our people and the Higher Education Act has been and continues to be a critical rung in this ladder. In a nation which believes that a person's merit and talent should take them as far as they can go, we must continue to foster a path which allows them to maximize this potential. Many of us here today have benefited from this philosophy and have achieved certain levels of success as a direct result of the opportunities afforded by such principles. It is ironic, at best, that many of those who have utilized these opportunities to advance themselves are now trying to severely limit them for others through draconian budget measures.

As we commemorate the enactment of the Higher Education Act of 1965, it is important to understand that the value of programs authorized by this bill cannot be measured simply in terms of dollars spent. Without Federal support, millions of Americans would not have been able to attend college or receive the advanced training required to make them contributing, productive members of society. If this Nation is to continue to thrive in an ever-evolving global economy, we must not underestimate the value of the Federal Government's commitment to higher education. The celebration of the passage of this bill affords us the opportunity to reaffirm the Federal role in making certain that education remains a top national priority.

THE 30TH ANNIVERSARY OF THE HIGHER EDUCATION ACT

Mr. PELL. Mr. President, 30 years ago today, president Lyndon B. Johnson signed into law the Higher Education Act. We should not let this anniversary pass without recognizing the profound effect this act has had in opening the doors of higher education for millions of deserving Americans who otherwise would have found a college education beyond their financial reach.

I have said many times that education is a capital investment. No piece of Federal legislation is more compelling evidence of the benefit of that investment than is the Higher Education Act. Every study we know demonstrates that an individual's climb up the economic ladder is directly related to the amount of education he or she receives. Without question, the opportunities provided because of the higher Education Act and its reauthorizations over the past 30 years demonstrate not only the importance of this investment but also the gains we have made because of this act.

It is through the Higher Education Act that vital programs such as guaranteed student loans, aid to developing colleges, and educational opportunity grants have developed into the critical initiatives that they are today. It was within the context of this legislation that we developed the Pell grant program, which combined with the guaranteed loan program, has become far and away the largest source of aid for low- and middle-income students. Today, Federal student aid constitutes more than 75 percent of all aid available to students to pay for a college education.

Over the years, it is unquestionable that without Federal student aid, literally millions of American students would have been unable to attain a college degree and to pursue productive, meaningful careers that otherwise would have been beyond their reach.

I am honored to have been here when this act began, and to have strongly supported its establishment. Through my work on the Education Subcommittee, I am honored to have played a part in refining it over the years. And I am especially honored to be here today to acknowledge its very significant achievements.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, on that evening in 1972 when I first was elected to the Senate, I made a commitment to myself that I would never fail to see a young person, or a group of young people, who wanted to see me.

It has proved enormously beneficial to me because I have been inspired by the estimated 60,000 young people with whom I have visited during the nearly 23 years I have been in the Senate.

Most of them have been concerned that the total Federal debt which is about $15 billion shy of $5 trillion—which will be exceeded this year. Of course, Congress is responsible for creating this monstrosity for which the coming generations will have to pay.

The young people and I almost always discuss the fact that under the U.S. Constitution, no President can spend a dime of Federal money that has not first been authorized and appropriated by both the House and Senate of the United States.

That is why I began making these daily reports to the Senate on February 25, 1992. I wanted to make a matter of daily record the precise size of the Federal debt which as of yesterday, Tuesday, November 7, stood at $4,985,913,011,032.65 or $18,926.61 for every man, woman, and child in America on a per capita basis.

The increase in the national debt since my report yesterday—which identified the total Federal debt as of close of business on Monday, November 6, 1995—shows an increase of $1,175,550,073.33. That increase is equivalent to the amount of money needed by 174,311 students to pay their college tuitions for 4 years.

YITZHAK RABIN

Mr. FRIST. Mr. President, Israel and the world have lost one of the greatest leaders of our generation. As so many great men before him, Yitzhak Rabin lost his life at the hands of an assassin: an angry young man, a spoiler of peace, and a traitor to his people and all those who sought peace in that troubled region.

Yitzhak Rabin was first a military hero and, late in life, a soldier for the cause of peace. It is as this role as peacemaker that we Americans have come to know him best. He was the man who did what none would have thought possible by extending his hand to shake the hand of his long-time enemies, and to begin to deliver peace to his nation and to its neighbors.

It is the sad reality of a violent world that great men make many enemies and the peacemaker is the object of the hatred of those who do not believe in peace. However, this great leader has left a legacy for all to carry on and, someday, to reap the rewards. Yitzhak Rabin helped give his nation its first breath of life, and has led his nation toward a better future. He helped bring flowers to a desert usually covered in blood, and has given to future generations the gift of the prospect of peace in our time. Yitzhak Rabin will surely be missed by his countrymen and by Americans alike; his family, his country, and those who will carry on his legacy are in our thoughts and prayers.

TRIBUTE TO DOROTHY HUSTEAD

Mr. PRESSLER. Mr. President, today I pay tribute to Dorothy Hustead, the woman who helped put Wall Drug on maps all over the world. Dorothy, who recently passed away, was a charming and pleasant woman who inspired many people. Dorothy was a South Dakota legend in her own time. She took great pride in her work, her family, her community, and her faith. She was an example of the commonsense values that are typical of a true South Dakotan.

It was Dorothy Hustead who invented the famous ''free ice water'' slogan that helped transform a small, struggling drugstore in the geographical center of nowhere into one of South Dakota's top tourist attractions, drawing 15,000 to 20,000 people a day during the busy summer months. The Hustead Drugstore, better known simply as Wall Drug, officially opened on December 31, 1931. On a hot Sunday afternoon in July 1936, Dorothy came up with the idea to use highway signs to advertise free ice water—a scarce item in that decade. Today, 270 highway signs advertise the drugstore, including one strategically placed in my Senate office reception room. It reads, ''1,523 miles to Wall Drug''.

Even though the first 7 years of business were painfully hard, Dorothy was always optimistic. Success was inevitable with her enthusiasm and dedication. Mrs. Hustead once summed up her philosophy: ''I believe any person with patience, faith, humility, and courage can—by hard work, enthusiasm, and by following a plan—succeed.''

Born on August 29, 1904, Dorothy began her rich and fulfilling life in the town of Colman, SD. This small town upbringing and her strong family ties instilled in her a deep respect for traditional values. She graduated from Colman High School and attended the University of Nebraska at Lincoln, where she was a member of the Delta Delta Delta Sorority. It was there that she met her husband, Ted Hustead of Aurora, NE. Dorothy graduated from the University of Nebraska with a degree in English and taught English and drama at Cathedral High School in Sioux Falls, SD.

The young Husteads lived and worked in several South Dakota towns—Colman, Dell Rapids, Sioux Falls, Oldham, and Canova—before purchasing their small drugstore in Wall. Throughout the years, Dorothy worked steadfastly beside Ted as a full partner at Wall Drug, acting as one of the floor managers in charge of receipts. She was on the board of directors of Wall Drug Inc. until her recent death.

Dorothy was a member of the Society of Mayflower Descendants, the Wall Book Club—of which she was one of the founders—and St. Patrick's Catholic Church. She, along with Ted, received the first Ben Black Elk Award in 1979, for excellence in the travel industry. November 12, 1988, was proclaimed by South Dakota Gov. George Mickelson as ''Dorothy and Ted Hustead Day''.

Dorothy Hustead was a true friend to me and to thousands of other South Dakotans, as well as visitors to our State. I always will remember her fondly.

HENRI TERMEER WINS THE ADL TORCH OF LIBERTY AWARD

Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to congratulate Henri Termeer on receiving the Torch of Liberty Award from the Anti-Defamation League of the New England Region.

As chairman, chief executive officer, and president of Genzyme Corp., the largest biotechnology company in Massachusetts and the fourth largest in the world, Henri Termeer is well known to many of us in Congress as a leader of the industry and as chairman of the Biotechnology Industry Organization. In the course of his distinguished career, he has received numerous awards and extensive national recognition for his accomplishments.

He also believes very deeply in the importance of public service, and his career is an excellent example to others in the business world. He serves as chairman of the Mount Auburn Corporate Fund for Free Care, which provides free hospital care to homeless citizens and others in need. He is also a director of the Massachusetts Cystic Fibrosis Foundation and a member of the Massachusetts Bay Endowment Committee of the United Way.

Henri also has a strong commitment to education at all levels. He has organized a variety of programs to enhance math and science education in public schools in the Boston area. In addition, Genzyme sponsors scholarships for local high school students to pursue college studies in biotechnology and medicine, and the company conducts an extensive summer internship program for local youths. Genzyme also provides grants to the Tactical Training Initiative Program, which retrains displaced workers for manufacturing positions in the biotechnology industry.

Henri's service as a trustee of the Boston Museum of Science and co-chairman of the museum's Biotechnology Committee has emphasized the preparation of minority youths for careers in biotechnology. Last year, he received an award from the Biomedical Science Careers Project for his leadership in supporting the education of minorities. The project is a cooperative effort of Harvard Medical School, the New England Board of Higher Education, and the Massachusetts Medical Society.

In presenting the Torch of Liberty Award, the Anti-Defamation League also praised Henri for his commitment to human rights. As the ADL statement says,

> Henri's leadership on issues of human rights and in the promotion of understanding between people of diverse religious, ethnic, and racial backgrounds makes him an example by which others can be measured. The Anti-Defamation League is proud to honor a man who has demonstrated a lifetime of commitment to the goals and ideals which so closely match the ADL's mission.

I commend Henri Termeer for this well-deserved award. Massachusetts is proud of his leadership, and all of us who know him are honored by his friendship.

THE ASSASSINATION OF PRIME MINISTER YITZHAK RABIN

Mr. FORD. Mr. President, just over 2 years ago, I watched as Chairman of the Palestinian Liberation Organization Yasir Arafat and Prime Minister

Yitzhak Rabin shook hands across a centuries old divide. With that handshake, they shed the weight of the past so they might find strength to conceive a different future.

Even the desk where they signed the Declaration of Principles establishing Palestinian self-rule was symbolic of the long road they had taken. It was the same desk used in 1979 by Egyptian President Anwar Sadat and Israeli Premier Menachem Begin when they signed the Camp David Accord.

But Saturday's assassination showed us all too painfully that even such powerful symbols cannot prevent the evil that is borne of extremism. They certainly can never prepare us for the deep sense of loss that cuts across religious, political and national lines.

And too, Rabin's assassination is an unfortunate reminder that all too often, it is death and crisis, rather than life and peace, that binds us one to the other.

A writer for the Washington Post commented that Rabin's casket ''looked too small somehow to contain the enormity of his passing,'' and a store owner in Jerusalem put up a closed sign with the message, ''We are all orphans now.''

They understood the enormity of Rabin's passing, yet it was the smallest voice—the voice of his grandaughter—that reminded all of us what the universal struggle for peace is all about. She understood that our fallen heros are the mothers and fathers, sons and daughters, brothers and sisters of a country. And for those they've left behind, there is no consolation.

When she spoke, the world understood that the stain of her grandfather's death would forever cast a shadow over the ultimate goal of peace—a chill felt by the millions of others who have lost someone in that quest.

It was upon his descent into the inferno that Dante said ''I would not have thought, death had undone so many * * *.'' But he might just as well have been speaking about Israel as the country mourned the loss of a remarkable leader, a remarkable man.

Mr. President, let me close by joining the countless others who have expressed their sadness and regret at this senseless loss, and their renewed commitment to the peace process.

OSCAR DYSON, A FRIEND OF FISHERIES

Mr. MURKOWSKI. Mr. President, I rise today to note with great regret the passing of one of Alaska's most prominent citizens, Oscar Dyson, on Saturday, October 28.

Oscar Dyson was a true pioneer and an authentic Alaskan sourdough who epitomized the can-do spirit of the Last Frontier.

Born in Rhode Island, he first came to Alaska in 1940, after working his way across the country. When World War II began, he went to work building airstrips for the Army Corps of Engineers. When Japanese airplanes attacked Dutch Harbor and invaded the Aleutian Islands, Oscar Dyson was there.

After the war, Oscar truly came into his own. He started commercial fishing in 1946, beginning a career that would span generations and would make him one of the most well-known and admired figures in the U.S. fishing industry.

Over the years, Oscar pioneered fishery after fishery. Starting as a salmon and halibut fisherman after the war, he branched out into shrimp, king crab, and ultimately, into groundfish. In 1971, he made the first-ever delivery of Alaska pollock to a shore-based U.S. processor, starting an industry that now has an annual harvest of over three billion pounds—the largest single fishery in the United States and the fourth in value—which now represents a full 30 percent of the U.S. commercial harvest.

In the 1970's, while remaining an active fisherman, Oscar also diversified, joining with several other fishermen to purchase what became a highly successful and innovative seafood processing company.

Oscar thought of himself—first, last, and always—as a fisherman. But to those of us who knew him, he was far more. He knew that good citizens must be ready to give something back to this great Republic, and he was as good as his word. He served 13 years on Alaska's Board of Fisheries, and three terms on the Federal North Pacific Fishery Management Council. He also served his country as an advisor and representative in international fishery negotiations with Japan and Russia.

He didn't stop there. He was a founding member of the United Fishermen's Marketing Association and the Alaska Draggers Association. He gave his time to the Kodiak City Council, the Kodiak Community College, the Alaska Seafood Marketing Institute, and the Alaska Governor's Fishery Task Force, to name a few of many. And he worked tirelessly toward the goals of the Alaska Fisheries Development Foundation, and Kodiak's Fishery Industrial Technology Center. Always, he helped lead his fellow fishermen toward a stronger, sustainable future.

In 1985, Oscar was chosen by National Fisherman magazine to receive its prestigious Highliner of the Year awards. And this year, just days before the fatal accident that took his life, he was made the National Fisheries Institute's Person of the Year, the institute's highest honor.

In all his endeavors, Oscar was strengthened and encouraged by the loving support of his wife, Peggy, who is herself known far and wide for radio weather reports that have for years enhanced the safety of life at sea and provided the daily comfort of a familiar and friendly voice to mariners.

Finally let me note, and let us all remember, Oscar's strong belief in our Nation's youth. Both by example and by application, his kindness, humor, understanding, and sage advice guided generations of young people. He helped them learn the ropes, and they gained the confidence to go out into the world and—like Oscar himself—to make it better. There can be no greater memorial.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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 NOTICE OF THE CONTINUATION OF THE EMERGENCY REGARDING WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT—PM 91

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 Banking, Housing, and Urban Affairs:

To the Congress of the United States:

On November 14, 1994, in light of the dangers of the proliferation of nuclear, biological, and chemical weapons (''weapons of mass destruction'') and of the means of delivering such weapons, I issued Executive Order No. 12938, and declared a national emergency under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) Under section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), the national emergency terminates on the anniversary date of its declaration, unless I publish in the *Federal Register* and transmit to the Congress a notice of its continuation.

The proliferation of weapons of mass destruction continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. Therefore, I am hereby advising the Congress that the national emergency declared

on November 14, 1994, must continue in effect beyond November 14, 1995. Accordingly, I have extended the national emergency declared in Executive Order No. 12938 and have sent the attached notice of extension to the *Federal Register* for publication.

As I described in the report transmitting Executive Order No. 12938, the Executive order consolidated the functions of and revoked Executive Order No. 12735 of November 16, 1990, which declared a national emergency with respect to the proliferation of chemical and biological weapons, and Executive Order No. 12930 of September 29, 1994, which declared a national emergency with respect to nuclear, biological, and chemical weapons, and their means of delivery.

The following report is made pursuant to section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), regarding activities taken and money spent pursuant to the emergency declaration. Additional information on nuclear, missile, and/or chemical and biological weapons (CBW) nonproliferation efforts is contained in the annual Report on the Proliferation of Missiles and Essential Components of Nuclear, Biological and Chemical Weapons, provided to the Congress pursuant to section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190), also known as the ''Nonproliferation Report,'' and the annual report provided to the Congress pursuant to section 308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Public Law 102–182).

The three export control regulations issued under the Enhanced Proliferation Control Initiative (EPCI) are fully in force and continue to be used to control the export of items with potential use in chemical or biological weapons or unmanned delivery systems for weapons of mass destruction.

In the 12 months since I issued Executive Order No. 12938, 26 additional countries ratified the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC) for a total of 42 of the 159 signatories; the CWC must be ratified by 65 signatories to enter into force. I must report my disappointment that the United States is not yet among those who have ratified. The CWC is a critical element of U.S. nonproliferation policy and an urgent next step in our effort to end the development, production, stockpiling, transfer, and use of chemical weapons. As we have seen this year in Japan, chemical weapons can threaten our security and that of our allies, whether as an instrument of war or of terrorism. The CWC will make every American safer, and we need it now.

The international community is watching. It is vitally important that the United States continue to lead the fight against weapons of mass destruction by being among the first 65 countries to ratify the CWC. The Senate recognized the importance of this agreement by adopting a bipartisan amendment on September 5, 1995, expressing the sense of the Senate that the United States should promptly ratify the CWC. I urge the Senate to give its advice and consent as soon as possible.

In parallel with seeking Senate ratification of the CWC, the United States is working hard in the CWC Preparatory Commission (PrepCom) in The Hague to draft administrative and implementing procedures for the CWC and to create a strong organization for verifying compliance once the CWC enters into force.

The United States also is working vigorously to end the threat of biological weapons (BW). We are an active participant in the Convention on the Prohibition of the Development and Stockpiling of Bacteriological (Biological) and Toxic Weapons and Their Destruction (BWC) Ad Hoc Group, which was commissioned September 1994 by the BWC Special Conference to draft a legally binding instrument to strengthen the effectiveness and improve the implementation of the Convention. The Group convened its first meeting in January 1995 and agreed upon a program of work for this year. The first substantive meeting took place in July, making important progress in outlining the key issues. The next meeting is scheduled for November 27 to December 8, 1995. The U.S. objective is to have a draft protocol for consideration and adoption at the Fourth BWC Review Conference in December 1996.

The United States continues to be active in the work of the 29-member Australia Group (AG) CBW nonproliferation regime, and attended the October 16–19 AG consultations. The Group agreed to a United States proposal to ensure the AG export controls and information-sharing adequately address the threat of CBW terrorism, a threat that became all too apparent in the Tokyo subway nerve gas incident. This U.S. initiative was the AG's first policy-level action on CBW terrorism. Participants also agreed to several amendments to strengthen the AG's harmonized export controls on materials and equipment relevant to biological weapons, taking into account new developments since the last review of the biological weapons lists and, in particular, new insights into Iraq's BW activities.

The Group also reaffirmed the members' collective belief that full adherence to the CWC and the BWC will be the only way to achieve a permanent global ban on CBW, and that all states adhering to these Conventions have an obligation to ensure that their national activities support these goals.

Australia Group participants are taking steps to ensure that all relevant national measures promote the object and purposes of the BWC and CWC, and will be fully consistent with the CWC upon its entry into force. The AG considers that national export licensing policies on chemical weapons-related items fulfill the obligation established under Article I of the CWC that States Parties never assist, in any way, the acquisition of chemical weapons. Moreover, inasmuch as these measures are focused solely on preventing activities banned under the CWC, they are consistent with the undertaking in Article XI of the CWC to facilitate the fullest possible exchange of chemical materials and related information for purposes not prohibited by the CWC.

The AG agreed to continue its active program of briefings for non-AG countries, and to promote regional consultations on export controls and nonproliferation to further awareness and understanding of national policies in these areas.

The United States Government determined that two foreign companies—Mainway Limited and GE Plan—had engaged in chemical weapons proliferation activities that required the imposition of sanctions against them, effective May 18, 1995. Additional information on this determination is contained in a classified report to the Congress, provided pursuant to the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.

The United States carefully controlled exports which could contribute to unmanned delivery systems for weapons of mass destruction, exercising restraint in considering all such proposed transfers consistent with the Guidelines of the Missile Technology Control Regime (MTCR). The MTCR Partners continued to share information about proliferation problems with each other and with other possible supplier, consumer, and transshipment states. Partners also emphasized the need for implementing effective export control systems.

The United States worked unilaterally and in coordination with its MTCR partners in multilateral efforts to combat missile proliferation by nonmembers and to encourage nonmembers to export responsibly and to adhere to the MTCR Guidelines. Three new Partners were admitted to the MTCR with U.S. support: Russia, South Africa, and Brazil.

In May 1995, the United States participated in an MTCR team visit to Kiev to discuss missile nonproliferation and MTCR membership criteria. Under Secretary of State Davis met with Ukraine's Deputy Foreign Minister Hryshchenko in May, July, and October to discuss nonproliferation issues and MTCR membership. As a result of the July meeting, a United States delegation traveled to Kiev in October to conduct nonproliferation talks with representatives of Ukraine, brief them on the upcoming MTCR Plenary, and discuss U.S. criteria for MTCR membership. From August 29–September 1, the U.S. participated in

an informal seminar with 18 other MTCR Partners in Montreux, Switzerland, to explore future approaches to strengthening missile nonproliferation.

The MTCR held its Tenth Plenary Meeting in Bonn October 10–12. The Partners reaffirmed their commitment to controlling exports to prevent proliferation of delivery systems for weapons of mass destruction. They also reiterated their readiness for international cooperation in peaceful space activities consistent with MTCR policies. The Bonn Plenary made minor amendments to the MTCR Equipment and Technology Annex in the light of technical developments. Partners also agreed to U.S. initiatives to deal more effectively with missile-related aspects of regional tensions, coordinate in impeding shipments of missile proliferation concern, and deal with the proliferation risks posed by transshipment. Finally, MTCR Partners will increase their efforts to develop a dialogue with countries outside the Regime to encourage voluntary adherence to the MTCR Guidelines and heightened awareness of missile proliferation risks.

The United States has continued to pursue my Administration's nuclear nonproliferation goals with success. Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) agreed last May at the NPT Review and Extension Conference to extend the NPT indefinitely and without conditions. Since the conference, more nations have acceded to the Treaty. There now are 180 parties, making the NPT nearly universal.

The Nuclear Suppliers Group (NSG) continues its efforts to improve member states' export policies and controls. Nuclear Suppliers Group members have agreed to apply technology controls to all items on the nuclear trigger list and to adopt the principle that the intent of the NSG Guidelines should not be undermined by the export of parts of trigger list and dual-use items without appropriate controls. In 1995, the NSG agreed to over 30 changes to update and clarify the list of controlled items in the Nuclear-Related Dual-Use Annex. The NSG also pursued efforts to enhance information sharing among members by establishment of a permanent Joint Information Exchange group and by moving toward adoption of a United States Department of Energy-supplied computerized automated information exchange system, which is currently being tested by most of the members.

The increasing number of countries capable of exporting nuclear commodities and technology is a major challenge for the NSG. The ultimate goal of the NSG is to obtain the agreement of all suppliers, including nations not members of the regime, to control nuclear exports in accordance with the NSG guidelines. Members continued contacts with Belarus, Brazil, China, Kazakhstan, Lithuania, the Republic of Korea (ROK), and Ukraine regarding NSG activities. Ambassador Patokallio of Finland, the current NSG Chair, led a five-member NSG outreach visit to Brazil in early November 1995 as part of this effort.

As a result of such contacts, the ROK has been accepted as a member of the NSG. Ukraine is expected to apply for membership in the near future. The United States maintains bilateral contacts with emerging suppliers, including the New Independent States of the former Soviet Union, to encourage early adherence to NSG guidelines.

Pursuant to section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), I report that there were no expenses directly attributable to the exercise of authorities conferred by the declaration of the national emergency in Executive Order No. 12938 during the period from May 14, 1995, through November 14, 1995.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 8, 1995*.

MESSAGES FROM THE HOUSE

At 10:29 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 436) to require the head of any Federal agency to differentiate between fats, oils, and greases of animal, marine, or vegetable origin, and other oils and greases, in issuing certain regulations, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 927) to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. GILMAN, Mr. BURTON, Ms. ROS-LEHTINEN, Mr. KING, Mr. DIAZ-BALART, Mr. HAMILTON, Mr. GEJDENSON, Mr. TORRICELLI, and Mr. MENENDEZ as the managers of the conference on the part of the House.

At 11:08 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 2589. An act to extend authorities under the Middle East Peace Facilitation Act of 1994 until December 31, 1995, and for other purposes.

At 12:24 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House passed the following bills and joint resolutions:

H.R. 207. An act to authorize the Secretary of Agriculture to enter into a land exchange involving the Cleveland National Forest, California, and to require a boundary adjustment for the national forest to reflect the land exchange, and for other purposes.

H.R. 238. An act to provide for the protection of wild horses within the Ozark National Scenic Riverways and prohibit the removal of such horses.

H.R. 1585. An act to expand the boundary of the Modoc National Forest to include lands presently owned by the Bank of California, N.A. Trustee, to facilitate a land exchange with the Forest Service, and for other purposes.

H.R. 1838. An act to provide for an exchange of lands with the Water Conservancy District of Washington County, Utah.

H.R. 2437. An act to provide for the exchange of certain lands in Gilpin County, Colorado.

H.R. 1163. An act to authorize the exchange of National Park Service land in the Fire Island National Seashore in the State of New York for land in the Village of Patchogue, Suffolk County, New York.

H.R. 1581. An act to establish a national public works program to provide incentives for the creation of jobs and address the restoration of infrastructure in communities across the United States, and for other purposes; to the Committee on Agriculture, Forestry, and Natural Resources.

H.J. Res. 69. Joint resolution providing for the reappointment of Homer Alfred Neal as a citizen regent of the Board of Regents of the Smithsonian Institution.

H.J. Res. 110. Joint resolution providing for the appointment of Howard H. Baker, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution.

H.J. Res. 111. Joint resolution providing for the appointment of Anne D'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution.

H.J. Res. 112. Joint resolution providing for the appointment of Louis Gerstner as a citizen regent of the Board of Regents of the Smithsonian Institution.

ENROLLED BILL SIGNED

The message also announced that the Speaker signed the following enrolled bill:

H.R. 436. An act to require the head of any Federal agency to differentiate between fats, oils, and greases of animal, marine, or vegetable origin, and other oils and greases, in issuing certain regulations, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

At 4:04 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 31. Concurrent resolution honoring the life and legacy of Yitzhak Rabin.

At 5:59 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 395) to authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and to authorize the export of Alaska North Slope crude oil, and for other purposes.

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent and referred as indicated.

H.R. 207. An act to authorize the Secretary of Agriculture to enter into a land exchange involving the Cleveland National Forest, California, and to require a boundary adjustment for the national forest to reflect the land exchange, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 238. An act to provide for the protection of wild horses within the Ozark National Scenic Riverways and prohibit the removal of such horses; to the Committee on Energy and Natural Resources.

H.R. 1163. An act to authorize the exchange of National Park Service land in the Fire Island National Seashore in the State of New York for land in the Village of Patchogue, Suffolk County, New York; to the Committee on Energy and Natural Resources.

H.R. 1581. An act to establish a national public works program to provide incentives for the creation of jobs and address the restoration of infrastructure in communities across the United States, and for other purposes; to the Committee on Agriculture, Nutrition and Forestry.

H.R. 1585. An act to expand the boundary of the Modoc National Forest to include lands presently owned by the Bank of California, N.A. Trustee, to facilitate a land exchange with the Forest Service, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1838. An act to provide for an exchange of lands with the Water Conservancy District of Washington County, Utah; to the Committee on Energy and Natural Resources.

H.R. 2437. An act to provide for the exchange of certain lands in Gilpin County, Colorado; to the Committee on Energy and Natural Resources.

H.J. Res. 69. Joint resolution providing for the reappointment of Homer Alfred Neal as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

H.J. Res. 110. Joint resolution providing for the appointment of Howard H. Baker, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

H.J. Res. 111. Joint resolution providing for the appointment of Anne D'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

H.J. Res. 112. Joint resolution providing for the appointment of Louis Gerstner as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

MEASURE COMMITTED

The following bill was committed as indicated:

H.R. 1833. An act to amend title 18, United States Code, to ban partial-birth abortions; to the Committee on the Judiciary.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on November, 1995 he had presented to the President of the United States, the following enrolled bill:

S. 457. An act to amend the Immigration and Nationality Act to update references in the classification of children for purposes of United States immigration laws.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources:

James Charles Riley, of Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 2000.

Elisabeth Griffith, of Virginia, to be a Member of the Board of Trustees of the James Madison Memorial Foundation for the remainder of the term expiring September 27, 1996.

Theodore M. Hesburgh, of Indiana, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 1999.

Walter Anderson, of New York, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2000.

C. Richard Allen, of Maryland, to be a Managing Director of the Corporation for National and Community Service.

Louise L. Stevenson, of Pennsylvania, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term expiring November 17, 1999.

Anne H. Lewis, of Maryland, to be an Assistant Secretary of Labor.

Susan Robinson King, of the District of Columbia, to be an Assistant Secretary of Labor.

(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. COCHRAN, from the Committee on Agriculture, Nutrition, Forestry:

Michael V. Dunn, of Iowa, to be an Assistant Secretary of Agriculture.

Michael V. Dunn, of Iowa, to be a Member of the Board of Directors of the Commodity Credit Corporation.

John David Carlin, of Kansas, to be an Assistant Secretary of Agriculture.

(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.)

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. BENNETT (for himself, Mr. THOMAS, Mr. SIMPSON, Mr. WARNER, and Mr. HATCH):

S. 1401. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to minimize duplication in regulatory programs and to give States exclusive responsibility under approved States program for permitting and enforcement of the provisions of that Act with respect to surface coal mining and reclamation operations, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself, Mr. JOHNSTON, and Mr. KEMPTHORNE):

S. 1402. A bill to amend the Waste Isolation Pilot Plant Land Withdrawal Act and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. INOUYE:

S. 1403. A bill to amend the Organic Act of Guam to provide restitution to the people of Guam who suffered atrocities such as personal injury, forced labor, forced marches, internment, and death during the occupation of Guam in World War II, and for other purposes; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself and Mr. KYL):

S. 1404. A bill to enhance restitution to victims of crime, and for other purposes; to the Committee on the Judiciary.

By Mr. FRIST:

S. 1405. A bill to eliminate certain benefits for Members of Congress; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENNETT (for himself, Mr. THOMAS, Mr. SIMPSON, Mr. WARNER, and Mr. HATCH):

S. 1401. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to minimize duplication in regulatory programs and to give States exclusive responsibility under approved States program for permitting and enforcement of the provisions of that act with respect to surface coal mining and reclamation operations, and for other purposes; to the Committee on Energy and Natural Resources.

THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977 AMENDMENTS ACT OF 1995

Mr. BENNETT. Mr. President, today I am introducing legislation in behalf of myself, Senators THOMAS, SIMPSON, WARNER, and HATCH to amend the Surface Mining Control and Reclamation Act of 1977. I encourage my colleagues to support this legislation.

The Surface Mining Control and Reclamation Act [SMCRA] was signed into law by President Carter in the aftermath of the energy crisis, when coal regulation was considered crucial to the success of his national energy program. In 1977, when this legislation was passed, there were more than 6,000 operating coal mines. Today, the number of operating mines has been reduced approximately to half of the 1977 level. The questions which were first raised back then regarding the States' abilities to effectively operate regulatory programs have been satisfactorily answered and now is the time that we should reexamine the role of OSM and the effectiveness of the current law.

When Congress passed SMCRA, it was agreed that the time had arrived for tougher environmental standards for surface mining operations. SMCRA established specific environmental guidelines for surface mines, including requirements for water and soil treatment and remediation as well as reclamation requirements for old and abandoned mines. It also established the Abandoned Mine Reclamation Fund and the Office of Surface Mining. Most

importantly, it established a framework under which States and the Federal Government could work in unison to administer this new law.

SMCRA was hailed as a model of cooperative State and Federal efforts. Congress passed it with the understanding that after an initial phase-in period, the States would assume responsibility for administering the law. It was understood that once States established environmental standards which were equally as tough as Federal standards, States would assume primacy and could administer their own administrative and environmental programs subject to approval of those programs by the Office of Surface Mining.

Today 23 of the 26 coal producing States have assumed the role as the SMCRA regulating authority in these States. These primacy States have their mining programs periodically reviewed by OSM, which has occasionally exercised its Federal regulatory authority as necessary and expected under the SMCRA agreements.

Unfortunately, OSM has not relinquished full administrative oversight of SMCRA and still retains a great deal of regulatory authority that rightly belongs to the primacy States. The result has been the creation of a problematic, dual regulatory scheme in which OSM regularly issues notice of violations [NOV's] directly to coal mine operators in primacy States whenever OSM is dissatisfied with the way these States are administering their own programs. This daily intervention in State program matters impacts the coal operators most who are often caught in between Federal-State disputes.

For example, the State of Utah obtained primacy for the administration of SMCRA in 1983. We mine 24 million tons of coal annually from 13 active mines. These mines operate in compliance with the environmental requirements of the Utah regulatory program and the mined lands are being returned to productive nonmining uses. In short, the regulatory program is working and the intent and purpose of SMCRA is being fulfilled.

Since January 1993, OSM has taken five direct Federal enforcement actions against Utah. All five were based on disagreements between OSM and the State of Utah over interpretation of the program's language. Not one of the five violations concerned any environmental safety or environmental hazard. Three of the five enforcement actions were dismissed by the Department of Interior's own administrative law judges. The other two concerned a dispute between OSM and Utah concerning the jurisdictional reach of the regulatory program. Both these disputes concerned coal handling and processing equipment located at power plants. One has since been upheld and the other is pending an appeal. In each instance, OSM cited the operator for a practice or condition which had already specifically been approved by the Utah program. Again, none of the violations concerned adverse off-site environmental impacts.

Direct Federal enforcement has not helped protect the citizens of Utah or the environment. Instead it has diverted scarce resources away from other, more productive work conducted by OSM, Utah, and Utah coal operators. Longstanding disagreements between OSM and the primacy States have retarded the development of State regulatory programs, and continue to inhibit effective implementation. While significant improvements have been made by OSM in recent months, several structural problems continue to interfere with effective and efficient implementation of the coal regulatory program. Again, the most troublesome of these problems is the dual enforcement authority. Direct Federal enforcement in Utah has not only been ineffective and expensive, it has been counterproductive environmentally.

Clearly there is a need to amend SMCRA to return the balance of authority to the primacy States as originally intended by the law. This legislation would make several technical amendments designed to acknowledge the role of those States as the primary regulatory agency where there is an approved State program. These proposed revisions would eliminate the redundancy and confusion that occurs when duplicative State and Federal program provisions are applied directly to mining operations.

This legislation would also clarify that the authority to issue notices of violations [NOV's] in primacy States rests exclusively with the State regulatory authority, unless OSM first determines that the State regulatory authority has failed to properly administer the program, in which case direct Federal authority can be implemented. We have also deleted the redundant reference to the Federal program provisions to avoid any implication of Federal oversight authority to suspend permits in a State with an approved regulatory program. I believe this clarifies the intent of SMCRA as originally passed.

The legislation would clarify that an operator's responsibility is to conform his operations to the terms and conditions of the approved permit for the mine. It also clarifies the regulatory agency's authority to require revisions to a permit as necessary to ensure compliance with the program requirements. Since many decisions of the administrative law judges remain pending on appeal before the Interior Board of Land Appeals for several years before a decision is issued under the existing format, the legislation would eliminate the unnecessary requirement that, as established in OSM's rules, appeals of certain agency decisions proceed through two layers of administrative review prior to seeking judicial review. Finally, this legislation would place a 3-year time limitation upon commencement of actions for alleged violations. This would encourage the more prompt initiation of any administrative or other actions.

In conclusion, Mr. President, the coal regulatory program created by SMCRA has provided great benefit to the environment, the citizens of Utah, and the coal-mining community. The issues raised by this legislation are not the fault of coal regulation itself, but are the products of an unclear delineation of responsibilities and authorities between the Federal OSM and the primacy States. These amendments will reestablish the intent of SMCRA by reinforcing the role of the States in administering their own regulations. This legislation makes good sense and I encourage my colleagues to join me in cosponsoring this legislation.

By Mr. CRAIG (for himself, Mr. JOHNSTON, and Mr. KEMPTHORNE):

S. 1402. A bill to amend the Waste Isolation Pilot Plant Land Withdrawal Act and for other purposes; to the Committee on Energy and Natural Resources.

THE WASTE ISOLATION PILOT PLANT LAND WITHDRAWAL ACT

Mr. CRAIG.

Madam President, today Senators JOHNSTON, KEMPTHORNE, and I are introducing legislation to expedite the opening of the waste isolation pilot plant. This legislation removes unnecessary and delaying bureaucratic requirements, achieves a major environmental objective, saves the taxpayers money and, most significantly for the Nation and Idaho, begins the process of successfully cleaning up and decommissioning the nuclear weapons complexes and temporary storage facilities.

The waste isolation pilot plant is located in southeast New Mexico. It is truly a unique project. Its specific purpose is to provide for the safe disposal of transuranic radioactive and mixed waste resulting from defense activities and programs of the U.S. Government. The importance of WIPP, however, extends beyond its stated mission.

Idaho currently stores the largest amount of transuranic waste of any State in the Union, but Idaho is not alone as a waste storage State. Washington, Colorado, South Carolina, and New Mexico also have large amounts of transuranic waste in temporary storage. Until the WIPP opens, little can be done to clean up and close these temporary storage sites.

The agreement recently negotiated between the State of Idaho, the DOE, and the U.S. Navy, states that transuranic waste currently located in Idaho will begin to be shipped to WIPP by April 30, 1999. This legislation will assure this commitment is fulfilled.

We cannot solve the environmental problems at sites such as Idaho's National Engineering Laboratory, or Rocky Flats Weapons Facility, or Savannah River, or others, without this facility in New Mexico. The reason is

obvious, Madam President. Without a place to dispose of the waste, cleanup is impossible. Without cleanup, further decommissioning cannot occur.

The goal of this bill is simple: To deliver on Congress' longstanding commitment and open the WIPP facility by 1998.

This bill amends the Waste Isolation Pilot Plant Withdrawal Act of 1992 in several very important and significant ways.

It deletes obsolete language of the 1992 act. Of particular importance is the reference and requirements for test-phase activities. Since the enactment of the 1992 act, the Department of Energy has abandoned the test phase that called for underground testing in favor of aboveground laboratory test programs. Thus, the test phase no longer exists, as defined in the 1992 law, and needs to be removed so it does not complicate the ongoing WIPP process.

Most important, this bill will streamline the process, remove duplicative regulations, save taxpayers dollars—repeat, save taxpayers dollars, hundreds of millions of dollars—and have the following effects:

The existing law contains a 180-day waiting period between the time the Secretary of Energy makes a decision to operate the WIPP and the actual commencement of disposal operations. My bill eliminates this waiting period. The 180 days constitutes an unnecessary delay. Eliminating 180 days saves $140 million or more in operational expenses during the waiting period and will start the removal of this type of waste from the aboveground storage in Idaho and other affected States 6 months earlier than now scheduled.

The bill requires the Secretary of Energy to determine if engineered or natural barriers in the facility are necessary. This change is consistent with the concept of allowing actions at the WIPP to be based on the technical needs of the WIPP.

Section 7, ''Compliance With Environmental Laws and Regulations,'' will streamline DOE's compliance with applicable environmental laws.

In other words, Madam President, we are not stepping aside from the current environmental commitment. We are assuring that all of it is met, but that it is met on time and under standard.

Section 8 repeals the retrievability requirement which was an outgrowth of below-ground testing. With the replacement of the test phase by laboratory testing, retrievability no longer is needed. All tests are now performed in the laboratory and no transuranic waste is used in testing at the WIPP.

The bill deletes the need for a decommissioning plan which is a duplicative and costly legislative mandate. This plan is covered by the disposal standards of the Land Withdrawal Act of 1992 and thus is not needed.

It deletes the requirement for a no-mitigation determination. In a letter to Senator KEMPTHORNE and me dated September 8, 1995, the Environmental Protection Agency started that a no-mitigation variance is duplicative because the WIPP is held by the other statutes to a higher standard. EPA states, ''A demonstration of nonmitigation of hazardous constituents will not be necessary to adequately protect human health and the environment.'' Despite this view, EPA further states that unless the current law is amended, the WIPP will be forced to comply with the no-mitigation standards. This unnecessary duplication would be time consuming and costly.

It allows the Secretary of Energy to dispose of a small amount of nondefense transuranic waste in the WIPP. In my opinion, this is a cost effective and safe way to dispose of a relatively minor amount of waste.

But just as important, I would like to make clear what my bill does not do.

This bill does not remove EPA as the DOE regulator of the WIPP. DOE has stated numerous times that it does not want to self-regulate. The Department believes that having EPA as the regular will instill additional public confidence in the certification process and the facility itself, once it opens.

I am skeptical regarding EPA. EPA has a poor record of meeting deadlines. The WIPP, as a facility, is ready to operate now and is basically waiting on EPA's final approval. The schedule DOE has established to meet the opening dates is an aggressive but not entirely workable timetable. It is aggressive only if EPA can accomplish its tasks on time. Because of EPA's demonstrated inability to meet schedules and to avoid imposing unnecessary large financial burdens on the taxpayer, there is a strong sentiment in the Congress to remove EPA from the WIPP regulatory role. Based on assurances made to me by the EPA, my bill does not follow this course. However, if EPA again falters, I will have to reconsider this position in future legislation.

Idaho and the Nation need to have the WIPP opened sooner rather than later. Each day of delay is costly, and the potential dangers to the environment and human health resulting from the temporary storage of this waste continue.

It is time to act. We must, if we are to clean up sites such as Idaho's. We must act to dispose of this task permanently and safety for future generations. This bill clears the way for action.

I encourage my colleagues to become cosponsors of this legislation. We hope to move it expeditiously through the necessary committee and hearing process so that it can become law.

By Mr. INOUYE:

S. 1403. a bill to amend the Organic Act of Guam to provide restitution to the people of Guam who suffered atrocities such as personal injury, forced labor, forced marches, internment, and death during the occupation of Guam in World War II, and for other purposes; to the Committee on the Judiciary.

THE GUAM WAR RESTITUTION ACT

• Mr. INOUYE. Mr. President, on August 14, 1945, Japan signed a declaration of surrender, facilitating the end of World War II. This year we celebrated Victory Over Japan Day, to commemorate those who valiantly fought for humanity and those who were the victims of unspeakable acts of racism, hate, and violence during World War II. We must also remember those who were forced to endure Japanese occupation during World War II. For nearly 3 years, the people of Guam endured war-time atrocities and suffering. As part of Japan's assault against the Pacific, Guam was bombed and invaded by Japanese forces within 3 days of the infamous attack on Pearl Harbor. At that time, Guam was administered by the U.S. Navy under the authority of a Presidential Executive order. It was also populated by then-American nationals. For the first time since the War of 1812, a foreign power invaded U.S. soil.

In 1952, when the United States signed a peace treaty with Japan, formally ending World War II, it waived the rights of American nationals, including those of Guamanians, to present claims against Japan. As a result of this action, American nationals were forced to seek relief from the Congress of the United States.

Today, I rise to introduce the Guam War Restitution Act, which would amend the Organic Act of Guam and provide restitution to those who suffered atrocities during the occupation of Guam in World War II.

The Guam War Restitution Act would establish a Guam Restitution Claims Fund, which would provide specific damage awards to those who are survivors of the war, and to the heirs of those who died during the war. The specific damage awards would be as follows: First, $20,000 for the category of death; second, $7,000 for the category of personal injury; and third, $5,000 for the categories of forced labor, forced march, or internment.

This act would also establish a Guam Restitution Trust Fund to provide restitution to the heirs of those individuals who sustained injuries during the war but died after the war. Eligible heirs would receive restitution in the form of postsecondary scholarships, first-time home ownership loans, and grants for other suitable purposes. In addition, the trust fund could provide research and public educational activities to honor and memorialize the wartime events of Guam.

The U.S. Congress previously recognized its moral obligation to the people of Guam and provided reparations relief by enacting the Guam Meritorious claims act on November 15, 1945 (Public Law 79–224). Unfortunately, the claims act was seriously flawed and did not adequately compensate Guam after World War II.

The Claims Act primarily covered compensation for property damage and limited compensation for death or personal injury. Claims for forced labor, forced march, and internment were never compensated because the Claims Act excluded these from awardable injuries. The enactment of the Claims Act was intended to make Guam whole. The Claims Act, however, failed to specify postwar values as a basis for computing awards, and settled on prewar values, which did not reflect the true postwar replacement costs. Also, all property damage claims in excess of $5,000, as well as all death and injury claims, required congressional review and approval. This action caused many eligible claimants to settle for less in order to receive timely compensation. The Claims Act also imposed a 1-year time limit to file claims, which was insufficient as massive disruptions still existed following Guam's liberation. In addition, English was then a second language to a great many Guamanians. While a large number spoke English, few could read it. This is particularly important since the Land and War Claims Commission required written statements and often communicated with claimants in writing.

The reparations program was also inadequate because it become secondary to overall reconstruction and the building of permanent military bases. In this regard, the Congress enacted the Guam Land Transfer Act and the Guam Rehabilitation Act (Public Laws 79–225 and 79–583) as a means of rehabilitating Guam. The Guam Land Transfer Act provided the means of exchanging excess Federal land for resettlement purposes, and the Guam Rehabilitation Act appropriated $6 million to construct permanent facilities for the civic populace of the island for their economic rehabilitation.

Approximately $8.1 million was paid to 4,356 recipients under the Guam Meritorious Claims Act. Of this amount, $4.3 million was paid to 1,243 individuals for death, injury, and property damage in excess of $5,000, and $3.8 million to 3,113 recipients for property damage below $5,000.

On June 3, 1947, former Secretary of the Interior Harold Ickes testified before the House Committee on Public Lands relative to the Organic Act, and strongly criticized the Department of the Navy for their ''inefficient and even brutal handling of the rehabilitation and compensation and war damage tasks.'' Secretary Ickes termed the procedures as ''shameful results.''

In addition, a committee known as the Hopkins Committee was established by former Secretary of the Navy James Forrestal in 1947 to assess the Navy's administration of Guam and American Samoa. An analysis of the Navy's administration of the reparation and rehabilitation program was provided to Secretary Forrestal in a March 25, 1947 letter from the Hopkins Committee. The letter indicated that the Department's confusing policy decisions greatly contributed to the programs' deficiencies and called upon the Congress to pass legislation to correct its mistakes and provide reparations to the people of Guam.

In 1948, the U.S. Congress enacted the War Claims Act of 1948 (Public Law 80–896), which provided reparation relief to American prisoners of war, internees, religious organizations, and employees of defense contractors. The residents of Guam were deemed ineligible to receive reparations under this act because they were American nationals and not American citizens. In 1950, the U.S. Congress enacted the Guam Organic Act (81–630), granting Guamanians American citizenship and a measure of self-government.

The Congress, in 1962, amended the War Claims Act to provide for claimants who were nationals at the time of the war and who became citizens. Again, the residents of Guam were specifically excluded. The Congress believed that the residents of Guam were provided for under the Guam Meritorious Claims Act. At that time, there was no one to defend Guam, as they had no representation in Congress. The Congress also enacted the Micronesian Claims Act for the Trust Territory of the Pacific Islands, but again excluded Guam in the settlement.

In 1988, the Guam War Reparations Commission documented 3,365 unresolved claims. There are potentially 5,000 additional unresolved claims. In 1946, the United States provided over $390 million in reparations to the Philippines, and over $10 million to the Micronesian Islands in 1971 for atrocities inflicted by Japan. In addition, the United States provided over $2 billion in postwar aid to Japan from 1946–51. Further, the United States Government liquidated over $84 million in Japanese assets in the United States during the war for the express purpose of compensating claims of its citizens and nationals. The United States did not invoke its authority to seize more assets from Japan under article 14 of the Treaty of Peace, as other Allied Powers had done. The United States, however, did close the door on the claims of the people of Guam.

A companion measure to my bill, H.R. 2041, was introduced in the House of Representatives by Representative ROBERT UNDERWOOD. H.R. 2041, however, includes a provision assessing a 0.5 percent fee on the sale of United States military equipment to Japan. My bill does not include the fee provision because, in my view, it would cause U.S. manufacturers to be less competitive with other foreign manufacturers. Imposing such a fee could lead to the loss of American jobs, which is of concern in light of the decline in defense spending.

The issue of reparations for Guam is not a new one for the people of Guam and for the U.S. Congress. It has been consistently raised by the Guamanian Government through local enactments of legislative bills and resolutions, and discussed with congressional leaders over the years.

The Guam War Restitution Act cannot fully compensate or erase the atrocities inflicted upon Guam and its people during the occupation by the Japanese military. However, passage of this act would recognize our Government's moral obligation to Guam, and bring justice to the people of Guam for the atrocities and suffering they endured during World War II. I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that the text of the bill be inserted in the RECORD.

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

S. 1403

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 ''Guam War Restitution Act''.

SEC. 2. AMENDMENT TO ORGANIC ACT OF GUAM TO PROVIDE RESTITUTION.

The Organic Act of Guam (48 U.S.C. 1421 et seq.) is amended by adding at the end the following new section:

''SEC. 36. RECOGNITION OF DEMONSTRATED LOYALTY OF GUAM TO UNITED STATES, AND SUFFERING AND DEPRIVATION ARISING THEREFROM, DURING WORLD WAR II.

''(a) DEFINITIONS.—For purposes of this section:

''(1) AWARD.—The term 'award' means the amount of compensation payable under subsection (d)(2).

''(2) BENEFIT.—The term 'benefit' means the amount of compensation payable under subsection (d)(3).

''(3) COMMISSION.—The term 'Commission' means the Guam Trust Fund Commission established by subsection (f).

''(4) COMPENSABLE INJURY.—The term 'compensable injury' means one of the following three categories of injury incurred during and as a result of World War II:

''(A) Death.

''(B) Personal injury (as defined by the Commission).

''(C) Forced labor, forced march, or internment.

''(5) GUAMANIAN.—The term 'Guamanian' means any person who—

''(A) resided in the territory of Guam during any portion of the period beginning on December 8, 1941, and ending on August 10, 1944; and

''(B) was a United States citizen or national during such portion.

''(6) PROOF.—The term 'proof', relative to compensable injury, means any one of the following, if determined by the Commission to be valid:

''(A) An affidavit by a witness to such compensable injury.

''(B) A statement, attesting to compensable injury, which is—

''(i) offered as oral history collected for academic, historic preservation, or journalistic purposes;

''(ii) made before a committee of the Guam legislature;

''(iii) made in support of a claim filed with the Guam War Reparations Commission;

''(iv) filed with a private Guam war claims advocate; or

''(v) made in a claim pursuant to the first section of the Act of November 15, 1945 (Chapter 483; 59 Stat. 582).

''(7) TRUST FUND.—The term 'Trust Fund' means the Guam Trust Fund established by subsection (e).

''(b) REQUIREMENTS FOR CLAIMS AND GENERAL DUTIES OF COMMISSION—

''(1) REQUIRED INFORMATION FOR CLAIMS.—Each claim for an award or benefit under this section shall be made under oath and shall include—

''(A) the name and age of the claimant;

''(B) the village in which the individual who suffered the compensable injury which is the basis for the claim resided at the time the compensable injury occurred;

''(C) the approximate date or dates on which the compensable injury occurred;

''(D) a brief description of the compensable injury which is the basis for the claim;

''(E) the circumstances leading up to the compensable injury; and

''(F) in the case of a claim for a benefit, proof of the relationship of the claimant to the relevant decedent.

''(2) GENERAL DUTIES OF COMMISSION TO PROCESS CLAIMS.—With respect to each claim filed under this section, the Commission shall determine whether the claimant is eligible for an award or benefit under this section and, if so, shall certify the claim for payment in accordance with subsection (d).

''(3) TIME LIMITATION.—With respect to each claim submitted under this section, the Commission shall act expeditiously, but in no event later than 1 year after the receipt of the claim by the Commission, to fulfill the requirements of paragraph (2) regarding the claim.

''(4) DIRECT RECEIPT OF PROOF FROM PUBLIC CLAIMS FILES PERMITTED.—The Commission may receive proof of a compensable injury directly from the Governor of Guam, or the Federal custodian of an original claim filed with respect to the injury pursuant to the first section of the Act of November 15, 1945 (Chapter 483; 59 Stat. 582), if such proof is contained in the respective public records of the Governor or the custodian.

''(c) ELIGIBILITY.—

''(1) ELIGIBILITY FOR AWARDS.—A claimant shall be eligible for an award under this section if the claimant meets each of the following criteria:

''(A) The claimant is—

''(i) a living Guamanian who personally received the compensable injury that is the basis for the claim, or

''(ii) the heir or next of kin of a decedent Guamanian, in the case of a claim with respect to which the compensable injury is death.

''(B) The claimant meets the requirements of paragraph (3).

''(2) ELIGIBILITY FOR BENEFITS.—A claimant shall be eligible for a benefit under this section if the claimant meets each of the following criteria:

''(A) The claimant is the heir or next of kin of a decedent Guamanian who personally received the compensable injury that is the basis for the claim, and the claim is made with respect to a compensable injury other than death.

''(B) The claimant meets the requirements of paragraph (3).

''(3) GENERAL REQUIREMENTS FOR ELIGIBILITY.—A claimant meets the requirements of this paragraph if the claimant meets each of the following criteria:

''(A) The claimant files a claim with the Commission regarding a compensable injury and containing all of the information required by subsection (b)(1).

''(B) The claimant furnishes proof of the compensable injury.

''(C) By such procedures as the Commission may prescribe, the claimant files a claim under this section not later than 1 year after the date of the appointment of the ninth member of the Commission.

''(4) LIMITATION ON ELIGIBILITY FOR AWARDS AND BENEFITS—

''(A) AWARDS.—

''(i) No claimant may receive more than 1 award under this section and not more than 1 award may be paid under this section with respect to each decedent described in paragraph (1)(A)(ii).

''(ii) Each award shall consist of only 1 of the amounts referred to in subsection (d)(2).

''(B) BENEFITS.—

''(i) Not more than 1 benefit may be paid under this Act with respect to each decedent described in paragraph (2)(A).

''(ii) Each benefit shall consist of only 1 of the amounts referred to in subsection (d)(3).

''(d) PAYMENTS.—

''(1) CERTIFICATION.—The Commission shall certify for payment all awards and benefits that the Commission determines are payable under this section.

''(2) AWARDS.—The Commission shall pay from the Trust Fund 1 of the following amounts as an award for each claim with respect to which a claimant is determined to be eligible under subsection (c)(1):

''(A) $20,000 if the claim is based on death.

''(B) $7,000 if the claim is based on personal injury.

''(C) $5,000 if the claim is based on forced labor, forced march, or internment and is not based on personal injury.

''(3) BENEFITS.—The Commission shall pay from the Trust Fund 1 of the following amounts as a benefit with respect to each claim for which a claimant is determined eligible under subsection (c)(2):

''(A) $7,000 if the claim is based on personal injury.

''(B) $5,000 if the claim is based on forced labor, forced march, or internment and is not based on personal injury.

''(4) REDUCTION OF AMOUNT TO COORDINATE WITH PREVIOUS CLAIMS.—The amount required to be paid under paragraph (2) or (3) for a claim with respect to any Guamanian shall be reduced by any amount paid under the first section of the Act of November 15, 1945 (Chapter 483; 59 Stat. 582) with respect to such Guamanian.

''(5) FORM OF PAYMENT.—

''(A) AWARDS.—In the case of a claim for an award, payment under this subsection shall be made in cash to the claimant, except as provided in paragraph (6).

''(B) BENEFITS.—In the case of a claim for a benefit—

''(i) IN GENERAL.—Payment under this subsection shall consist of—

''(I) provision of a scholarship;

''(II) payment of medical expenses; or

''(III) a grant for first-time home ownership.

''(ii) METHOD OF PAYMENT.—Payment of cash under this subsection may not be made directly to a claimant, but may be made to a service provider, seller of goods or services, or other person in order to provide to a claimant (or other person, as provided in paragraph (6)) a benefit referred to in clause (i).

''(C) DEVELOPMENT OF PROCEDURES.—The Commission shall develop and implement procedures to carry out this paragraph.

''(6) PAYMENTS ON CLAIMS WITH RESPECT TO SAME DECEDENT.—

''(A) AWARDS.—In the case of a claim based on the compensable injury of death, payment of an award under this section shall be divided, as provided in the probate laws of Guam, among the heirs or next of kin of the decedent who file claims for such division by such procedures as the Commission may prescribe.

''(B) INDIVIDUALS PROVING CONSANGUINITY WITH CLAIMANTS FOR BENEFITS.—Each individual who proves consanguinity with a claimant who has met each of the criteria specified in subsection (c)(2) shall be entitled to receive an equal share of the benefit accruing under this section with respect to the claim of such claimant if the individual files a claim with the Commission by such procedures as the Commission may prescribe.

''(7) ORDER OF PAYMENTS.—The Commission shall endeavor to make payments under this section with respect to awards before making such payments with respect to benefits and, when making payments with respect to awards or benefits, respectively, to make payments to eligible individuals in the order of date of birth (the oldest individual on the date of the enactment of this Act, or if applicable, the survivors of that individual, receiving payment first) until all eligible individuals have received payment in full.

''(8) REFUSAL TO ACCEPT PAYMENT.—If a claimant refuses to accept a payment made or offered under paragraph (2) or (3) with respect to a claim filed under this section—

''(A) the amount of the refused payment, if withdrawn from the Trust Fund for purposes of making the payment, shall be returned to the Trust Fund; and

''(B) no payment may be made under this section to such claimant at any future date with respect to the claim.

''(9) TREATMENT OF PAYMENTS UNDER OTHER LAWS.—Awards and benefits paid to eligible claimants—

''(A) shall be treated for purposes of the internal revenue laws of the United States as damages received on account of personal injuries or sickness; and

''(B) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

''(e) GUAM TRUST FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Guam Trust Fund, which shall be administered by the Secretary of the Treasury.

''(2) INVESTMENTS.—Amounts in the Trust Fund shall be invested in accordance with section 9702 of title 31, United States Code.

''(3) USES.—Amounts in the Trust Fund shall be available only for disbursement by the Commission in accordance with subsection (f).

''(4) DISPOSITION OF FUNDS UPON TERMINATION.—If all of the amounts in the Trust Fund have not been obligated or expended by the date of the termination of the Commission, investments of amounts in the Trust Fund shall be liquidated, the receipts of such liquidation shall be deposited in the Trust Fund, and any unobligated funds remaining in the Trust Fund shall be given to the University of Guam, with the conditions that—

''(A) the funds are invested as described in paragraph (2);

''(B) the funds are used for scholarships to be known as Guam World War II Loyalty Scholarships, for claimants described in paragraph (1) or (2) of subsection (c) or in subsection (d)(6), or for such scholarships for the descendants of such claimants; and

''(C) as the University determines appropriate, the University shall endeavor to award the scholarships referred to in subparagraph (B) in a manner that permits the award of the largest possible number of scholarships over the longest possible period of time.

''(f) GUAM TRUST FUND COMMISSION.—

''(1) ESTABLISHMENT.—There is established the Guam Trust Fund Commission, which shall be responsible for making disbursements from the Guam Trust Fund in the manner provided in this section.

''(2) USE OF TRUST FUND.—The Commission may make disbursements from the Trust Fund only for the following uses:

''(A) To make payments, under subsection (d), of awards and benefits.

''(B) To sponsor research and public educational activities so that the events surrounding the wartime experiences and losses of the Guamanian people will be remembered, and so that the causes and circumstances of this event and similar events may be illuminated and understood.

''(C) To pay reasonable administrative expenses of the Commission, including expenses incurred under paragraphs (3)(C), (4), and (5).

''(3) MEMBERSHIP.—

''(A) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members who are not officers or employees of the United States Government and who are appointed by the President from recommendations made by the Governor of Guam.

''(B) TERMS.—

''(i) Initial members of the Commission shall be appointed for initial terms of 3 years, and subsequent terms shall be of a length determined pursuant to subparagraph (F).

''(ii) Any member of the Commission who is appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

''(C) PROHIBITION OF COMPENSATION OTHER THAN EXPENSES.—Members of the Commission shall serve without pay, except that members of the Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Commission in the same manner that persons employed intermittently in the United States Government are allowed expenses under section 5703 of title 5, United States Code.

''(D) QUORUM.—5 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

''(E) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members of the Commission.

''(F) SUBSEQUENT APPOINTMENTS.—

''(i) Upon the expiration of the term of each member of the Commission, the President shall reappoint the member (or appoint another individual to replace the member) if the President determines, after consideration of the reports submitted to the President by the Commission under this section, that there are sufficient funds in the Trust Fund for the present and future administrative costs of the Commission and for the payment of further awards and benefits for which claims have been or may be filed under this title.

''(ii) Members appointed under clause (i) shall be appointed for a term of a length that the President determines to be appropriate, but the length of such term shall not exceed 3 years.

''(4) STAFF AND SERVICES.—

''(A) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Commission.

''(B) ADDITIONAL STAFF.—The Commission may appoint and fix the pay of such additional staff as it may require.

''(C) INAPPLICABILITY OF CERTAIN PROVISIONS OF TITLE 5, UNITED STATES CODE.—The Director and the additional staff of the Commission may be appointed without regard to section 5311 of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the minimum rate of basic pay payable for GS–15 of the General Schedule under section 5332(a) of such title.

''(D) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

''(5) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of funds, services, or property for uses referred to in paragraph (2). The Commission may deposit such gifts or donations, or the proceeds from such gifts or donations, into the Trust Fund.

''(6) TERMINATION.—The Commission shall terminate on the earlier of—

''(A) the end of the 6-year period beginning on the date of the appointment of the first member of the Commission; or

''(B) the date on which the Commission submits to the Congress a certification that all claims certified for payment under this section are paid in full and no further claims are expected to be so certified.

''(g) NOTICE.—Not later than 90 days after the appointment of the ninth member of the Commission, the Commission shall give public notice in the territory of Guam and such other places as the Commission deems appropriate of the time limitation within which claims may be filed under this section. The Commission shall ensure that the provisions of this section are widely published in the territory of Guam and such other places as the Commission deems appropriate, and the Commission shall make every effort both to advise promptly all individuals who may be entitled to file claims under the provisions of this title and to assist such individuals in the preparation and filing of their claims.

''(h) REPORTS.—

''(1) COMPENSATION AND CLAIMS.—Not later than 12 months after the formation of the Commission, and each year thereafter for which the Commission is in existence, the Commission shall submit to the Congress, the President, and the Governor of Guam a report containing a determination of the specific amount of compensation necessary to fully carry out this section, the expected amount of receipts to the Trust Fund, and all payments made by the Commission under this section. The report shall also include, with respect to the year which the report concerns—

''(A) a list of all claims, categorized by compensable injury, which were determined to be eligible for an award or benefit under this section, and a list of all claims, categorized by compensable injury, which were certified for payment under this section; and

''(B) a list of all claims, categorized by compensable injury, which were determined not to be eligible for an award or benefit under this section, and a brief explanation of the reason therefor.

''(2) ANNUAL OPERATIONS AND STATUS OF TRUST FUND.—Beginning with the first full fiscal year ending after submission of the first report required by paragraph (1), and annually thereafter with respect to each fiscal year in which the Commission is in existence, the Commission shall submit a report to Congress, the President, and the Governor of Guam concerning the operations of the Commission under this section and the status of the Trust Fund. Each such report shall be submitted not later than January 15th of the first calendar year beginning after the end of the fiscal year which the report concerns.

''(3) FINAL AWARD REPORT.—After all awards have been paid to eligible claimants, the Commission shall submit a report to the Congress, the President, and the Governor of Guam certifying—

''(A) the total amount of compensation paid as awards under this section, broken down by category of compensable injury; and

''(B) the status of the Trust Fund and the amount of any existing balance thereof.

''(4) FINAL BENEFITS REPORT.—After all benefits have been paid to eligible claimants, the Commission shall submit a report to the Congress, the President, and the Governor of Guam certifying—

''(A) the total amount of compensation paid as benefits under this section, broken down by category of compensable injury; and

''(B) the final status of the Trust Fund and the amount of any existing balance thereof.

''(i) LIMITATION OF AGENT AND ATTORNEY FEES.—It shall be unlawful for an amount exceeding 5 percent of any payment required by this section with respect to an award or benefit to be paid to or received by any agent or attorney for any service rendered in connection with the payment. Any person who violates this section shall be fined under title 18, United States Code, or imprisoned for not more than 1 year, or both.

''(j) DISCLAIMER.—No provision of this section shall constitute an obligation for the United States to pay any claim arising out of war. The compensation provided in this section is ex gratia in nature and intended solely as a means of recognizing the demonstrated loyalty of the people of Guam to the United States, and the suffering and deprivation arising therefrom, during World War II.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, including the administrative responsibilities of the Commission for the 36-month period beginning on the date of the appointment of the ninth member of the Commission. Amounts appropriated pursuant to this section are authorized to remain available until expended.''.●

By Mr. GRASSLEY (for himself and Mr. KYL):

S. 1404. A bill to enhance restitution to victims of crime, and for other purposes; to the Committee on the Judiciary.

THE VICTIM RESTITUTION ENHANCEMENT ACT OF 1995

● Mr. GRASSLEY. Mr. President, I introduce the Victim Restitution Enhancement Act of 1995, an important piece of legislation—called for in the Contract With America—which will help victims of crime. I have long thought that swift and decisive congressional action is needed in order to change some of the basic injustice associated with our criminal justice system. I believe that the way to do this is to change the focus of our energy and time to assisting and protecting victims of crime. And some of the bills that have been introduced by Senator NICKELS and Senator HATCH do an admirable job of changing the focus.

Mr. President, this morning the Judiciary Committee, under the able leadership of Senator HATCH, conducted a very thorough hearing on mandatory victim restitution. At that hearing, we heard testimony from a number of excellent witnesses, and one theme was particularly evident: We in Congress

need to make sure that victims can actually receive the restitution they are due.

First and foremost, I am a practical man—somebody who looks at the way good ideas and good legislation actually functions in reality. My concern with victim restitution is making sure that crime victims actually receive the restitution they are entitled to.

That is why I am introducing the Victim Restitution Enhancement Act to make sure that crime victims receive full restitution from criminals.

In drafting this bill, I consulted with former U.S. attorneys and others who have actually participated in the current system for victim restitution. And I have incorporated practical, real world suggestions from these seasoned professionals.

Let me briefly summarize the key provisions of my bill:

First, my bill forces criminals to submit sworn affidavits listing their assets after being convicted. If criminals try to hide their assets, or lie about them, they can be prosecuted for perjury, since their asset listing is under oath.

Second, my bill requires that criminals pay off their restitution debts immediately, or at least within 5 years; currently, some criminals have been able to stretch payments over an extended period of time, making victims wait longer for their due.

Third, my bill provides that bankruptcy proceedings will not discharge a criminal's duty to pay restitution.

Fourth, my bill establishes an automatic lien on all of a criminal's assets immediately upon conviction for an offense which gives rise to restitution liability.

Fifth, importantly, my bill provides that prisoners who file prisoner lawsuits must notify their victims in writing of the lawsuit and turn any monetary award over to the victims if the prisoner has not fully satisfied his duty to pay restitution. I think this will help deter many prisoner lawsuits, because criminals will realize that even if they hit the jackpot they can't keep the money.

That is what the bill does. It makes sure that good pieces of legislation, like the draft bill circulated by Senator HATCH, will really work in the real world.

Mr. President, ask unanimous consent that the bill be printed in the RECORD.

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

S. 1404

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 ''Victim Restitution Enhancement Act of 1995''.

SEC. 2. RESTITUTION.

Section 3663 of title 18, United States Code, is amended—

(1) in subsection (f)—

(A) by striking paragraphs (1) through (3);

(B) by inserting the following new paragraph:

''(1)(A) The order of restitution shall require the defendant to—

''(i) submit a sworn statement listing all assets owned or controlled by the defendant; and

''(ii) make payment immediately, unless, in the interest of justice, the court provides for payment on a date certain or in installments.

''(B) If the court provides for payment in installments, the installments shall be in equal monthly payments over a payment period prescribed by the court unless the court establishes another schedule.

''(C) If the order of restitution permits other than immediate payment, the payment period shall not exceed 5 years, excluding any term of imprisonment served by the defendant for the offense.'';

(C) by redesignating paragraph (4) as paragraph (2); and

(D) by amending paragraph (2), as so redesignated, by striking ''under this section,'' and all that follows through the end of the paragraph and inserting ''under this section.'';

(2) in subsection (h)—

(A) by striking ''(h) An order'' and inserting ''(h)(1) Subject to paragraph (2), an order'';

(B) by redesignating paragraphs (1)(A), (1)(B), and (2) as subparagraphs (A)(i), (A)(ii), and (B), respectively; and

(C) by adding at the end the following new paragraph:

''(2) Notwithstanding any other law that applies a shorter time limitation, a victim may bring an action to enforce an order of restitution on or until the date that is 20 years after the date of the order.''; and

(3) by adding at the end the following new subsections:

''(j) No discharge of debt pursuant to a bankruptcy proceeding shall render an order of restitution under this section unenforceable or discharge liability to pay restitution.

''(k)(1) An order of restitution imposed pursuant to this section or by any State court is a lien in favor of the designated agent for a victim of crime entitled to restitution by reason of any Federal or State law, or if such victim cannot be identified, in favor the United States or any State agency charged with providing restitution to victims of crime, upon all property belonging to the person against whom restitution is ordered. The lien arises at the time of the entry of the order and continues until the liability is satisfied, remitted, or set aside. The court ordering restitution shall notify all potential claimants entitled to restitution. On application of the person against whom restitution is ordered, the Attorney General or any other person or entity holding a lien pursuant to this section, shall—

''(A) issue a certificate of release, as described in section 6325 of the Internal Revenue Code, of any lien imposed pursuant to this section, upon his acceptance of a bond described in section 6325(a)(2) of the Internal Revenue Code; or

''(B) issue a certificate of discharge, as described in section 6325 of the Internal Revenue Code, of any part of the person's property subject to a lien imposed pursuant to this subsection, upon his determination that the fair market value of that part of such property remaining subject to and available to satisfy the lien is at least three times the amount of the restitution ordered.

''(2) The provisions of sections 6323, 6331, 6332, 6334 through 6336, 6337(a), 6338 through 6343, 6901, 7402, 7403, 7424 through 7426, 7505(a), 7506, 7701, and 7805 of the Internal Revenue Code of 1986 and of section 513 of the Act of October 17, 1940 (54 Stat. 1190), apply to an order of restitution and to the lien imposed by paragraph (1) as if the liability of the person against whom restitution is ordered were for an internal revenue tax assessment where the Attorney General is the lienholder, except to the extent that the application of such statutes is modified by regulations issued by the Attorney General to accord with differences in the nature of the liabilities. For the purposes of this paragraph references in the preceding sections of the Internal Revenue Code of 1986 to 'the Secretary' shall be construed to mean 'the Attorney General' and references in those sections to 'tax' shall be construed to mean 'order of restitution'.

''(3) A notice of the lien imposed by paragraph (1) shall be considered a notice of lien for taxes payable to the United States for the purposes of any State or local law providing for the filing of a notice of a tax lien. The registration, recording, docketing, or indexing, in accordance with section 1962 of title 28, United States Code, of the judgment under which an order of restitution is imposed shall be considered for all purposes as the filing prescribed by section 6323(f)(1)(A) of the Internal Revenue Code of 1986.

''(4) Notwithstanding any other provision of this subsection, an order of restitution may be enforced by execution against the property of the person against whom it is ordered in like manner as judgments in civil cases.

''(5) No discharge of debts pursuant to a bankruptcy proceeding shall render a lien under this section unenforceable.

''(6)(A) If a person against whom restitution is ordered and whose assets are subject to a lien under this subsection files any civil action seeking money damages, including an action filed during a period of incarceration, such person shall serve notice, at the expense of that person, of the filing of the action upon each person entitled to receive restitution, or the designated agent of such person, and the Attorney General.

''(B) Failure to timely provide actual notice shall be grounds for dismissal of the underlying civil action.

''(C) A person entitled to receive restitution under this section, the Office of Victims of Crime of the Department of Justice, or any agency or instrumentality of any State charged with providing restitution to victims of crime, may intervene in the civil action described in subparagraph (A) if the court determines that such intervention would be in the interests of justice.''.

SEC. 3. COSTS RECOVERABLE.

Section 1918(b) of title 28, United States Code, is amended by inserting before the period the following: '', including any amount advanced to purchase contraband in a sting operation during the investigation resulting in the conviction''.●

By Mr. FRIST:

S. 1405. A bill to eliminate certain benefits for Members of Congress; to the Committee on Governmental Affairs.

THE CITIZEN CONGRESS ACT OF 1995

● Mr. FRIST. Mr. President, I rise today to introduce the Citizen Congress Act of 1995, a bill that ends many of the perks and privileges that separate Members of Congress from the American people.

The Founding Fathers envisioned a Congress of citizen legislators who would leave their families and communities for a short time to write legislation and then return home to live under the laws they helped to pass. Unfortunately, we have strayed far from

that vision. Enacting term limits would be the best way to recreate a citizen legislature, and I remain committed to passing a term-limits amendment to the Constitution. In the meantime, reforming congressional pensions, pay, and perks offers an immediately achievable step toward making Congress more directly responsible and accountable to the American people.

A strong perception exists among the American people that elected officials in Washington have placed themselves above the laws and have separated themselves from the public with perks and privileges. With enactment of the Congressional Accountability Act and lobbying and gift reform earlier this year, we have begun to address this problem in a bipartisan way. However, we still have a long way to go. To restore confidence in Congress and our democratic form of Government, we must restore confidence in the lawmakers who serve there.

The Citizen Congress Act begins reform of our Government with the Members of Congress themselves. That is why, today, on the 1-year anniversary of last year's elections, I am introducing this important legislation.

I thank the Chair and ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1405

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 ''Citizen Congress Act''.

SEC. 2. LIMITATION ON RETIREMENT COVERAGE FOR MEMBERS OF CONGRESS.

(a) IN GENERAL.—Notwithstanding any other provision of law, effective at the beginning of the Congress next beginning after the date of the enactment of this Act, a Member of Congress shall be ineligible to participate in the Civil Service Retirement System or the Federal Employees' Retirement System, except as otherwise provided under this section.

(b) PARTICIPATION IN THE THRIFT SAVINGS PLAN.—Notwithstanding subsection (a), a Member may participate in the Thrift Savings Plan subject to section 8351 of title 5, United States Code, at anytime during the 12-year period beginning on the date the Member begins his or her first term.

(c) REFUNDS OF CONTRIBUTIONS.—(1) Nothing in subsection (a) shall prevent refunds from being made, in accordance with otherwise applicable provisions of law (including those relating to the Thrift Savings Plan), on account of an individual's becoming ineligible to participate in the Civil Service Retirement System or the Federal Employees' Retirement System (as the case may be) as a result of the enactment of this section.

(2) For purposes of any refund referred to in paragraph (1), a Member who so becomes ineligible to participate in either of the retirement systems referred to in paragraph (1) shall be treated in the same way as if separated from service.

(d) ANNUITIES NOT AFFECTED TO THE EXTENT BASED ON PRIOR SERVICE.—Subsection (a) shall not be considered to affect—

(1) any annuity (or other benefit) entitlement to which is based on a separation from service occurring before the date of the enactment of this Act (including any survivor annuity based on the death of the individual who so separated); or

(2) any other annuity (or benefit), to the extent provided under subsection (e).

(e) PRESERVATIONS OF RIGHTS BASED ON PRIOR SERVICE.—(1) For purposes of determining eligibility for, or the amount of, any annuity (or other benefit) referred to in subsection (d)(2) based on service as a Member of Congress—

(A) all service as a Member of Congress shall be disregarded except for any such service performed before the date of the enactment of this Act; and

(B) all pay for service performed as a Member of Congress shall be disregarded other than pay for service which may be taken into account under subparagraph (A).

(2) To the extent practicable, eligibility for, and the amount of, any annuity (or other benefit) to which an individual is entitled based on a separation of a Member of Congress occurring after such Member becomes ineligible to participate in the Civil Service Retirement System or the Federal Employees' Retirement System (as the case may be) by reason of subsection (a) shall be determined in a manner that preserves any rights to which the Member would have been entitled, as of the date of the enactment of this Act, had separation occurred on such date.

(f) REGULATIONS.—Any regulations necessary to carry out this section may be prescribed by the Office of Personnel Management and the Executive Director (referred to in section 8401(13) of title 5, United States Code) with respect to matters within their respective areas of responsibility.

(g) DEFINITION.—As used in this section, the terms ''Member of Congress'' and ''Member'' mean any individual under section 8331(2) or 8401(20) of title 5, United States Code.

(h) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to apply with respect to any savings plan or other matter outside of subchapter III of chapter 83 or chapter 84 of title 5, United States Code.

SEC. 3. DISCLOSURE OF ESTIMATES OF FEDERAL RETIREMENT BENEFITS OF MEMBERS OF CONGRESS.

(a) IN GENERAL.—Section 105(a) of the Legislative Branch Appropriations Act, 1965 (2 U.S.C. 104a; Public Law 88–454; 78 Stat. 550) is amended by adding at the end thereof the following new paragraph:

''(4) The Secretary of the Senate and the Clerk of the House of Representatives shall include in each report submitted under paragraph (1), with respect to Members of Congress, as applicable—

''(A) the total amount of individual contributions made by each Member to the Civil Service Retirement and Disability Fund and the Thrift Savings Fund under chapters 83 and 84 of title 5, United States Code, for all Federal service performed by the Member as a Member of Congress and as a Federal employee;

''(B) an estimate of the annuity each Member would be entitled to receive under chapters 83 and 84 of such title based on the earliest possible date to receive annuity payments by reason of retirement (other than disability retirement) which begins after the date of expiration of the term of office such Member is serving; and

''(C) any other information necessary to enable the public to accurately compute the Federal retirement benefits of each Member based on various assumptions of years of service and age of separation from service by reason of retirement.''.

(b) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act.

SEC. 4. ELIMINATION OF AUTOMATIC ANNUITY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

The portion of the annuity of a Member of Congress which is based solely on service as a Member of Congress shall not be subject to a COLA adjustment under section 8340 or 8462 of title 5, United States Code.

SEC. 5. ELIMINATION OF AUTOMATIC PAY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

(a) PAY ADJUSTMENTS.—Paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is repealed.

(b) CONFORMING AMENDMENT.—Section 601(a)(1) of such Act is amended—

(1) by striking ''(a)(1)'' and inserting ''(a)'';

(2) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(3) by striking '', as adjusted by paragraph (2) of this subsection''.

SEC. 6. ROLLCALL VOTE FOR ANY CONGRESSIONAL PAY RAISE.

It shall not be in order in the Senate or the House of Representatives to dispose of any amendment, bill, resolution, motion, or other matter relating to the pay of Members of Congress unless the matter is decided by a rollcall vote.

SEC. 7. TRAVEL AWARDS FROM OFFICIAL TRAVEL OF A MEMBER, OFFICER, OR EMPLOYEE OF THE HOUSE OF REPRESENTATIVES TO BE USED ONLY WITH RESPECT TO OFFICIAL TRAVEL.

(a) IN GENERAL.—Notwithstanding any other provision of law, or any rule, regulation, or other authority, any travel award that accrues by reason of official travel of a Member, officer, or employee of the House of Representatives may be used only with respect to official travel.

(b) REGULATIONS.—The Committee on House Oversight of the House of Representatives shall have authority to prescribe regulations to carry out this section.

(c) DEFINITIONS.—As used in this section—

(1) the term ''travel award'' means any frequent flier mileage, free travel, discounted travel, or other travel benefit, whether awarded by coupon, membership, or otherwise; and

(2) the term ''official travel'' means, with respect to the House of Representatives, travel performed for the conduct of official business of the House of Representatives.

SEC. 8. BAN ON MASS MAILINGS.

(a) IN GENERAL.—(1) Paragraph (6)(A) of section 3210(a) of title 39, United States Code, is amended to read as follows:

''(6)(A) It is the intent of Congress that a Member of, or Member-elect to, Congress may not mail any mass mailing as franked mail.''.

(2) The second sentence of section 3210(c) of title 39, United States Code, is amended by striking ''subsection (a) (4) and (5)'' and inserting ''subsection (a) (4), (5), and (6)''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 3210 of title 39, United States Code, is amended—

(A) in subsection (a)(3)—

(i) in subparagraph (G) by striking '', including general mass mailings,''; and

(ii) in subparagraphs (I) and (J) by striking ''or other general mass mailing'';

(B) in subsection (a)(6) by repealing subparagraphs (B), (C), and (F), and the second sentence of subparagraph (D);

(C) by repealing paragraph (7) of subsection (a); and

(D) by repealing subsection (f).

(2) Section 316(a) of the Legislative Branch Appropriations Act, 1990 (39 U.S.C. 3210 note) is repealed.

(3) Subsection (f) of section 311 of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 59e(f)) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect at the beginning of the Congress next beginning after the date of the enactment of this Act.

SEC. 9. RESTRICTIONS ON USE OF MILITARY AIR COMMAND BY MEMBERS OF CONGRESS.

(a) RESTRICTIONS.—(1) Chapter 157 of title 10, United States Code, is amended by adding at the end the following:

''§ 2643. Restrictions on provision of air transportation to Members of Congress

''(a) RESTRICTIONS.—A Member of Congress may not receive transportation in an aircraft of the Military Air Command unless—

''(1) the transportation is provided on a space-available basis as part of the scheduled operations of the military aircraft unrelated to the provision of transportation to Members of Congress;

''(2) the use of the military aircraft is necessary because the destination of the Member of Congress, or an airfield located within reasonable distance of the destination, is not accessible by regularly scheduled flights of commercial aircraft; or

''(3) the use of the military aircraft is the least expensive method for the Member of Congress to reach the destination by aircraft, as demonstrated by information released before the trip by the member or committee of Congress sponsoring the trip.

''(b) DESTINATION.—In connection with transportation provided under subsection (a)(1), the destination of the military aircraft may not be selected to accommodate the travel plans of the Member of Congress requesting such transportation.

''(c) AIRCRAFT DEFINED.—For purposes of this section, the term 'aircraft' includes both fixed-wing airplanes and helicopters.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

''2643. Restrictions on provision of air transportation to Members of Congress.''.

(b) EFFECT ON MEMBERS CURRENTLY RECEIVING TRANSPORTATION.—Section 2643 of title 10, United States Code, as added by subsection (a), shall not apply with respect to a Member of Congress who, as of the date of the enactment of this Act, is receiving air transportation or is scheduled to receive transportation in an aircraft of the Military Air Command until the Member completes the travel plans for which the transportation is being provided or scheduled.

SEC. 10. PROHIBITION ON USE OF MILITARY MEDICAL TREATMENT FACILITIES BY MEMBERS OF CONGRESS.

(a) PROHIBITION.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end the following:

''§ 1107. Prohibition on provision of medical and dental care to Members of Congress

''A Member of Congress may not receive medical or dental care in any facility of any uniformed service unless—

''(1) the Member of Congress is eligible or entitled to such care as a member or former member of a uniformed service or as a covered beneficiary; or

''(2) such care is provided on an emergency basis unrelated to the person's status as a Member of Congress.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

''1107. Prohibition on provision of medical and dental care to Members of Congress.''.

(b) EFFECT ON MEMBERS CURRENTLY RECEIVING CARE.—Section 1107 of title 10, United States Code, as added by subsection (a), shall not apply with respect to a Member of Congress who is receiving medical or dental care in a facility of the uniformed services on the date of the enactment of this Act until the Member is discharged from that facility.

SEC. 11. ELIMINATION OF CERTAIN RESERVED PARKING AREAS AT WASHINGTON NATIONAL AIRPORT AND WASHINGTON DULLES INTERNATIONAL AIRPORT.

(a) IN GENERAL.—Effective 30 days after the date of the enactment of this section, the Airports Authority—

(1) shall not provide any reserved parking areas free of charge to Members of Congress, other Government officials, or diplomats at Washington National Airport or Washington Dulles International Airport; and

(2) shall establish a parking policy for such airports that provides equal access to the public, and does not provide preferential parking privileges to Members of Congress, other Government officials, or diplomats.

(b) DEFINITIONS.—As used in this section, the terms ''Airports Authority'', ''Washington National Airport'', and ''Washington Dulles International Airport'' have the same meanings as in section 6004 of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2453).●

ADDITIONAL COSPONSORS

S. 295

At the request of Mrs. KASSEBAUM, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 295, a bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 1035

At the request of Mr. DASCHLE, the names of the Senator from Wyoming [Mr. SIMPSON] and the Senator from Michigan [Mr. ABRAHAM] were added as cosponsors of S. 1035, a bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes.

S. 1072

At the request of Mr. THURMOND, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1072, a bill to redefine ''extortion'' for purposes of the Hobbs Act.

S. 1200

At the request of Ms. SNOWE, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1200, a bill to establish and implement efforts to eliminate restrictions on the enclaved people of Cyprus.

S. 1228

At the request of Mr. D'AMATO, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1228, a bill to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran.

S. 1249

At the request of Mr. FRIST, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1249, a bill to amend the Internal Revenue Code of 1986 to establish medical savings account, and for other purposes.

S. 1279

At the request of Mr. DOLE, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1279, a bill to provide for appropriate remedies for prison condition lawsuits, to discourage frivolous and abusive prison lawsuits, and for other purposes.

S. 1316

At the request of Mr. KEMPTHORNE, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1316, a bill to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act''), and for other purposes.

S. 1396

At the request of Mr. PRESSLER, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1396, a bill to amend title 49, United States Code, to provide for the regulation of surface transportation.

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. LOTT, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Concurrent Resolution 26, a concurrent resolution to authorize the Newington-Cropsey Foundation to erect on the Capitol Grounds and present to Congress and the people of the United States a monument dedicated to the Bill of Rights.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, November 8, 1995, at 10 a.m., to hold a hearing on mandatory victim restitution.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for an executive session, during the session of the Senate on Wednesday, November 8, 1995, at 9:30 a.m.

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

COMMITTEE ON SMALL BUSINESS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate Committee on Small Business hold a joint hearing with the House Committee on Small Business regarding ''Railroad Consolidation: Small Business Concerns'' on Wednesday, November 8, 1995, at 2 p.m., in room 2123 of the Rayburn House Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Select

Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, November 8, 1995, at 2 p.m., to hold a closed hearing on intelligence matters.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, November 8, 1995, at 4 p.m., to hold a closed briefing regarding intelligence matters.

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

SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER DEVELOPMENT AND RELATED MATTERS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Special Committee to Investigate Whitewater Development and Related Matters be authorized to meet during the session of the Senate on Wednesday, November 8, and Thursday, November 9, 1995, to conduct hearings pursuant to Senate Resolution 120.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT AND THE DISTRICT OF COLUMBIA

Mr. CRAIG. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management and the District of Columbia, Committee on Governmental Affairs, be permitted to meet during a session of the Senate on Wednesday, November 8, 1995, at 9 a.m., to hold a hearing on oversight of the courthouse construction program.

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

ADDITIONAL STATEMENTS

PENSION REVERSION PROVISIONS IN BUDGET RECONCILIATION LEGISLATION

• Mrs. KASSEBAUM. Mr. President, the budget reconciliation legislation passed by the House of Representatives includes a measure that would generate approximately $10 billion in tax revenue by doing away with penalties Congress imposed in 1990 on pension fund withdrawals. The House proposal allows companies to withdraw so-called excess funds from pension plans for any purpose, without informing plan participants or beneficiaries.

As my colleagues know, the Senate on October 27 voted overwhelmingly to remove a similar provision from the Senate reconciliation legislation. While the Senate reversion provision was more narrowly tailored in many respects than its companion in the House bill, 94 members of this body voted to remove it.

The reason that members of this body rejected that proposal so resoundingly, I believe, is because even the more modest provisions contained in the Senate bill would have represented a significant shift in pension policy. Moreover, the Senate Committee on Labor and Human Resources Committee has not considered fully the ramifications of such a change.

And those ramifications are, potentially, tremendous. There are approximately 22,000 pension plans covering 11 million workers and 2 million retirees that have assets in excess of 125 percent of current liability, and the Joint Committee on Taxation estimates that the pension reversion provisions contained in both the House and Senate bills could result in the removal of tens of billions of dollars in surplus assets from these plans.

The last time Congress did address the reversion issue, we acted decisively to enact strong measures to protect workers' pensions. In response to a wave of corporate takeovers and pension raids in the 1980s, Congress in 1990 imposed a 50 percent excise tax on pension fund reversions, except in limited circumstances. The idea was to make it costly for companies to take assets from their pension plans. And, in fact, the raids on assets ceased almost entirely. Before this change, however, about $20 billion was siphoned from pension funds in just a few years, many pension plans were terminated, and thousands of workers saw their pensions replaced by risky annuities that in many cases provided lower benefits.

Let me be clear. There may be valid reasons to reconsider this policy. I believe strongly, however, that any changes in this area, and of this magnitude, should be made based on sound pension policy and not to satisfy budgetary demands. Therefore, I do not believe that changes to the current pension reversion policy should be included in budget reconciliation and I strongly urge the Senate conferees to insist on the Senate position.

Having said that, Mr. President, I realize the difficult task ahead for all budget conferees. While the Finance Committee budget conferees have a strong vote to bolster the Senate position, I realize that the House will be equally insistent.

If pension reversion provisions are to be included in the final reconciliation package, they should be carefully and conservatively constructed to ensure—above all—that each pension plan retains a cushion sufficient to weather changes in the current business climate, and ultimately to meet its obligations to participants and retirees. In this regard, I would like to associate myself with the very excellent and thoughtful remarks made on October 26 by Representative HARRIS W. FAWELL. Representative FAWELL is one of the most knowledgeable Members of the House on issues regarding employee benefits, and he has been an outspoken leader on the issue of pension reversions.

Because the threshold beyond which assets may be withdrawn under the House proposal can be less than the threshold of assets required in the event of an actual plan termination, the House proposal effectively would allow even companies in bankruptcy to terminate a plan or remove funds from a plan with no guarantee that the remaining assets would be sufficient to pay for all plan benefits. This clearly is unacceptable.

To ensure that pension assets are as safe as possible, it is essential that the formula for allowing employers to remove funds from pension trusts be based on the most conservative of actuarial principles. Therefore, I believe companies should be required to use a minimum asset cushion based on the greater of 125 percent of termination liability based on PBGC assumptions, rather than current liability, or accrued liability, whichever is greater.

To further ensure that pensions are secure, companies must be required to use conservative actuarial assumptions for interest, mortality, and expected retirement based on the guidelines issued by the Pension Benefit Guaranty Corporation [PBGC]. I realize some would prefer to leave this calculation to the discretion of a company's actuary. However, I do not believe it is prudent to allow absolute discretion without more fully considering the possible risks that may result from allowing the use of differing assumptions.

For example, the PBGC estimates that a plan whose current liability is 125 percent funded may in fact be less than 100 percent funded for purposes of its liability at plan termination. While the PBGC calculations may not be perfect, the risk to participants and taxpayers from an underfunded plan dictates that companies taking reversions rely on these assumptions.

In addition, there should be real limits both on the use of excess pension funds, and on the types of situations in which companies are allowed to take reversions. For example, a company generally should not be allowed to withdraw funds for new plant and equipment while it leaves another pension plan underfunded or fails to meet its obligations toward a defined contribution plan. Nor should a company in bankruptcy be allowed to take a reversion without further protections.

Finally, as the Senate provision originally provided, plan participants and beneficiaries must be given notice of pension withdrawals in advance, and must be afforded all the protections normally provided under title I of the Employee Retirement Income Security Act [ERISA].

Mr. President, let me emphasize again that I strongly prefer that no changes be made in this area—at least until such changes can be properly considered by the Labor Committee. But if, and when, such changes are to be made, they must be crafted carefully and conservatively to protect participants, retirees, and taxpayers; they must include protections normally provided to participants and retirees

under title I of ERISA; and, most importantly, they must be premised on principles of sound, long-term pension policy instead of temporary revenue generation.

Because of the extreme complexity of this issue, it is difficult to believe that all aspects have been appropriately considered. To cite just a few examples, there may need to be special consideration given to employee contribution plans, and to plans covering a very small number of participants. Neither the House nor the Senate proposals take these situations into consideration.

In closing, therefore, I would like my colleagues to know that the Labor and Human Resources Committee may very well consider the issue of pension reversions early next year. Should a pension reversion proposal emerge from the House-Senate reconciliation conference that varies markedly from the goals I have outlined here, there is a much greater likelihood that the Labor and Human Resources Committee will revisit this issue.

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

CHEMICAL WEAPONS CONVENTION

● Mr. LAUTENBERG. Mr. President, a constituent of mine who teaches at Rutgers University in New Jersey, Adjunct Professor Leonard A. Cole, recently joined in organizing an appeal calling on the Senate to ratify the Chemical Weapons Convention. I believe the Senate should debate this convention without delay and ask that the text of a letter from Mr. Cole, along with a news article on the appeal he helped to organize be printed in the CONGRESSIONAL RECORD.

The material follows:

RUTGERS UNIVERSITY,
DEPARTMENT OF POLITICAL SCIENCE,
Newark, NJ.

DEAR SENATOR: Having organized the effort to produce the enclosed statement in The New York Times, I wanted to bring the matter to your attention. The statement urges support for the Chemical Weapons Convention, a treaty to ban chemical weapons from the face of the earth. It was paid for and signed by 64 leaders from every sector with a close interest in chemical weapons issues—from the scientific, intelligence, military, diplomatic, arms control, and business communities. The list includes eight Nobel laureates.

The terms of the treaty were negotiated with scrupulous care by nations around the world, and received input from every affected U.S. interest group. It enjoys broad support. Before the U.S. signed in 1993, 75 senators went on record in favor of the treaty. Nevertheless, as you may know, the chairman of the Foreign Relations Committee, Jesse Helms, has expressed reluctance to allow a vote on ratification.

Current U.S. inaction on the treaty sends a very dangerous message to the rest of the world. By our failing to ratify, other countries can only believe the U.S. does not think banning these weapons important. U.S. leadership is crucial to maintaining a moral atmosphere that does not allow for these weapons. Without the treaty, more and more countries are likely to arm themselves with these low-cost, low-tech weapons of terror and mass destruction.

In the interest of this nation, indeed of all humanity, we hope you will join in a vigorous effort to press for ratification of the Chemical Weapons Convention. If you would like to talk further about this, please do not hesitate to contact me. Thank you.

Sincerely,

LEONARD A. COLE,
Adjunct Professor.

[From Chemical & Engineering News, Oct. 23, 1995]

SCIENTISTS, OTHERS URGE SENATE TO RATIFY CHEMICAL ARMS TREATY

Sixty-four prominent scientists, military and government officials, academicians, and business figures have endorsed an appeal in the form of an ad, for the U.S. Senate to ratify the Chemical Weapons Convention. The treaty bans the production, use, storage, and distribution of chemical weapons. The U.S. is among 159 countries that have signed the treaty. Forty nations—but not the U.S. or Russia—have ratified it. ''Many countries are waiting for the U.S. to act,'' says Leonard A. Cole; an adjunct professor at Rutgers University. Cole and prominent Harvard University biochemist Matthews S. Meselson, who are among those signing the appeal, spearheaded the ad effort. The treaty has the support of the Clinton Administration, the Pentagon, intelligence community spokesmen such as former CIA Director William E. Colby, arms control experts, and the Chemical Manufacturers Association (CMA). It also has the bipartisan support of a large number of senators. Among the ad's signers are Nobel Laureate chemists David Baltimore, Ronald Hoffmann, and Glenn T. Seaborg, Will D. Carpenter, who represented CMA during treaty negotiations, has also signed the appeal, Sen. Jesse Helms (R-N.C.), chairman of the Foreign Relations Committee, is holding the treaty hostage.●

KENO GAME USHERS IN NEW ERA OF GAMBLING IN NEW YORK

● Mr. LUGAR. Mr. President, I ask that the attached article be printed in the RECORD.

The article follows:

[From the New York Times, Sept. 7, 1995]

KENO GAME USHERS IN NEW ERA OF GAMBLING IN NEW YORK

(By Ian Fisher)

Bill Fox played the numbers in his birthday, his wife's birthday, the birthday of a grandson, and then for good measure, plucked a few random digits from his head.

''Ahhh, it's a shot,'' he said after betting—and losing—$5 a short time after New York State's new Quick Draw keno game went on line yesterday morning.

The little colored balls that bopped around the video screen at the Blarney Stone on Ninth Avenue, and at hundreds of other businesses across the state, bounced New York into a new era of gambling, the most significant expansion in the state lottery's 28-year history. Starting at 10 A.M. yesterday, the state began holding lottery drawings every 5 minutes for 13 hours a day in bars, restaurants, bowling alleys, Offtrack Betting parlors—even a hardware store or two—2,250 by the end of the month, lottery officials project.

Gov. Mario M. Cuomo, who pushed for the keno game to help close several budget gaps, used to liken it to bingo. Pataki administration officials say it is simply another lottery game, no different from Pick 10. Critics, though, say that the game's pace makes it more akin to casino-style gambling—and more prone to pocket-draining abuse.

But Mr. Fox and other newly minted keno players were not interested in moralizing. Although the game seemed to get off to a slow start in the morning, as several bars in Manhattan complained that the equipment did not work or was still not installed, those who played early said they liked Quick Draw precisely because of the promise of a quick reward.

''You don't have to wait,'' said Mr. Fox, a 46-year-old plumber who played a few games at his lunch break. ''It's right there in front of you: you are a winner or a loser.''

A small taste of the critics' fears played out at Handyman Hardware and Paint in the Oakwood Shopping Center on Staten Island, where three tables and a dozen chairs became a makeshift keno parlor.

''I came here a half an hour ago to buy milk and diapers,'' said Katherine Petersen, 37, a marine-insurance broker. ''I'm still here. It's addicting.''

''I play the daily number, but you have to wait until 7:30 to know,'' she said. ''This is quicker—five minutes—it's like being in Atlantic City.''

''I won a dollar,'' she said. ''I bet $7. I have no more money for the diapers and the milk. But I had fun.''

New York is the eighth state to offer keno, a game that Republicans and Democrats alike had opposed in Albany for years.

But it was approved this year with apparent reluctance in the face of a nearly $5 billion deficit, as lawmakers scrambled to find money to prevent increases in college tuition or cuts in welfare and Medicaid. The game is expected to bring in $180 million in its first full year of operation.

''There was a line we were drawing in the sand, and we had to be more open, I should say, to new additional revenue sources,'' said Patricia Lynch, a spokeswoman for Assembly Speaker Sheldon Silver, a Manhattan Democrat who had been a staunch opponent of keno. ''That's the bottom line.''

Lawmakers, especially Democrats, were also courted aggressively by half a dozen lobbyists hired by the Gtech Corporation of West Greenwich, R.I., which runs the game on behalf of the lottery. The company will be paid 1.525 percent of the sales.

Except for the pace and setting, Quick Draw is played like any other keno-style lottery game. A player picks 1 to 10 numbers from a field of 80, filling out a card that is fed into a lottery machine by the bartender or other employee. The player bets $1, $2, $3, $4, $5, or $10 each game and may play a maximum of 20 games or $100 on each card. But players can effectively bet whatever they like by simply filling out more than one card.

Every five minutes, a central computer at the lottery's headquarters spits out 20 random numbers, which zip through phone lines and are displayed simultaneously on terminals around the state. Players win according to how many numbers they match and how much they bet: the highest prize for a $1 bet is $100,000, if the player bets on 10 numbers and matches all of them. If the player matches five numbers on that bet, he would be paid $2.

Like any other lottery game, players can redeem prizes of up to $600 on site. For larger prizes, they must file a claims form and receive their winnings from the lottery department.

The businesses that install keno games receive 6 percent of the total sales, with no extra commission for any winning tickets they sell. That percentage is less than what many establishments earn for food and drinks, but many bars and restaurants

agreed to the game in the hope of attracting customers both to gamble and, they hope, to spend more on food and drink as well.

But many bars have turned down Quick Draw, both because of worries it may not pay off financially and because they feel it essentially turns their establishments into betting parlors.

''I think it demeans my restaurant and bar,'' said Don Berger, owner of the Riverrun in TriBeCa. ''It smacks of Atlantic City, honky-tonk and we don't do that, I am not interested in that one bit.''

In Massachusetts, which has run a keno game for a year and a half, a debate has ignited over placing keno terminals in convenience stores—which critics say brings gambling into places where children can watch. In New York, the law was written to exclude most convenience stores by requiring outlets to have a minimum of 2,500 square feet. But the game is being installed in some liquor stores, supermarkets, pharmacies and other outlets that do meet the space requirements.

It is too early to know whether any strong opposition to Quick Draw will emerge, but if the experience of other states is any guide, the game will probably be popular among those who play.

''People are going to gamble anyway, if not in New York, then in New Jersey,'' said Geno Gulli, a retired barber, as he placed a losing $2 bet in Keenan's bar on 231st Street and Broadway. The profits to the state, he said, were ''good for the state for a good cause.''

As he spoke, Bert Patel, a candy store owner, basked in the glow of a $10 win. ''I just got my beer money back,'' he said.

SALE OF POWER MARKETING ADMINISTRATIONS

• Mr. DORGAN. Mr. President, recently during the debate on the fiscal year 1997 energy and water appropriations conference report, attention was called to some of the fine print within that report regarding the sale of power marketing administrations.

It was agreed in the conference report to retain the prohibitions against the six Federal public power authorities from conducting studies related to pricing hydroelectric power and against the executive branch to study or take other actions to transfer federal power marketing authorities out of Federal ownership.

I am very pleased that the Senate prevailed in its position and overturned efforts within the House of Representatives to forward a bad idea that would have had consequences at a bad time for rural America.

There simply is no reason for Congress to have to repeatedly say ''No'' to the sale of our Nation's power marketing administrations. Such sales would be both poor public policy and shortsighted fiscal policy.

Yet I am not convinced that the perpetrators of this bad idea have gotten the message.

Within the report is the following statement:

> The conferees agree that the statutory limitations do not prohibit the Legislative Branch from initiating or conducting studies or collecting information regarding the sale or transfer of the power marketing administrations to non-Federal ownership.

This statement is factually correct. The prohibitions in law that were retained by the conference report were that neither the power marketing administrations nor the executive branch could use Federal funds to study this bad idea.

This language however does not mean that such studies by the legislative branch would be a good idea. This language should not be interpreted as an invitation for the legislative branch to once again spend money pursuing a bad idea.

Those who would pervert this language as some form of authorization for a study by the legislative branch simply haven't understood the message.

The message is simple—if we prohibit one branch of Government from foolishly spending money pursuing a bad idea, it would be just as foolish for another branch to use tax dollars for similar studies.

We do not need any more studies to confirm that this is bad idea, with bad consequences, at a bad time for rural Americans. It is time to understand the will of Congress and move on and leave this bad idea in the trash can where it belongs.•

TRIBUTE TO JIM HAUTMAN

• Mr. GRAMS. Mr. President, I want to take this opportunity to congratulate a fellow Minnesotan, Jim Hautman of Plymouth, MN, on submitting the winning entry for the 1994–95 Federal Duck Stamp Design Competition.

What is particularly impressive about the selection of Mr. Hautman's entry as the winner of this year's Federal duck stamp competition is that this is the second time he has won the contest, having also produced the winning entry in 1989. In fact, the Hautman family has a history of submitting winning entries into the competition. Brother Joe Hautman's entry won the competition in 1991, while brother Bob Hautman won a second place award in 1994.

Each year, the U.S. Fish and Wildlife Service sponsors the duck stamp design competition to determine the final design of the following year's stamp. The artwork is judged by a panel of art, waterfowl, and stamp experts who must select the winning design from up to 1,000 entries.

The contest is the only annual art competition sponsored by the Federal Government, with the winning entry released for sale to sportsmen and women and stamp collectors each June 30. The revenues generated by the sales of each year's winning entry are used by the Federal Government to buy or lease habitat lands for migratory waterfowl species.

Since the Federal Duck Stamp Design Program was first initiated in 1934, Minnesota has produced nine winners of the annual competition, more than any other State. As this year's winner, Mr. Hautman not only continues this impressive tradition of competition winners from Minnesota, but also a tradition of producing winning entries within his own immediate family. For the RECORD I am pleased to submit yesterday's Washington Post article on the Hautman family's legendary success in the duck stamp contest.

Mr. President, as a Senator representing a State which has a proud history of maintaining and providing waterfowl and wildlife habitat, I want to again congratulate Mr. Hautman on winning this prestigious contest for the second time and also recognize and laud the achievements of the Federal Duck Stamp Program in providing habitat for migratory waterfowl species.

The article follows:

[From The Washington Post, Nov. 7, 1995]

QUACKERJACK ARTISTS; FOR THE STAMP CONTEST, THE HAUTMAN BROTHERS HAVE THEIR DUCKS IN A ROW

(By William Souder)

PLYMOUTH, MINN.—The ducks have pretty much taken over Bob Hautman's house. There are loaded decoy bags in the middle of the living room floor, and loose decoys—fat bluebills and graceful canvasbacks—are scattered about seemingly everywhere. Stuffed ducks, locked in perpetual flight, rest on shelves that are a few weeks between dustings. Out on the driveway a dun-painted duck boat sits on a trailer hooked up to Hautman's car, which is pointed toward the street for an easy pre-dawn exit.

''Fixing these guys up,'' Hautman says, turning over a freshly spray-painted bluebill decoy. He is tall and thin, dressed in jeans and a zippered camouflage sweat shirt. The decoy he is holding is a gamy smudge of black and light gray. ''I was out hunting today, and I thought they looked pretty beat up. I am going out again in the morning.''

For Hautman, 36, it is another autumn, another duck season, another chance at waterfowling immortality. He interrupts his hunting this week to come to Washington for the annual federal duck stamp competition—far and away the most prestigious honor in wildlife painting and surely one of the richest art prizes in the world. Hautman is one of 453 wildlife artists from around the country who submitted entries in September, and while many of the others will be too nervous to attend the judging today and tomorrow [see related article, Page E6], Hautman will be right there in the audience waiting to see if his 7-by-10-inch painting will become next year's stamp.

And why not? After all, he finished second in last year's contest and came in fourth the three years prior to that. Plus, he is a Hautman—a member of America's ruling duck stamp dynasty—and he is due.

The current $15 duck stamp—the one riding around on the backs of more than 1 million hunting licenses—was engraved from a painting of a pair of mallards submitted last year by Hautman's younger brother Jim. That made two wins for Jim, who at the age of 25 had become the youngest winner ever with a painting of black-bellied whistling ducks that appeared on the 1990 stamp. Jim got married earlier this year and moved out of the house on the hill in Plymouth, but he still has studio space there in a cluttered bedroom down the hall from Bob's. Because artists cannot enter the contest for 3 years after a win, Bob will not be competing against Jim this week.

But then there is Joe, another Hautman brother, who is back in the hunt this year after winning in 1992 with a spectacled eider.

Joe, 39, lives in Jackson, N.J., and has a PhD in physics. He gave up science after doing postdoctoral research at the University of Pennsylvania so he could become a full-time wildlife artist, too. Jim and Joe are the only brothers ever to win the federal competition. Joe's submission this year is a Barrow's goldeneye, one of the four ducks the U.S. Fish and Wildlife Service has solicited for the 1996 stamp. Bob, the shyest of the three brothers and the one most anxious about the competition, would not say which bird he painted for the contest.

If Joe were to win again, Bob would at least get a chance every other wildlife artist in the country covets, the chance to compete next year without going up against a Hautman.

''We do get calls every year from artists wanting to know if the Hautmans are going to be in the contest,'' says Terry Bell, special events coordinator for the Federal Duck Stamp Program. ''They are all a little intimidated.''

THE DUCK MARKET

Duck stamp painting is a high-stakes subspecies of wildlife art—itself a genre held in low regard by the fine-art world but adored by millions of sportsmen and collectors. The stamp paintings are intensely realistic—anatomical correctness is required of every entry—but the rewards of winning a stamp competition are decidedly unreal. Officially, the Federal Duck Stamp Program offers the winner only a sheet of stamps and a handshake from the secretary of the interior. But there is a thriving private-sector market for limited-edition prints of the winning painting.

That market peaked in the mid-1980s, when winners of the federal competition could count on making a minimum of $1 million in fees and royalties from their prints, not to mention the overnight increase in the value of their other works. For a variety of reasons—including large print runs that glutted the market, careless investments by speculators, and a continuing decline in the number of duck hunters—the payoff for winning the federal contest is not what it used to be, though it remains enormous. This year's winner can expect to earn somewhere between $500,000 and $1 million.

''When you win, the phone does not stop ringing for days,'' says David Maass, another Minnesota artist who's won the federal competition.

''This is the Olympics of wildlife art,'' says Robert Lesino, chief of the Federal Duck Stamp Program. ''No other event in the life of an artist can launch a career like this can. When you win the federal duck stamp, everything changes.''

SHOOTING AND SKETCHING

''I never really thought the boys showed that much artistic talent,'' says Elaine Hautman of her sons. ''They always had their crayons, and they could always draw nicely. I guess other people thought that was unusual, but to us it was just sort of normal.''

Hautman, who worked in the 1940s as a commercial artist in Minneapolis and who remains a sharp-eyed critic of her sons' work, says they got their love of the outdoors from her late husband, Tom, who took them hunting and taught them how to look at game in its natural environment. ''I think by the time they could talk they could already tell one bird from another,'' she says.

Joe Hautman says that he, Jim and Bob have never thought of themselves as being unique.

''It seems sort of natural to us,'' he says. ''There are seven kids in the family, so it is not like we are all into this. The three of us have always done art, and I do not think we tend to see ourselves in the same way others see us. I guess it is like the way people in the same family sometimes do not think they look like each other when in fact they do.

''The three of us just got back from a long hunting trip in Minnesota and Manitoba, and in two weeks we did not talk about art at all.''

It is one thing to be a genetically predisposed wildlife artist. It is another thing altogether to set out purposefully to win duck stamp competitions. Besides the federal stamps they've illustrated, the brothers Hautman have collectively won 15 State duck or pheasant stamp competitions, and Jim has won the Australian national contest. No wonder other artists are spooked. The Hautmans are not prolific—none of them produces more than a dozen paintings a year, and they publish only a fraction of their output for collectors—but when a bird flies off one of their easels there's a very good chance it will land on a hunting stamp.

Everyone into duck art recognizes that the Hautmans share an uncommon natural talent, just as they recognize the brothers' distinctive style—the strong lighting, the stark contrasts so well suited to the engraving process, the meticulous anatomical perfection. But what seems to have really separated them from other artists is their single-mindedness.

''More than any other wildlife artists I know, they are students of duck stamp design,'' says Frank J. Sisser, editor and publisher of U.S. Art magazine in Minneapolis and one of the five judges for the 1992 competition. ''They study what's been successful. And they make no bones about painting primarily for stamp competitions. They are not as distracted by other projects as many artists are.

''But they are also brothers and best friends who serve as each other's harshest critics. If they can survive having their paintings inspected by one another, they are going to have a very good chance at winning.''

The Hautmans have traveled to Kodiak Island to observe and shoot species found only near the Bering Sea. They have hunted snow geese and the ubiquitous mallard in the marshes of Manitoba, Canada. They always hunt in Minnesota, and Bob says he wouldn't mind getting down to Texas sometime to look for the little-seen mottled duck, a brown-on-brown bird similar in appearance to a hen mallard and one of the four North American ducks that has never been on the Federal stamp.

When the brothers failed to bag a rare spectacled eider in Alaska a few years ago, Joe's research for his winning painting took him to the Philadelphia Zoo, which had a live hen, and to a natural history museum up in Ottawa, which had a collection of dead eiders that had been shot by Eskimos early in this century.

''I thought they would be mounted,'' says Joe, ''but they were just in drawers, kind of laid out flat. The museum let me examine them, and I made a lot of photographs and sketches.''

Whenever they can, the Hautmans shoot their own specimens and have them mounted, to study and work from over time. ''You can bend them into whatever pose you want if you work on them when they are still wet from the taxidermist,'' says Jim.

Of course, they do not always have to go so far to find them, either. Minnesota lies between two major migratory routes—the Mississippi Flyway on the east side of the State and the Central Flyway on the west. Every fall a great southward movement of birds that breed all the way up to the Arctic Circle sweeps down across Minnesota—thousands of geese and ducks and swans in an immense, colorful profusion. Minnesota is duck country, and, in a way, the capital of American duck culture. Nine Minnesotans, more than from any other State, have won the Federal duck stamp competition, and several of them—including Jim Hautman, David Maass and the legendary Les Kouba—have won twice.

The process is meticulous. Bob Hautman says finding the right image involves many false starts and dead ends as he makes preliminary sketches.

''I am trying to find an effect that will make the painting alive as opposed to lifelike,'' he says. ''A photograph looks realistic, but frozen. But with a painting, when you look at it you should see something that looks living.

''Surprisingly, the background is often the hardest part. Sometimes it takes weeks. Sometimes it takes months.''

Robert Lesino thinks the Hautmans' methodical approach is not typical of many wildlife artists.

''A lot of the guys who enter the stamp competition wait until the last minute and then hurry the painting to get it in on time,'' Lesino says. ''The Hautmans start a year ahead of time. They just put in more effort than other people do.''

''I start thinking about the next painting right after the contest,'' says Jim. ''I am a slow painter. It takes me a long time.''

THE PARADOX

The results of those long labors are breathtakingly beautiful to duck aficionados and more or less a complete mystery to everyone else. Despite the insistent realism, duck art is variable in its effect. Some stamp images die in front of your eyes—they're accurate but cataleptic. Others are quite arresting. Dan Smith, another Minnesota painter, won the Federal contest in 1988 with a moody, suggestive image of a lone snow goose winging along a foggy lake shore at dawn. The painting was a marvel of depth and technical wizardry. Smith said at the time that painting a snow goose—which is basically a white oval with wings—was ''like trying to paint an egg.''

To non-hunters, duck art is contradictory all the way around—an art with no aesthetic. Why shoot a duck so you can paint it to raise money for habitat for more ducks to shoot? The answer, for painters from John James Audubon to the Hautman brothers, is ineffable, but the fundamental assumption—that hunting is heartless and hunters are unfeeling—is problematic. The truth is that hunters are hopeless sentimentalists, filled with nostalgic longing for days spent in frigid sloughs under steely skies. They are touched to the core by images of birds on the wing in blustery weather.

''Some people just cannot relate to duck hunting or to duck hunters,'' says Bob Hautman. ''I understand that. Sometimes when you are out there in a boat in a swamp wringing a duck's neck, I guess you might think to yourself that it is kind of a tough sport. But it is where I start. Wildlife artists are generally hunters first.''

Randy Eggenberger, president of Wild Wings, a leading wildlife art publisher based in Lake City, Minn., which has handled the Hautmans' work for 10 years, thinks wildlife art is simply democratic art.

''These are paintings that appeal to the masses,'' he says. ''And that is what I think art should be about—creating something that Joe Blow can hang on his wall and enjoy.''

Jim Hautman says whatever it is about duck painting that people like cannot really be analyzed.

''I guess hunting is a paradox to many people,'' he says. ''And what I do is hard to explain. All I can say is that if I did not love ducks, I wouldn't hunt them.''

DUCK TALE: BIRTH OF A STAMP

The Federal Duck Stamp Program was created by Congress in 1934 to raise revenue to purchase and manage waterfowl habitat within the National Wildlife Refuge System. The first stamps, which cost $1, were painted by artists commissioned by the U.S. Fish and Wildlife Service. Since 1949 the image engraved on the stamp, which now costs $15, has been chosen in an annual open competition. It is the only art competition officially sponsored by the Federal Government, and one of the longest-running and most successful conservation programs in the country. Ninety-eight percent of the revenue from duck stamp sales goes directly to purchase wetlands. Since its inception, the program has generated half a billion dollars in revenue and added more than 4 million acres of wetlands to the refuge system.

Federal duck stamps are required on all duck hunting licenses in the United States, and hunters will purchase about 90 percent of roughly 1.5 million stamps that will be sold this year. The remainder are bought by conservationists and stamp collectors.

This year's competition opened yesterday, in the auditorium at the Department of the Interior building at 18th and C streets NW, when all 453 entries went on display. Judging begins today, from 10:30 a.m. to 4:30 p.m., with an initial in-or-out elimination round that will winnow the entries down to 50 or so paintings. Tomorrow, judges will score the paintings, with announcement of a winner expected around noon. All sessions are free and open to the public.

The identity of the five judges, who are picked from all over the country each year, is kept secret before the competition. However, program chief Robert Lesino confirms that one judge this year will be Jane Alexander, chairman of the National Endowment for the Arts.

The Fish and Wildlife Service limits the competition in alternating years to those ducks that have never appeared on the Federal stamp—the so-called ''ugly ducks.'' This is an ugly duck year, with the black scoter, surf scoter, Barrow's goldeneye and mottled duck to choose from.

TRIBUTE TO OUR NATION'S VETERANS

• Mr. LEVIN. Mr. President, this Saturday, November 11, 1995, is Veterans Day. This is the day when citizens across the country honor the men and women who have served in our Nation's armed services. I would like to take this time to acknowledge the contributions of all those who have served the United States as members of the armed services. In particular, I would like to highlight the achievements of the many women who have served our Nation in the military.

This year is especially significant because it marks the 50th anniversary of the end of World War II. It was during World War II that our Nation's women showed the country what they have to offer to the military. While women had always actively supported our Nation's military, World War II saw an increased number of women volunteers breaking new ground in the uniformed services. Women served in all four branches of the military and the Coast Guard, filling such varied roles as assembly line workers, pilots, and nurses. During World War II, more than 100 women from my State of Michigan volunteered for military service. I thank these women for their response to the call of duty and their sacrifices on behalf of their country.

Over the past 50 years, women have continued to prove that they can contribute to our Nation's military. In order to honor the women who serve and have served in the armed services, Women in Military Service for America broke ground on the construction of a memorial this past June. It is the hope of Women in Military Service in America to place into this memorial a comprehensive list of all the women who have served our country.

This Veterans Day, when we reflect on the many who have volunteered to protect our freedoms, I hope that there will be renewed pride in the contributions women have made. The women who served before them and beside them, those who have paved the way for the achievement gained in rank, honor, and respect are highly deserving of our recognition on this day. •

BUDGET SCOREKEEPING REPORT

• Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through November 6, 1995. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1996 concurrent resolution on the budget, House Concurrent Resolution 67, show that current level spending is below the budget resolution by $2.1 billion in budget authority and above the budget resolution by $4.5 billion in outlays. Current level is $44 million below the revenue floor in 1996 and $0.7 billion below the revenue floor over the 5 years 1996 to 2000. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $250.2 billion, $4.6 billion above the maximum deficit amount for 1996 of $245.6 billion.

Since my last report, dated October 25, 1995, Congress cleared and the President signed the Fishermen's Protective Act Amendments of 1995—Public Law 104–43. The President has also signed the Alaska Native Claims Settlement Act—Public Law 104–42. Congress also cleared for the President's signature the following appropriation bills: Energy and Water Development—H.R. 1905, Transportation—H.R. 2002, and Legislative Branch—H.R. 2492. These actions changed the current level of budget authority and outlays. In addition, the revenue aggregates have been revised to reflect the recommended level in House Concurrent Resolution 67. My last report had revised the revenue aggregates pursuant to section 205(b)(2) of House Concurrent Resolution 67 for purposes of consideration of S. 1357.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 8, 1995.

Hon. PETE DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1996 shows the effects of Congressional action on the 1996 budget and is current through November 6, 1995. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1996 Concurrent Resolution on the Budget (H. Con. Res. 67). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report, dated October 25, 1995, Congress cleared and the President signed the Fishermen's Protective Act Amendments of 1995 (P.L. 104–43). The President has also signed the Alaska Native Claims Settlement Act (P.L. 104–42). Congress also cleared for the President's signature the following appropriation bills: Energy and Water Development (H.R. 1905), Transportation (H.R. 2002) and Legislative Branch (H.R. 2492). These actions changed the current level of budget authority and outlays. In addition, at the request of Budget Committee staff, the revenue aggregates shown for the budget resolution have been changed to reflect the recommended levels in H. Con. Res. 67.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, *Director*).

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1996, 104TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS NOVEMBER 6, 1995

[In billions of dollars]

	Budget resolution (H. Con. Res. 67)	Current level [1]	Current level over/under resolution
ON-BUDGET			
Budget authority	1,285.5	1,283.4	−2.1
Outlays	1,288.1	1,292.6	4.5
Revenues:			
1996	1,042.5	1,042.5	−0.[2]
1996–2000	5,691.5	5,690.8	−0.7
Deficit	245.6	250.2	4.6
Debt subject to limit	5,210.7	4,893.6	−317.1
OFF-BUDGET			
Social Security outlays:			
1996	299.4	299.4	0.0
1996–2000	1,626.5	1,626.5	0.0
Social Security revenues:			
1996	374.7	374.7	0.0
1996–2000	2,061.0	2,061.0	0.0

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] Less than $50 million.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1996, AS OF CLOSE OF BUSINESS NOVEMBER 6, 1995

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues	.....	.....	1,042,557
Permanents and other spending legislation	830,272	798,924	.....
Appropriation legislation	.....	242,052	.....

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1996, AS OF CLOSE OF BUSINESS NOVEMBER 6, 1995—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Offsetting receipts	(200,017)	(200,017)	
Total previously enacted	630,254	840,958	1,042,557
ENACTED THIS SESSION			
Appropriation Bills:			
1995 Rescissions and Department of Defense Emergency Supplementals Act (P.L. 104–6)	(100)	(885)	
1995 Rescissions and Emergency Supplementals for Disaster Assistance Act (P.L. 104–19)	22	(3,149)	
Agriculture (P.L. 104–37)	62,602	45,620	
Military Construction (P.L. 104–32)	11,177	3,110	
Authorization Bills:			
Alaska Native Claims Settlement Act (P.L. 104–42)	1	1	
Fishermen's Protective Act Amendments of 1995 (P.L. 104–43)		(1)	
Self-Employed Health Insurance Act (P.L. 104–47)	(18)	(18)	(101)
Total enacted this session	73,684	44,679	(101)
PENDING SIGNATURE			
Appropriation Bills:			
Energy and Water (H.R. 1905)	19,336	11,502	
Legislative Branch (H.R. 2492)	2,125	1,977	
Transportation (H.R. 2002)	12,682	11,899	
Total pending signature	34,144	25,378	
CONTINUING RESOLUTION AUTHORITY			
Continuing Appropriations, FY1996 (P.L. 104–31)[2]	410,247	249,857	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	135,049	131,736	
Total Current Level[3]	1,283,378	1,292,609	1,042,456
Total Budget Resolution	1,285,500	1,288,100	1,042,500
Amount remaining:			
Under Budget Resolution	2,122		44
Over Budget Resolution		4,509	

[1] Less than $500,000.

[2] This is an estimate of discretionary funding based on a full year calculation of the continuing resolution that expires November 13, 1995. It includes all appropriation bills except Agriculture and Military Construction, which have been signed into law, and Energy and Water, Legislative Branch and Transportation, which have been cleared for the President's signature.

[3] In accordance with the Budget Enforcement Act, the total does not include $3,400 million in budget authority and $1,590 million in outlays for funding of emergencies that have been designated as such by the President and the Congress.

Note.—Detail may not add due to rounding. Numbers in parentheses are negative.●

THE RIGHT WAY TO REDUCE THE CAPITAL GAINS TAX

● Mr. LEAHY. Mr. President, as I speak today, the Republican leadership of this Congress is discussing an issue of great importance to the family farmers and small businessmen of America: the capital gains tax.

Current law in the area of capital gains leaves something to be desired. I grew up in a small business family. My father owned his own printing shop, and he poured his heart and soul and countless late hours into that business. My father's printing shop was more than his livelihood. It was his investment in his retirement and his family's future. I know many hardworking Vermonters are in the same position. They work hard all their lives to build up their farms and small businesses. The capital gains tax, when they decide to sell the farm or business to fund their retirements, can be close to punitive.

I am receptive to a capital gains reduction that favors Americans who save for retirement by investing in their personal business, primary residence, or family farm. When these taxpayers retire, they sell their business, home, or farm to live off their lifetime investment. We ought to be encouraging that kind of investment, not punishing it.

I am concerned, however, that the Republican plan to reduce taxes on capital gains targets the wrong type of investment and cost too much. The capital gains tax break that the Republican leadership is discussing will benefit primarily people other than family farmers and small businessmen.

Current law taxes capital gains at a lower rate than other forms of income. Under the 1993 Budget Reconciliation Act, the maximum tax rate on capital gains remains 28 percent, as compared to 39.6 percent for ordinary income. In addition to the lower rate, the tax on capital gains is deferred until the capital asset is sold and the tax is forgiven at death. Given those preferences, and given the fact that most proposals to reduce the capital gains tax benefit mostly very wealthy investors, I am very wary of making changes in the tax law right now.

I agree with the targeted capital gains approach adopted in the 1993 Budget Reconciliation Act. The act allows investors who purchase newly issued stock in small companies to exclude from their income 50 percent of the gain when they sell the stock if it is held for at least 5 years. For stock to qualify for the tax break, the company must have less than $50 million in gross assets. This approach encourages long-term investment in small businesses—the engine of job growth in the 1990's.

By contrast, the capital gains tax breaks in the House and Senate versions of the Republican budget reconciliation bill are part of gigantic tax giveaway packages that will increase the deficit and mostly benefit well-heeled Wall Street investors.

Under the Senate bill, the corporate capital gains rate is reduced from 35 percent to 28 percent. Individuals would be able to exclude 50 percent of capital gain income from taxation. I voted against the bill when it was debated in the Senate, but it passed by a vote of 52–47. The House included a larger capital gains reduction in its version of the budget bill. The corporate capital gains rate is reduced to 25 percent and the individual rate is capped at 19.8 percent. In addition, the House indexes capital gains for inflation. Let us remember that according to the Congressional Research Service, over half of all capital gains—excluding personal residences—are earned by corporate stock and real estate investors. Farmers and small business owners account for a relatively small portion of capital gains.

The Treasury Department estimates that the House capital gains proposal would cost $170.4 billion over the next 10 years, and would mostly benefit people earning over $200,000 a year. The Senate bill is not much better. At a time when the national debt is approaching $5 trillion, we just cannot afford that kind of a tax giveaway going mostly to people who do not need it.

As House and Senate conferees discuss changes in the capital gains tax, I hope they will consider ensuring that it does not mostly benefit very wealthy investors but rather is targeted toward small businessmen and family farmers who have poured sweat equity into their businesses.●

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1995

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Ted Stevens:									
France	Franc	4,211.04	849.00					4,211.04	849.00
Steven J. Cortese:									
France	Franc	4,211.04	849.00					4,211.04	849.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1995—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Charlie J. Houy:									
France	Franc	3,918.40	790.00					3,918.40	790.00
Peter Dean Lennon:									
France	Franc	3,850	776.21					3,850	776.21
Kimberly Davis Range:									
France	Franc	4,161.04	839.33					4,161.04	839.33
Total		4,103.54							4,103.54

MARK O. HATFIELD,
Chairman, Committee on Appropriations, Aug. 2, 1995.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY COMMITTEE ON APPROPRIATIONS, FROM JUNE 30 TO JULY 8, 1995

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Tom Harkin:									
Vietnam	Dollar		1,210.00						1,210.00
Thailand	Baht	3,697.50	150.00					3,697.50	150.00
Senator Dale Bumpers:									
Vietnam	Dollar		859.28						859.28
Thailand	Baht	5,250.50	213.00					5,250.50	213.00
Senator Frank Lautenberg:									
Vietnam	Dollar		1,000.74						1,000.74
Thailand	Baht	5,250.50	213.00					5,250.50	213.00
Peter Reinecke:									
Vietnam	Dollar		1,050.00						1,050.00
Thailand	Baht	5,250.50	213.00					5,250.50	213.00
Peter Rogoff:									
Vietnam	Dollar		1,150.00						1,150.00
Thailand	Baht	5,250.50	213.00					5,250.50	213.00
Mark Van de Water:									
Vietnam	Dollar		1,150.00						1,150.00
Thailand	Baht	5,250.50	213.00					5,250.50	213.00
Delegation expenses: [1]									
Vietnam							3,166.24		3,166.24
Thailand							2,114.82		2,114.82
Total			7,635.02				5,281.06		12,916.08

[1] Delegation expenses include direct payments and reimbursements to State Department and Defense Department under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and Senate Resolution 179, agreed to May 25, 1977.

MARK O. HATFIELD,
Chairman, Committee on Appropriations, Sept. 5, 1995.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1995

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Sam Nunn:									
Denmark	Krone	100	18.45					100	18.45
Norway	Krone	1,475	236.37					1,475	236.37
United States	Dollar		22.21						22.21
John W. Douglass:									
Denmark	Krone	755.5	139.35					755.5	139.35
Norway	Krone	1,806.25	289.46					1,806.25	289.46
United States	Dollar				188.50		129.90		318.40
Charles S. Abell:									
Germany	Mark	595.49	401.00					595.49	401.00
United States	Dollar				795.00				795.00
Senator John Warner:									
Italy	Lira	38,250	202.00						202.00
Croatia	Kuna	1,285.20	238.00						238.00
Senator Jeff Bingaman:									
China	Dollar		1,005.00						1,005.00
China	Dollar		968.00						968.00
Japan	Dollar		1,248.00						1,248.00
Japan	Dollar		1,071.00						1,071.00
South Korea	Dollar		1,268.00						1,268.00
South Korea	Dollar						374.71		374.71
Steve Clemmons:									
China	Dollar		1,005.00						1,005.00
China	Dollar		968.00						968.00
Japan	Dollar		1,248.00						1,248.00
Japan	Dollar		1,071.00						1,071.00
South Korea	Dollar		1,268.00						1,268.00
Steve Clemmons:									
South Korea	Dollar						374.71		374.71
Patrick Von Bargen:									
China	Dollar		1,005.00						1,005.00
China	Dollar		968.00						968.00
Japan	Dollar		1,248.00						1,248.00
Japan	Dollar		1,071.00						1,071.00
South Korea	Dollar		1,268.00						1,268.00
South Korea	Dollar						374.71		374.71
Total			18,226.84		983.50		1,254.03		20,464.37

STROM THURMOND,
Chairman, Committee on Armed Services, Sept. 25, 1995.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1995

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Brent Franzel:									
Switzerland	Franc	1,695.50	1,475.00		2,804.35			1,695.50	4,279.35
Patrick A. Mulloy:									
Switzerland	Franc	1,695.50	1,475.00		2,804.35			1,695.50	4,279.35
Robert Giuffra, Jr.:									
England	Dollar		852.00		577.15				1,429.15
Total			3,802.00		6,185.85				9,987.85

ALFONSE D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs, Oct. 31, 1995.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE BUDGET, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1995

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Gregory D. Vuksich:									
Croatia	Dollar		1,128.00		168.00				1,296.00
Yugoslavia	Dollar		572.00		547.00				1,119.00
United States	Dollar				2,226.15				2,226.15
Total			1,700.00		2,941.15				4,641.15

PETE V. DOMENICI,
Chairman, Committee on the Budget, Oct. 30, 1995.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1995

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Larry Pressler:									
United States	Dollar				4,341.85				4,341.85
United Kingdom	Pound	1,123.78	1,776.00					1,123.78	1,776.00
Michael E. Korens:									
United States	Dollar				957.85				957.85
United Kingdom	Pound	1,123.78	1,776.00					1,123.78	1,776.00
Carl W. Bentzel:									
United States	Dollar				913.85				913.85
United Kingdom	Pound	1,498.36	2,368.00					1,498.36	2,368.00
Total			5,920.00		6,213.55				12,133.55

LARRY PRESSLER,
Chairman, Committee on Commerce, Science, and Transportation, Oct. 12, 1995.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1995

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator J. Bennett Johnston:									
China	Yuan	11,731.50	1,442.00					11,731.50	1,422.00
Mongolia	Dollar		918.00						918.00
United States	Dollar				6,979.93				6,979.93
Eric Silagy:									
China	Yuan	11,731.50	1,422.00					11,731.50	1,442.00
Mongolia	Dollar		918.00						918.00
United States	Dollar				4,405.37				4,405.37
Total			4,680.00		11,385.30				16,065.30

FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, Oct. 20, 1995.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1995

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Nancy L. Kassebaum:									
China	Yuan	20,427	2,476.00					20,427	2,476.00
Hong Kong	Dollar	5,634	728.00					5,634	728.00
United States	Dollar				4,899.00				4,899.00
Peter Cleveland:									
Israel	Dollar		812.00						812.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1995—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jordan	Dollar		470.00						470.00
Syria	Dollar		1,280.00						1,280.00
United States	Dollar				4,469.65				4,469.65
Bonnie L. Coe:									
Thailand	Baht	14,000	560.00					14,000	560.00
Indonesia	Dollar		1,167.00						1,167.00
United States	Dollar				6,176.65				6,176.65
Michael Haltzel:									
Croatia	Kuna	5,076	940.00					5,076	940.00
United States	Dollar				3,367.75				3,367.75
Michael G. Harper:									
China	Yuan	20,427	2,476.00					20,427	2,476.00
Hong Kong	Dollar	5,634	728.00					5,634	728.00
United States	Dollar				4,899.00				4,899.00
Elizabeth Lambird:									
Thailand	Baht	3,189,888	1,278.00					3,189,888	1,278.00
United States	Dollar				2,047.00				2,047.00
Robyn Lieberman:									
Ethiopia	Dollar		626.20						626.20
Uganda	Dollar		538.00						538.00
Rwanda	Dollar		392.00						392.00
Kenya	Dollar		530.00						530.00
United States	Dollar				6,004.35				6,004.35
Todd D. Lyle:									
Colombia	Dollar		324.00						324.00
Michelle Maynard:									
Turkey	Dollar		524.00						524.00
Turkey	Lira	51,036,560	1,078.00					51,036,560	1,078.00
United States	Dollar				4,469.00				4,469.00
Patricia McNerney:									
Ukraine	Dollar		160.00		140.00				300.00
Russia	Dollar		1,200.00						1,200.00
Kazakhstan	Dollar		400.00						400.00
United States	Dollar				5,419.05				5,419.05
Christopher Moore:									
Israel	Dollar		1,458.00						1,458.00
Syria	Dollar		1,620.00						1,620.00
United States	Dollar				3,088.65				3,088.65
Diana Ohlbaum:									
Ethiopia	Dollar		626.20						626.20
Uganda	Dollar		538.00						538.00
Rwanda	Dollar		392.00						392.00
Kenya	Dollar		475.00						475.00
United States	Dollar				6,004.35				6,004.35
George Pickart:									
Israel	Dollar		812.00						812.00
Jordan	Dollar		470.00						470.00
Syria	Dollar		1,280.00		161.30				1,441.30
Turkey	Dollar		200.00						200.00
United States	Dollar				3,294.65				3,294.65
Danielle Pletka:									
Israel	Dollar		1,458.00						1,458.00
Syria	Dollar		1,620.00						1,620.00
United States	Dollar				3,088.15				3,088.15
Tunisia	Dinar	155,841	166.00					155,841	166.00
Morocco	Dirham	815,926	950.00					815,926	950.00
United States	Dollar				3,623.55				3,623.55
Daniel Shapiro:									
China	Dollar		1,682.00						1,682.00
United States	Dollar				3,867.95				3,867.95
Timothy P. Trenkle:									
China	Yuan	20,427	2,476.00					20,427	2,476.00
Hong Kong	Dollar	5,634	728.00					5,634	728.00
United States	Dollar				4,899.00				4,899.00
Christopher Walker:									
Thailand	Dollar		1,384.00						1,384.00
United States	Dollar				3,087.00				3,087.00
Anne V. Smith:									
Ukraine	Dollar		200.00		140.00				340.00
Russia	Dollar		1,300.00						1,300.00
Kazakhstan	Dollar		600.00						600.00
United States	Dollar				5,419.05				5,419.05
Peter Cleveland:									
United States	Dollar				4,670.25				4,670.25
Senator Hank Brown:									
Taiwan	Dollar		173.00						173.00
Cambodia	Dollar		216.02						216.02
Myanmar	Dollar		110.90						110.90
India	Dollar		401.46						401.46
Pakistan	Dollar		192.20						192.20
Syria	Dollar		272.36						272.36
Israel	Dollar		103.77						103.77
Egypt	Dollar	424.88	157.04					424.88	157.04
Belgium	Franc	7,900	293.93					7,900	293.93
F. Carter Pilcher:									
Taiwan	Dollar		200.00						200.00
Cambodia	Dollar		160.00						160.00
Myanmar	Dollar		105.00						105.00
India	Dollar		392.06						392.06
Pakistan	Dollar		300.00						300.00
Syria	Dollar		254.80						254.80
Israel	Dollar		286.89						286.89
Egypt	Dollar	333.52	123.27					333.52	123.27
Belgium	Franc	5,000	186.03					5,000	186.03
Thomas J. Callahan:									
S. Africa	Dollar		904.00						904.00
Zimbabwe	Dollar		390.00						390.00
Ghana	Dollar		212.00						212.00
Botswana	Dollar		422.00						422.00
Morocco	Dollar		456.00						456.00
Total			45,435.13		83,235.35				128,670.48

JESSE HELMS,
Chairman, Committee on Foreign Relations, Oct. 20, 1995.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1995

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Robert Lockwood:									
Germany	Dollar		150.00		3,175.65				3,325.65
Paul Matulic:									
Hungary	Forint	2,396	24.00					2,396	24.00
	Dollar		300.00		1,197.35				1,497.35
Senator Orrin Hatch:									
Hungary	Forint	2,396	24.00					2,396	24.00
	Dollar		300.00		1,197.35				1,497.35
Total			798.00		5,570.35				6,368.35

ORRIN HATCH,
Chairman, Committee on the Judiciary, Aug. 4, 1995.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1995

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Trina Vargo:									
United States	Dollar				1,286.95				1,286.95
Ireland	Pound	700.52	1,145.00	304	185.99			1,004.52	1,330.99
United Kingdom	Pound	477.41	803.00	27.50	18.70			504.91	821.70
Total			1,948.00		1,491.64				3,439.64

ORRIN HATCH,
Chairman, Committee on the Judiciary, Oct. 2, 1995.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1995

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator J. Robert Kerrey			795.00		3,574.55				4,369.55
Christopher Straub			780.00		3,269.55				4,049.55
Arthur Grant			848.00		3,269.55				4,117.55
Senator Richard Shelby			4,777.63						4,777.63
Tom Young			4,421.44						4,421.44
Peter Dorn			2,500.99						2,500.99
Senator Kay B. Hutchison			384.83						384.83
Donald Stone			1,487.00						1,487.00
Don Mitchell			1,596.00						1,596.00
Melvin Dubee			2,206.00						2,206.00
Gary Reese			2,356.00		4,403.25				6,759.25
Lorenzo Goco			2,356.00		4,403.25				6,759.25
Alfred Cumming			1,197.50		3,803.35				5,000.85
Senator Arlen Specter			1,547.60						1,547.60
Charles Battaglia			464.00						464.00
William Morley			1,544.00						1,544.00
Patricia Hanback			308.00						308.00
Total			29,569.99		22,723.50				52,293.49

ARLEN SPECTER,
Chairman, Select Committee on Intelligence, Oct. 24, 1995.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER FROM JULY 1, TO SEPT. 30, 1995

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Ronald A. Marks:									
Vietnam	Dollar		1,155.00						1,155.00
Thailand	Baht	5,250.50	213.00					5,250.50	213.00
Sally Walsh:									
Vietnam	Dollar		1,150.00						1,150.00
Thailand	Baht	5,250.50	213.00					5,250.50	213.00
Randy Scheunemann:									
Haiti	Dollar		448.00		648.95				1,096.95
Total			3,179.00		648.95				3,827.95

ROBERT J. DOLE,
Republican Leader, Oct. 23, 1995.

ORDERS FOR THURSDAY, NOVEMBER 9, 1995

Mr. DASCHLE. I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 a.m. on Thursday, November 9; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, that the call of the calendar be dispensed with, the morning hour be deemed to

have expired, the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business until the hour of 12 noon, with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator MURKOWSKI, 20 minutes; Senator GRAHAM, 20 minutes; Senator HATCH, 10 minutes; and Senator BINGAMAN, 60 minutes.

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

PROGRAM

Mr. DASCHLE. Mr. President, for the information of Senators, it is the hope of the majority leader to begin consideration of the continuing resolution tomorrow at 12, following morning business. It is also the hope of the leader to consider the debt limit extension during Thursday's session. Rollcall votes are therefore expected to occur during Thursday's session of the Senate and a late night session could be anticipated in order to complete the action of these measures.

ORDER FOR ADJOURNMENT

Mr. DASCHLE. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks I am about to make.

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

ELECTION RESULTS

Mr. DASCHLE. Mr. President, before the day closes, I wanted to comment on yesterday's election results from around the country. I have had the opportunity now to consult with people around the country in many of the States in which the elections were held. I think it is very clear that the country sent a rejection notice to the extreme agenda of the right wing.

The message to many Republicans should be very clear: Back off, you are going too far. It is time to work together. It is time to achieve a bipartisan consensus. It is time to recognize that in many of the extreme proposals now being offered by the Republicans the American people have now concluded they go too far. They cannot agree with the Republican direction.

Democrats retained control of the statehouse in Kentucky and the legislature in Virginia. We have retained control of the Maine House of Representatives and even made gains in the New Jersey Assembly despite being outspent by more than 4 to 1.

In particular, the elections in Virginia and Kentucky are very instructive. The Republican State party in Virginia made this election a referendum on the extreme politics that Democrats have been fighting against. In Virginia, voters called for a halt in the GOP assault. In Kentucky, the Democratic Governor-elect made it clear in his campaign he was running against the Gingrich Contract, against the cuts in Medicare, against cuts in education. In short, he ran against everything that the Republican budget would accomplish—and was affirmed at the polls.

Mr. President, this was a victory of priorities over politics, a realization that the so-called GOP revolution is too extreme for mainstream America, a realization that I believe had much to do with General Powell's decision today. In today's Republican Party, moderation is off message. People now understand that the Republican policies we have been fighting on this floor hurt working families and reward special interests.

The American people cannot abide a budget that guts Medicare to pay for huge tax cuts. Americans are coming home to the Democratic message of opportunity and fairness. Voters in the States are speaking directly to Republican leaders in Washington: Your cuts are too extreme.

We want to balance the budget but Democrats will not let the ends justify the means. We believe we have a contract with the American people, and its elements are ones we have been talking about for 10 months: We will protect Medicare. We are going to invest in our children. We will enhance our educational system. We are going to preserve the environment. We will provide jobs and opportunity for the future.

Speaking for this side of the aisle, the results of this election will serve to redouble our efforts in the crucial budget battle ahead. I yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate now stands in adjournment until 10 a.m. Thursday, November 9, 1995.

Thereupon, the Senate, at 6:28 p.m., adjourned until Thursday, November 9, 1995, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 8, 1995:

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

NORMAN I. MALDONADO, OF PUERTO RICO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 1999, VICE MARGARET TRUMAN DANIEL, TERM EXPIRED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

WALLACE D. MCRAE, OF MONTANA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1993, VICE ROBERT GARFIAS, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADES INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 618, 624, AND 628, TITLE 10, UNITED STATES CODE.

ARMY

To be colonel

TRAVIS L. HOOPER, 000–00–0000
JULIUS G. SCOTT, JR., 000–00–0000
WAYNE D. TAYLOR, JR., 000–00–0000
STEPHEN D. WILSON, 000–00–0000

To be lieutenant colonel

FREDERICK B. SEEGER, 000–00–0000

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADES INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE.

ARMY COMPETITIVE

To be lieutenant colonel

BOBBY T. ANDERSON, 000–00–0000
ROBERT A. CHILDERS, 000–00–0000
GREGORY P. DAVIS, 000–00–0000
JOHN F. D'AGOSTINO, 000–00–0000

EXTENSIONS OF REMARKS

A TRIBUTE TO ABIE ABRAHAM

HON. PHIL ENGLISH
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. ENGLISH of Pennsylvania. Mr. Speaker, it is with great pride that I rise to honor Sgt. Abie Abraham, a distinguished veteran of World War II from Butler, PA, who is being recognized this week as the Butler County Veteran of the Year.

Abie Abraham was born on July 31, 1913, in Lyndora, PA, to Syrian immigrants. At an early age, Abie showed perseverance and strength when he set a record in the Guiness Book of World Records for tree-sitting on a wooden platform for 3 months.

In 1932, Abie Abraham enlisted in the U.S. Army. He had been head boxing coach in Panama in 1935, and as a boxer, has a 54–6 record and was light/welterweight champion of the Panama Canal Department. In 1938, he was stationed in the Philippines, with the 31st Infantry Regiment as a platoon sergeant.

Three hours after the invasion of Pearl Harbor on December 7, 1941, Japanese forces hit the Philippines. After several months of intense fighting in horrible conditions, the Philippines and United States forces surrendered. A lack of food and supplies and exposure to tropical diseases had left the troops weakened when the Japanese took them as prisoners. Sergeant Abraham was on the infamous Bataan Death March during which so many American lives were lost. He was held as a prisoner-of-war from April 9, 1942 to January 31, 1945 until the 6th American Rangers freed the prison camp where what was left of the only infantry regiment stationed in the Philippines was being held. After his release, General MacArthur requested that Sergeant Abraham remain in the Philippines to locate and disinter bodies from the Bataan Death March so that they could be brought home for a proper burial. He remained there until July 1947.

Sergeant Abraham retired as a master sergeant in 1955 with 23 years of service. He had received a Purple Heart with oak leaf cluster, a Bronze Star Medal with oak leaf cluster, as well as three Presidential Unit Citations and the Philippine Presidential Award.

After retiring from the Army, Sergeant Abraham worked for the Pennsylvania Department of Transportation as a road supervisor from 1955 to 1962 before leaving to work for a family business until 1979.

In 1971, Sergeant Abraham wrote ''Ghost of the Bataan Speaks'' which details his prison camp experience. His book is used in several States to teach the history of World War II. He also personally answers a multitude of inquiries from people all over the world about the Bataan Death March.

In addition to serving his country, Sergeant Abraham has contributed on a local level in his community. In the past 6 years, he has volunteered over 10,000 hours working nearly 8 hours a day, 5 days a week at the VA medical center in Butler, PA. He is the POW–MIA Coordinator at the VAMC and has helped to arrange ceremonies to remember the Americans who were prisoners of war and those who are unaccounted for today. He spends time visiting with patients in the VA medical center as well as trying to resolve complaints and provide assistance to veterans and their families. He was honored in 1994 as the Outstanding Veteran in the State of Pennsylvania by the Department of Veteran Affairs.

He has been a member of the Disabled American Veterans—Chapter No. 64, Veterans of Foreign Wars, the Military Order of the Purple Heart, the American Ex-Prisoner's of War, and the American Legion where he continues to be active in veterans issues.

Sergeant Abraham served his country courageously in the face of death and remained true to the soldiers who served with him and lost their lives. He has used his experience to educate others about World War II and to honor the memory of the ones lost. Thankfully, for the community of Butler, PA, Sgt. Abie Abraham survived the horrors of the Bataan Death March and being held in a prison camp. The service that he has continued to give to the veteran community over the years is truly outstanding and worthy of our praise. I am thankful that Sgt. Abie Abraham is a member of our community and that he continues to make a difference in the lives of those he touches.

HONORING PATRICIA V. ASIP

HON. ED PASTOR
OF ARIZONA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. PASTOR. Mr. Speaker, I would like to congratulate Ms. Patricia V. Asip on receiving the National Hispanic Corporate Council's [NHCC] Charter Award at the recent 10th anniversary dinner.

Currently serving as the manager of the multicultural affairs at J.C. Penny Co., Inc., Ms. Asip was a founding board member of the NHCC. As the first marketer to join the NHCC, she has spent her professional career showing the American business community the value of the Hispanic market. A leader in the Hispanic community, her desire and efforts in reaching out to the Hispanic market show her to be a truly admirable woman. I would like to commend her on her achievements, and I ask my colleagues to join me in recognizing this remarkable woman.

THE WAR ON DRUGS—TIME TO RECOMMIT OUR EFFORTS

HON. GERALD B.H. SOLOMON
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. SOLOMON. Mr. Speaker, there are those who would like us to believe that we are losing the war on drugs. The truth is that during the Reagan-Bush years drug use in the United States actually dropped by more than 50 percent, from 24 million users in 1979 to 11 million in 1992.

Unfortunately, many of those hard-fought gains have been wasted under President Clinton's watch. The fact is that the trend toward increased drug use, across the board, corresponds directly to President Clinton's term of office. For whatever reason, this President is either unwilling or unable to address this crisis. It is time for congressional leadership.

Reducing the demand for illegal drugs is essential to the most important things common to all Americans: our children and families, our safety and the safety of our children, our health and the economy. The legislation outlined below represents a comprehensive and effective strategy aimed at reducing the demand for illegal drugs:

H.R. 143 requires the pre-employment drug testing of applicants for Federal employment.

H.R. 134 denies certain Federal benefits to convicted drug felons.

H.R. 136 requires random drug testing of all Federal employees.

H.R. 138 requires courts to notify employers of employees' drug convictions.

H.R. 141 suspends Federal education assistance to convicted drug felons.

H.R. 1706 provides quality assurance and expands drug testing in the private sector.

H.R. 135 prohibits federally sponsored research pertaining to the legalization of drugs.

H.R. 147 reduces the minimum quantity of drugs for which a person may be executed.

Drug use and drug addition cause most of the violence and permeate virtually every social, health, and economic problem we face. Please join in cosponsoring any or all of the above bills by contacting my office.

Mr. Speaker, today I insert into the RECORD a Washington Post story which reports that hospital emergency room visits by cocaine and other drug users are up again.

EMERGENCY ROOMS TREAT HALF-MILLION DRUG CASES

A half-million Americans wound up in hospital emergency rooms with drug-related problems last year, including a record number with cocaine-related episodes.

Cocaine figured in 23 percent or 142,000 of those emergency visits, up 15 percent from 1993, according to estimates released yesterday by a federal agency that tracks the effect of drug use.

Drug-related episodes were estimated to account for 0.6 percent of the 86 million visits to hospital emergency departments in the United States in 1994. Fifty-five percent of

all drug-related episodes occurred among those age 26 to 44.

Thirteen percent of those treated for drug-related problems had used heroin, sometimes in combination with cocaine, according to the Substance Abuse and Mental Health Services Administration. The number of heroin-related episodes rose slightly to 64,000 from those reported in 1993.

''Speed,'' ''crank'' and other meth-amphetamine drugs figured in 17,400 cases, a 75 percent increase above the 1993 figure.

''At a time when it appears there is a resurgence in cocaine-related emergency department episodes, we cannot afford to cut prevention and treatment funding,'' Health and Human Services Secretary Donna E. Shalala said in a statement.

The most commonly reported motive for drug use was attempted suicide. That was the reason in an estimated 193,000 of the 508,000 episodes, or 38 percent. Dependence on drugs was reported as a motive in 165,000 episodes, or 32 percent, and ''recreational use'' in 43,000 episodes, or 3 percent.

Other reasons for coming to the hospital included unexpected reactions (66,000 or 13 percent) and seeking detoxification (52,000 or 10 percent). Multiple reasons were listed in some cases.

The federal agency regularly surveys emergency departments of hospitals in its Drug Abuse Warning Network and extrapolates how many such episodes occurred nationally.

Cocaine-related episodes shot up from 29,000 in 1985 to 110,000 in 1989. They dropped in 1990 to 80,000, then increased again to 120,000 in 1992. They leveled off in 1993 at 123,000 before escalating in 1994.

Adults from their mid-twenties to mid-forties had twice as many cocaine-related emergency visits as younger and older adults. Men were more than twice as likely as women to show up with cocaine problems.

Some 40,000 episodes were related to marijuana and hashish, up 39 percent from 1993. The hospital records indicated almost half of these patients also used alcohol and cocaine.

The estimates were based on a survey of 496 hospitals with 24-hour-a-day emergency departments. The government has conducted similar surveys since the late 1970s.

VETERANS AND THE BUDGET

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. PACKARD. Mr. Speaker, this week we honor the veterans who have served our country bravely and selflessly. I find it absolutely appalling that as we honor them, the Clinton administration misleads them. It is reprehensible. The Clinton administration has resorted to bogus studies and scare tactics where our veterans are concerned. The Democrats only agenda is to deter the Republican-led Congress from doing what is right, balancing the budget.

The Clinton administration cites flawed studies and spreads misinformation because they have no serious plan of their own. The latest campaign of fear, aimed at veterans, distorts our Medicaid reform using a general study on Medicaid—not a veterans-specific study. In fact, the study did not even use experts in the area of veterans' affairs. The GAO deemed the study questionable after discovering that the Urban Institute had used alternative assumptions or methods for their findings.

The report contains numerous factual errors and conspicuously omits important facts like veterans spending increasing by $40 billion over the next 7 years, Medicare spending increasing 54 percent and Medicaid spending increasing by 39 percent.

It really is not surprising that the Clinton administration has resorted to this kind of fearmongering. After all, it was only last week, an adviser to the President was quoted as saying ''I subscribe to terror. Terror tends to work because it is so easy to make people hate.'' A statement like this denotes the true character and the lengths to which the Clinton administration will go to mislead our veterans and the American people.

SUBSTITUTION OF H.R. 671

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. FALEOMAVAEGA. Mr. Speaker, on January 25, 1995, I and my good friends, Mr. BILL RICHARDSON, Mr. PAT WILLIAMS, Mr. GEORGE MILLER, and Mr. PETER DEFAZIO, introduced the Indian Federal Recognition Administrative Procedures Act of 1995, H.R. 671, in an effort to create an efficient and fair procedure for extending Federal recognition to Indian tribes. In my remarks at that time, I stated that introduction of the legislation was only the starting point for further discussion and debate and that I looked forward to the advice and input of colleagues, the agency, and tribes.

Mr. Speaker, since January a number of occurrences have provided me with some of the discussion and input that I was looking for. The Senate Committee on Indian Affairs held a hearing in July on S. 479, a bill very similar to the original H.R. 671. Nonrecognized and recognized tribes, the Bureau of Indian Affairs, Indian organizations, and experts submitted testimony on the bill and the existing recognition process. In addition, the White House has held a number of meetings with nonrecognized tribes so that they could discuss recognition with administration officials. As a direct result of those meetings, the Department of the Interior set up a task force of administration people and representatives of nonrecognized tribes to assist the Department in formulating a position on whether the recognition criteria could be improved. Further, only this month an administrative law judge, in the first challenge to a decision against recognition, has essentially reversed BIA/BAR. In doing so, the ALJ was critical of BAR's methodology and interpretation of their own criteria. The judge's views of the existing criteria can be considered a suggestion that the criteria could be improved.

Mr. Speaker, I have reviewed all of those developments and taken into account the views of the interested parties. As a result, I have modified H.R. 671 to improve both the procedures and the criteria that were in the original bill. The modifications will advance the goals of recognition reform legislation—providing a more objective, consistent, and streamlined standard for acknowledging groups as federally recognized Indian tribes.

Mr. Speaker, I have made the following changes to the original H.R. 671. The procedures under which the independent commission would hear and decide petitions for recognition have been slightly modified. Provisions that would have excluded groups from petitioning for recognition or continuing to seek recognition have been removed. Most importantly, the criteria for recognition have been improved. The improvements take into account the almost unanimous view of the experts and affected tribes that the criteria used in the existing administrative process, which were carried into the original H.R. 671, do not really test whether a group should be recognized or not and unnecessarily burden petitioners and decisionmakers. I believe that it is only through these changes that we will enact a process that is both fair and able to resolve the recognition issue in the timeframe anticipated.

Mr. Speaker, I urge my colleagues to support this measure.

HONORING OLGA AROS

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. PASTOR. Mr. Speaker, I would like to congratulate Olga Aros, the winner of the National Hispanic Corporate Council's [NHCC] Visionary Award, presented to her at the NHCC's 10th anniversary dinner.

Ms. Aros currently works as the staff director for diversity development at McDonald's Corp., where she has the opportunity to lead the corporate efforts to reach out to the Hispanic community. She was one of the original board members of NHCC, and served as its first president. She has tirelessly worked for the advancement of Hispanics, using her positions in marketing, human resources, public affairs, and her community service to promote Hispanic causes. It is safe to say that without the vision and effort of Ms. Aros, the NHCC wouldn't have achieved the great success that it has over the past 10 years. She was a driving force behind the council's inception and its formidable expansion. Its success is a testament to her abilities, and I ask my colleagues to recognize the considerable accomplishments of Ms. Aros.

PERSONAL EXPLANATION

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. PORTMAN. Mr. Speaker, because of an unforeseen scheduling conflict, I was not in attendance for one recorded vote, rollcall vote No. 769 on the resolution regarding Israeli Prime Minister Yitzhak Rabin.

Had I been in attendance, I would have voted ''yea'' on rollcall vote No. 769.

IN REMEMBRANCE OF AMERICA'S VETERANS

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. QUINN. Mr. Speaker, I rise today in observance of Veterans Day and the 50th commemorative anniversary of World War II.

As we take time to pause and reflect on the significance of this day, let us remember the legions of American heroes who sacrificed so that we may live in freedom.

Veterans Day has a very special meaning for the families and relatives of the brave men and women who served their country in World War II. While their loved ones were overseas fighting against tyranny and oppression, those left behind remembered and supported them in their thoughts and prayers.

Through the struggle for a lasting peace, America was united and unified behind our fighting men and women. Back home in the States, citizens did their part, collecting scrap tin, rubber, and metal and conserving electricity and heating oil so that these vital resources could assist the overall war effort.

A true sense of community was fostered out of the great concern all Americans had for our soldiers. The veterans of World War II brought our Nation closer as they united and defeated forces that sought to destroy democracy and freedom for the free world.

Our Nation's veterans have long answered their country's call to service without hesitation. As Americans, we must pause and remember their service through the years: World War I, World War II, the Korean war, the Vietnam war, Operation Desert Storm, and all other conflicts which were fought on behalf of the universal ideas of freedom, justice, and peace.

Mr. Speaker, I am proud to serve on the Veterans' Affairs Committee, as it affords me the opportunity and privilege to recognize our Nation's veterans. Neither they, nor their heroic sacrifices, will be forgotten by their country.

On behalf of many grateful Americans, I would like to acknowledge the years of selfless, dedicated service our Nation's veterans have given to the United States of America.

PERSONAL EXPLANATION

HON. SUE MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mrs. MYRICK. Mr. Speaker, on Wednesday, November 8, 1995, due to illness, I missed rollcall vote No. 769, Senate Concurrent Resolution 31, legislation ''Honoring the Life and Legacy of Yitzhak Rabin.'' Had I been here, I would have voted ''yea.''

Also, had I been able to attend the House proceedings, I would have risen to remember Prime Minister Yitzhak Rabin and his life of selfless public service. His tragic death only highlights the difficult road a nation must travel in order to achieve peace. He made the ultimate sacrifice for Israel in this most noble of goals, and countless generations will undoubtedly remember him as a pillar of peace.

TRIBUTE TO GIRL SCOUT AWARD RECIPIENTS

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. OBEY. Mr. Speaker, today, I would like to salute six outstanding young women who have been honored with the Girl Scouts of the U.S.A. Gold Award by Birch Trails Girl Scout Council in my home town of Wausau, WI. They are Jill Whitney, Katie Jenkins, and Sarah Olson of Girl Scout Troop 199, Beth Neitzel of Girl Scout Troop 6, and Holly Perry and Betsy Pugh of Girl Scout Troop 144.

They are being honored for earning the highest achievement award in Girl Scouting. The Girl Scout Gold Award symbolizes outstanding accomplishments in the areas of leadership, community service, career planning, and personal development.

Girl Scouts of the U.S.A., an organization serving over 2.6 million girls, has awarded more than 20,000 Girl Scout Awards to Senior Girl Scouts since the inception of the program in 1980. To receive the award, a Girl Scout must fulfill five requirements: earn four interest project patches, earn the Career Exploration pin, earn the Senior Girl Scout Leadership Award project, earn the Senior Girl Scout Challenge, and design and implement a Girl Scout Gold Award project. A plan for fulfilling the requirements of the award is created by the Senior Girl Scout and is carried out through close cooperation between the girl and an adult Girl Scout volunteer.

The earning of the Girl Scout Gold Award is a major accomplishment for these young women, and I believe they should receive the public recognition due them for this significant service to their community and their country.

ADDRESS OF AMBASSADOR MADELEINE ALBRIGHT AT 50TH ANNIVERSARY OF UNITED NATIONS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. LANTOS. Mr. Speaker, in the past few days, the world has celebrated the 50th anniversary of the United Nations. Those of us who are from the San Francisco Bay area are justly proud that the United Nations was born in our area at the San Francisco Conference in June 1945.

The congressional celebration of the 50th anniversary of the United Nations was a reception honoring Dr. Boutros Boutros-Ghali, the Secretary General of the United Nations, and Ambassador Madeleine Albright, the permanent U.S. Representative to the United Nations and a Member of the President's Cabinet. That event was sponsored by the Congressional Human Rights Caucus, which I cochair along with my Republican colleague JOHN PORTER of Illinois. Other colleagues from the House and the Senate joined us in sponsoring this important event.

There is no question that, as a result of the existence of the United Nations, the world is now a better place than it would be otherwise. It is also important to realize that U.S. participation in the United Nations has been an important positive factor in the constructive actions of the United Nations over the past half century. Furthermore, the United Nations has been an important element of American foreign policy.

We have been able to accomplish through cooperative and joint efforts with the U.N. actions that would have been much more difficult or even impossible for the United States to accomplish alone. A careful examination of U.S. participation in the United Nations leads inescapably to the conclusion that we should continue to participate actively and fully in the United Nations.

It is clear that the United Nations is in need of serious review and reform, and it is my hope and expectation that we in the Congress can provide impetus and support for U.N. reform. At the same time, however, it is important that, in our zeal for reform and our concern with the problems of the United Nations, we not lose sight of the vitally important role which the United Nations has played during the past half century.

Mr. Speaker, the remarks of Ambassador Madeleine Albright at the congressional reception honoring the 50th anniversary of the United Nations are particularly appropriate for my colleagues to consider as we mark the United Nations' first half-century. I ask that Ambassador Albright's excellent assessment of the United Nations be included in the RECORD, and I urge my colleagues to give serious and thoughtful consideration to her remarks.

REMARKS OF AMBASSADOR MADELEINE K. ALBRIGHT, U.N. 50TH ANNIVERSARY CELEBRATION

Good evening fellow multilateralists.

Now, to some, multilateralism is a sin; sort of like watching PBS or liking art. And it is true that multilateralism is a terrible word; it has too many syllables; there's a little Latin in there; and it ends in i-s-m.

But supposedly, the big rivalry these days is between unilateralists and multilateralists. This is a phony debate. I have been studying, teaching and practicing foreign policy for more than 30 years, and I have yet to come across anyone who has accomplished anything without understanding that there will be times we have to act alone, and times when we can act with others at less cost and risk, and greater effectiveness.

That isn't unilateralism or multilateralism—it's realism.

On the things that matter most to our families, from drugs to terrorists to pollution to controlling our borders to creating new jobs, international cooperation isn't just an option, it is a necessity. And the UN is a unique mechanism for providing that cooperation.

This is the UN's 50th anniversary; but reading the newspapers, you would think, at times, we were observing not a birthday, but a wake.

We have such short memories. The UN at 50 is far stronger, effective and relevant than the UN of 40, 30, 30 or 10 years ago. Cold War divisions are gone; north-south differences have narrowed; the non-aligned movement is running out of factions to be non-aligned with.

Measured against impossible expectations, the UN will always fall short.

Measured in the difference it has made in people's lives, we can all take pride in what the UN has accomplished.

It matters that the ceasefire in Cyprus is holding; that confidence is being built in the Middle East; and that Namibia, Cambodia,

Mozambique, El Salvador and Haiti have joined the great worldwide movement to democracy.

It matters that the economic pressure of sanctions has improved the climate for peace in the Balkans; penalized Libya for the terror of Pan Am 103; helped to consign apartheid to the dustbin of history; and forced Iraq to confess its program of deadly biological weapons.

It matters that millions of children each year live instead of die because they are immunized against childhood disease.

It matters that smallpox has been eradicated, that polio is on the way out, and that a global campaign to increase awareness about AIDS has been launched.

It matters that so many families in Somalia, Bosnia, Liberia, Sudan, the Caucasus, Afghanistan, Central America and Southeast Asia owe their survival to the World Food Program and the UN High Commissioner for Refugees.

It matters that the IAEA is working to prevent the spread of nuclear weapons across the face of the earth.

And it matters that the Wars Crimes Tribunals for Rwanda and former Yugoslavia will strive to hold the perpetrators of ethnic cleansing and mass rape accountable for their crimes.

Let us never forget that the United Nations emerged not from a dream, but a nightmare. In the 1920's and 30's, the world squandered an opportunity to organize the peace. The result was the invasion of Manchuria, the conquest of Ethiopia, the betrayal of Munich, the depravity of the Holocaust and the devastation of world war.

This month, we observe the 50th anniversary of the start of the Nuremburg trials. This same month, we observe the start of the first trial of the War Crimes Tribunal for former Yugoslavia. A cynic might say that we have learned nothing; changed nothing; and forgotten the meaning of ''never again''—again. We cannot exclude the possibility that the cynic is right. We cannot deny the damnable duality of human nature.

But we can choose not to desert the struggle; to see our reflection not in Goebbels and Mladic, but in Anne Frank, Nelson Mandela, Vaclav Havel, Aung San Suu Kyi and the people who founded and built the United Nations.

We can understand there will be limits on what we accomplish; without placing unnecessary limits on what we attempt.

We can believe that humans do have the ability to rise above the hatreds of the past and to live together in mutual respect and peace.

We can believe that justice matters, that compassion is good, that freedom is never safe and that the capacity to work effectively with others is a sign not of weakness, but of wisdom and strength.

And we can recognize that the principles embodied in the UN Charter matter not because they are so easy to obtain, but because they are so terribly hard.

When Republican Senator Arthur Vandenberg returned to Washington from the Convention in San Francisco where the UN Charter was drafted, he was challenged by those who thought it too idealistic, even utopian. He replied that:

''You may tell me that I have but to scan the present world with realistic eyes in order to see the fine phrases (of the Charter) . . . reduced to a shambles . . . I reply that the nearer right you may be . . . the greater is the need for the new pattern which promises . . . to stem these evil tides.''

The Truman-Vandenberg generation understood that although the noble aspects of human nature had made the UN possible, it was the ignoble aspects that had made it necessary.

It is up to us in our time to do what they did in their time. To accept the responsibilities of leadership. To defend freedom. And to explode outwards the potential of institutions like the UN to keep peace, extend law, promote progress and amplify respect for the dignity and value of every human being.

In that effort, I ask your help.

HONORING MR. CHARLES SHOUMAKER

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. PASTOR. Mr. Speaker, I would like to take this opportunity to recognize the recipient of the Campeon Award at the National Hispanic Corporate Council's [NHCC] 10th anniversary dinner, Mr. Charles Shoumaker.

Mr. Shoumaker was one of the driving forces in the formation of the NHCC. He was invaluable in securing early funding and helping to develop the concept behind the NHCC. While working as the senior vice president for human resources at the Circle K Corp., he provided office space for the NHCC. Indeed, without Mr. Shoumaker's enthusiastic support and initial funding assistance he provided, the NHCC might not have become a reality.

Currently, Mr. Shoumaker is the president of Star Human Resources Group, Inc., located in Phoenix, AZ. His company focuses on the needs and concerns of hourly, entry-level employees. Mr. Shoumaker has shown throughout his professional career to be a caring and dedicated individual, and I would ask my colleagues to join me in recognizing the accomplishments of this remarkable man.

TRIBUTE TO DEAN CHASE

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Ms. KAPTUR. Mr. Speaker, I rise today to pay tribute to a gentleman who has given long and faithful service to the trade union movement in Toledo. Dean Chase recently retired as president of the Toledo Area UAW–CAP Council. Dean had served the CAP Council as its president since 1981, and he has spent most of his adult life dedicated to improving the lives of working men and women. Dean was also president of UAW Local 11 at the City Auto Stamping Plant for 20 years.

Born in Toledo, Dean Chase, has lived in our community all his life. He attended Cherry School, Scott High School, and the University of Toledo. Married to Betty Lamb in 1950, Dean will have time to enjoy his two grandchildren and three great grandchildren in his retirement. Dean's outstanding leadership in his union and his community have made Toledo a better place to live and work.

Let this special tribute express our sincerest appreciation and best wishes to Dean Chase.

POWDER AND CRACK COCAINE CRIMINALS DESERVE EQUAL TREATMENT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. SOLOMON. Mr. Speaker, I would ask all my colleagues to join in sponsoring legislation today which would equate the criminal penalties for offenses involving crack and powder cocaine.

Last week President Clinton finally did something right in signing into law a bill denying the Sentencing Commission's recommendation on crack cocaine. He reaffirmed that offenses involving crack cocaine deserve severe punishment because of the damage they do to our society.

Look at the facts: According to the Partnership for a Drug Free America, 1 out of every 10 babies born in the United States is born addicted to drugs, and most are addicted to crack cocaine. Crime skyrocketed between 1985 and 1990, the years crack was introduced. In fact, violent crime went up 37 percent in 1990 and aggravated assaults increased 43 percent. Because of crack cocaine, more teens in this country now die of gunshot wounds than all natural causes combined.

The Congress, in the 1980's, reacted properly to the crack epidemic gripping vulnerable inner-city communities. We saw the destruction wrought on entire communities by this cheap and highly addictive form of cocaine. The Congress and the President are not going to reduce the criminal penalties involving crack cocaine.

However, I recognize the disparities that exist as a result of the inequitable treatment of crack and powder cocaine. However, instead of lowering the penalties for crack offenses, as the Sentencing Commission mistakenly proposed, we should increase the punishment for powder offenses to the same level as crack cocaine. Cosponsoring this legislation is an opportunity to rectify the racial discrepancies which exist under current law.

Mr. Speaker, the time has also come to reconsider the authority Congress has turned over to the Sentencing Commission regarding drug crimes. Within the next few days I will be introducing legislation to relinquish their authority. The Sentencing Commission should be reestablished as an advisory organization to provide guidance to the Congress. Clearly, recent decisions made by the Commission regarding crack cocaine and marijuana are convincing arguments for this correction.

THE RETIREMENT OF BOB ERICKSON

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. WAXMAN. Mr. Speaker, I want to take this opportunity to express publicly my respect for Robert Erickson, who is retiring from the Kaiser Permanente Medical Care Program this December after almost 37 years of service. Bob has been a leader in the establishment of

prepaid group practice in the United States. His important personal contributions to the enactment of sound health care policy have been invaluable and have improved the Nation's health care delivery system.

During the 25 years that I have known Bob, he has strongly supported health legislation that would extend coverage to all Americans and that would otherwise benefit the country as a whole, not merely an interested segment of the health care industry. The first question he would ask about legislation was whether it was good public policy; only then would he consider its impact on Kaiser Permanente. Bob's thoughtful advocacy on behalf of prepaid group practice has been partially driven by his belief that it is the most effective way of assuring that quality health care will be available to a broad spectrum of the community, including low-income individuals. I have appreciated his informed, ethical, and intelligent approach to government relations during my time in the California Assembly and in Congress.

I have also appreciated Bob's efforts on behalf of the environment. As an outdoorsman, Bob recognizes the value of preserving this Nation's open spaces and biological diversity. He has been an active crusader for protection of the land, animals, and plant life for existing and future generations.

I hope that Bob's retirement from Kaiser Permanente will not deprive Congress of his good counsel on future issues.

SALUTE TO FREDERICK C. BRANCH OF PHILADELPHIA

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute Frederick C. Branch on the occasion of the 50th anniversary of his commission as the first African-American officer in the U.S. Marine Corps.

Fifty years ago, Frederick C. Branch was appointed second lieutenant in the U.S. Marine Corps. On November 17, 1995 the Philadelphia Chapter of the Montfort Point Marine Association will present a Marine Corps Birthday Ball and Ceremonial Dinner honoring Frederick C. Branch for his many historic accomplishments.

Educated at Purdue University and Temple University where he received a B.A. degree in physics, Mr. Branch is currently the head of the science department at Murrell Dobbins Area Vocational School in north Philadelphia and has been for the past 15 years.

Mr. Branch is not only a distinguished military officer, but he has also been involved in many community activities. Branch was a past president of Tioga Methodist Men of Tioga United Methodist Church; a charter member and organizer of Penndelphia Detachment, Marine Corps League. In addition, he helped organize a national association of the first African-American men accepted in the Marine Corps which later was officially named the Montford Point Marine Association, Inc.

I wish my colleagues will join me today in congratulating Frederick C. Branch for so distinguished a career. I wish Frederick Branch the very best as he continues his service to the north Philadelphia community.

TRIBUTE TO WESTERN SPRINGS MAN AND WOMAN OF THE YEAR

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to two outstanding resident in my district—Mr. John Kravcik and Ms. Joyce Person—the Western Springs Man and Woman of the Year. These two people represent the volunteer spirit that has not only helped make their community great, but out entire nation as well. They will be honored for their efforts to better their village on Saturday, November 4 at the Western Springs Grand Ball.

Ms. Person, a 27-year resident of Western Springs, has combined her love of natural beauty with her love of her community. In addition to her long service to the village's Garden Club as president, she was also the secretary of the Village Party Caucus for 10 years, a volunteer organization that helps select qualified candidates for village offices. She is also a dedicated volunteer at La Grange Memorial Hospital. Yet, Ms. Person understands that true community service extends far beyond the bounds of one's village. In that regard, she organized the Hostage Remembrance Day to honor the Americans held in Iran in 1979 and 1980.

Mr. Kravcik, a resident for 33 years, has been active in government, professional, and religious organizations. He served on the Western Springs Planning and Zoning Commission from 1983 to 1991, when he was elected to a 4-year term to the Board of Trustees. He has been involved in leadership roles at his church, St. John of the Cross, and Nazareth Academy, a local high school. Mr. Kravcik and his wife, Joan, were co-chairmen of a Vietnamese refugee settlement committee, helping to find housing, employment, and other necessities for eight families who came to Western Springs.

Mr. Speaker, I salute these two outstanding Americans for their tireless efforts for Western Springs, and I hope they are able to enjoy many more years of service to their community.

TRIBUTE TO SISTER MARY URBAN HARRER

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to commend to our Nation's attention and to my congressional colleagues, the life of Sister Mary Urban Harrer.

For more than a quarter of a century, she has been so closely connected with the St. Clares Riverside Medical Center that her name is synonymous with its special mission and reputation.

Sister Mary Urban fills many roles at the hospital. She is chairman of the board of the medical center, a founder and mover of the annual Harvest Festival, a relentless fundraiser and organizer, an astute businesswoman, and a health care professional with years of hands-on experience in nursing and hospital administration. Her love of God and her service to mankind knows few equals.

But there is a role that transcends even these. First and foremost, she is a religious member of the Sisters of the Sorrowful Mother.

This month that role is highlighted as she celebrates her 60 years in the convent.

Her long road began in Bavaria where she was born, one of 12 children of Louis and Wally Harrer. Sister Mary Urban entered the convent at Abenburg. But within a short time she was transferred to Rome and the congregation's motherhouse. In 1935, she came to the United States—a journey she had long wished for and a dream come true.

In America, she entered the novitiate in Milwaukee, WI, and completed her formation for the religious life, taking her first vows in 1936 and her final vows in 1941.

Transferred to St. Francis Regional Medical Center in 1939, she entered the 3-year diploma nursing program and graduated as a registered nurse in 1942. Ten years later, she earned a bachelor's degree in nursing education from Marquette University.

For 28 years, she served at St. Francis as staff nurse, head nurse, nursing supervisor, and administrator.

She was known not only as a dedicated nurse but one who fought valiantly for her patients. The story is told of the time in Wichita, KS, when she was assisting in a Caesarean delivery. An infant was declared dead by the doctor, but she thought it was too soon to give up. She worked until he was breathing on his own. For the next 18 years, Sister Mary Urban received a bouquet of roses on the baby's birthday.

In 1967, she was transferred to Denville, leaving an 800-bed regional medical center for St. Clare's Hospital, then a 180-bed community hospital.

As the hospital's administrator, she soon became known for her indomitable spirit, her courage, her gift for fundraising, her deep sense of caring, and her strong faith in God.

Daily, she made rounds of patients, moving quietly from room to room to ask how they were doing and promising to speak to the Lord on their behalf.

She had so much energy that her feet seemed hardly to hit the ground as she hurried up and down stairs and hallways. To some she was known as the ''flying nun.''

All of her work paid off. In the years of her tenure, St. Clare's grew in size and in the scope of its services. In 1972, a building program almost doubled the hospital's size. In 1984, when a four-story tower was constructed, it was named appropriately, Urban Tower.

It was not only the hospital which profited from her presence. So did the larger community. In 1983, the Denville Rotary Club was setting up its first Citizen of the Year Award. Members said they were looking for a person whose actions had contributed most to the residents of Denville area. The unanimous vote was Sister Mary Urban.

Today, as Chairman of the Board, she continues to be involved in the day-to-day life of the medical center where she brings determination to her work as she does for the Harvest Festival, the successful 1-day country fair which she inspired.

She has the ability to inspire others to the same kind of Herculean efforts. And they

come back year after year to do the same incredible job again.

Their efforts—and hers—have paid substantial dividends. In the first 19 years, the Festival has raised $2.6 million to support hospital services and programs and to fund construction and equipment purchases. This October was the 20th Harvest Festival.

Her wonderful combination of perseverance, determination, and caring has made her a major asset to the medical center. Many believe that Sister Mary Urban is largely responsible for building the public support which has in turn fostered the growth of the medical center and made it what it is today: A 417-bed regional health care center.

The young farm girl who entered a Bavarian convent 60 years ago has made a difference to a town she did not then know existed.

God has blessed St. Clares Riverside, Sister Mary Urban has said, by building it into a fine hospital. Those who know her believe that she helped make that happen.

Today, Mr. Speaker, I ask that we recognize and salute Sister Mary Urban Harrer's life and service.

100TH ANNIVERSARY OF JEWISH WAR VETERANS OF THE UNITED STATES

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. NADLER. Mr. Speaker, I rise today to honor the Jewish War Veterans of the United States on the occasion of their 100th anniversary. As the oldest continually active national association for veterans, the Jewish War Veterans has long served this Nation in times of war and in times of peace. The organization has worked actively to combat racism and bigotry throughout our Nation and the world, to uphold American ideals and free institutions, and to assist veterans of all races and creeds.

From the days of Asher Levy's first establishing his rights of citizenship by defending the walls of New Amsterdam—present-day Manhattan—to the conflict in the Persian Gulf, American Jews have fought and died in American Armed Forces. Official records show that American Jews have consistently served in the Armed Forces in greater numbers than their percentage in the population.

The Jewish War Veterans of the United States have sought to uphold this proud tradition of service to the Nation throughout their century of existence, fighting for veterans benefits, civil, and human rights. Throughout the Nation, Jewish War Veterans posts offer veterans from all walks of life, counseling and assistance in obtaining their veterans' benefits.

When Martin Luther King, Jr., led his march on Washington in 1963, it was the Jewish War Veterans who were the only veterans' organization to demonstrate for equal rights with him. Whenever Neo-Nazi or Ku Klux Klan groups have surfaced, the Jewish War Veterans have been there to protest in body and voice, through picketing, and consultation with, and assistance to law enforcement officials. The Jewish War Veterans are also active in a wide variety of civic improvement projects, including volunteering at Veterans' Association Hospitals and numerous homeless shelters, providing college scholarships and urging our Nation's leaders to continue a strong commitment to those who have served our nation so valiantly.

The Jewish War Veterans of the United States represents an outstanding tradition of patriotism and service to America. It is my honor to say thank you and to congratulate them on their 100th anniversary.

TRIBUTE TO WESLEY MILLER

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Ms. KAPTUR. Mr. Speaker, I rise today to pay tribute to a gentleman who has spent his life serving his country, his union, and his community. Until his recent retirement, Wesley Miller was the first and only recording secretary the Toledo area UAW–CAP Council has had in its 27 years. Wesley has also served as president of UAW local 48 at the National Castings Corp. and more recently, as president of that local's retiree chapter.

Born in Columbus, OH, Wesley had the good sense to move to Toledo in 1952. During the Second World War, he served his country as a staff sergeant in the Air Force stationed in New Guinea. Wesley married Clara Furgeson in 1960 and can boast of five children, nine grandchildren, four great grandchildren, and counting. Wesley's leadership in his union and his community has helped to improve the lives of all the citizens of Toledo.

Wesley Miller deserves our thanks and our best wishes.

REMEMBERING THE ISLAND

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. UNDERWOOD. Mr. Speaker, I would like to take this opportunity to insert in the RECORD excerpts from a newspaper column written by Mr. Jim Comstock of Richmond, WV. This article about Father Jesus Baza Duenas, the Chamorro martyr/priest beheaded by the Japanese during their occupation of Guam in World War II, was part of Mr. Comstock's column, The Comstock Load, which appeared in the West Virginia Hillbilly on October 26, 1995. The biographical sketch was mainly based upon the recollections of Monsignor Oscar Calvo as related to Mr. Comstock back in the mid-1940's. The article, according to Mr. Comstock, originally appeared in a Communications Center newspaper back on Guam in the last few months after the war:

REMEMBERING THE ISLAND

One day recently I combed through the collection of souvenirs and such which I brought home with me following my days spent on the island of Guam, in the Marianas, during World War II. All have been gone over for a last reminiscence glance, and are packed up to be sent to the museum in the Capital City of Agana. It was my delight in the last few months after the war, and I was waiting my turn to leave for home, to have edited a newspaper for the Communications Center, and now I am going to fill my allotted Load space with one of my stories. Take it away:

On a rare sunny morning in the year 1940, the people of Inarajan went to the St. Joseph's Church in great expectancy. The first native priest of the island was going to say his first mass . . . That was in 1940 and the priest had less than two years to serve his flock and God, because at the end of 1941, the Japanese came and made the sword the faith. But those few months that Father Duenas was padre, he had won a place in the hearts of the people of the Island.

Father Duenas was taken out by a troop of Japanese soldiers on Barrigada and, after digging his own grave, was beheaded. I heard this story when I first went to the Island. I wondered why the Japanese would kill a man who had won such a place for himself in the hearts of the conquered people. I learned the story of his death, which happened just three weeks before our Marines landed at Blue Beach. The Reverend Oscar Calvo was in his bamboo and reed church, just behind the famous Dulce Nombre de Maria Cathedral, which the Spanish built in 1903 and the Americans leveled forty years later to get the Japanese occupiers out and off the island.

Father Calvo was the kind of fellow you could believe. You felt that his heart and his actions were as white as his pearl-like teeth. He finds it hard to express himself in English, but he is the man to tell you the story of Father Duenas.

''Father Duenas was a good man. He was good to work with and the people liked him very, very much. He was born March, I think, in let me see, 1911, I believe. He attended the elementary school here and when he was fifteen he went to the Seminary San Jose in Manila and studied under the direction of the Jesuit Fathers. I can say that he was greatly respected and that he won a high place there, both in the Minor and the Major Seminary.''

I took out a cigarette and offered one to Father Calvo. He lit it and continued:

''When Father Duenas was graduated from the seminary, he asked to be returned to Guam, and on June 11, 1938, he was ordained to the priesthood in the Dulce Nombre de Maria Catherdal. He was assigned for some months to Inarajan.''

He paused reflectively. I wondered when it would be proper to ask him how so many of the Chamorros kept their teeth so white. He started speaking again, with each sentence raising at the end.

''I wish I could tell you why the Japanese took the life of Father Duenas, but I can't. It is just hard to say. I knew that he did not like the Japanese, and that he often said things to people that I knew couldn't be trusted. You have heard of Mr. Tweed?'' I nodded, for I well knew of Chief Radioman Tweed who had hidden out in the jungles till the Americans came. And I knew that contrary to the stories in the American papers, the people of Guam had only disgust for Mr. Tweed. ''The Japanese wanted very much to find Mr. Tweed and very much they talked with Father Duenas but he would not tell them where Mr. Tweed was hiding.'' The word hiding went way up in the air. ''It wasn't anything that he did, that caused the Japanese to kill Father Duenas, it was more what he did not do that the Japanese killed him. The priests that the Japanese sent from Tokyo, he did not try to get along with and would not eat with them when they came to Inarajan and did not stay when they said mass.''

Here I had to stop Father Calvo. ''Do you mean that the Japanese sent priests here to Guam?''

''Oh, yes. Did I not tell you? When the Japanese took out all of the nationals to Tokyo,

they took with them our Bishop the Most Reverend Michael Angel do Olano, and they took two lay brothers, and ten American Capuchin Fathers, and two secular priests and made them all prisoners. Father Duenas was left here and so was I because we're of these people. They did not take any natives to Japan, but only those who were not born on this island. They took Mr. Butler and Mr. Underwood and Mr. Hudson, and many more who were in the trade here but were not of the people.''

Father Calvo went on: ''The Japanese do not observe the Catholic faith but they saw that in the Pacific the Catholic faith was strong, and they brought Japanese Catholic priests to all of their conquered islands. To our island came a bishop and two priests, and they brought a note to Father Duenas making him Pro-Vicar Apostolic. I think this was because the government has heard that Father Duenas might cause trouble and that a high rank might stop him. But it did not win over Father Duenas. When the military set up districts for the priests to serve in and posted signs saying they were not to go out of an assigned district, Father Duenas, if there was a funeral or a wedding or a christening, would go out. He was warned many times but he always went out of his territory.''

Father Calvo hesitated, then went on. ''The Japanese did not think that he went out for funerals and weddings, but to take things to eat and wear to Mr. Tweed. But I know that he went out as a good priest and would go, because another zone might be near him but far from a zone in which another priest might be assigned.''

''Last week we went out to Barrigada and dug up the body of Father Duenas and buried him.'' To me the Father was getting ahead of the story. Could he, I wanted to know, tell me something of how Father Duenas died?

''There is only one man who can tell you that. He is a native—but I knew he will not talk of it. He told me, but I don't think he will talk to anybody else. I will tell you what he told me.

''Father Duenas was taken prisoner by the Japanese and put into their stockade, but since he would not answer their questions they told him he could go home. They did not beat him; I am sure they did not beat Father Duenas. He was so young but weak. I don't think he could have stood that. Not like others. But his torture was of his mind. He was turned from prison and came to Inarajan when some of the officers came up and arrested him and took him to another jail. I think the jail was near Barrigada. They asked him more questions, and the Japanese acted as if they were satisfied. They said he could come home. He started out with a guard.

''Father Dueanas did not get to his home. He was taken into a deserted field. He saw some of his friends there. There was his nephew, Edward Duenas, the island attorney, and there was a young boy, maybe eighteen. I don't remember his name. And there was an old Navy man named Juan Pangelinan, whom the Japanese said was helping Mr. Tweed.

''The rest I will tell, you too. There were four open graves in the clearing and I think it was then that Father Duenas knew for the first time that he was not going to go home. The prisoners' hands were tied behind them and they were told to kneel by their graves. Father Duenas was first in the line. I have been told by my informant that the other three asked Father Duenas to pray for them. He did and they repeated the prayer after him. My informant tells me that Father Duenas did not seem scared. I know that was true. The others were calmed by his prayer. He was a man of God.''

I wondered if Father Calvo would tell the rest. He closed his eyes and said: ''The guard, my informant tells me, was a very, very big fellow. One blow was all that was needed.''

Beneath the altar of the church at Inarajan lies a true patriot of Guam, Father Duenas.

This fellow Tweed became quite a celebrity when he left Guam and returned to America. I wonder if anybody knows the rest of the story. He certainly has, or perhaps had an interesting story to tell.

SUBSTANCE ABUSE PREVENTION TEAM OF ESSEX COUNTY HONORED

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. SOLOMON. Mr. Speaker, one of the biggest problems facing our Nation for generations has been the abuse of illegal drugs. Substance abuse of this nature is responsible for the breakdown of the American family, increased crime and violent crime, increased health hazards and economic woes. Clearly, these substances have proven to be more than a thorn in the side of American society, they are eating at the very core of this Nation.

Fortunately, Mr. Speaker, there are programs like the one run in Essex County, NY of my congressional district. This Monday, November 13, 1995, the Substance Abuse Prevention Team of Essex County, based in the beautiful Adirondack Mountains, will be honored right here on Capitol Hill as one of the 16 best substance abuse programs in the entire United States. At this time I would like to extend my sincere gratitude to each and every person who has participated on this prevention team. They have done a tremendous service for the young people and residents in Essex County and gone a long way toward preserving the smalltown sense of community.

Yes, Mr. Speaker, even small towns like the ones in the Adirondack Mountains have been faced with this plague of drug abuse which threatens the very fabric of America and smalltown America. But it is not all doom and gloom Mr. Speaker. We know from our experience in the years from 1980 to 1992 that this dreadful plague can be controlled. In that time period, drug use in the United States actually dropped by more than 50 percent. What made progress like that possible? Preventive programs like the one we are honoring here today which gets the right message to our children and others before they become addicted to these destructive substances.

Mr. Speaker, I have nothing but the utmost respect for the people who run this prevention program in Essex County. They are responsible for defending and saving the fabric of this Nation and the future of our young people. In that respect, I ask that you and all fellow Members of Congress rise with me and pay tribute to the outstanding men and women who are part of the Essex County Substance Abuse Prevention Team. They are truly great Americans.

TRIBUTE TO DORA A. FINK

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. BURTON of Indiana. Mr. Speaker, I would like to take this opportunity to pay tribute to a very special woman and recognize a very special event. On November 17, 1995, the friends and family of Dora Fink will gather to celebrate her 90th birthday.

Mrs. Fink, who was born in Mooreland, Graham County, KS in 1905, lived in a ''sod house'' on the plains of western Kansas. In her life she has seen world wars, she raised her children through the ''Great Depression'', watched with love and pride the troubles and triumphs of her family. But perhaps Dora's greatest accomplishment has been the example she has set for three generations. While many of us talk about the importance of family values, the virtues of work ethic, faith in God, and service to the community, Mrs. Fink has exemplified these words in her actions.

We often recognize world leaders, kings, and notable persons for some unique feat. Today, I rise to honor Dora Fink, who has helped make this country great by passing the ''American spirit'' from generation to generation by her example.

Mr. Speaker, I ask that you and my other colleagues join with Mrs. Fink's two children, five grandchildren, five great-grandchildren, and many friends in saluting this extraordinary woman and wish her a very happy birthday.

JACKSON ADVOCATE

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. THOMPSON. Mr. Speaker, I rise today to recognize the Jackson, MS, Advocate newspaper, also recognized as the voice of black Mississippians. The Advocate was founded in 1939 in Jackson, MS, by Mr. Percy Greene, a World War I veteran. The Advocate was founded out of the necessity for African-American voices to be heard. During the period when the mainstream media consistently denied African-Americans the opportunity to communicate through the press or to be acknowledged in a positive manner, the Advocate became the avenue by which African-Americans presented their side of the story. In the struggle to gain civil rights, the Advocate was very assertive in connecting African-Americans throughout Mississippi.

The drummer changed but the beat goes on. The Advocate has been under the ownership of Mr. Charles Tisdale since 1978 and continues to keep Mississippians informed about issues as they relate to the African-American community. Mr. Tisdale continues the tradition of acknowledging any African-Americans who contribute to the community and highlighting those who attempt to deny opportunities to the African-American community. I would be remiss if I did not recognize the outstanding contributions that Mr. Tisdale has made in this respect to the State of Mississippi. Mr. Tisdale continues to keep the

Jackson Advocate on the cutting edge providing Mississippi with complete and objective reporting on those issues that are so vital to the progress of our State.

HONORING WORLD WAR II VETERANS AT VILLA NUEVA SENIOR PARK, PICO RIVERA, CA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. TORRES. Mr. Speaker, I rise to recognize the men and women who served in the U.S. Armed Forces during World War II. These brave men and women fought to protect the freedoms and liberties enjoyed by every citizen of this great country. It was only 50 short years ago that they battled to end the rule of tyrants and dictators throughout the world.

Men and women across this Nation unselfishly answered the call of our Nation to go to war. I commend these individuals for their patriotic deeds in our Nation's time of need. We are proud of our veterans who have defended the United States of America.

On November 9, 1995, the Villa Nueva Senior Park of Pico Rivera, CA, will join thousands of ceremonies across the country in concluding our commemoration of the 50th anniversary of World War II. Mr. Speaker, it is with honor and privilege that I ask my colleagues to join me in saluting the veterans of Villa Nueva Senior Park to whom we owe a tremendous debt:

Serving in the U.S. Army; Edward Austin, Ed Baker, Grant P. Ellibee—also served in the U.S. Marine Corps, Albert Ely, Irving Fink, Frances Galyon—Army Nurse Corps, Eloy Gomez, Joe Goulet, Ernie Montes, Mac Nakata, Joe Oliver, Herman Oushani, Anthony Palucci, Benito Perez, Charles Perry—Army Air Corps, Harold Phillips, Hank Romines, Frank Ruiz, Jules Sharff—Army Air Corps, Robert W. Smith, Barry Snavely, Andrew Varonin and Cecil E. Waddington. Serving in the U.S. Navy; Gus Garcia—Navy Submarine, Ed Gold, Warren Van Wie, George Weber and Dean Yates. Serving in the U.S. Marine Corps; Barbara Ellibee, Helen Hawk, and Gloria Trujillo.

TRIBUTE TO THE WOMEN'S EXCHANGE

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. TALENT. Mr. Speaker, it is with pleasure and a great degree of pride that I draw to your attention the accomplishments of the Women's Exchange, a volunteer organization in the St. Louis area, dedicated to the mission of helping others help themselves.

Established in 1883, the Women's Exchange was founded by a group of volunteers to help women support themselves and their families by working out of the home. In an era when males dominated the work force, the Women's Exchange provided a marketplace where creative women could display and sell their products, while still allowing them to be at home to educate and raise their children. The organization also offered working women inexpensive lunches, and a library of resources, all in an effort to enable women to earn their own living and provide an atmosphere to change the tide.

Over the past 112 years, the need has not subsided nor has this organization's fine service and devotion to quality. They remain faithful to the founders' mission to help people help themselves by continuing to provide training and quality materials to their consignors. Approximately 100 families are supported by Women's Exchange consignors, many of whom receive up to 100 percent of the profit from the sale of their goods. Today, under the direction of president Mary Fort, the St. Louis Women's Exchange is the largest chapter in the National Federation of Women's Exchanges. They now operate a tearoom in addition to the gift shop which helps attract customers for the consignor merchandise and generates income to maintain the shop's excellence and professionalism.

Mr. Speaker, it is an honor and a privilege for me to recognize this fine organization. I commend the Women's Exchange on its first 100 years of service and dedication to the St. Louis community and wish them well on 100 more.

TRIBUTE TO THE SHELDON FAMILY AND REID-SHELDON & COMPANY

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. BOEHLERT. Mr. Speaker, I rise today to honor and pay tribute to those who have served us in so many ways: the Sheldon family and Reid-Sheldon & Co. in New Hartford, NY.

On November 7, 1995, Reid-Sheldon celebrated 150 years of successful business endeavors. By donating 10 percent of its sales on that day to charity, the Sheldon family maintains the store's fine tradition of sharing its fortune with the community since 1845. What started as a country harness shop has emerged as a successful luggage and leather goods store.

I submit for my colleagues history of Reid-Sheldon, written in 1945 by Artemas Barnard Sheldon whose grandfather, Ebenezer, was its founder. It is not simply a profile of one store in one locality, rather it is a welcome and unique perspective on hometown enterprises—the backbone of American business—across our Nation:

THE SHELDON BUSINESS

In giving an outline of the Sheldon business I could start with a certain Isaac Sheldon who our records show was living in Massachusetts in 1629. However, I do not know what his trade was so I will stick to the men of the family who I do know were leather workers.

My grandfather, Ebenezer Sheldon, was born in Bernardston, Massachusetts, in 1796. He learned the trade of harness maker and in 1825 migrated to the village of Burlington, New York, where he operated a country harness shop.

The city directory of 1840 shows that he had a harness shop on Catharine Street. In 1845 he had as his partner his oldest son, George, and the firm name because Ebenezer Sheldon & Son. Their store and shop was located at that time at 45 Genesee Street and there it stayed with some enlargements for eighty-five years.

In the early fifties the firm became Moore & Sheldon, Ebenezer having taken his son-in-law, LeGrand Moore, into partnership.

My own father, Artemas H. Sheldon, the youngest of eight children, was born in 1836 shortly before my grandfather moved his family to Utica. He learned the trade of harness maker and assumed his fathers interest in the business in 1862.

In 1880 the firm name was again changed to Moore, Sheldon & Company when Mr. Moore's son-in-law, Robert H. Reid, was admitted to the firm.

My father died in 1899 when I was eighteen years old, and I represented my mother's interest in the firm until her death in 1917.

At that time I became a partner, and the firm name was changed to Reid-Sheldon & Company under which title we still operate.

I was married in 1901 just after I had passed my twenty-first birthday. My wife and I have been blessed with three children, a daughter and two sons.

My daughter, Rosemary, graduated from Cornell University in 1925, and my older son, Robert, was graduated from the Syracuse University the same year.

In 1928 Mr. Reid died very suddenly and my son, Robert, took over his interest and became my partner in the business.

It was in this year of 1928 that I was elected this executive secretary of the National Luggage Dealers Association, which position I still hold. My daughter who had taken a secretarial course after leaving Cornell was my secretary until her marriage in 1932.

My younger son, Richard, on completing high school came into the store as a salesman and is now serving in the Navy as a second class petty officer. His place will be here when he comes back.

My son, Robert, was married in 1933 and has four children, two girls and two boys. For a number of years they lived on a farm located about ten miles from Utica in a large old house built in 1797 and dating back to the days of George Washington and DeWitt Clinton.

During this year he purchased a comfortable home in Utica about two miles from the store in order to give his children easier accessibility to the public schools. He has, however, kept the old farm as an ''ace in the hole'' should we ever go through another period like, what I term as ''the terrible thirties''.

In 1930 about two years after the death of Mr. Reid we left the old store at 43 and 45 Genesee Street, where we had been for eighty-five years, and moved to our present location at 241 Genesee Street, a section given over to better class specialty stores.

Up to the time we moved uptown we had always maintained a harness department.

During my early days in the store this was the most important part of our business. We specialized in fine coach harness and track harness. These were always made to order, and during the years that preceded the coming of the automobile we employed a dozen or more mechanics.

As the demand for harness decreased other lines of merchandise were added. While we had always carried trunks and hand luggage, it had been a minor part of our business.

Now we were forced to expand our lines of luggage, and to gradually feel our way into kindred lines such as Personal Leather Goods, Ladies Hand Bags and Gifts.

When we move to our present location we were obliged to discontinue the harness shop, but as it was necessary to maintain a repair

department for luggage we took our oldest employee with us.

The life story of this particular man is unique because it is so different from that of the present day worker.

Joe Fairbrother came to work for my father as an errand boy when he was about twelve years old. Eventually he learned the trade of harness maker. He never worked for anyone else but my father and me for a period of over fifty three years.

He raised a family of eight children, owned his own little home in the west end, near where he was born. In later years he had a comfortable camp in Oneida Lake and an automobile which he never drove himself.

His wages never exceeded thirty dollars per week. He often told me ''This job has never been a good paying one, but it has been d--n steady''. When he passed away some years ago after a lingering illness, it was like losing a member of the family.

It may be of some interest that his granddaughter has been my secretary for ten years, and it is the only position she has ever held.

Our present store is now managed by my son and partner, Robert Sheldon, who has been with me for nineteen years. When the war is over my younger son will again resume his place with us.

I often wonder when I look back over almost fifty years in the harness and luggage business just why young men with fine college training decide to engage in business that shows so little opportunity for financial gain.

What has happened in our own partnership is only one of many such instances that I know of when young men with good educations have elected to follow the retailing of Luggage and Leather Goods as their life work.

Surely there must be some spirit of romance in handling fine leather goods for I see no other reason.

Why this little history of our family's business should be of interest to any one is hard for me to understand. There are probably scores of other small businesses that have equally long and honorable records.

The only unusual thing about it may be that for over one hundred years the name ''Sheldon'' has appeared first over a harness shop which eventually became a Luggage and Leather Goods Store and still continues.

The fourth generation of Sheldons is now in charge of our store. Possibly if one of my grandsons follow in his father's steps, we may yet crow about a fifth generation in this one business. Only time will tell us that.

At any rate I am sure that my partners grandfather and great-grandfather, though he had never seen either of them, are as proud as I am of the present management, and the manner in which it has maintained and added to the reputable standing of our firm in this our home community.

RACE RELATIONS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. HAMILTON. Mr. Speaker, I am inserting my Washington Report for Wednesday, November 8, 1995 into the CONGRESSIONAL RECORD:

THE STATE OF RACE RELATIONS

The verdict in the O.J. Simpson trial and the Million Man March in Washington have refocused national attention on the state of race relations in America today. Both events show that race continues to be one of the more intractable and troubling issues facing our country.

SIMPSON VERDICT

The reading of the verdict in the O.J. Simpson trial was a remarkable event. For one brief moment all Americans stopped what they were doing to hear the result. The reaction of the public to the verdict was just as striking. Most white viewers were stunned by the acquittal, thinking the evidence against Simpson was overwhelming. Many black viewers, in contrast, reacted to the verdict with joy and celebration. They believed Simpson had been framed by a rogue, racist police force.

The trial was extraordinary. Most murder trials last a week or less, not nine months, and don't involve a national celebrity and a worldwide television audience. We can talk about keeping TV out of the courtroom or reforming the rules of evidence, but we should be very careful about changing our criminal laws based on such an unusual case.

The most disturbing aspect of the trial was how differently blacks and whites reacted to the verdict. Both races appear to want the same things from our justice system—safe neighborhoods, drug-free schools, and the like—but disagree about how the system is working today. Whites generally view the system as basically fair and give high marks to local law enforcement, but say too many criminals get away with their crimes. Blacks, however, tend to think the system is biased against them and geared to lock away young black males. They believe law enforcement is racist.

Blacks often say that the high incarceration rate for black males reflects the fundamental unfairness of the system. One in three black males in their twenties has been in the care of the criminal justice system. Blacks, who make up 12% of the population, make up more than half of all people convicted of murder; blacks are also disproportionately victims of murders. Many whites respond to these statistics by saying relatively more blacks are in jail because relatively more blacks commit crimes, not because the system is inherently racist.

The basic challenge is to build confidence in the criminal justice system across racial lines. We should be able to agree on certain basic points. On the one hand, racist conduct by law enforcement cannot be tolerated. On the other hand, racism, past or present, cannot be raised as an excuse for violent conduct. Criminals, whether black or white, must be punished for their crimes.

MILLION MAN MARCH

The second event which stirred much debate on race relations was the Million Man March. The avowed purpose of the rally, which attracted over 400,000 black men to the U.S. Capitol last month, was for black men to rededicate themselves to family, personal responsibility and community. The event was an impressive gathering, marked by a sense of purpose and comraderie. Nation of Islam leader Louis Farrakhan, who organized the event and pulled it off without incident, has established himself as a leading voice for black America.

The Million Man March sent out an equivocal message. The rally showed there is much common ground between blacks and whites. In some ways, it was a march about dignity, pride and respect. Many of the speakers talked about self-help and self-discipline; the importance of family and education; and the scourge of drug use and crime, particularly among young people. I hear many of the same issues discussed approvingly at my public meeting in Indiana.

The rally, however, was also about racial division and separation. Minister Farrakhan spoke of a more perfect union, but he is a controversial figure; he is seen in many quarters as a bigot and an anti-semite, someone who stokes racial fears and animosities. To most Americans he is more a symptom of our ills than a physician who can heal them.

ASSESSMENT

White and black America continue to drift apart. Many blacks feel aggrieved. They observe that black incomes are still only 60% of white ones; black unemployment is more than twice as high; and more than half of black children live in poverty. They say whites have lost interest in their plight, cutting federal programs that benefit their communities and curbing affirmative action programs that have created eduational and job opportunities. The reponse of a growing number of blacks is not a call for more integration with white America, but separation and self-help.

Many white Americans, for their part, feel a different kind of frustration. They say this country has spent billions of dollars on fighting poverty, particularly in black communities, but poverty rates remain persistently high. They complain that affirmative action programs take jobs and college opportunities from deserving whites. They say blacks should take more personal responsibility for their actions, rather than look to the government for help. They often believe, mistakenly, that the average black is faring better than the average white in terms of access to housing, education, jobs and health.

We can argue all day about the causes of this separation—the lack of economic opportunities; racism; the burden of history; the rise of illegitimacy and single parent families—but the question Americans must answer is whether this trend toward separation is desirable. I think it is not. This country will not prosper if we do not work together to create opportunities for all of our citizens.

Sometimes I get the impression that blacks and whites live on two different planets. Both events, the trial and the march, caution that we must bridge the great divide between the two races. We must talk frankly, listen carefully, and work together across racial lines. We must talk less about separation and bitterness, and more about unity, reconciliation and shared values. We must reach out to people of different races and provide opportunity for all persons to make the most of their lives. Government can help by pursuing fiscal policies that promote job creation, enforcing anti-disrimination laws and supporting programs that are pro family—but reconiliation will mainly come through individual contacts. We should not tolerate the existence of two Americas.

NATIONAL HOME HEALTH CARE MONTH

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. TANNER. Mr. Speaker, I rise today to bring attention to the fact that the month of November is National Home Health Care Month and National Hospice Month. Yesterday, November 6, I participated in a visit to a 32-year-old constituent who was diagnosed

with Lou Gehrig's disease back in 1988. In August 1990, the disease had progressed to the point where Tim was completely immobile and Home Health Aides were ordered to assist Tim with his personal care.

Currently, Tim's nurses visit him three times a week to assist his respiratory status and to monitor his overall condition. Two Home Health Aides visit daily to assist with bathing and personal hygiene. With the assistance of Homecare Health Services, Tim has been able to remain in his family's home. I would like to insert into the CONGRESSIONAL RECORD a letter that was given to me yesterday during my visit with this courageous young man, Tim Brewer of Big Sandy, TN.

I want to thank you, Representative Tanner, for your letter and for your visit. I want to also thank the nurses and aides from Homehealth. I am sure you understand how important home health is to those of us who need it. I know the nursing home industry has a strong lobby in Washington, but I believe it is better for patients to stay home if they can, as well as being more cost-efficient for taxpayers. I know I have saved Medicare hundreds of thousands of dollars by staying home. I have only been hospitalized a few times and I have never had even the slightest bedsore. Being at home has also allowed me to be more active in my daughter's life. Please remind the Speaker of the House that the first cuts should be from fraud and inflated medical supply cost. Remind the House that real people are behind all the numbers. Please fight for home healthcare.

Please come back to see me again.

Thank you.

TIM BREWER.

IN MEMORY OF JOHN C. TOWLE, CAPTAIN U.S. AIR FORCE

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. POSHARD. Mr. Speaker, I rise today to honor U.S. Air Force Capt. John C. Towle who will be laid to rest with full military honors on Wednesday, November 8, 1995 at Arlington National Cemetery. John was born January 9, 1943, in Harrisburg, IL, to a loving family. He grew up will all the hopes and dreams of any young boy. I am sure like many youngsters he played typical childhood games and perhaps he even played soldiers; unaware of his ultimate destiny. He played in the school band and was active in his church and community. In 1961, he graduated from Harrisburg High School. He went on to attend Murray State University in Kentucky, where he was a member of the U.S. Coast Guard Reserve.

In 1968, upon graduating from college, John decided to further advance his military service and assist his country with the peace efforts in Southeast Asia. He proudly accepted a commission as an officer in the U.S. Air Force.

As a copilot during the height of the Vietnam conflict, John dedicated his life to advancing the cause of freedom around the world. Tragically, John's aircraft was shot down over hostile territory in Laos on April 22, 1970. John and 11 of his fellow crew members were listed as missing in action for 8 years until U.S. officials concluded that they had been killed in action. On September 1, 1995, the Armed Forces Identification Review Board was able to properly identify John C. Towle and his fellow crew mates, thus officially listing these honorable servicemen as killed in action while in the service of their country.

Today, 25 years after John disappeared from the skies over Southeast Asia, I join with his family and friends in bringing him to his final resting place. Arlington National Cemetery is a monument to the men and women who paid the ultimate price in order to preserve our freedom, and help bring the light of liberty to others around the world. The loss of John's cheerful and positive being was untimely and painful to those who cherished him. It is my hope that his return to American soil will bring his family and friends the peace they have long awaited.

A TRIBUTE TO DENESE ALLEN

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. FAZIO of California. Mr. Speaker, I rise today to pay tribute to my longtime friend, Denese Allen. Denese is retiring from the Vacaville School Board after 12 years of honorable and highly valued service to the community.

Denese has devoted her life to enriching the lives of our youth. She has spent 31 years as a elementary school teacher where her thoughtful and caring instruction has helped guide and shape the lives of hundreds of children. Today, she continues to teach kindergarten at Fairfield, CA.

In addition to her lifelong devotion to the educational needs of our youth, Denese has also chosen to contribute her time and abilities to public service. Denese was first elected to the Vacaville School Board in 1983. She subsequently was re-elected in 1987 and 1991. Denese was appointed to the Vacaville Parks and Recreation Commission in 1982, where she served for 11 years. She was appointed to the Solano County Parks and Recreation Commission in 1992, where she served 1 year. Denese currently serves on the Solano Fair Association Board, to which she was appointed in 1994.

Denese was born in Portland, OR and educated in Portland's public schools. She earned her BA from the University of Oregon in 1964, with a teaching credential. In addition, she has done graduate work at the University of California, Davis and St. Mary's College in Moraga, CA.

Denese is married to Ward Allen, legislative representative for the Brotherhood of Teamsters in Sacramento, CA. They have a son, Mark, who is a customer service representative for AT&T in San Francisco, CA. Denese's parents, Katherine and Webb, continue to reside in Portland. Her father, retired managing general manager for Coopers & Lybrand, is currently the national treasurer for the Shrine Hospitals for Crippled Children.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me today in honoring Denese Allen as I extend my sincere appreciation for all she has done for community during her many years of dedicated services.

SENTENCING INEQUITY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. TOWNS. Mr. Speaker, I rise today to address a very prickly issue that confronts our judicial system: appropriate sentencing for distribution of crack versus powdered cocaine. This is a very important issue because current guidelines require a mandatory sentence of a 5-year prison term for possession of 5 grams of crack. However, it would take 500 grams of powered cocaine to receive a comparable sentence. Both of these substances are illegal, and I am astounded that there is such a disparity in the sentences for distributing these substances.

The fact of the matter is that cocaine consumption and distribution is illegal. Additionally, it is a fact that crack cocaine is the inexpensive drug of choice for many inner city citizens; while powered cocaine is consumed principally within upper income groups and suburban communities.

As our jail population explodes with additional black inmates charged with dealing cocaine, we must raise the question of why? The answer is based on simple economic principles. African-Americans dominate crack cocaine sales, whereas whites are the chief perpetrators of LSD distribution (93.4 percent), pornography (91 percent), and (100 percent) for anti-trust violations. None of these are lofty endeavors. But my point is simple. We must deal with issues of sentencing equity.

The sentence meted out for any type of cocaine distribution should be comparable, and judicial application of the law should be colorblind. Currently that is not the case. That is why the Supreme Court is reviewing this issue.

I do not condone the legalization of illicit substances. Nor do I support selective prosecution of any ethnic or economic group. But I am concerned that penal warehouses are being built, and the lion's share of the occupants are African-Americans. I say, let the punishment fit the crime, and do not favor any segment of society over another. Equity and morality require no less.

A BILL OF COMPROMISE

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. MARTINEZ. Mr. Speaker, on November 2, I introduced legislation to require the EPA to consider the interests of a city in my district when placing a thermal destruction facility at a Superfund site.

This legislation, H.R. 2583, is intended to accomplish the same goals as a bill I introduced earlier in this session, H.R. 2267.

However, I have revised the original version to more accurately depict the true intent of my efforts.

As a former member of the California solid waste management board, I have an excellent understanding of this situation.

Over the history of operating industries Superfund site, EPA has consistently ignored

the concerns of Monterey Park, CA, on the placement of cleanup facilities.

In fact, I was the board member who made the motion to place the southern parcel of OII on the national priorities list.

Against the wishes of the board, the California Health Department, and the citizens of Monterey Park, however, EPA also included the northern parcel as part of the site.

This was done despite the fact that the northern parcel did not qualify for NPL listing by itself and EPA had failed to justify its inclusion.

The disregard I mentioned was first displayed with the placement of a leacheate treatment plant in the middle of the relatively contamination-free northern parcel.

Despite numerous allegations that the leacheate facility is a white elephant, the EPA now wants to place a thermal destruction facility in this same northern parcel.

To make matters worse, this portion of the site has excellent redevelopment opportunities.

Unfortunately, the placement of this facility at the proposed EPA location would negatively affect the value of the parcel and drastically alter the city's future development plans.

The original version of this legislation was not worded to accomplish a responsive attitude from EPA nor did it reflect our intention which was to make sure the best solution to a problem EPA region IX created was reached, both for the environment and the community of Monterey Park.

However, H.R. 2583 reemphasizes the true nature of the bill—one of compromise.

My legislation would block funds for the construction and operation of a thermal destruction facility unless the city and EPA agree upon its location somewhere on the northern parcel that still will allow for the highest and best use of the property in conjunction with the intent of the Brownfields Act.

Throughout my involvement with this site, I have always desired a quick and efficient cleanup.

This can be done while still allowing the economic interests of Monterey Park to be fulfilled, especially when other placement locations are readily available.

The reason there has sometimes been extreme criticism of the EPA are cases such as this, where the EPA has been totalitarian in its dealing with local citizens and their local government.

I urge all Members to join me in opposition to this obvious affront to local interests and inappropriate Federal intrusion in the long-term economic viability of this city.

HAPPY 40TH BIRTHDAY LYLE ROLOFSON

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. POSHARD. Mr. Speaker, I rise today to congratulate Mr. Lyle Rolofson on his 40th birthday. Lyle is a self-proclaimed policeman, junior fireman, and gadfly who has quite an enviable fan club in the town of Argenta, IL. Lyle is a fixture throughout the community where he never misses village meetings, and is always eager to assist his friends and neighbors.

In honor of Lyle's 40th birthday the town of Argenta decided to throw him a spectacular birthday celebration. Argenta's mayor, Nelson Jackson, even declared September 28, 1995 Lyle Rolofson Day in Argenta. Lyle was presented with a commemorative plaque which read:

The Village of Argenta is proud to declare September 28, 1995 as Lyle Rolofson Day for being the ''Good Citizen'' that he is to the people of Argenta. We love you, Lyle.

I am delighted to join with the village of Argenta in recognizing Lyle for his dedication to the community he calls home. Mr. Speaker, Lyle Rolofson believes in the value of community involvement, and I am proud to represent this outstanding individual in Congress.

FREEDOM'S DRUMMER: ROSA PARKS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 8, 1995

Mr. CONYERS. Mr. Speaker, for several decades now, I have had the privilege of knowing a woman who set great wheels of social change in motion. Forty years ago this year, she gave birth not to one life but to many lives by igniting the energies of the civil rights movement. From a single, simple act of courage, she showed those suffering in the Nation how to move from hope to determination. That woman was Rosa Parks, and she accomplished all this by refusing to sit in the back of the bus. The article I am entering into the RECORD today from the Washington Post Magazine tells her story, and I believe it will move you the way it did me:

[From the Washington Post Magazine Oct. 8, 1995]

A PERSON WHO WANTED TO BE FREE

(By Walt Harrington)

Bus No. 5726: A shell, really, a decaying hulk with its glass eyes missing from their windshield sockets, red rust marching like a conquering fungus from its roof, down and around bullet-pocket windows to its faded green and yellow sides. An era's relic, stored in the wind, rain and stultifying summer sun on the vo-tech school's back lot, stored on the chance that the people of Montgomery, Alabama, will someday reach a place in mind and heart where they will find, who knows, $100,000 to refurbish it as a lesson from that night 40 years ago, December 1, 1955, when a city bus driver asked a prim black woman to leave her window seat so that a white man could sit, and she uttered an almost inaudible, ''No.'' It was an ordinary evening, Christmas lights flickering, people hurrying home past the banner ''Peace on Earth, Goodwill to Men.'' Even Rosa Parks, 42 then, was thinking about all she had to do in the next few days. But at the instant she refused to move, as Eldridge Cleaver once said, ''Somewhere in the universe, a gear in the machinery shifted.'' The wonder of it: Imagine the chances that so precise a moment of reckoning would be encoded in our collective consciousness. Stop time: Look back, look ahead, jot a note, nothing will ever be the same. The stopwatch of history has been pressed now, at this instant of resonance, this flash of leavening light.

Bus No. 5726: It is not *the* bus—*the* bus is long lost. After all, that December 1 trip seemed like just another run on the Cleveland Avenue line. Business as usual, but this artifact from that time, most of its seats now gone, is still a narrow passageway from then to now, a time-tunnel. Scores of wasps inhabit the place, a few flying in and out of the missing windows, most huddling and pulsing en masse on their nests. A headlight that will never again illuminate languishes on a mantel behind the long rear seat, which was always occupied by ''coloreds.'' The dust on that seat and others, that dust on the floor, is so thick that the interior is like a sidewalk caked with dry, powdery dirt after a flood. On the filthy floor is a red plastic bucket marked by the moment the white paint was last poured from it. Small hinges and a batch of tiny screws are strewn haphazardly about, as if a conjurer had, with the flick of a wrist, tossed them there like metal bones in an effort to read some meaning into it all, discern the mystery.

The smells are of age and dust and raging summer heat, the lessons are of change and intransigence so great it is hard now even to comprehend. The dirty air tightens the lungs, like breathing gravel. A seat is torn in a cut-away display; old wood, followed by coarse dark fiber, followed by soft white stuffing—the hidden layers, like those of America, finally laid bare.

''A gear in the machinery shifted.''

Yes, but why?

Why Montgomery? Why 1955?

Most of all, why Rosa Parks?

''Yeah, I know'd her,'' says A.T. Boswell, an erect 79-year-old man poised in front of his house, a hardscrabble house with a tin roof and tilting chimney that sits beneath a huge sheltering water oak in Pine Level, Ala., precisely 20 miles southeast of Montgomery on Route 231. It was a long distance for Rosa Parks and America to travel. In bib overalls, Mr. Boswell stands with his giant hands planted powerfully on his hips, his eyes clear, his long face narrow at the chin and wide at the forehead a triangle standing on its tip. A thin scar, evidence of a bout with a barbed wire fence decades ago, runs the length of his left forearm. His voice, from deep in his chest, seems to roil his words before they arrive, creating a dialect almost too foreign for a stranger.

She's related to my people,'' he says of Rosa Parks.

''Who was her mama?'' asks Julia Boswell, Mr. Boswell's wife of 52 years. she has joined him in the sunny yard, her hands clasped casually behind her back. At 69, she is short, round and relaxed to Mr. Boswell's tall, gaunt and formal. She wears a denim hat with a round brim that casts a shadow over her face, a blue-and-white house dress and a white apron. Beyond the house, her laundry is drying on the line. Mr. Boswell rumbles a response.

''Oh, Leona!'' Mrs. Boswell interprets. ''Leona and cousin Fannie were sisters. Well, his grandmother was they aunt. She was Leona Edwards' aunt. That was Rosa Parks' mother.''

''She was raised on the farm,'' says Mr. Boswell.

Rosa Parks was born in Tuskegee, Ala., in 1913. By the time she was a toddler, the marriage of her mother and father was pretty much over and Leona had moved back to Pine Level to live with her parents. Leona wasn't your average country woman. She was a schoolteacher who had attended the private Payne University in Selma at a time when public education for most of Alabama's black children ended in the sixth grade. Unlike nearly all black families near Pine Level, Leona's family didn't crop for shares. The family owned 12 acres of land that one of Rosa's great-grandfathers, a Scotch-Irish indentured servant, had bought after the Civil War and another six acres one of her grandmothers had inherited from the family of a

white girl she'd once cared for. In that time and place, the family of Rosa Parks was comfortable.

While many blacks then felt compelled to smile and shuffle around whites, such behavior was banned in her home. Rosa's maternal grandfather, the son of a white plantation owner and a seamstress house slave, had been mistreated terribly as a boy by a plantation overseer and he hated whites. He wouldn't let Rosa and her brother, Sylvester, play with them. Rosa once stayed up late with him as he sat resolutely, shotgun at the ready, while the Ku Klux Klan rode the countryside. He told her he's shoot the first Klansman through the door. Her grandfather was so light-skinned that he could easily pass for white, and he took joy in reaching out and shaking the hands of white strangers, calling them by their first names and introducing himself by his last name, dangerous violations of racist protocol at the time.

Young Rosa took her cues from her grandfather and stood up to white children who tried to bully her, although her grandmother warned that she'd get herself lynched someday. That Rosa had white ancestors on her mother's side and her father's side made the hard line between black and white seem even more ludicrous. As a girl, she secretly admired a dark-skinned Pine Level man who always refused to work for whites. Years later, one of the traits that attracted her to her future husband, Raymond, was that he had faced down white bullies and even helped raise money for the defense of the Scottsboro Boys, nine black Alabama youths convicted in 1931 on flimsy evidence for supposedly raping two white woman.

Rosa was a quiet, polite girl, petite and delicate. She played tag, hide-and-seek and Rise Sally Rise with the other kids but wasn't much of a rough-houser, played a lousy game of baseball. She had a sweet voice, loved to sing gospel in church, read the Bible to her grandmother after her eyes failed. Rosa's mother expected her children to excel in school. Rotha Boswell, a cousin of Rosa's who is now 81, even remembers a time Leona spanked Rosa's brother for getting lower marks than Rotha, who always thought Leona believed her children were better than everybody else's.

The strength and confidence of Rosa Parks and her family don't exactly jibe with the Rosa Parks myth—the myth that emerged from her refusal to move to the back of the bus in 1955, the myth that served the needs of the emergent civil rights movement and the myth that spoke so eloquently to black and white America: She was a poor, simple seamstress, Rosa Parks, humble and gentle, no rabble-rouser, a meek Negro woman, exhausted from a hard day's work, a woman who had been abused and humiliated by segregation one time too many, who without forethought chose to sit her ground. In truth, Rosa Parks was far more and far less than the mythology that engulfed her and that became the mobilizing metaphor of the Montgomery bus boycott, which lasted 381 days, raised the unknown Rev. Martin Luther King Jr. to international prominence and helped launch the modern civil rights movement.

Rosa Parks was not a simple woman. She wasn't meek. She was no more tired that day than usual. She had forethought aplenty. She didn't start the Montgomery bus boycott or the civil rights movement, neither of which burst forth from any single symbolic act. Forty years later, the defiance of Rosa Parks and the success of the boycott are enshrined in mystery and myth that obscure a deeper truth that is even richer, grander and more heroic. ''I know you won't write this,'' says Aldon Morris, sociologist and author of Origins of the Civil Rights Movement, ''but what Rosa Parks did is really the least significant part of the story. She refused to give up her seat and was arrested. I'm not even completely comfortable with deflating the myth. What I'm trying to say is we take that action, elevate it to epic proportions, but all the things that happened so she could become epic, we drop by the wayside * * * That she was just a sweet lady who was tired is the myth * * * The real story of Montgomery is that real people with frailties made change.

''That's what the magic is.''

Back in her front yard, Mrs. Boswell waves her hand in the air to stop the conversation, walks toward the porch to fetch her purse and says, ''I'm gonna take you to someone else's house.'' No place is more than a few minutes away in Pine Level, but the trip detours to the Mount Zion African Methodist Episcopal Church on old Route 231, where the Boswells, Rosa Parks and just about every black resident of Pine Level have always gone to church. The original frame church, where Rosa Parks's uncle was the pastor, is gone, replaced with a utilitarian cinder block church, stark white.

The church is locked and she and her husband walk through the shady graveyard north of the church. They look for stone markers with the names of Mrs. Park's forebears, but find none. ''We didn't have markers then,'' says Mrs. Boswell, her purse slung over her left shoulder and tucked neatly under her arm. ''A lot ain't got no markers now. They just buried in the dirt. Then forgot 'em and buried somebody else on top of 'em. That's the way it be . . . I got a grandmother and grandfather out here and I don't know where they at. Since my mother passed, I don't know where they at.'' If Mrs. Boswell's mother, who died in 1958, were alive today, she'd think the change in race relations since 1955 was a miracle. ''She wouldn't a believed it,'' Mrs. Boswell says with finality. After a pause, she says, ''I wouldn't a believed it either.'' She, too, believes it was a miracle.

''White men here,'' Mrs. Boswell says, as she walks from grave to grave, ''they kilt an innocent bystander boy, buried right down there.'' She points to a corner of the graveyard. She figures it was in the '30s. ''His last name was Palmer, Otis Palmer, or something. He's probably in one a them that ain't got no stone.'' A white gang was searching for a black they believed had killed a white man. ''And this boy was out there some kinda way and got kilt. I imagine they mighta thought he was the black man did it, you know? They just shot 'im . . . I know the day. I was a kid then myself.''

At the nearby home of their friends, Mr. Boswell walks past the little trailer where they live, past Black Boy, the frail old dog sleeping at the steps, and out to the place where Eugene Percival is sitting in a rusty metal chair on pale dirt that is packed as hard as concrete. He, too, wears bib overalls. He is 85 years old: ''I tell ya when I was born, ought 9.'' For a moment, the old men talk to each other in a dialect almost too foreign for a stranger.

''Rosa Parks, my dad's her uncle.'' Mr. Percival finally says, bobbing his head, his right leg crossed at the knee over his left, his posture that of a much younger man. ''Oh, she was *mean*, mean as could be.'' He leans forward, laughs at his own teasing, and says seriously. ''She was a good woman. And still good, ain't she?''

From the trailer, Mr. Percival's sister-in-law, Ina Mae Gray, 92 years old, is making her way slowly and painfully across the pale dirt. She's a large woman with a bandanna wrapped around her head and another bandanna tied western-style around her neck. She, too, sits in a metal chair. ''Arthritis,'' she says, pulling up her long dress to her knees, running her hands gently down over her calves and then stopping to massage the bridges of her feet. She glances up askance at the white stranger and flashes a wary smile: ''You're not gonna put me in jail, are ya? I don't wanta see the jail, noooo!'' Mrs. Gray, too, remembers Rosa Parks. ''She was a good child, go to the field and hoe and plow. Pickin' cotton . . . And anything else you could raise to eat . . . I know'd her mama. What's her mama's name?''

''Leona,'' says Mr. Boswell.

''I heared that 'bout the bus,'' says Mrs. Gray. ''She was tryin' to get us a livin', I reckon.'' And suddenly, Mrs. Gray is angry, her voice rising. ''Let us have som'in' like them . . . Wooo, man, man! I had a hard time, hell, try to eat and couldn't eat. Had to eat water and bread and all kinda mess.'' Her face is contorted now and she is fighting back tears, her voice trembling. ''They was over us, they might beat our ass and go to cussin'.'' How is she supposed to love white people? Mrs. Gray asks. ''Man, I could cry! Right now! The way they done us. Let's call it. Us didn't have nothin'.''

''Hard times!'' Mr. Percival says.

Mrs. Gray gets wary again: ''Don't put me in jail, mister.''

From the trailer, Mrs. Boswell and Mr. Percival's wife, Nettie Mae, who is 81, come out to join the conservation. Mrs. Percival says she wasn't surprised when Rosa Parks got arrested. On any given day, because of the way it was, any black person could've snapped, met their limit and gone off, boom!

''They treated ya like slaves!'' says Mrs. Boswell.

''I coulda did it,'' Mrs. Percival says, her eyes wide and intense.

Everyone nods in agreement.

Mrs. Boswell: ''It's over with now.''

Mr. Boswell: ''Time and God changed that.''

Cloverdale is a beautiful Montgomery neighborhood of landscaped yards, mature trees, flowering bushes, old, elegant homes. Cloverdale, which is integrated today, speaks to the incongruence that is the life of Virginia Durr, a 92-year-old white woman and daughter of Montgomery's gentry who, with her husband, Clifford, was one of the few whites brave or committed or foolish enough to support Rosa Parks and the bus boycott. Her husband's law practice was nearly ruined, two of her daughters had to be sent to school up North, her yard was littered with obsence leaflets.

Mrs. Durr, a widow for 20 years, has been helped into the car from her small, white-clapboard retirement home. Her wheelchair is packed in the trunk. She is waiting for her friend and paid helper, Zecozy Williams, a 77-year-old black woman, to close up the house and climb in the car. Rather than talk in the house, Mrs. Durr prefers to go out for dinner. She has a huddled, little-old-lady look about her as she sits, her snowy hair swept up nicely, her hands smoothing the lap of her flowered skirt. But as she explains her choice of restaurant, her sing-song Southern voice carrying a pleasant archness, she doesn't sound like a little old lady.

''It's just that at certain restaurants you're more welcome than at others,'' she says, referring to Mrs. Williams. ''Certain places are white places and certain places are black places. And so when you find one that will welcome both, you're lucky.'' Mrs. Durr has selected the Sahara. ''They have black waiters . . . If they have black waiters, she's more comfortable than if they have white waiters.''

Has Mrs. Williams actually told her this?

Mr. Durr smiles benevolently. ''No, honey, I know it.''

On the night Rosa Parks was arrested, Eddie Mae Pratt, now 79 and a friend of a friend of Mrs. Parks, happened to be on the crowded bus. She was standing in the rear and couldn't see the commotion up front. Word filtered back that a black woman wouldn't give up her seat to a white. Mrs. Pratt, who knew Mrs. Parks from evenings she spent sewing clothing with Bertha T. Butler, Mrs. Pratt's neighbor, finally caught a glimpse of Mrs. Parks as she was led off the bus. Suddenly, she felt weak. She wrapped her arms around her chest and when the bus lurched forward, she slipped hard enough that a black man offered her his seat and she sat down.

''Do you feel all right?'' he asked.

''That's Mrs. Parks,'' she said, stunned.

At her stop, Mrs. Pratt ran to the nearby house of Bertha Bulter, who said, ''Oh, my goodness!'' She called the home of E.D. Nixon, the founder and former president of the Montgomery NAACP, where Mrs. Parks had been the volunteer secretary for 12 years. Nixon called Clifford Durr, who knew Mrs. Parks because, upon Nixon's recommendation, she had been doing seamstress work for Mrs. Durr. When Nixon drove by to pick up Clifford Durr, Mrs. Durr was with him and they went and bailed out Mrs. Parks.

Forty years later, at the Sahara, where Mrs. Durr is seated in her wheelchair at the table and Mrs. Williams is helping cut her entree, an old black waiter whispers to a young black waiter: ''That's Mrs. Durr, who went and got Rosa Parks out of jail.''

Mrs. Durr smiles. ''My claim to fame.''

That's not exactly true. Clifford Durr, who grew up in Montgomery, was a Rhodes scholar with a degree from Oxford University and a New Dealer whom Franklin Roosevelt had appointed to the Federal Communications Commission. After Clifford resigned to represent people charged as subversives in the communist witch hunts of the 1950s, the Durrs returned to their home town, where his family was the founder and owner of the prosperous Durr drugstore chain. Although politically conservative, the family supported Clifford and Virginia financially and gave him legal business. Then Virginia and Clifford were tarred as alleged communist sympathizers by U.S. Sen. James Eastland of Mississippi, whom an outraged Clifford publicly challenged to a fistfight. The Durrs were ostracized in elite Montgomery society, especially after it became known that Mrs. Durr was holding interracial women's prayer gatherings in their home. She once called to confirm a birthday party invitation sent to one of their daughters.

''Are you Clifford Durr's wife?'' a man asked.

''Yes.''

''Well, Mrs. Durr, no child of yours can enter this house.''

Through a New Deal acquaintance, Clifford met E.D. Nixon, who is perhaps the most unsung of Montgomery's civil rights heroes. He was a Pullman porter and the local head of A. Philip Randolph's powerful Brotherhood of Sleeping Car Porters. Nixon was close to Randolph, who in the '40s was already calling for massive grass-roots, demonstrations against Southern Jim Crow laws. Nixon himself had opened the local NAACP chapter in the 1920s. In Montgomery, Nixon was ''Mr. Civil Rights.'' He was rough-edged and poorly spoken, but he was an indefatigable man bravely willing to call public attention to the constant abuse of black people.

In those days, there was only one black lawyer in Montgomery. So when Nixon learned that Clifford Durr would take black clients, he sent them to him—no doubt also hoping to create a powerful white friend and ally. When Clifford mentioned that his wife needed a seamstress to alter the clothing their daughters received as hand-me-downs from rich relations—including Virginia's sister, the wife of former U.S. senator and then-Supreme Court Justice Hugo L. Black—Nixon sent Mrs. Parks, who had become a woman in the mold of the girl she had been.

Rosa Parks was pretty, with supple, tan skin and brown hair that ran to near her waist when it was down, but which in public was always braided and rolled in the fashion of Scarlett O'Hara in ''Gone With the Wind.'' She wore little makeup. She had a lovely smile and a gentle laugh, although folks can't remember her ever telling a joke or talking about a favorite movie. They can't remember her ever dancing or playing cards. She never gossiped, never seemed to get angry or even exasperated. She had flawless diction and elegant penmanship. Although she spoke little, she was gently assertive when she did, with a touch of music in her voice. He long silences weren't uncomfortable. She was a serene, placid woman whose quietness was easily mistaken for timidity.

''She was very much a lady,'' says Mrs. Durr, who has only nibbled at her dinner. ''The thing that makes it so interesting is that a lot of white women, they came down here after the Civil War and started a school, and she had gone to that school . . . staffed by white women, high-class women who came down to the South to be missionaries to the blacks.'' It was the Montgomery Industrial School for girls—dubbed Miss White's school after its headmistress, Alice L. White. Rosa's mother had sent her to live with Montgomery relatives so she could attend. Rosa cleaned classrooms to help pay her way. It's believed that Miss White's school got money from Sears, Roebuck & Co. chairman Julius Rosenwald, who funded schools for blacks all across the South. ''She came from good people and she had all the elements of a lady,'' Mrs. Durr says of Mrs. Parks. ''Neatness and order—just a lovely person.''

After dinner, Zecozy Williams packs Mrs. Durr's meal into a doggie box. Back at home, before she sits down to talk about Rosa Parks and the boycott, Mrs. Williams helps Mrs. Durr get comfortably situated in her living room on the couch beneath an oil painting of herself. While Mrs. Durr reads *Wallis and Edward*, the story of the prince of Wales and Wallis Warfield Simpson, Mrs. Williams goes to the dining room, sits in a large rose-colored wing chair and mends one of Mrs. Durr's bathrobes. She's getting Mrs. Durr ready for her summer trip to Martha's Vineyard. ''This is what Rosa did,'' Mrs. Williams says, laughing, her voice rich and deep and liquid. ''I'm doin' the same thing.''

Mrs. Williams didn't know Rosa Parks well. She, too, had moved to Montgomery from a country town, Hope Hull, Ala., but she was from a dirt-poor cropping family. As a teenager, she kept house for a white doctor in the country—cooked three meals a day, cleaned the house and did the laundry for $5 a week. She also carried eggs, 15 to 20 dozen, into Montgomery on horseback to sell. Then she started taking a bus into the city to do domestic work for $3 a day. It was hard for her to catch the bus on time, because her family didn't own a clock. In 1950, she and her husband moved to Montgomery.

One day, the woman doing her hair, Bertha Smith, asked if Mrs. Williams was a registered voter. ''I didn't know what that was. Really, I didn't.'' But soon she was attending voting clinics run by Rufus Lewis, a former teacher and football coach at what is today Alabama State University, Montgomery's historically black college. As the NAACP was E.D. Nixon's mission, voter registration was the mission of Rufus Lewis. The men were rival leaders, Lewis said to represent blacks teaching or educated at Alabama State and Nixon said to represent working people like himself. The saying was: Nixon had the ''masses'' and Lewis had the ''classes.'' Through Nixon, Zecozy Williams met Rosa Parks, who in 1943 had become the NAACP secretary in the footsteps of Johnnie Carr, a friend and fellow classmate from Miss White's school whose son would later become the test case that desegregated Montgomery's public schools. Before long, Mrs. Williams was helping Nixon and Lewis teach black folks how to pass the dreaded Alabama literacy test.

''I never did get afraid,'' Mrs. Williams says, even when she returned to Hope Hull and began registering blacks. Why? She doesn't know. She just put fear out of her mind, flicked a switch. After a while, she went to a white county politician and told him a new road was needed running out to the black schoolhouse.

''How many people you got registered?'' he asked.

''Well, we got quite a few.''

''Name some of 'em.''

She did.

Mrs. Williams stops sewing. ''And he made a road, ditched it on both sides.''She is still incredulous. ''And that was because of me. That was the first time I saw the power.''

In the early '50s, Mrs. Williams occasionally served at Mrs. Durr's parties. She was already the full-time domestic for Mr. Durr's sister and her husband, Stanhope Elmore. She liked the Elmores, but it was Mrs. Durr she admired. ''Mr. Elmore and them would talk about her,'' she says. ''She was an outcast. They never invited them over.'' But black people, whether or not they knew her personally, understood that Virginia Durr was putting her life and the lives of her family on the line. Mrs. Williams nods toward the old woman reading in the living room: ''Mrs. Durr is a brave woman.''

The East side of old black Montgomery isn't what it used to be. Alabama State still anchors the neighborhood, but many affluent blacks have migrated to the suburbs, where they now live among whites. Many doctors and lawyers, even public school teachers with two modest incomes have abandoned Montgomery's old black neighborhoods. But Rufus Lewis, 88 years old, a giant in the Montgomery civil rights movement, a man barely known outside his circle of aged contemporaries, still lives on the old black east side. He looks remarkably like the young, imperious Rufus Lewis, his head still kingly and dignified, with the bearing of an old, unbowed lion. But his mind is cloudy. He can't recall his past. He can't recall Rosa Parks.

Back in the '40s, Lewis became obsessed with black voting rights. Night after night, he traveled the countryside teaching blacks how to register. In Montgomery, he founded the Citizens Club, a private nightclub blacks could join only if they were registered voters. An entire generation of Montgomery blacks say Rufus Lewis is the reason they first voted. Lewis was the first to ramrod the Montgomery bus boycott's labyrinthine automobile transport system that helped get black boycotters back and forth every day for 13 months. Lewis, with Nixon's concurrence, nominated Martin Luther King Jr. to head the organization leading the boycott.

''Tell him as much as you remember, Daddy,'' says his 56-year-old daughter, Eleanor Dawkins. She sits in her father's knotty pine study with his old friend, a former mailman and present Montgomery City Council president, 73-year-old Joseph Dickerson. ''I thought that with Joe here,'' his daughter says, ''maybe there will be something that will come up.''

''Maybe,'' Mr. Lewis says tentatively.

''He believed,'' says Mr. Dickerson, who took part in five major European operations

in World War II, ''that if you go off to fight for your country, you oughta be able to vote in your country.''

Something stirs in Mr. Lewis. ''We got a lotta folks registered,'' he says, smiling. They mimeographed the literacy test, taught folks the answers, traveled by cover of night through the backwoods Jim Crow landscape, sent light-skinned blacks to the Montgomery registrar's office to learn if it was open that day, drove folks to the courthouse. When people failed the test—as they usually did the first time or two—Lewis and his workers did it all again, and then again. He stops talking, leans across the desk where he is sitting, fingers steepled, eyes blank, lost again.

Does Mr. Lewis know that history records his achievements?

''Well, that's fine to be remembered in the books,'' he says, suddenly firm and lucid, ''but the best part of it was being there to help the people who needed help . . . That was our job.''

The night Rosa Parks was arrested, E.D. Nixon and Clifford Durr recognized instinctively that Mrs. Parks was the vessel they'd been seeking to challenge the segregated bus laws. Other blacks had been arrested for defying those laws. Only months before, a 15-year-old girl, Claudette Colvin—inspired by a high school teacher's lectures on the need for equal rights, angered by the conviction of a black high school student for allegedly raping a white woman—had refused to give up her seat to a white, then resisted arrest when the police came. She kept hollering, ''It's my constitutional right!'' Nixon had decided against contesting her case: She had fought with police, she came from the poorer side of black Montgomery and, it was later learned, she was pregnant. He had also rejected the cases of several other women recently arrested, waiting for just the right vessel to arrive.

Then came Mrs. Parks. ''We got a lady can't nobody touch,'' Nixon said. There were other advantages. Rosa Parks, because of her well-mannered, serene demeanor, her proper speech, her humble, saintly way, her ascetic lifestyle—she didn't drink, smoke or curse—carried not only the image but the reality of the deserving Negro. Mrs. Parks had the qualities middle-class whites claimed in themselves and denied in blacks. Nothing about her supported the white contention that she deserved to be treated as inferior.

She had another advantage: Although whites may have viewed blacks as a single entity, the social class fissures within the black community—between educated and uneducated, affluent and poor—ran deep. Mrs. Parks bridged that gap: She was of ''working-class station and middle-class demeanor,'' as Taylor Branch wrote in Parting the Waters. She came from a good family, her relatives were prominent in Montgomery's St. Paul AME Church, she was educated at Miss White's and later Alabama State's lab school, and she had the manners—as Virginia Durr said—of a ''lady.'' In her role as NAACP secretary, she was respected by the city's educated activist community. But she was also a seamstress who earned $23 a week, whose fingers and feet were tired from honest work. She was a PR bonanza—with a bonus.

She was velvet hiding steel.

That night, after hushed conversations, Nixon and Clifford Durr asked if she would plead not guilty and fight her arrest in court. Nixon said they could take the case to the Supreme Court. Her husband, Raymond, a barber, was terrified, and Mrs. Durr later recalled in her memoir, Outside the Magic Circle, that he kept saying, ''Rosa, the white folks will kill you! Rosa, the white folks will kill you!'' Like a chant. Mrs. Parks was perfectly calm.

''I'll go along with you, Mr. Nixon.''

Her decision wasn't as simple as it seems, wasn't made in that one instant, but was a long time coming. In her 1992 autobiography, Rosa Parks: My Story, the source for many of the details about her life and attitudes, Mrs. Parks writes that as she sat on the bus, waiting for the police to arrive, she was thinking about the night as a girl when she sat with her grandfather, shotgun at the ready, while the KKK rode the countryside. The humiliating segregation of Montgomery's buses was much on her mind. Not only had Claudette Colvin's arrest occurred last spring, but just a month earlier, a bus driver had ordered Mrs. Parks's dear friend, Bertha Butler, to move back to make room for a white man: ''You sit back there with the niggers.'' Mrs. Butler was a woman raising two children on her own, who also worked as a seamstress, who sometimes sewed until 5 a.m. for extra income and who still found time to run voter clinics in her home two nights a week. She had befriended Mrs. Parks because she so admired her civil rights work. Mrs. Butler didn't move at the order, and the standing white man, in soldier's uniform, had intervened: ''That's your seat and you sit there.'' Mrs. Butler, now retired at age 76 and living near Philadelphia, was glad she wasn't the one to get arrested. ''God looked at me and said I wasn't strong enough,'' he says. ''Mrs. Parks was the person.''

At the time Mrs. Parks was arrested, she was in the process of rejuvenating the NAACP's youth organization, getting ready for a conference in a few days. Only the summer before, at the behest of Virginia Durr, Mrs. Parks had spent 10 days at the interracial Highlander Folk School in Tennessee, a labor organizing camp that had turned its radical eye on civil rights. Mrs. Parks loved waking up in the morning at Highlander, smelling the bacon and eggs cooking—and knowing it was white people fixing breakfast for her. She returned home, Mrs. Durr later said, inspired at realizing that whites and blacks could live as equals and even more disgusted with segregation. One of Highlander's most famous black teachers, Septima Clark, said later, ''Rosa Parks was afraid for white people to know that she was as militant as she was.''

Mrs. Parks had been training her high school charges in the ways of civil disobedience. Mrs. Butler's 58-year-old daughter, Zynobia Tatum, remembers saying to Mrs. Parks, ''They are going to hit me, spit on me and call me names, and I can't fight back? I cannot promise you.'' Mrs. Parks told Zynobia she needed more training. Already, Mrs. Parks had sent her youth group members into the whites-only public library to order books. Zynobia Tatum recalls that she and Mrs. Parks had often taken drinks from whites-only water fountains downtown—''to show our disapproval.'' After Claudette Colvin's arrest for refusing to give up her seat, Claudette joined Mrs. Parks' group—and Mrs. Parks discovered she was the great-granddaughter of the dark-skinned black man in Pine Level who had refused to work for whites, the man young Rosa had secretly admired. It was almost prophetic.

Despite her genuine gentleness and pragmatic faith in the tactic of civil disobedience, Rosa Parks was never entirely comfortable with the philosophy of nonviolence and the idea that if black people were attacked, they shouldn't fight back. In an obscure 1967 interview on file at Howard University she said bluntly, ''I don't believe in gradualism or that whatever is to be done for the better should take forever to do.''

For more than a decade as NAACP secretary, she had watched case after case of injustice against blacks come through the NAACP office, almost all of which she was powerless to change. She'd worked with a group trying to save the life of the young Montgomery man convicted of raping a white woman—the case that had so outraged Claudette Colvin—only to see him executed. She knew the widow and three small children of a black man who, in his U.S. military uniform, was shot dead by police after he supposedly caused a scene on a Montgomery bus. She had told local NAACP board member Frank Bray, now 75, that someone needed to do something to break the fist of segregation, even if it meant a sacrifice.

''I had no idea,'' he says, ''that she would be the sacrificial lamb . . . She'd say. These folks have all these beautiful churches and they profess to be Christians and yet they have businesses where the clerks are not courteous and where you cannot use a restroom and if you drink water you have to drink out of the little spigot that was added to the main fountain' . . . Most blacks resented the conditions and many of them adjusted to it and many did not adjust. She did not adjust.'' After her arrest, Mrs. Parks revealed to fellow boycott worker Hazel Gregory, now 75, that she had thought about refusing to give up her seat in the past.

Montgomery whites claimed that her arrest was part of a plot, that Nixon had put his longtime secretary up to it. No evidence supports that claim. On the night of her arrest, Nixon was shocked and confused, flailing about in his effort to get her released. It is embedded in the American psyche that Rosa Parks acted on the spur of the moment, and her arrest is often called the ''spark'' that ignited the modern civil rights movement. In fact, Rosa Park's act and the firestorm that followed were more like spontaneous combustion—a fire ignited by the buildup of heat over time in material ripe for explosion. Mrs. Parks, who wasn't afraid as she waited for her arrest, who felt oddly serene, revealed the lifetime thread of experiences that had led to her action when the police arrived and asked once more if she would move. In the way of the Bible, she answered with a question:

''Why do you all push us around?''

No moral philosopher, the cop said, ''I don't know.''

Then she was led away.

Years later, Edward Warren Boswell, now 41, the son of a cousin Mrs. Parks grew up with in Pine Level, asked her why she refused to move that particular day. ''She said she had no idea,'' he recalls. His 44-year-old sister, Betty Boswell, says, ''She said she was just tired from working, and they had always been harassing black people about not sitting to the front and she said that particular day she just wasn't in the mood . . . Her feet were hurting.'' Mrs. Parks told Edward: ''It was just set in motion by God.''

Back in the study of Rufus Lewis, City Council President Joe Dickerson agrees. But he, like Mrs. Parks and almost everybody else who was involved in the boycott, was of the praise-the-Lord-and-pass-the-ammunition school of religion. Every inch of progress was a battle. White politicians tried to break the boycott in court, and the boycott leaders fought back in court. The white thugs bombed four churches and the homes of King, Nixon and Ralph Abernathy, a young minister in Montgomery at the time. As Zecozy William said, people risked their lives.

Theirs was an eerie determination. King later wrote that he was increasingly afraid until late one night when he felt the presence and the resoluteness of God descend upon him. Mrs. Williams said she flicked a mental switch to turn off her fear. Mrs. Parks described her serenity as she waited to be arrested. And now, Mr. Dickerson compares his state of mind during the dangerous

days of the boycott to the way he felt the night before a military operation in World War II: ''Gotta go.''

Mr. Dickerson: ''It's a miracle.''

Mr. Lewis: ''I just feel grateful that we came through.''

The room is like Inez Baskin's private museum. The large portrait of her grandfather stands on an easel. In his bow tie and vest, with his mustache and slicked-back hair, he looks every bit an Irishman. The photo of her mother and father, so fair-skinned, sits on the piano encased in plastic wrap for protection. ''My husband's father was white, too,'' she says. And of course, on the wall, is the famous photo of Mrs. Baskin, now 79 years old, on the day that bus segregation ended in Montgomery: Mrs. Baskin, Abernathy, King and two others riding a bus. The photo ran worldwide and Inez Baskin, a reporter for the ''colored page'' of the Montgomery Advertiser and a correspondent for Jet magazine and the Pittsburgh Courier, was mistaken by many for Rosa Parks, still is today.

''In the '50s, I didn't have *any* sense,'' she says, sitting in a large, comfortable chair amid her memorabilia. She softly rubs her face, plays with the ring on her left hand. Her long gray hair sweeps over from the right, dangling in a single braid to her left. She speaks softly and deliberately. ''I thought I could walk on water in those days.'' With a black photographer, she once raced out to Prattville, Ala., after a report that the Klan was burning a cross. The crowd was gone, but the cross was still burning. She laughs and shakes her head at the memory. A photo ran in Jet.

Did she know Rosa Parks?

She smiles faintly. ''An angel walking.''

''I wonder sometimes what it would have taken just to make her act like the rest of us . . . She would smile, *very* demure, and never raise her voice. She was just different in a very angelic way . . . 'If you can walk with kings and not lose the common touch.' Those are the kind of expressions that come to mind when you think about Rosa Parks. My great-grandmother had an expression for it: 'living on earth and boarding in Glory.'''

Mrs. Baskin believes Mrs. Parks was heaven-sent?

''She *had* to be.''

On the night Rosa Parks was arrested, after she had agreed to become bus segregation's test case, 24-year-old Fred Gray, one of Montgomery's two black attorneys then, arrived home late from out of town and got the word. Gray has grown up in Montgomery, attended Alabama State and gone to Ohio for law school because Alabama didn't have a law school for blacks. When the state required five attorneys to sign character affidavits before he could practice, Gray had gone to E.D. Nixon, who helped him find the lawyers. One of them was Clifford Durr. Gray had returned home with one goal—to ''destroy everything segregated.'' Mrs. Parks immediately offered her services. Every day, she came to his downtown office at lunch, answered his mail for free, encouraged his idealism. They talked not only about the buses, but inferior black schools, segregated parks, swimming pools and toilets. In his memoir, *Bus Ride to Justice*, Gray, now 64, later wrote, ''She gave me the feeling that I was the Moses that God had sent to Pharaoh.''

Fred Gray upped the ante. Late on the night Mrs. Parks was arrested, he visited Jo Ann Robinson, an Alabama State professor and president of the Women's Political Council, a group composed of female university professors, public school teachers, nurses, social workers and the wives of Montgomery's black professional men. For months, Robinson had been laying plans for a bus boycott. Although she and most of Montgomery's affluent blacks owned cars and didn't ride the buses often, she had taken a bus to the airport in 1949 and mistakenly sat in a white seat. The driver went wild, screamed, threatened. ''I felt like a dog,'' she later said.

Every black person who rode a bus had a tale to tell: the man who paid his last coin in fare only to have the bus drive off before he could return and enter through the back door, the woman who was attacked when she stepped onto a bus to pay ahead of a white man, the pregnant woman who fell when a bus pulled away as she stepped off. In 1953 alone, the Women's Council had received 30 complaints from black bus riders.

It was a unifying indignity.

Inspired by the Supreme Court ruling that had banned ''separate but equal'' schools in 1954, Robinson had even written the mayor and warned that if black riders weren't treated more courteously ''twenty-five or more local organizations'' were planning a bus boycott. It was a hopeful time. Already, a boycott in Baton Rouge, La., organized by the Rev. T.J. Jemison, had won concessions for black riders in that city. And in Little Rock, Ark., officials had devised a plan to integrate its schools. But nothing had come of Robinson's demands. Then Fred Gray dropped by.

At midnight, Robinson went to Alabama State and furtively used its government-owned paper and mimeograph machines to run off 52,500 leaflets announcing a boycott of Montgomery's buses on the day of Mrs. Parks's trial. The next morning, Robinson and her Women's Council cohorts and students distributed the leaflets to black schools, stores, taverns, beauty parlors and barber shops. When Alabama State's black president, H. Councill Trenholm, who served at the pleasure of the Alabama governor, learned of her action, he called her into his office and demanded an explanation. She told him another black woman had been humiliated on a bus; she promised to pay for the mimeograph paper. He calmed down, warned her to work behind the scenes. Trenholm's wife, too, was a Women's Council member.

The rest is history. Rosa Parks was found guilty and fined $10, plus $4 in court costs. To keep the followers of Rufus Lewis and E.D. Nixon from squabbling, King became the compromise choice to lead the boycott. When black preachers cozy with Montgomery's powerful whites balked at the idea, Nixon, in his rugged way, questioned their manhood: ''You ministers have lived off these wash-women for the last hundred years and ain't never done nothing for them.'' After Nixon's taunt, King himself said, ''Brother Nixon, I'm not a coward.'' Nixon planted the story of the boycott with a friendly white reporter at the Montgomery Advertiser. It became front-page news and announced the boycott to every black in Montgomery.

There were bombings, threats, lawsuits, harassing phone calls. Victory was not preordained; it came a day at a time. The city's stubborn refusal to compromise on bus seating—other segregated Southern cities didn't have specific seats reserved only for whites—probably hardened the resolve of the boycotters. The bombings certainly turned national public opinion against the segregationists. In 1956, young Fred Gray successfully took his argument against Montgomery's bus segregation to the U.S. Supreme Court. Although many people believe it was Rosa Parks's case that went before the high court, Gray actually didn't use her as a plaintiff because of technicalities in her case that might have undermined his federal lawsuit. Instead, five women whose names are mostly lost to history filed suit; Aurelia Browder, Claudette Colvin, Susie McDonald, Jeanetta Reese and Mary Louise Smith.

Victory had a price; Jo Ann Robinson and about a dozen other activist ASU employees lost their jobs. Monroe J. Gardner, whose granddaughter is now a federal magistrate in Montgomery, used his car to transport people during the boycott. He was beaten. Samuel Patton Sr., a boycott supporter and prominent builder, lost his line of bank credit. E.L. and Dorothy Posey, who ran the only black-owned parking lot in downtown Montgomery, let their lot be used as a transit staging point. After the boycott, they lost their business. Anne Smith Pratt volunteered dispatching cars to pick up waiting riders. Her marriage ended when her husband was sent overseas and she refused to leave her post. Not to mention the hardships endured by thousands of working class blacks who walked miles to work every day in the heat, the cold, the rain. Says sociologist Aldon Morris, ''People made this happen.''

During the boycott, Rosa Parks helped run the auto dispatch system. She wasn't a leader of the movement, and didn't try to be. She traveled the country raising money. Already, she was a symbol. When she, King and nearly 100 others were charged with conspiracy during the boycott, a photo of her being fingerprinted ran on the front page of the New York Times—perhaps because King was out of town and not available to be photographed. That picture, mistakenly believed by many to have been taken the night she was first arrested, became a piece of movement iconography.

As the historic significance of the boycott became clearer, as journalists poured in from all over the world, bickering began over the credit. Nixon became jealous of not only King but Rosa Parks. ''If it hadn't been for me . . .'' he told Mrs. Park's friend Hazel Gregory. In one of the final recorded interviews of his life in 1988, Nixon told local amateur historian Riley Lewis Jr., ''We had court cases that had been filed 10 years 'fore Mrs. Parks was arrested . . . King didn't make the Montgomery bus boycott—me, the peoples and our protest made him!''

He was right. He was wrong.

Everybody made everybody.

Inez Baskin still marvels about those days. ''It was as if I was out of myself doing these things.'' she says, sitting forward in her chair, holding her arms before her and gently swaying, eyes closed. ''Not myself, but more myself than ever. It didn't seem as if it was me doing it . . . It was as if we were out of ourselves, watching ourselves . . . Not in our bodies.

''Does that make any sense?''

IT IS THE HANDS of Rosa Parks that you notice. They are always folded somehow, plaited together so naturally, the left hand lying open on her lap, the right hand's palm lying open over it, her thumb softly massaging her wrist. Or the fingers gently intertwined, her thumbs methodically crossing and recrossing. Or the left palm held open and facing up, the right palm grazing lightly back and forth over its surface. Hands always at rest, always at work.

Rosa Parks is visiting Montgomery today, traveling with a bus tour of youngsters retracing the path of the underground railroad from the South to Canada, stopping at important civil rights sites along the way. The Rosa and Raymond Parks Institute for Self-Development sponsors the tour, which is filled mostly with youths from the Washington and Detroit areas. Mrs. Parks has returned to Montgomery only occasionally since 1957 when she, her husband and her mother moved to Detroit, where her brother lived. She and her husband had lost their jobs and the phone jangled constantly with vicious threats: ''You should be killed.'' Her

brother was afraid for them and insisted they move to Detroit, where Mrs. Parks eventually worked for Democratic Rep. John Conyers Jr. as a receptionist and caseworker. She retired in 1988. Her husband, mother and brother are all dead. She is 82.

In cities where she was once despised, she is now treated like royalty—or more. Yesterday in Birmingham, siren-blaring motorcycle cops stopped traffic for her and the mayor proclaimed it ''Rosa Parks Day.'' At the Birmingham Civil Rights Institute, Mrs. Parks stood quietly looking at a life-sized sculpture of herself sitting on the bus, purse in her lap, staring out the window, waiting to be arrested. Watching her watch herself was an army of TV crews and cameras. In Selma, a woman reached out, took hold of her challis dress and said, ''I want to touch the hem of your garment.'' Unchanged in manner since 1955, Mrs. Parks said, ''That's very nice.'' Today in Montgomery, she is given the key to the city and a speaker introduces her by saying, ''Why don't we just get on our feet and greet our mother, Rosa Parks!''

The mother of the civil rights movement.

''A saint of American history,'' a TV reporter calls her.

''I don't consider myself a saint,'' says Mrs. Parks, who still wears her hair braided and rolled behind her head, still speaks so softly her voice is nearly inaudible, still is velvet hiding steel. ''I'm just a person who wanted to be seated on the bus.''

But again and again, Rosa Parks tells audiences she didn't remain in her seat because she was physically weary. No, she was weary of the injustice. Again and again, she mentions that she was working at the NAACP before her arrest. No, she didn't plan her arrest, but her whole life from childhood was leading up to it. Without being asked, she is responding to the mythic tale that, ironically, holds her up to worship *and* diminishes her: *the simple seamstress, the meek Negro woman, exhausted from a day's work, who without forethought chose to sit her ground.*

Rosa Parks doesn't really answer questions put to her later, questions about why she is often seen as a simple seamstress rather than as an assertive activist, questions about whether her sainthood status diminishes her status as a strong, committed woman. ''I was always glad that the people did have the determination to make the sacrifices and take that action,'' she says in her soft, slow voice. ''I just felt that as a person I didn't want to be treated like a second-class citizen. I didn't want to mistreated under the guise of legally enforced racial segregation and that the more we endured that kind of treatment, the worse we were being treated . . . I consider myself a symbol of freedom and equality, and I wanted to let it be known that that was what I believed in.''

It is as simple—and complex—as that.

''She remains a pure symbol,'' says University of Georgia sociologist Gary Fine, an expert in political symbolism. ''For everyone today and in the '50s, it was a text story with only one possible reading—this poor woman who refused to move to the back of the bus. What possible explanation could you possibly have for making her move? It was so transparently egregious.'' But for a symbol to have 40 years of staying power, Fine says, it must carry a deeper cultural resonance about ''our own self-image.''

''By protecting this image we are celebrating core values for ourselves as Americans,'' he says. ''There is a universal consensus now that integration is good. She symbolizes this now. Everybody on all sides can use her.'' For blacks, she is evidence that they forced change. For whites, she is evidence that they were willing to change.

Rosa Parks as proof: America is good.

''The beauty was that she disappeared from the scene,'' says Fine, meaning that her later behavior or opinions didn't muddy the purity of her symbolism, as happened with King after allegations of plagiarism and marital infidelity. ''She did her duty as a symbol and then disappeared except for ceremonial events.''

Back in Montgomery, Mrs. Parks is standing amid the adoration, her hands plaited naturally on the lectern, giving a short tale: She's glad for all the change but more change is needed, the struggle for justice must go on, the greatest power is God. Then, so softly that people must strain to hear, she recites a hymn her mother sang to her as a child in Pine Level:

''O freedom,
O freedom,
O freedom over me.
And before I'd be a slave,
I'd be buried in my grave,
And go home to my Lord and be free.''

''I'd like for everybody to remember me as a person who wanted to be free.''

It is night and Joe Dickerson, the city council president, is standing before bus No. 5726, lit by the headlights of his car. Mr. Dickerson helped get the bus hauled here in hopes that the committee set up to honor the 40th anniversary of the boycott can eventually collect enough private donations to restore it. The Montgomery City Council, with four blacks and five whites, isn't yet ready to foot the whole bill or to finance the civil rights museum Mr. Dickerson would like to see built inside the old Empire Theater, outside of which Rosa Parks was arrested.

But someday . . .

''If you rode the bus, you were mistreated,'' Mr. Dickerson says, the light making him look washed and vague and mysterious in his little hat with the brim rolled up all the way around. And so the time was right. It could have been anybody . . . I guess when the time is right, it's just like Nelson Mandela. If anybody had told Mandela, 'You're gonna be free and you're gonna rule South Africa, man,' you talked like a fool. 'I'm not gonna get outta jail!' So there is a time for everything. And you have to play your role.''

Rosa Parks's grandfather who refused to shuffle for whites played his role. So did the dark-skinned man in Pine Level who wouldn't work for whites. Rosa's mother, who sacrificed so Rosa could go to Miss White's school. Miss White. Julius Rosenwald. A. Philip Randolph. The NAACP lawyers who laid decades of groundwork for the 1954 Supreme Court schools decision. The Rev. T.J. Jemison, who organized the earlier Baton Rouge bus boycott. Those who took the literacy test again and again. Raymond Parks. H. Councill Trenholm, Ralph Abernathy, Eddie Mae Pratt, Anne Smith Pratt, E.L. and Dorothy Posey, Zecozy Williams, Bertha Smith, Monroe J. Gardner, Samuel Patton Sr., Johnnie Carr, Bertha T. Butler, Zynobia Tatum, Aurelia Browder, Claudette Colvin, Susie McDonald, Jeanetta Reese, Mary Louise Smith. And, of course, E.D. Nixon, Rufus Lewis, Jo Ann Robinson, Fred Gray, Clifford and Virginia Durr and Martin Luther King Jr., who transformed a demand for seats into a mission for God. And the 40,000 who refused to ride.

Strands in a thread.

Rosa Parks, too, played her role.

She still does.

''The message is ordinary people doing extraordinary things,'' says sociologist Aldon Morris, who fears that the simplified mythology that enshrouds Rosa Parks and the Montgomery bus boycott, the belief that it was all God-ordained, can obscure the determination, fearlessness and skilled organization of the people who made the movement. ''To believe that King or Rosa Parks are heroes, it creates passivity . . . Young people then ask, ''Where's the new Martin Luther King?' . . . People don't understand that power exists within the collectivity.''

''The peoples,'' as E.D. Nixon said.

Back at the bus, bathed in the vague and mysterious light, Joe Dickerson says, ''Things are changing.''

Someday they'll have that museum.

''When the time is right.''

And bus No. 5726 will be waiting.

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, November 9, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 13

2:00 p.m.
Judiciary
Immigration Subcommittee
Business meeting, to mark up S. 1394, to reform the legal immigration of immigrants and nonimmigrants to the United States.
SD–226

NOVEMBER 14

9:30 a.m.
Energy and Natural Resources
Oversight and Investigations Subcommittee
To hold hearings to review the decision-making process of the Department of the Interior in preparing and releasing the United States Geological Survey's 1995 estimate for the 1002 areas of the Arctic National Wildlife Refuge.
SD–366

10:00 a.m.
Armed Services
To hold hearings on the nomination of Arthur L. Money, of California, to be Assistant Secretary of the Air Force for Acquisition, Department of Defense.
SR–222

Judiciary
To hold hearings to examine the operation of the Office of the Solicitor General.
SD–226

NOVEMBER 15

10:00 a.m.
Judiciary
To hold joint hearings with the House Committee on the Judiciary's Subcommittee on the Courts and Intellectual Property on S. 1284, to amend title 17 to adapt the copyright law to the digital, networked environment of the National Information Infrastructure, and H.R. 2441, to amend title 17, United States Code, to adapt the copy-right law to the digital, networked environment of the national information infrastructure.
2237 Rayburn Building

2:00 p.m.
Judiciary
Immigration Subcommittee
Business meeting, to resume markup of S. 1394, to reform the legal immigration of immigrants and nonimmigrants to the United States.
SD–226

NOVEMBER 16

10:00 a.m.
Judiciary
Business meeting, to consider pending calendar business.
SD–226

11:00 a.m.
Energy and Natural Resources
To hold joint hearings with the House Committee on Resources to review the Alaska Natives Commission's report to Congress transmitted in May 1994 on the status of Alaska's natives.
1324 Longworth Building

NOVEMBER 17

9:00 a.m.
Judiciary
To hold hearings on H.R. 1833, Partial-birth Abortion Ban Act.
SD–226

NOVEMBER 28

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD–226

DECEMBER 5

10:00 a.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings on S. 984, to protect the fundamental right of a parent to direct the upbringing of a child.
SD–226

CANCELLATIONS

NOVEMBER 9

2:00 p.m.
Energy and Natural Resources
Parks, Historic Preservation and Recreation Subcommittee
To hold hearings on S. 231 and H.R. 562, bills to modify the boundaries of Walnut Canyon National Monument in the State of Arizona, S. 342, to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado, S. 364, to authorize the Secretary of the Interior to participate in the operation of certain visitor facilities associated with, but outside the boundaries of, Rocky Mountain National Park in the State of Colorado, S. 489, to authorize the Secretary of the Interior to enter into an appropriate form of agreement with, the town of Grand Lake, Colorado, authorizing the town to maintain permanently a cemetery in the Rocky Mountain National Park, S. 608, to establish the New Bedford Whaling National Historical Park in New Bedford, Massachusetts, and H.R. 629, the Fall River Visitor Center Act.
SD–366

NOVEMBER 15

10:00 a.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings on S. 582, to amend United States Code to provide that certain voluntary disclosures of violations of Federal laws made pursuant to an environmental audit shall not be subject to discovery or admitted into evidence during a Federal judicial or administrative proceeding.
SD–226

Wednesday, November 8, 1995

Daily Digest

HIGHLIGHTS

House passed further continuing appropriations resolution.

Senate

Chamber Action

Routine Proceedings, pages S16761–S16840

Measures Introduced: Five bills were introduced, as follows: S. 1401–1405. **Page S16821**

Partial-Birth Abortion Ban: Senate continued consideration of H.R. 1833, to amend title 18, United States Code, to ban partial-birth abortions.

Pages S16761–S16801, S16804–06

During consideration of this measure today, Senate took the following action:

By 90 yeas to 7 nays (Vote No. 563), Senate agreed to a motion to commit the bill to the Committee on the Judiciary, with instructions.

Page S16805

Messages From the President: Senate received the following messages from the President of the United States:

Transmitting the report of the notice of the continuation of the emergency regarding weapons of mass destruction; referred to the Committee on Banking, Housing, and Urban Affairs. (PM–91).

Pages S16818–20

Nominations Received: Senate received the following nominations:

Norman I. Maldonado, of Puerto Rico, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1999.

Wallace D. McRae, of Montana, to be a Member of the National Council on the Arts for a term expiring September 3, 1998.

Routine lists in the Army. **Page S16840**

Messages From the President: **Pages S16818–20**

Messages From the House: **Page S16820**

Measures Referred: **Page S16821**

Measure Committed: **Page S16821**

Executive Reports of Committees: **Page S16821**

Statements on Introduced Bills: **Pages S16821–29**

Additional Cosponsors: **Page S16829**

Authority for Committees: **Pages S16829–30**

Additional Statements: **Page S16830–39**

Record Votes: One record vote was taken today. (Total—563) **Page S16805**

Adjournment: Senate convened at 9:30 a.m., and adjourned at 6:28 p.m., until 10 a.m., on Thursday, November 9, 1995. (For Senate's program, see the remarks of the Democratic Leader in today's RECORD on pages S16839–40.)

Committee Meetings

(Committees not listed did not meet)

NOMINATIONS/SUBCOMMITTEE ASSIGNMENTS

Committee on Agriculture, Nutrition, and Forestry: Committee ordered favorably reported the nominations of Michael V. Dunn, of Iowa, to be an Assistant Secretary of Agriculture, and to be a Member of the Board of Directors of the Commodity Credit Corporation, and John David Carlin, of Kansas, to be an Assistant Secretary of Agriculture.

Also, committee approved the following new subcommittee assignments:

Subcommittee on Production and Price Competitiveness: Senators Cochran (Chairman), Warner, Helms, Coverdell, Dole, Grassley, Pryor, Daschle, Baucus, Kerrey, and Heflin.

Subcommittee on Marketing, Inspection, and Product Promotion: Senators Helms (Chairman), Dole, Cochran, McConnell, Santorum, Conrad, Pryor, Baucus, and Heflin.

Subcommittee on Forestry, Conservation, and Rural Revitalization: Senators Craig (Chairman), Coverdell, Warner, Helms, Grassley, Heflin, Harkin, Conrad, and Kerrey.

Subcommittee on Research, Nutrition, and General Legislation: Senators McConnell (Chairman), Dole, Santorum, Craig, Harkin, Daschle, and Pryor.

FEDERAL COURTHOUSE CONSTRUCTION PROGRAM

Committee on Governmental Affairs: Subcommittee on Oversight of Government Management and the District of Columbia held oversight hearings to examine General Services Administration management practices in regard to the planning and development of Federal courthouse construction projects, focusing on cost control initiatives, receiving testimony from J. William Gadsby, Director, Gerald Stankosky, Assistant Director, and Daniel Schultz, Evaluator-in-Charge, all of the Government Business Operations Issues, General Government Division, General Accounting Office; Roger W. Johnson, Administrator, and Joel S. Gallay, Deputy Inspector General, both of the General Services Administration; Tom Stagg, United States District Judge for the Western District of Louisiana, Shreveport; and Robert E. Cowen, United States Circuit Judge for the Third Circuit Court of Appeals, and Gerald Thacker, Assistant Director, Office of Facilities, Security and Administrative Services, Administrative Office of the Courts, both on behalf of the Judicial Conference of the United States.

Hearings were recessed subject to call.

VICTIM RESTITUTION

Committee on the Judiciary: Committee concluded hearings on S. 173, to provide crime victims full financial compensation directly from the criminal in the form of mandatory restitution, and other related measures, after receiving testimony from Senator Nickles; Maryanne Trump Barry, United States District Judge for the District of New Jersey, Newark, on behalf of the Judicial Conference of the United States; David Beatty, National Victim Center, Arlington, Virginia; and John H. Stein, National Organization for Victim Assistance, Washington, D.C.

BUSINESS MEETING

Committee on Labor and Human Resources: Committee ordered favorably reported the following business items:

S. 1324, to amend the Public Health Service Act to revise and extend the solid-organ procurement and transplantation programs; and

The nominations of C. Richard Allen, of Maryland, to be Management Director of the Corporation for National and Community Service, Walter Anderson, of New York, to be a Member of the National Commission on Libraries and Information Science, Elisabeth Griffith, of Virginia, and Louise L. Stevenson, of Pennsylvania, each to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation, Theodore M. Hesburgh, of Indiana, to be a Member of the Board of Directors of the United States Institute of Peace, Susan R. King, of the District of Columbia, to be Assistant Secretary for Public Affairs, and Anne H. Lewis, of Maryland, to be an Assistant Secretary, both of the Department of Labor, and James C. Riley, of Virginia, to be a Member of the Federal Mine Safety and Health Review Commission.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee will meet again tomorrow.

WHITEWATER

Special Committee to Investigate Whitewater Development Corporation and Related Matters: Committee resumed hearings to examine certain issues relative to the President's involvement with the Whitewater Development Corporation, receiving testimony from Robert P. Cesca, Executive Assistant to the Inspector General for Audit, James M. Cottos, Assistant Inspector General for Investigations, Francine Kerner, Deputy Counsel, Financial Crimes Enforcement Network, Edward S. Knight, General Counsel, Kenneth R. Schmalzbach, Assistant General Counsel of General Law and Ethics, Stephen J. McHale, Deputy Assistant General Counsel of General Law and Ethics, Robert M. McNamara, Jr., Assistant General Counsel for Enforcement, and David L. Dougherty, Attorney Adviser, all of the Department of the Treasury; and Stephen Potts, Director, and Jane Ley, Deputy General Counsel, both of the United States Office of Government Ethics.

Hearings continue tomorrow.

House of Representatives

Chamber Action

Bills Introduced: 7 public bills, H.R. 2594–2600 were introduced. **Pages H11938–39**

Reports Filed: Reports were filed as follows:

S. 790, to provide for the modification or elimination of Federal reporting requirements, amended (H. Rept. 104–327); and

H. Res. 258, providing for consideration of H.R. 2586, to provide a temporary increase in the public debt limit (H. Rept. 104–328). **Page H11938**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designates Representative Radanovich to act as Speaker pro tempore for today. **Page H11831**

Honoring Life of Yitzhak Rabin: By a yea-and-nay vote of 416 yeas, Roll No. 769, the House agreed to S. Con. Res. 31, honoring the life and legacy of Yitzhak Rabin—clearing the measure. **Pages H11836–53**

Alaska Power Administration: By a yea-and-nay vote of 289 yeas to 134 nays, Roll No. 772, the House agreed to the conference report on S. 395, to authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and to authorize the export of Alaska North Slope crude oil—clearing the measure for Senate action. **Pages H11861–81**

By a yea-and-nay vote of 160 yeas to 261 nays, Roll No. 771, rejected the Miller of California motion to recommit the conference report to the committee of conference with instructions to House conferees to insist on House amendment No. 5, to strike the Outer Continental Shelf deep water royalty relief provisions. **Pages H11880–81**

H. Res. 256, the rule waiving points of order against the conference report, was agreed to earlier by a yea-and-nay vote of 361 yeas to 54 nays with 1 voting "present," Roll No. 770. **Pages H11854–61**

Further Continuing Appropriations: By a recorded vote of 230 ayes to 197 noes, Roll No. 775, the House passed H.J. Res. 115, making further continuing appropriations for the fiscal year 1996. **Pages H11891–H11905**

By a yea-and-nay vote of 198 yeas to 227 nays, Roll No. 774, rejected the Obey motion to recommit the joint resolution to the Committee on Appropriations with instructions to strike out all after the resolving clause and report it back forthwith containing an amendment in the nature of a substitute extending the provisions of the current continuing appropriations law until December 13, 1995. **Pages H11903–05**

H. Res. 257, the rule under which the joint resolution was considered, was agreed to earlier by a yea-and-nay vote of 216 yeas to 210 nays, Roll No. 773. **Pages H11881–91**

Presidential Message—Weapons of Mass Destruction: Read a message from the President wherein he transmits to Congress notice of his continuation of the national emergency with respect to the proliferation of weapons of mass destruction—referred to the Committee on International Relations and ordered printed (H. Doc. 104–131). **Pages H11905–07**

Senate Messages: Message received from the Senate today appears on page H11831.

Amendments Ordered Printed: Amendments ordered printed pursuant to the rule appear on pages H11939–76.

Quorum Calls—Votes: Six yea-and-nay votes and one recorded vote developed during the proceedings of the House today and appear on pages H11853, H11861, H11880–81, H11881, H11890–91, H11904–05, and H11905. There were no quorum calls.

Adjournment: Met at 11 a.m. and adjourned at 11:50 p.m.

Committee Meetings

CONSERVATION CONSOLIDATION AND REGULATORY REFORM

Committee on Agriculture: Subcommittee on Resource Conservation, Research, and Forestry approved for full Committee action amended H.R. 2542, Conservation Consolidation and Regulatory Reform Act of 1995.

U.S. HOUSING ACT

Committee on Banking and Financial Services: Continued markup of H.R. 2406, United States Housing Act of 1995.

Will continue tomorrow.

SUPERFUND REFORM

Committee on Commerce: Subcommittee on Commerce, Trade, and Hazardous Materials continued markup of H.R. 2500, Reform of Superfund Act of 1995.

Will continue tomorrow.

EXPORT COMPETITIVENESS

Committee on International Relations: Subcommittee on International Economic Policy and Trade held a hearing on Strengthening U.S. Export Competitiveness: Industry Views. Testimony was heard from public witnesses.

HUMAN RIGHTS IN VIETNAM

Committee on International Relations: Subcommittee on International Operations and Human Rights and the Subcommittee on Asia and the Pacific held a joint hearing on Human Rights in Vietnam. Testimony was heard from the following officials of the Department of State: Steve Coffey, Acting Assistant Secretary, Democracy, Human Rights and Labor; and Kent Wiedemann, Deputy Assistant Secretary, East Asia and Pacific Affairs; and public witnesses.

DEMOCRACY IN NICARAGUA

Committee on International Relations: Subcommittee on Western Hemisphere Affairs held a hearing on an Evaluation of Democracy in Nicaragua. Testimony was heard from Mark Schneider, Assistant Administrator, Bureau for Latin America and the Caribbean, AID, U.S. International Development Cooperation Agency; Anne Patterson, Deputy Assistant Secretary, Central America, Department of State; and public witnesses.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Ordered reported the following bills: H.R. 2564, Lobbying Disclosure Act of 1995; and H.R. 497, amended, National Gambling Impact and Policy Commission Act.

LAW ENFORCEMENT OFFICERS CIVIL LIABILITY

Committee on the Judiciary: Subcommittee on Courts and Intellectual Property held a hearing on H.R. 1446, Law Enforcement Officers Civil Liability Act of 1995. Testimony was heard from Representatives Calvert and Waters; and public witnesses.

UNITED STATES FORCES IN BOSNIA

Committee on National Security: Held a hearing on operational implications of the proposed deployment of United States ground forces to Bosnia. Testimony was heard from Lt. Gen. Anthony Zinni, USMC, Commander, I Marine Expeditionary Force, Department of Defense; Gen. David Maddox, USA (Ret.), former Commander in Chief, U.S. Army Europe and 7th Army; and Andrew Krepinevich, Director, Defense Budget Project.

TEMPORARY DEBT LIMIT INCREASE

Committee on Rules: Granted a modified closed rule, by a vote of 9 to 4, providing one hour of general debate in the House on H.R. 2568, to provide for a temporary increase in the public debt limit. The rule provides for consideration without any intervening point of order. The rule provides for the adoption of the amendment recommended by the Committee on Ways and Means now printed in the bill and the amendments specified in the report of the Committee on Rules accompanying this resolution. The rule provides one motion to amend by the chairman of the Committee on Ways and Means or his designee, which shall be considered as read and shall be debatable for 20 minutes equally divided and controlled by the proponent and an opponent. The rule provides for one motion to amend by Representative Walker of Pennsylvania or his designee, which shall be considered as read and shall be debatable for 40 minutes equally divided and controlled by the proponent and an opponent. The rule provides one motion to recommit which may include instructions only if offered by the Minority Leader or his designee. Finally, the rule provides that during the consideration of the bill, no question shall be subject to a demand for a division of the question. Testimony was heard from Chairman Archer and Representatives Walker, Gekas, Rohrabacher, Smith of Michigan, Chrysler, Stockman, and Payne of Virginia.

NASA PURCHASING

Committee on Science: Held a hearing on NASA Purchasing in the Earth-Space Economy. Testimony was heard from the following officials of NASA: Deidre Lee, Associate Administrator, Procurement; and John Muratore, Program Manager, Lyndon B. Johnson Space Center; and public witnesses.

COMMITTEE BUSINESS

Committee on Standards of Official Conduct: Met in executive session to consider pending business.

SUPERFUND REFORM

Committee on Transportation and Infrastructure: Subcommittee on Water Resources and Environment concluded hearings on H.R. 2500, Reform of Superfund Act of 1995. Testimony was heard from public witnesses.

SIGNAL INTELLIGENCE BRIEFING

Permanent Select Committee on Intelligence: Met in executive session to receive a briefing on Signal Intelligence. The Committee was briefed by departmental witnesses.

AMES DAMAGE ASSESSMENT

Permanent Select Committee on Intelligence: Met in executive session to receive a briefing on Ames Damage

Assessment. The committee was briefed by departmental witnesses.

Joint Meetings

RAILROAD CONSOLIDATION IMPACT ON SMALL BUSINESS

Joint Hearing: Senate Committee on Small Business concluded joint hearings with the House Committee on Small Business to examine small business concerns regarding railroad consolidation, focusing on the impact of rail mergers on small shippers, after receiving testimony from Daniel R. Glickman, Secretary of Agriculture; C. Phillip Hoffman, Hoffman & Reed, Trenton, Missouri; James F. Jundzilo, Tetra Chemical Company, The Woodlands, Texas; Duane Fischer, Scouler Grain Company, Omaha, Nebraska; William F. York, Lange Company, Conway Springs, Kansas; Ned Leonard, Western Fuels Association, and Ed Emmet, National Industrial Transportation League, both of Arlington, Virginia; Richard J. Barber, Barber & Associates, Bethesda, Maryland; and Curtis Grimm, University of Maryland, College Park.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST *p. D133)*

S. 1322, to provide for the relocation of the United States Embassy in Israel to Jerusalem. Signed November 8, 1995. (P.L. 104–45)

COMMITTEE MEETINGS FOR THURSDAY, NOVEMBER 9, 1995

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Commerce, Science, and Transportation, business meeting, to mark up S. 1239, to amend title 49, United States Code, with respect to the regulation of interstate transportation by common carriers engaged in civil aviation, and S. 1356, to amend the Shipping Act of 1984 to provide for ocean shipping reform, and to consider pending nominations, 10 a.m., SR–253.

Committee on Energy and Natural Resources, Subcommittee on Parks, Historic Preservation and Recreation, to hold hearings on S. 231 and H.R. 562, bills to modify the boundaries of Walnut Canyon National Monument in Arizona, S. 342, to establish the Cache La Poudre River National Water Heritage Area in Colorado, S. 364 and H.R. 629, bills to authorize the Secretary of the Interior to participate in the operation of certain visitor facilities associated with, but outside the boundaries of, Rocky Mountain National Park in Colorado, S. 489, to authorize the Secretary of the Interior to enter into an appropriate form of agreement with, the town of Grand Lake, Colorado, authorizing the town to maintain permanently a cemetery in the Rocky Mountain National Park, and S. 608, to establish the New Bedford Whaling National Historical Park in New Bedford, Massachusetts, 9:30 a.m., SD–366.

Committee on Governmental Affairs, to hold hearings on H.R. 1271, to provide protection for family privacy, 9:30 a.m., SD–342.

Committee on the Judiciary, business meeting, to consider pending calendar business, 10 a.m., SD–226.

Select Committee on Intelligence, to hold closed hearings on intelligence matters, 2 p.m., SH–219.

Special Committee To Investigate Whitewater Development Corporation and Related Matters, to continue hearings to examine certain issues relative to the President's involvement with the Whitewater Development Corporation, 10 a.m., SH–216.

NOTICE

For a listing of Senate Committee Meetings scheduled ahead, see page E2141 in today's RECORD.

House

Committee on Banking and Financial Services, to continue markup of H.R. 2406, United States Housing Act of 1995, 10 a.m., 2128 Rayburn.

Committee on Commerce, Subcommittee on Commerce, Trade, and Hazardous Materials, to continue markup of H.R. 2500, Reform of Superfund Act of 1995, 10 a.m., 2123 Rayburn.

Subcommittee on Energy and Power, hearing on the Energy Policy Conservation Act Reauthorization of 1995, 10 a.m., 2218 Rayburn.

Subcommittee on Health and Environment and the Subcommittee on Oversight and Investigations, joint oversight hearing on the Implementation and Enforcement of the Clean Air Act Amendments of 1990, 10 a.m., 2322 Rayburn.

Committee on Economic and Educational Opportunities, Subcommittee on Early Childhood, Youth and Families, to mark up H.R. 2570, Older Americans Amendments of 1995, 9:30 a.m., 2175 Rayburn.

Committee on Government Reform and Oversight, Subcommittee on Human Resources and Intergovernmental Relations, oversight hearing on HUD Tenant Empowerment Funds, 9:30 a.m., 2247 Rayburn.

Committee on International Relations, hearing on U.S. Policy Towards Iran, 10 a.m., 2172 Rayburn.

Subcommittee on Asia and the Pacific and the Subcommittee on International Economic Policy and Trade, joint hearing on Countdown to Osaka: Asia-Pacific Economic Cooperation or Confrontation, 2 p.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on Courts and Intellectual Property, hearing on H.R. 1861, to make technical corrections in the Satellite Home Viewer Act of 1994 and other provisions of title 17, United States Code, 10 a.m., 2141 Rayburn.

Committee on Resources, Subcommittee on Energy and Mineral Resources, hearing on H.R. 2372, Surface Mining Control and Reclamation Act of 1995, 9:45 a.m., 1324 Longworth.

Committee on Rules, to consider H.R. 2539, ICC Termination Act of 1995, 10 a.m., H–313 Capitol.

Committee on Science, Subcommittee on Basic Research, hearing on the following bills: H.R. 884, authorizing appropriations for a retirement incentive for certain employees of National Laboratories; and H.R. 2301, to designate an enclosed area of the Oak Ridge National Laboratory in Oak Ridge, Tennessee as the ''Marilyn Lloyd Environmental, Life, and Social Sciences Complex'', 9:30 a.m., 2318 Rayburn.

Subcommittee on Space and Aeronautics, to continue hearings on the Space Shuttle Program In Transition: Keeping Safety Paramount, Part 2, 10 a.m., 2325 Rayburn.

Committee on Standards of Official Conduct, executive, to consider pending business, 10 a.m., HT–2M Capitol.

Committee on Transportation and Infrastructure, Subcommittee on Aviation, hearing on Federal Aviation Administration's Expanded East Coast Plan, 10 a.m., 2167 Rayburn.

Permanent Select Committee on Intelligence, executive, briefing on Iraq, 10 a.m., H–405 Capitol.

Joint Meetings

Commission on Security and Cooperation in Europe, to hold a briefing on democratic development in Croatia in light of the October 29 parliamentary elections, 10 a.m., 110 Cannon Building.

Next Meeting of the SENATE

10 a.m., Thursday, November 9

Senate Chamber

Program for Thursday: After the recognition of four Senators for speeches and the transaction of any morning business (not to extend beyond 12 noon), Senate may consider H.J. Res. 115, providing for continuing appropriations for 1996.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, November 9

House Chamber

Program for Thursday: Consideration of the further conference report on H.R. 1977, Interior Appropriations for fiscal year 1996 (rule waiving points of order);

Send to conference H.R. 956, Common Sense Product Liability and Legal Reform Act of 1995; and

Consideration of H.R. 2586, Temporary Public Debt Limit Increase (closed rule).

Extensions of Remarks, as inserted in this issue

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