HOUSE OF REPRESENTATIVES—*Tuesday, October 2, 1990*

The House met at 10 a.m.

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

May our eyes be lifted, gracious God, to see not only what must be accomplished in our lives and in our work, but also to see what should be accomplished. Make us aware and sensitive to what it means to be Your people doing the works of justice and mercy. May that word of justice and mercy give light to our tasks and open our minds so we can honestly see our goals and our daily responsibilities. In Your name, we pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Oklahoma [Mr. INHOFE] please come forward and lead the House in the Pledge of Allegiance.

Mr. INHOFE 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 joint resolutions of the House of the following titles:

H.J. Res. 398. Joint resolution to commemorate the centennial of the creation by Congress of Yosemite National Park, and

H.J. Res. 482. Joint Resolution designating March 1991 as "Irish-American Heritage Month."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3045) "An act to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of copyright and infringement of exclusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities" disagreed to by the House, agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DECONCINI, Mr. LEAHY, Mr. KENNEDY, Mr. HATCH, and Mr. GRASSLEY, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 2017. An act to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

S. 2415. An act to encourage solar, wind, waste, and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Policies Act of 1978, and for other purposes; and

S.J. Res. 342. Joint resolution designating October 1990 as "Ending Hunger Month."

APPOINTMENT OF CONFEREES ON S. 916, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION MULTIYEAR AUTHORIZATION ACT OF 1990

The SPEAKER. The Chair appoints the following conferees on the Senate bill (S. 916) National Aeronautics and Space Administration Multiyear Authorization Act of 1990: Messrs. ROE, BROWN of California, NELSON of Florida, HALL of Texas, VOLKMER, MINETA, TORRICELLI, NAGLE, HAYES of Louisiana, TANNER, WALKER, SENSENBRENNER, LEWIS of Florida, PACKARD, BUECHNER, and CAMPBELL of California.

MODIFICATIONS AND APPOINTMENT OF ADDITIONAL CONFEREES ON S. 2830, FOOD AND AGRICULTURAL RESOURCES ACT OF 1990

The SPEAKER. Pursuant to the authority granted on September 19, 1990, the Chair appoints the following conferees and modification to the appointments previously made to the Senate bill, S. 2830, Food and Agricultural Resources Act of 1990:

From the Committee on Foreign Affairs, for consideration of titles XI (except sections 1124, 1125, 1134, 1137, and subtitle E), XXIII (except section 2306), sections 114, 1423, 1551, 1751-60, 1763, and 1765 of the Senate bill, and title XII (except sections 1241 and 1243-46) and sections 415, 1312(a), and 1833 of the House amendment, and modifications committed to conference: Messrs. FASCELL, HAMILTON, YATRON, SOLARZ, WOLPE, CROCKETT, GEJDENSON, DYMALLY, KOSTMAYER, LEVINE of California, BROOMFIELD, GILMAN, LAGOMARSINO, LEACH, ROTH, and BEREUTER.

From the Committee on Foreign Affairs, for consideration of subtitle E of title XI, section 1931-35 and 1937-39 of the Senate bill, and title XXX of the House amendment, and modifications committed to conference: Messrs. FASCELL, HAMILTON, YATRON, GEJDENSON, BROOMFIELD, and ROTH.

From the Committee on Merchant Marine and Fisheries, for consideration of subtitle E of title XI of the Senate bill, and title XXX of the House amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, HUBBARD, TAUZIN, HERTEL, LIPINSKI, DAVIS, YOUNG of Alaska, LENT, and FIELDS.

From the Committee on Merchant Marine and Fisheries, for consideration of sections 1238, 1286, and 1422 of the Senate bill, and sections 1314 and 1602 of the House amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, HERTEL, DAVIS of Michigan, and YOUNG of Alaska.

From the Committee on Ways and Means, for consideration of section 902, those portions of section 1121 adding new sections 101(5), 103(5), 113(c)(2), 114, 204(c)(2)(B), 404-05, 503(b)(3), 504, and 601(c) and (f) to the Agricultural Trade Act of 1978, sections 1122, 1124-25, 1137, 1716(c), that portion of section 2123 adding a new section 7A(e) to the Cotton Research and Promotion Act, sections 2140, 2155(g), 2178, 2188, 2203, 2306, 2452, 2454 of the Senate bill, and section 614, those portions of section 1221 adding new sections 101(4), 105(a), 106, 402(c) and (f) to the Agricultural Trade Act of 1978, sections 1223(i), 1241, 1243, 1245-47, 1428, 1445(g), 1468, 1475(3), 1485(d) and 1494 of the House amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, JENKINS, ARCHER, and CRANE.

Except that, for consideration of sections 2203, 2452 and 2454 of the Senate bill, Mr. JACOBS is appointed in lieu of Mr. JENKINS.

From the Committee on Ways and Means, for consideration of sections 1134, 1721 and 1730A of the Senate bill, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, JENKINS, DOWNEY, PEASE, RUSSO, GUARINI, MATSUI, ANTHONY, ARCHER, VANDER JAGT, CRANE, FRENZEL, SCHULZE, and THOMAS of California.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

From the Committee on Energy and Commerce, for consideration of sections 1761 and 1762 of the Senate bill, and modifications committed to conference: Messrs. DINGELL, WAXMAN, SCHEUER, WYDEN, SIKORSKI, BRUCE, ROWLAND of Georgia, SYNAR, HALL of Texas, ECKART, LENT, DANNEMEYER, WHITTAKER, TAUKE, BLILEY, and FIELDS.

From the Committee on Energy and Commerce, for consideration of sections 1495, 1497, and 1498J-L of the Senate bill, and modifications committed to conference: Messrs. DINGELL, WAXMAN, ROWLAND of Georgia, LENT, and TAUKE.

From the Committee on Energy and Commerce, for consideration of sections 1437 of the Senate bill, and section 1367(b) of the House amendment, and modifications committed to conference: Messrs. DINGELL, WAXMAN, ECKART, LENT, and TAUKE.

From the Committee on Energy and Commerce, for consideration of title XVI (except sections 1615-16, 1620(b), (c), (d), (f)) and section 1716 of the Senate bill, and sections 1495-95G, 1495J-95L, 1495M(a), (e) and (g) and 1495N-95V of the House amendment, and modifications committed to conference: Messrs. DINGELL, WAXMAN, BRUCE, LENT, and TAUKE.

From the Committee on Energy and Commerce, for consideration of subtitle C of title XVII of the Senate bill, and modifications committed to conference: Messrs. DINGELL, WAXMAN, WYDEN, LENT, and BLILEY.

From the Committee on Energy and Commerce, for consideration of section 1773 of the Senate bill, and modifications committed to conference: Messrs. DINGELL, WAXMAN, ROWLAND of Georgia, LENT, and WHITTAKER.

From the Committee on Energy and Commerce, for consideration of section 1772 of the Senate bill, and section 1376A of the House amendment, and modifications committed to conference: Messrs. DINGELL, THOMAS A. LUKEN, SWIFT, LENT, and TAUKE.

From the Committee on Energy and Commerce, for consideration of section 1948 of the Senate bill, and modifications committed to conference: Messrs. DINGELL, THOMAS A. LUKEN, SWIFT, LENT, and WHITTAKER.

From the Committee on Energy and Commerce, for consideration of sections 2033(3)(F), 2079, and 2081 of the Senate bill, and modifications committed to conference: Messrs. DINGELL, MARKEY, SWIFT, LENT, and TAUKE.

From the Committee on Energy and Commerce, for consideration of section 1399 of the House amendment, and modifications committed to conference: Messrs. DINGELL, WAXMAN, TOWNS, LENT, and BLILEY.

From the Committee on Agriculture, for consideration of those portions of section 1121 adding new sections 101(5), 103(b), 113(c)(2), 114, 204(c)(2)(B), 404-05, 503(b)(3), 504, and 601(c) and (f) to the Agricultural Trade Act of 1978, of the Senate bill, and those portions of section 1221 adding new sections 101(4), 105(a), 106, 203 and 402(c) and (f) to the Agricultural Tradt Act of 1978, of the House amendment, and modifications committed to conference: Messrs. ESPY, HARRIS, SARPALIUS, EMERSON, and ROBERT F. (BOB) SMITH.

From the Committee on Education and Labor, for consideration of sections 1496(b), 1498-1498N, 1965, 1966, 2471, 2474, 2476, 2479 of the Senate bill, and sections 1382, 1774, 1842(b) of the House amendment, and modifications committed to conference: Messrs. HAWKINS, FORD of Michigan, GAYDOS, GOODLING, and TAUKE.

From the Committee on Science, Space, and Technology, for consideration of sections 1921-30, 1940, and 1944-46 of the Senate bill, and modifications committed to conference: Messrs. ROE, SCHEUER, MCMILLEN of Maryland, WALKER, and Ms. SCHNEIDER.

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 1350 the Senate bill, and modifications committed to conference: Messers. ERDREICH, KANJORSKI, CARPER, BEREUTER, and ROTH.

In the appointment of conferees previously announced from the Committee on Agriculture:

The appointment of Mr. CONDIT is amended by deleting section 1215 from the exception for title XII of the House amendment.

The appointment for Ms. LONG is amended by deleting section 1215.

Mr. ROBERT F. (BOB) SMITH is appointed in lieu of Mr. MARLENEE for title XII of the Senate bill and title XVI of the House amendment.

Mr. MORRISON of Washington is appointed in lieu of Mr. MARLENEE for title XIII of the Senate bill and title XXIX of the House amendment.

Mr. GRANDY is appointed in lieu of Mr. HOPKINS for all provisions except title VII and section 1962 of the Senate bill, and title VIII and section 1249 of the House amendment, on which Mr. HOPKINS will remain a conferee, and Mr. LEWIS of Florida is appointed in lieu of Mr. HOPKINS for subtitle A of title XVII of the Senate bill and title XIV of the House amendment.

The Clerk will notify the Senate of the change in conferees.

□ 1010

PRIVATE CALENDAR

The SPEAKER pro tempore (Mr. MONTGOMERY). This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

WILSON JOHAN SHERROUSE

The Clerk called the Senate bill (S. 1814) for the relief of Wilson Johan Sherrouse.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1814

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Wilson Johan Sherrouse shall be held and considered to be a child within the meaning of section 101(b)(1)(E) of such Act upon approval of a petition filed on his behalf by Victoria Sherrouse, a citizen of the United States, pursuant to section 204 of such Act. No natural parent, brother, or sister, of Wilson Johan Sherrouse shall, by virtue of such relationship, be accorded any right, privilege or status under such Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FIONA LAMONT DUVAL

The Clerk called the bill (H.R. 3920) for the relief of Fiona Lamont DuVal.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

There was no objection.

MICHAEL WU

The Clerk called the bill (H.R. 2863) for the relief of Michael Wu.

There being no objection, the Clerk read the bill as follows:

H.R. 2863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding paragraph (2) of section 312 of the Immigration and Naturalization Act (8 U.S.C. 1423(2); relating to the requirement of a demonstration of a knowledge and understanding of the fundamentals, and of the principles and form of government, of the United States), Michael Wu may be naturalized at any time after the date of enactment of this Act if he is otherwise eligible for naturalization under the Immigration and Naturalization Act.

With the following committee amendment:

Committee amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. NATURALIZATION OF MICHAEL WU.

(a) IN GENERAL.—For purposes of section 322(a) of the Immigration and Nationality Act, Michael Wu shall be considered a child under 18 years of ago.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall apply only if a petition under section 322(a) is filed by Chi Shiang Wu or Caroline Wu, citizens of the United States, within 2 years after the date of the enactment to this Act.

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unani-

mous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

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.

SONANONG POONPIPAT (LATCH)

The Clerk called the bill (H.R. 2961) for the relief of Sonanong Poonpipat (Latch).

There being on objection, the Clerk read the bill as follows:

H.R. 2961

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMMEDIATE RELATIVE STATUS FOR SONANONG POONPIPAT (LATCH).

(a) IN GENERAL.—Subject to subsection (b), for the purposes of the Immigration and Nationality Act, Sonanong Poonpipat (Latch), the widow of a citizen of the United States, shall be considered to be an immediate relative within the meaning of section 201(b) of such Act, and the provisions of section 204 of such Act shall not be applicable in this case.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall only apply if Sonanong Poonpipat (Latch) applies to the Attorney General for relief pursuant to such subsection within 2 years after the date of the enactment of this Act.

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.

PAULA GRZYB

The Clerk called the Senate bill (S. 1683) for the relief of Paula Grzyb.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1683

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMMEDIATE RELATIVE STATUS FOR PAULA GRZYB.

(a) IN GENERAL.—Subject to subsection (b), for the purposes of the Immigration and Nationality Act, Paula Grzyb, the stepmother of a citizen of the United States, shall be considered to be an immediate relative within the meaning of section 201(b) of such Act, and the provisions of section 204 of such Act shall not be applicable in this case.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall only apply if Paula Grzyb applies for an immigration visa pursuant to such subsection within two years after the date of the enactment of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARIA LUISA ANDERSON

The Clerk called the Senate bill (S. 1229) for the relief of Maria Luisa Anderson.

There being no objection, the Clerk read the Senate bill as follows:

S. 1229

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Maria Luisa Anderson shall be classified as a child within the meaning of section 101(b)(1)(E) of that Act (8 U.S.C. 1101(b)(1)(E)), upon filing of a petition filed on her behalf by her adoptive parents, citizens of the United States, pursuant to section 204 of that Act (8 U.S.C. 1154). No natural parent, brother, or sister, if any, of Maria Luisa Anderson shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CATHERINE ANNE BARDOLE AKA KATHLEEN BARDOLE, ET AL

The Clerk called the bill (H.R. 2071) for the relief of Catherine Anne Bardole aka Kathleen Bardole and her minor children, Lisa Anne Farley, and Elaine Mary Farley.

There being no objection, the Clerk read the bill as follows:

H.R. 2071

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That (a) subject to subsection (b), for the purposes of the Immigration and Nationality Act, Catherine Anne Bardole, Lisa Anne Farley, and Elaine Mary Farley shall be considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees.

(b) Subsection (a) shall only apply to a beneficiary under that subsection if the beneficiary applies to the Attorney General for permanent residence status under that subsection within two years after the date of enactment of this Act.

(c) Upon the granting of permanent residence to a beneficiary under subsection (a), the Secretary of State shall instruct the proper office to deduct one number from the total number of immigrant visas which are made available to natives of the country of the beneficiary's birth under section 203(a) of the Immigration and Nationality Act or, if section 202(e) of that Act is applicable to the country, from the total number of immigrant visas which are made available to natives of such country under that section.

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.

MRS. JOAN R. DARONCO

The Clerk called the bill (H.R. 3134) for the relief of Mrs. Joan R. Daronco.

There being no objection, the Clerk read the bill, as follows:

H.R. 3134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDITABLE CIVILIAN SERVICE.

(a) TIME OF CREDITABLE CIVILIAN SERVICE.—For the purposes of the entitlement of Mrs. Joan R. Daronco, of Pelham, New York, the widow of Judge Richard Daronco (a deceased judge of the United States District Court for the Southern District of New York), to benefits under section 376 of title 28, United States Code, Richard Daronco shall be deemed—

(1) to have completed eighteen months of creditable civilian service as a judicial official prior to his death on May 21, 1988, in addition to any other creditable civilian service, computed in accordance with subsection (k) of that section, he may have had;

(2) to have actually made the salary deductions as provided by subsection (b) of that section for those eighteen months; and

(3) to have received the salary paid to Federal district court judges for the eighteen-month period ending on the date of his death.

(b) EFFECTIVE DATE.—Subject to section 6, this section shall be effective as of May 21, 1988.

SEC. 2. LUMP SUM PAYMENT.

(a) APPROPRIATION OF LUMP-SUM PAYMENT.—Subject to section 4, the Secretary of the Treasury shall pay to Joan Daronco, out of any money in the Treasury not otherwise appropriated, an amount equal to the amount determined pursuant to paragraph (1) of section 3 less the amount determined pursuant to paragraph (2) of section 3. If the amount determined pursuant to this subsection is less than zero, the Secretary shall withhold any monthly annuity Joan Daronco may be entitled to under this Act until such deficit is eliminated.

(b) PAYMENT INTO FUND.—The Secretary of the Treasury shall pay into the Judicial Survivors' Annuity Fund, out of any money in the Treasury not otherwise appropriated, an amount equal to the amount determined pursuant to paragraph (2) of section 3.

(c) LIMITATION OF ATTORNEYS' AND AGENTS' FEES.—It shall be unlawful for an amount of more than 10 per centum of the amount determined pursuant to paragraph (1) of section 3 to be paid to or received by any attorney or agent for any service rendered in connection with the benefits provided by this Act. Any individual who is found guilty of a violation of this subsection shall be fined not more than $1,000.

SEC. 3. DETERMINATION OF AMOUNT OF PAYMENT.

The Director of the Administrative Office of the United States Courts shall determine, and certify to the Secretary of the Treasury, each of the following:

(1) AMOUNT OF ANNUITIES.—The amount equal to the total amount of annuities Joan Daronco would have received under section 1(a) for the period beginning on the effective date of section 1 and ending on the last day of the month which follows the month which this Act takes effect.

(2) AMOUNT OF SALARY DEDUCTIONS.—The amount equal to the sum of—

(A) the total of salary deductions, as provided by section 376(b) of title 28, United

States Code, that would have been deducted and withheld from the salary Judge Richard Daronco is deemed to have received under section 1(a)(3) had such deductions and withholdings been made for eighteen months prior to his death on May 21, 1988; and

(B) the amount of interest, computed at 3 per centum per annum compounded on December 31 of each year, that would accrue on the amount determined pursuant to subparagraph (A) of this paragraph.

SEC. 4. APPLICATION FOR ANNUITIES.

The lump sum payment, and any annuity, Joan Daronco is entitled to be paid pursuant to section 2(a) shall be paid only if she files an application for such payment with the Secretary of the Treasury within one year after the date of enactment of this Act.

SEC. 5. OTHER BENEFITS.

Benefits under this Act shall be paid notwithstanding Joan Daronco's eligibility or receipt of other Federal, State, or local benefits.

SEC. 6. EFFECTIVE DATE.

This Act shall be effective on the date the application referred to in section 4 is filed.

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.

NORMAN R. RICKS

The Clerk called the bill (H.R. 5001) for the relief of Norman R. Ricks.

There being no objection, the Clerk read the bill, as follows:

H.R. 5001

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REIMBURSEMENT FOR REAL ESTATE EXPENSES.

The relocation of Norman R. Ricks by the National Oceanic and Atmospheric Administration in June 1989 shall be considered to be a transfer from 1 official station to another for which reimbursement is permitted under section 5724(a)(4) of title 5, United States Code.

SEC. 2. LIMITATIONS ON AGENTS AND ATTORNEYS FEES.

No amount exceeding 10 percent of a payment made pursuant to section 1 may be paid to or received by any agent or attorney in consideration for services rendered in connection with the payment. Any person who violates the provisions of this section shall be guilty of an infraction and shall be subject to a fine in the amount provided under title 18, United States Code.

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.

RODNEY E. HOOVER

The Clerk called the bill (H.R. 2937) for the relief of Rodney E. Hoover.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

There was no objection.

JOHN BARREN

The Clerk called the bill (H.R. 4356) for the relief of John Barren.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

There was no objection.

BANFI PRODUCTS CORP.

The Clerk called the resolution (H. Res. 308) referring the bill (H.R. 3894) for the relief of Banfi Products Corp. to the chief judge of the U.S. Claims Court.

There being no objection, the Clerk read the resolution, as follows:

H. RES. 308

Resolved, That the bill (H.R. 3894) entitled, "A bill for the relief of Banfi Products Corporation", now pending in the House of Representatives, together with all accompanying papers, is referred to the chief judge of the United States Claims Court pursuant to section 1492 of title 28, United States Code, for proceedings in accordance with section 2509 of such title.

With the following committee amendment:

Committee amendment: Page 1, line 1, strike "3894" and insert "5148".

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

The resolution was agreed to.

The title was amended so as to read: "Resolution referring the bill (H.R. 5148) for the relief of Banfi Products Corporation to the chief judge of the United States Claims Court."

A motion to reconsider was laid on the table.

TRANSFERRING A PARCEL OF LAND LOCATED IN THE LOS PADRES NATIONAL FOREST, CA

The Clerk called the bill (H.R. 1330) to transfer a parcel of land located in the Los Padres National Forest, CA.

There being no objection, the Clerk read the bill as follows:

H.R. 1330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND TRANSFER.

The Secretary of Agriculture shall transfer, without consideration, to Florence F. Brown of Goleta, California, all right, title, and interest of the United States in and to the parcel of land located in the Los Padres National Forest which is comprised of approximately 40 acres and more particularly described as T. 5 N., R. 30 W., S.B.M., Section 18, NE¼ SW¼.

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.

RICHARD SAUNDERS

The Clerk called the Senate bill (S. 1128) for the relief of Richard Saunders.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding the Act of March 4, 1931 (46 Stat. 1530), or Executive Order 5843 or any land classification based thereon, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to convey to Richard Saunders (hereinafter referred to as the "beneficiary"), subject to the provisions of section 2, approximately 15.69 acres of land in township 6 south, range 32 east, Mount Diablo Meridian, section 21, northeast ¼, in Inyo County, California, as depicted on a map entitled "BLM Land Conveyance to Richard Saunders/Inyo County, California" and dated April, 1990.

SEC. 2. The Secretary shall convey the land referred to in section 1 upon receipt of the fair market value of such land, as determined by the Secretary. Such land shall be conveyed subject to valid existing rights and any documentation of conveyance shall contain a reservation of all mineral rights to the United States. The beneficiary shall reimburse the Secretary for all administrative costs associated with the implementation of this Act, including, but not limited to the costs of a survey, if required.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WE NEED PRESIDENTIAL LEADERSHIP

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

Mr. FAZIO. Mr. Speaker, last night on Air Force One, when asked about the reaction of senior citizens to cuts in Medicare, President Bush said, "I just didn't have the horses to do what I wanted in this budget agreement." Well, just what would the President have done if he had his horses?

He would have reduced benefits for all retirees including Social Security recipients by an additional $40 billion, a lot more than the summit package. He would have given additional tax breaks to the wealthiest among us while imposing still higher taxes on middle-income taxpayers. In fact, those making more than $200,000 a year would have received another $26,000 tax break.

He would have extracted still more money from the hide of Medicare beneficiaries, another $6 billion more than agreed to in the summit package.

It is all right here in the administration's working papers in the summit. The President needs to speak to the American people and to his own party's conference in the House.

If this compromise package is to pass, we need his leadership. We do not need recriminations.

SUMMIT VIOLATES 40-YEAR PACT WITH THE AMERICAN PEOPLE

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

Mr. SHUSTER. Mr. Speaker, the budget summit violates a 40-year compact between Congress and the American people. We promised the American people that, "We will impose a gas tax on you. It will be paid for by the users of our highways. That money will go into a trust fund to build a better transportation system for America, the fairest tax there is, and the users pay."

Now this summit comes along and says, "No, we are going to break that promise. We are going to put a 12-cent gasoline and petroleum tax on you." That is going to raise $57 billion, and an aviation tax that raises $12 billion, a total of $69 billion, or, get this, 42 percent of all the taxes raised come out of the transportation sector even though we have a crumbling infrastructure that we have got to deal with.

□ 1020

This is supposedly unfair to hit one sector of our economy so hard. Where is Wall Street on this agreement? Why not a transfer tax on stocks and bonds? Yet there are special breaks in this agreement for those who were luckiest to serve on the summit. Special break for Kansas. It escapes taxes on its airline industry. I salute the senior Senator from Kansas. A special break for Texas, a billion dollar break for oil drilling. Yes, $4 billion for the whole country, Texas at least a billion. Yes, yes, the senior Senator from Texas has buried in this bill a requirement that 90 percent of all highway dollars go back to the State from which they came without regard for what our transportation needs are. Guess who benefits most from this provision? Yes, it is Texas, even though 30 States lose.

This is a bad agreement. We should defeat it, set aside Gramm-Rudman, and start over.

ALTERNATE PLAN OFFERED

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

Mr. INHOFE. Mr. Speaker, it seems to be very popular to budget summit bash these days, and I guess I have to join that group because I cannot go for the agreement that they came out with.

However, they did work hard. They tried. The President cannot be blamed. He was in an uphill battle. I think we all know that.

I think the two objectionable things about the products that came out. No. 1, the gasoline tax increase which is on the backs of every American, rich, the poor. If anything, it is regressive. Second, the cuts in Medicare, which balance our budget on the backs of the senior citizens of this country. I find these two things I cannot support.

If we add these together over the next 5 years, they project these would bring a total of $118 billion. I have sent a letter out to Members, Mr. Speaker, offering an alternative. Instead of that, instead of raising the gas tax, instead of cutting the Medicare, I propose that we make a 12½-percent cut in the nondefense discretionary accounts, and leave it up to the appropriate committee in Congress or the budgeteers, whoever wants to do it, to decide which should be cut. A 12½ percent over the next 5 years would produce the $188 billion, and it would be a wash. I would find that more acceptable, and I think the American people would, too.

FURTHER DEFENSE CUTS WOULD IMPROVE BUDGET PACKAGE FOR AMERICANS

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

Mr. SMITH of Florida. Mr. Speaker, we have heard the gentleman from California [Mr. FAZIO] talk about what the President said about not "having the horses" in Congress. What he also said in response to the question, why was he proposing the deep Medicare cuts was, "You can't keep everybody happy," so he chose to keep the defense establishment happy," so he chose to keep the defense establishment happy. What the heck, we are only giving back in defense less than what defense received in 2 years of increases in the first 2 years of Ronald Reagan's term, but we are going to cut Medicare, which has been cut every year, another $60 billion.

The President did not have the horses to accomplish what he wanted. What he wanted was to keep the tax breaks for the rich and to take more out of, as the previous speaker just said, nondefense discretionary spending like that on children, poor people, Meals on Wheels. Just name it, that is what he wanted to cut.

The Democrats were able to stave that off, but frankly in staving that off, I think we have a package that is, for the American public a lousy package, too. We did not have to have excise taxes. We did not have to have raises in gasolines taxes. All we had to do was cut the defense budget a little bit more to accommodate what is a new world reality, but no, the President did not want that. The gentleman is right, he did not have the horses. Nobody wanted to pull his wagon.

INTRODUCTION OF PETROLEUM PRODUCERS BURDENSHARING ACT OF 1990

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

Mr. CONTE. Mr. Speaker, our economy is bleeding and the big oil sharks have gone on a feeding frenzy. Listen to what the Department of Energy says about how high oil prices affect our country.

DOE tells us that an oil price hike to just $30 per barrel $6 less than the current price means a 1.1-percent loss in GNP, a 0.5-percent increase in unemployment, and a total economic loss of approximately $94 billion.

Sound bad? It is, 1.1 percent of our GNP is approximately $50 billion. And a 0.5-percent increase in unemployment means the loss of about half a million jobs.

Big oil's making a killing at the expense of the American people. We know about the price hikes at the pump. We know that heating oil's up over a dollar a gallon. But like the DOE says, it's not only the consumers who are getting skinned. It is the whole economy.

Mr. Speaker, even the oil companies admit these hikes have nothing to do with a shortage—the chairman of British Petroleum himself said last week that supply and demand do not justify them.

And if we tell the oil companies that price gouging won't get them anywhere—if we levy a windfall profit tax—maybe we can rescue our economy before more damage is done. Cosponsor the Petroleum Producers Burden Sharing Act of 1990.

THANK GOODNESS DEMOCRATS CONTROL CONGRESS

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

Mrs. BOXER. Mr. Speaker, the President was lamenting last night that he did not "have the horses" in Congress to get everything he wanted in the budget summit agreement.

What did the President want in this agreement? We all know it is not working papers, even deeper Medicare cuts to the elderly, cuts in Social Security, cuts in child support enforcement, cuts in foster care, cuts in the School Lunch Program. And all the while, the President was participating in the

World Summit for Children, saying "The noblest thing we can do is give our children a bright future." And then at midnight on Saturday, when $1 billion was needed, the President's horses were fighting for lower taxes on yachts and furs. They succeeded in getting luxury airplanes out of the luxury tax.

But the cruelest of all, and thank God he did not have the horses to do this, the President's men proposed $1 billion of cuts from the poorest, most vulnerable in this Nation, children with crippling disabilities. These children had been protected in the Supreme Court case, the Zebley case. The President's horses wanted to overturn that case.

So Mr. President, your horses are crueler horses, and I, for one, am glad that you did not have more of them. I, for one, am glad that this Congress is controlled by the Democrats.

PARLIAMENTARY INQUIRY

Mr. WALKER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman will state his parliamentary inquiry.

Mr. WALKER. Is it not the policy of the House that the Members are to address the Chair, and not persons outside of the body, including the President of the United States?

The SPEAKER pro tempore. The gentleman is correct.

Mr. WALKER. And further parliamentary inquiry, Mr. Speaker, is it not true that several Members have been reminded of that rather consistently, and seem to disobey it regularly on the House floor?

The SPEAKER pro tempore. The Chair has not been here during the 1 minutes for several weeks.

Mr. WALKER. I thank the Chair, but the caution of the Chair—further parliamentary inquiry. If the caution of the Chair is not obeyed by Members, is there any action that the Chair can take?

The SPEAKER pro tempore. The Chair will make that decision if this would happen again, and the gentleman would call it to the Chair's attention.

Mr. WALKER. I thank the Chair.

PORK ON THE PLATE AT SUMMIT

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

Mr. THOMAS of California. Mr. Speaker, the Washington Post tells us, "Prime rib was on the menu at the summit, but it is clear that pork was on the plate."

□ 1030

While congressional leaders were "crafting plans to save America" they could not resist wetting their fingers to pick up crumbs off the tablecloth.

Reading some of the tax portions of the summit agreement tells you more about where those congressional leaders were from than it does about the needs of America.

For example, why is a $31,000 car a luxury, but a $90,000 yacht is not?

And why is a $31,000 car a luxury, a $101,000 yacht a luxury, but an airplane at any price is not a luxury?

Summiteers, if you want a majority of the House to vote for this package, you have two choices: Put our pork in, or take yours out.

LEADERSHIP AT LONG LAST THAT DIDN'T LAST LONG

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

Mr. TORRICELLI. Mr. Speaker, when the President stood with the congresssional leadership announcing a budget summit agreement, he was fulfilling one of the promises of his Presidency. He was at long last giving fiscal leadership to America, but it did not last long. Within hours he was speculating about how it would have been different if he had had his way, his own plan for solving our fiscal mess.

What was his plan? Devastating deep cuts in Medicare, postponing Social Security COLA's, reducing school lunches for children and housing programs for the elderly.

Yes, Mr. Speaker, the President did not have his way with the budget, and because of that, senior citizens, students, and the vulnerable were saved ravaging cuts, cuts which I see are bringing laughter to Republican Members of this House, but none to Democrats.

There is still time. If the President is going to lead us out of this fiscal difficulty, he has to start being President again and stop being just the leader of the Republican Party.

ADMINISTRATION'S PAYOFF TO TURKEY, 20,000 LOST U.S. TEXTILE AND APPAREL JOBS

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

Mr. BALLENGER. Mr. Speaker, The Bush administration is considering giving in to Turkey's request and doubling Turkey's textile and apparel quotas into the United States market. This payoff was requested by the Turkish President yesterday and would increase Turkey's guaranteed access to the United States textile and apparel market to over 400 million square yards.

By doubling Turkey's share, the administration would trade away the jobs of 20,000 United States textile and apparel workers—the number of workers required to produce 200 million square yards of textile products.

The tragic irony of the situation is that under the Textile, Apparel, and Footwear Trade Act of 1990 legislation which President Bush intends to veto, Turkey's demands could have been met without costing any United States jobs. Under the bill, the administration can allocate textile and apparel quotas in any way it chooses—rewarding friends, taking away from others; transferring unused quotas.

Unfortunately, President Bush apparently prefers to take jobs and production from U.S. workers to reward or pay for favors of other governments.

TIME TO FISH OR CUT BAIT ON THE BUDGET

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

Mr. TALLON. Mr. Speaker, this budget package is a bitter pill to swallow for us all, but it is time to fish or cut bait.

There are only two games in town right now to take care of our fiscal woes—automatic across the board cuts or the bipartisan budget package.

Out of the choices available, the negotiated budget package is the one that offers managed controlled deficit reduction alternatives versus the dramatic automatic cuts that could wreak financial pandemonium on our already soft economy.

Virtually every American is going to feel some effect of the widespread deficit reduction attempts in the form of revenue increases and spending cuts.

This package offers a number of mandates that I do not like; however, reality demands that we do something and do something now.

There is no denying that we are at a fiscal crisis point—we can either manage the crisis or let it manage us.

BUDGET HAS NO REAL DEFICIT REDUCTION

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

Mr. HENRY. Mr. Speaker, when the negotiators met yesterday they ate prime rib and they doled out pork for their own districts. They gave beans to the rest of the American people, but with the beans came gas.

Now, you read the headlines and it says, "Deficit reduction accord

reached," but there is no deficit reduction. Taxes go up. Spending goes up. The deficit goes up.

In fact, the capital cost of the deficit for this 1 fiscal year alone will exceed the S&L bailout capital cost four times.

Now, the American people are just beginning to understand what S&L bailout cost is going to do to them. This accord in 1 year is four times the cost of the capital cost we put into the S&L thus far.

Let us remember that there was not one vote for the phony numbers in the original Presidential budget sent over here in the spring.

Then let us also remember this House went ahead and passed budget bills without a budget resolution.

Now, if we are going to deal with this crisis, we have to address the phoniness of the process, and this accord presumes gasoline at the pump selling for less than $1 a gallon. I will vote yes on this accord when I see gasoline at less than $1 a gallon at the pump.

BALANCE THE BUDGET WITHOUT TAXING MOM AND DAD TO DEATH

(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, defense spending doubled the national debt and the deficit doubled. It is as simple as that. Let us not make brain surgery out of this.

Everybody is saying we have a better defense. I want to just caution you about a GAO report that says that $12 billion spent on the Apache antitank helicopters was worthless because they cannot fly for more than 2½ hours in peacetime, no less. Their rotors were supposed to last 1,600 hours, but they only last and turn about 140.

Now, figure this out. We got generals giving away battle secrets. We got missiles that cannot fly straight. We have helicopters, an Apache helicopter that Geronimo literally would not be caught dead in.

Let us cut the defense budget down to $250 billion.

Let us cut NATO spending and quit paying for the protection of Japan and Germany and let us balance the budget without taxing mom and dad.

What the hell is wrong with Congress?

CRUELEST PORTION OF SUMMIT PROPOSAL IS HIT ON SOCIAL SECURITY RECIPIENTS

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

Mr. RAVENEL. Mr. Speaker, the cruelest portion of the summit proposal is the $60 billion hit it makes upon Social Security recipients by raising Medicare premiums and deductibles. Tragically, Social Security is all that millions of Americans have to exist on. As these folks age, their health bills escalate. If this reduction of their incomes is approved by this Congress, tens of thousands of our citizens will be destitute and fall below the poverty line losing their dignity and independence. Why have the committees of this House abandoned their constitutional responsibility to recommend income and outgo for the consideration of our whole membership? Something has gone terribly wrong here and we, us, this House, needs to get it straight and quick.

OVERRIDE VETO OF TEXTILE BILL

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

Mrs. PATTERSON. Mr. Speaker, one day last week I took my 13-year-old daughter shopping. She bought several items. The most expensive item she bought was a simple cotton shirt. It was the only item I allowed her to buy that was not made in the U.S.A. It was made in China, China where human rights abuses are rampant and where wages are slave wages.

At the same time, a shirt factory in my district is closed, a factory where shirts were made of better quality and sold for a cheaper price. Those people cannot buy the clothes that I bought for my children because they are out of work.

Now, we hear from retailers, "Oh, but we need to have imports." Let me tell you, last week alone in my district 300 textile and apparel people lost jobs. I know of no retail business in my district that employs 300 people.

So I say to our President, please do not veto our bill. Think about the American worker and the American consumer.

If the President does veto the bill, I urge my colleagues, vote for the American worker and for the American consumer. Vote to override the textile veto.

□ 1040

LET US STOP POLITICS AS USUAL

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

Mr. SMITH of Vermont. Mr. Speaker, according to today's Burlington Free Press, the budget agreement is neither very brave nor very wise, but compared to the ideas of its instant congressional critics the agreement seems to be the bravest and wisest proposal going.

Said one Democratic Senator worried about reelection, "I may have to vote against it and hope it passes." Voters must refuse to countenance such hypocrisy, that is what they say.

There are parts of this budget summit agreement that I do not like, but the failure to pass it would be far worse for America. We must choose between devastating budget cuts and economic decline on the one hand and economic stability, jobs, and deficit reduction on the other. It is a fundamental test of whether the system works, whether this time we can bridge the widening gap between politics and usual and governing this country. The budget deficit is spinning out of control, and our failure to solve it risks a depression. Skyrocketing interest rates, economic decline, massive unemployment, those are the costs of politics as usual this time.

How can we ask our American men and women to protect the world's security in the Middle East if we are not willing to protect America's security here in Congress? That, Mr. Speaker, is what is at stake.

OMNIOUS TALK OF LINKAGE AT U.N. GENERAL ASSEMBLY DOES NOTHING MORE THAN ENCOURAGE VIOLENCE

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

Mrs. LOWEY of New York. Mr. Speaker, recent references at the United Nations to a possible connection between an Iraqi pullout from Kuwait and settlement of the differences between Palestinians and Israel send the wrong message to international renegades like Saddam Hussein. Any implication of linkage at all between outrageous acts like the invasion of Kuwait and the resolution of other disputes will only encourage further acts of horror and terror.

French President Mitterand last week spoke of connections between the Kuwaiti occupation and the West Bank. Yesterday, President Bush made veiled references to opportunities, with specific reference to the conflict "that divides Arabs and Israel." Administration officials deny that implies any linkage. But I call on the President today to reiterate the unambiguous terms what has heretofore been U.S. policy: there is not and never will be any linkage between ending the Iraqi's illegal occupation of Kuwait and settlement of other differences in the region.

BUDGET CONTAINS SECOND LARGEST TAX INCREASE IN AMERICAN HISTORY

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

Mr. ROHRABACHER. Mr. Speaker, this House will soon consider a budget package whose primary distinction is that it contains the second largest tax increase in American history. As our economy teeters on the brink of recession, Government by committee has come up with the bright idea of massively increasing taxes. Mr. Speaker, a patient cannot be bled back to health; our economy cannot be taxed into expansion. Too much bleeding can kill the patient; too high a tax load will kill the economic vitality of this country.

This compromise is a roadmap to recession; it should be opposed vigorously.

We hear a chorus of big spenders singing the tune that our high level of deficit spending can be traced back to the Reagan tax cuts of the last decade. Some of us remember the economic decline, the high interest rates, the inflation, the malaise and stagflation of the days when tax policy was determined by liberal big spenders.

Mr. Speaker, they have been chipping away at the Reagan policy and, as they have, economic strength has been bled from our private sector.

If we had the same level of economic growth as we did under the Reagan policy in 1985, our deficit spending problem would be under control. Let us go to growth-oriented policies instead of high taxes for the American people.

AMERICAN TROOPS IN THE PERSIAN GULF SUBJECT TO NEW FORM OF CHEMICAL WARFARE

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

Mr. DURBIN. Mr. Speaker, American troops in the Persian Gulf could be subjected to a new form of chemical warfare with the full approval of the U.S. Department of Defense.

Brown & Williamson of Louisville, KY, recently announced it was shipping free cigarettes to the U.S. troops in the Middle East to show their company's support and patriotism.

So, American servicemen, bored silly in the desert, will be invited to pass the time developing a nicotine addiction. Then they can return home like their fathers and grandfathers who served in World War II, hooked on smoking. What a magnificent show of patriotism by Brown & Williamson, to addict America's young men and women in uniform to a product which causes emphysema, lung cancer, heart disease, and stroke. What a stirring love of country for Brown & Williamson, to introduce our troops to a deadly habit which claims 1,000 American lives from tobacco-related diseases.

If Brown & Williamson really wants to help America's cause overseas, why don't they send their lethal products to the Iraqi army?

MEDICARE CUTS IN BUDGET PACKAGE

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

Mr. JAMES. Mr. Speaker, the budget package that has been handed to Congress is a horrible one that places the majority of deficit reduction on the backs of those who can least afford to pay for it. It is true we must all make sacrifices, but the American people will only agree to a budget deal that is sensible and fair. This package is neither.

I am especially upset over the proposal to cut Medicare. Here we are proposing to cut benefits and raise premiums in order to balance the budget. Raising taxes on seniors and cutting their benefits at the same time is wrong. The senior citizens of this country are already paying too much, and they are already burdened with incredible costs. We should not be placing a higher burden on their backs but instead should be looking forward to ways to solve the problems that already exist.

Additionally, this bill is geographically biased.

In Florida, the State that I am from, it is very dependent upon gasoline; there is a tax. In Florida, the State that I am from, there is a very heavy population of veterans. There is a $2.7 billion cut there. In addition, of course, we have 2.5 million people, 5 times the population of the State of Wyoming, who receive Medicare benefits. So it is geographically biased and it is an excessive burden on my State as it is on many of the States.

LET US OVERRIDE THE PRESIDENT'S VETO ON THE TEXTILE BILL

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

Mrs. LLOYD. Mr. Speaker, in all probability the House will be asked to reconsider the textile bill this week as the President is likely to veto the bill.

I ask my colleagues to seriously consider the devastating plight of the textile industry.

Ninety-one American textile apparel plants have closed in just 9 months. This decline in the textile business this year has made its impact on community after community in this Nation.

So far, there have been 47 textile plants shut forever, 45 apparel plants shut down forever.

The total of persons involved in these closings alone amounted to 16,000 workers.

With busines conditions as poor as they are, it is unlikely that these people will ever be reemployed in their former jobs.

There may well be more than the numbers that are actually reported because there are so many mom-and-pop operations that merely disappear.

Then these plant closings have such a devastating impact on community after community. The alternatives to unemployment are almost nonexistent. Their groceries have to be paid, their doctors have to be paid, and on and on.

So far this year, over 70,000 textile apparel workers have been laid off. Most of them are probably permanent. In fact, over the past 5 or 6 years, we can count 300 textile plants alone that have disappeared from production. It is a loss not only to these communities but to our Nation as a whole. It increases our trade deficit and reduces our gross national product; therefore, it is a loss and has an impact on the lives of all Americans.

I ask my colleagues to override the veto.

□ 1050

THE 2-CENT TAX ON HEATING OIL SHOULD BE WHITED OUT, TOO

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

Mrs. KENNELLY. Mr. Speaker, these are difficult days for all of us. We are trying to balance representing the good of the Nation with representing and looking out for our home districts.

To add a third element to this, we must now try to understand why one individual would look to zap one particular part of the country. This is something beyond the bounds of what we should be involved in here.

Mr. Speaker, we cannot allow the 2-cent tax on home heating oil to stand as part of the deal. My understanding is that the exemption was whited out at the request of one individual in the other body.

We in New England do not just arbitrarily choose whether or not we heat our homes. If we do not turn on the heat, the pipes freeze. We just cannot say to the elderly, "Put on a sweater, and tough it out."

We in New England are facing the possibility of tripling our home heat-

ing bills. We are fighting to have low-income assistance for home heating oil increased, not decreased.

So, Mr. Speaker, I stand here today saying, "If one can defend petrochemicals being exempted from that 2-cent tax, it's beyond my understanding why we can't go back to the original piece of paper that said the 2-cent tax on heating oil is not part of the deal." I will stand here and say, "That only makes good sense, Mr. Speaker."

REPORT ON H.R. 5769, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, 1991

Mr. YATES, from the Committee on Appropriations, submitted a privileged report (Rept. No. 101-789) on the bill (H.R. 5769) making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1991. The bill provides regular annual appropriations for the Department of the Interior (except the Bureau of Reclamation) and for other related agencies, including the Forest Service, the Department of Energy, the Smithsonian Institute, and the National Foundation on the Arts and the Humanities which was referred to the Union Calendar and ordered to be printed.

Mr. CONTE reserved all points of order on the bill.

THE BATTLEGROUND FOR 1992

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

Mr. LEVIN of Michgan. Mr. Speaker, make no mistake. Reflecting who controls the White House, the budget summit agreement is more Republican than Democratic. Just look at who pays for the economic mess created by the 10 years of supply-side economics. Seniors face higher medical bills. Workers would pay more for gas, beer, and cigarettes. And the unemployed will wait longer for their checks.

However, Mr. Speaker, the wealthy will hardly feel the pain. What else should we expect from an administration that came to office on the pledge of no new taxes, for the very wealthy, as it turns out. John Sununu was an architect of that pledge and now claims the President has kept his promise. Basic tax rates for the wealthy are sacred, while taxes on middle class people will be higher.

This may well be the best deal that could be achieved under the circumstances. The budget deficit imperils this Nation, and this country must act now.

But this agreement cannot obscure the deep differences between Republicans and Democrats. The rhetoric of Republicans has been economic growth; their policies have meant economic decline.

There will be another day. Our differences will be the battleground for 1992.

GUNS FOR HIRE

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

Mr. HARRIS. Mr. Speaker, the Japanese say that influence in Washington is for sale. The Japanese should know for sure, they have brought a lot in both places. The British think America has the most advanced influence-peddling industry in the world. Washington's culture of influence-for-hire is uniquely open to all buyers, foreign and domestic. Its lawful ways of corrupting public policy remain unrivaled. The Dutch, experienced internationalists for centuries, believe that a big part of the problem is that Americans can be bought so easily. We don't even pretend to be troubled by it all. For Americans, it is becoming more obvious that the real scandal in Washington is not what is done illegally, but what is done legally. Where else do top government officials become other nations' top lobbyists? What other nations have foreign-funded think tanks that determine these nation's long-term role in the world economy? What other nation tolerates so much foreign interference in its domestic affairs? As we get ready to vote on the veto override, perhaps we should ask how many of the thousands of foreign agents in Washington are lined up for and how many are lined up against the Textile, Apparel and Footwear Trade Act of 1990? Whose interests are your allies paid to represent? Override this veto.

THE CLEAN AIR BILL IS OUT OF WHACK WITH REALITY

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

Mr. APPLEGATE. Mr. Speaker, a recent article in the Washington Post says that scientists have gathered preliminary evidence that sulfur dioxide, which is the major component part of acid rain, may be, in fact, helping to reduce global warming.

I ask my colleagues, "You hear that; reducing global warming"?

Perhaps, Mr. Speaker, this is only preliminary. The point is that we do not have all of the facts at our finger tips to pass a clean air bill.

The NAPAP study, which cost the taxpayers $600 million, also supports this by saying, "There is no environmental crisis."

Let us take a look at it. I think that Congress is rushing to judgment far too quickly, costing American businesses and residences $50 billion a year, and wait until we start getting our utility bills. Each week more truth and fact comes forth to support this.

Mr. Speaker, the conference committee is in complete disarray. They do not understand how to be able to deal with a bill that is completely out of whack with reality.

CIVIL RIGHTS ACT OF 1990 SHOULD BECOME LAW

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

Mr. MAZZOLI. Mr. Speaker, either today, or very soon, the House and the other body will come to grips with the conference report on the Civil Rights Act of 1990. I rise in support of that conference report. I urge my colleagues in the House to support it, and I hope the Members of the other body will as well.

Everyone agrees that something has to be done with respect to the Supreme Court decisions of recent years which have wittingly, or unwittingly, weakened the Civil Rights Act of 1964's protection of people who are minorities, and people who because of gender, or age or disability are discriminated against. The difference between us is how to do it.

And, I believe that the question about quotas was resolved in this Chamber when we debated the bill, and the conference generally went along with the House provision. The question about punitive damages was disposed of in this Chamber and was followed by the conference.

Mr. Speaker, I would just hope that the President would be able to sign this bill into law. He may have some reservations about the bill, and they, I am sure, are good-faith reservations. But, I believe the bill ought to be passed, and I hope that the President will sign it into law.

CONGRESS SHOULD STAY IN SESSION UNTIL A BUDGET AGREEMENT PASSES

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

Mr. MARLENEE. Mr. Speaker, double tax, double talk. Budget agreement; where is it?

Let us not kid the American people. At this time there are not enough votes in this Capitol to pass a budget agreement. Let us be truthful with them. Nobody likes it.

Why would I vote for a budget that would directly fuel inflation with a gas tax? Why would I vote for a budget resolution that would raise interest rates? No deal for me on double tax, double talk.

The people of the United States of America should demand that Congress stay right here in this House of Representatives and in the other body, stay right here until we have a budget that cuts spending and brings revenue streams from utilization of our oil and gas resources, and ANWR, offshore and Rocky Mountain front until we have that budget agreement reached right here.

Join the revolution. Stay in session until the election, if necessary, to pass the budget.

AMERICAN CONSUMERS MUST NOT BE PENALIZED BY PROTECTIONIST LEGISLATION

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

Mr. DREIER of California. Mr. Speaker, it is true the President of the United States is going to be vetoing the textile bill. Not a great surprise to anyone around here, but it is very important that we sustain that veto.

We are in the midst of a real battle on this budget question, and who knows exactly what kind of cost the American consumer is going to be saddled with when it relates to the final budget package.

Mr. Speaker, if we include with that an incredible tax which says to them that they cannot buy the best quality product at the lowest possible price without our imposing a penalty on them, I think it would be a real mistake.

I hope very much, Mr. Speaker, that all of our colleagues join in lockstep supporting strongly President Bush as he works to ensure that the American consumer is not penalized by protectionist legislation.

UPDATE ON ANGOLA

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

Mr. McEWEN. Mr. Speaker, in 1975, after the Portuguese had abandoned Angola, the freedom forces were moving to take control under an agreement established under a tripartite arrangement, and yet the Soviets began backing the MPLA to have a Communist regime in which there would be no election, and there would be no democracy. Right when the freedom forces were in sight of the Angolan capital, Luanda, the United States Congress, late in 1975, withdrew support and then voted in the United Nations to have no one else support the freedom forces, and that country has been cast into Communist oblivion for these remaining years.

□ 1100

However, these freedom forces have kept the torch of democracy alive, and they are now moving again, and it looks as though they are about to succeed in establishing a democracy just within a matter of months.

So again we will see an effort on the floor of Congress within the next 10 to 12 days to cut off any aid to those freedom forces.

Now, the Soviet-backed forces have a 15-year supply. They have an air hose from the Soviet Union, and they have as well the petrodollars with which they can purchase arms on the international market. Only those who stand for democracy are aiding UNITA.

Mr. Speaker, there will be an effort on the floor of the House to deny that aid moments before we leave for Christmas. I hope our colleagues are aware—that they understand what is at stake, and that one of the bastions of communism will fall to freedom and democracy.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken at the end of the legislative business day.

NATIONAL NUTRITION MONITORING AND RELATED RESEARCH ACT OF 1990

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1608) to strengthen national nutrition monitoring by requiring the Secretary of Agriculture and the Secretary of Health and Human Services to prepare and implement a 10-year plan to assess the dietary and nutritional status of the U.S. population, to support research on, and development of, nutrition monitoring, to foster national nutrition education, to establish dietary guidelines, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1608

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 "National Nutrition Monitoring and Related Research Act of 1990".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) make more effective use of Federal and State expenditures for nutrition monitoring, and enhance the performance and benefits of current Federal nutrition monitoring and related research activities;

(2) establish and facilitate the timely implementation of a coordinated National Nutrition Monitoring and Related Research Program, and thereby provide a scientific basis for the maintenance and improvement of the nutritional status of the people of the United States and the nutritional quality (including, but not limited to, nutritive and nonnutritive content) of food consumed in the United States;

(3) establish and implement a comprehensive plan for the National Nutrition Monitoring and Related Research Program to assess, on a continuing basis, the dietary and nutritional status of the people of the United States and the trends with respect to such status, the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and the relevant policy implications;

(4) establish and improve the quality of national nutritional and health status data and related data bases and networks, and stimulate research necessary to develop uniform indictors, standards, methodologies, technologies, and procedures for nutrition monitoring;

(5) establish a central Federal focus for the coordination, management, and direction of Federal nutrition monitoring activities;

(6) establish mechanisms for addressing the nutrition monitoring needs of Federal, State, and local governments, the private sector, scientific and engineering communities, health care professionals, and the public in support of the foregoing purposes; and

(7) provide for the conduct of such scientific research and development as may be necessary or appropriate in support of such purposes.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "comprehensive plan" means the comprehensive plan prepared under section 103;

(2) the term "coordinated program" means the National Nutrition Monitoring and Related Research Program established by section 101(a);

(3) the terms "Interagency Board for Nutrition Monitoring and Related Research" and "Board" mean the Federal coordinating body established by section 101(c);

(4) the term "Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System" means the plan of that title dated August 18, 1981 and submitted by the Department of Agriculture and the Department of Health and Human Services under section 1428 of the Food and Agriculture Act of 1977 (7 U.S.C. 3178);

(5) the term "local government" means a local general unit of government or local educational unit;

(6) the terms "National Nutrition Monitoring Advisory Council" and "Council" means the advisory body established under section 201;

(7) the term "nutrition monitoring and related research" means the set of activities necessary to provide timely information about the role and status of factors that bear on the contribution that nutrition makes to the health of the people of the United States, including—

(A) dietary, nutritional, and health status measurements;

(B) food consumption measurements;

(C) food composition measurements and nutrient data banks;

(D) dietary knowledge and attitude measurements; and

(E) food supply and demand determinations;

(8) the term "nutritional quality" means—

(A) the appropriate levels of individual nutrients in the diet;

(B) the appropriate levels between nutrients in the diet;

(C) the bioavailability of nutrients such as absorption, digestion, and utilization; and

(D) the nutritional importance of non-nutrient substances such as fiber, phytate, and such substances that are naturally found in the food supply; and

(9) the term "Secretaries" means the Secretary of Agriculture and the Secretary of Health and Human Services, acting jointly.

TITLE I—NUTRITION MONITORING AND RELATED RESEARCH

SEC. 101. ESTABLISHMENT OF THE COORDINATED PROGRAM.

(a) IN GENERAL.—There is established a ten-year coordinated program, to be known as the National Nutrition Monitoring and Related Research Program, to carry out the purposes of this Act.

(b) IMPLEMENTATION RESPONSIBILITY.—The Secretaries shall be responsible for the implementation of the coordinated program.

(c) ESTABLISHMENT OF BOARD.—To assist in implementing the coordinated program, there is established an Interagency Board for Nutrition Monitoring and Related Research, of which an Assistant Secretary in the Department of Agriculture (designated by the Secretary of Agriculture) and an Assistant Secretary in the Department of Health and Human Services (designated by the Secretary of Health and Human Services) shall be joint chairpersons. The remaining membership of the Board shall consist of additional representatives of Federal agencies, as determined appropriate by the joint chairpersons of the Board. The Board shall meet no less often than once every three months for the two-year period following the date of the enactment of this Act, and when appropriate thereafter.

(d) ADMINISTRATOR.—To establish a central focus and coordinator for the coordinated program, the Secretaries may appoint an Administrator of Nutrition Monitoring and Related Research. The Administrator shall—

(1) be an individual who is eminent in the field of nutrition monitoring and related areas and be selected on the basis of the established record of expertise and distinguished service of such individual; and

(2) administer the coordinated program with the advice and counsel of the joint chairpersons of the Board, serve as the focal point for the coordinated program, and serve as the Executive Secretary for the National Nutrition Monitoring Advisory Council.

SEC. 102. FUNCTIONS OF THE SECRETARIES.

(a) IN GENERAL.—The Secretaries, with advice of the Board, shall—

(1) establish the goals of the coordinated program, identify the activities required to meet such goals and identify the responsible agencies with respect to the coordinated program;

(2) update the Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System, and integrate it into the coordinated program;

(3) ensure the timely implementation of the coordinated program and the comprehensive plan prepared under section 103;

(4) include in the coordinated program and the comprehensive plan a competitive grants program, to be implemented to the extent funds are available, in accordance with the provisions of this Act to encourage and assist the conduct, by Federal entities, and by non-Federal entities on an appropriate matching funds basis, of research (including research described in section 103(a)(3)) that will accelerate the development of uniform and cost-effective standards and indicators for the assessment and monitoring of nutritional and dietary status and for relating food consumption patterns to nutritional and health status;

(5) include in the coordinated program and the comprehensive plan a grants program, in accordance with the provisions of this Act, to encourage and assist State and local governments in developing the capacity to conduct monitoring and surveillance of nutritional status, food consumption, and nutrition knowledge and in using such capacity to enhance nutrition services (including activities described in section 103(a)(5) and 103(b)(9));

(6) include in the coordinated program each fiscal year an annual interagency budget for each fiscal year of the program;

(7) foster productive interaction, with respect to nutrition monitoring and related research, among Federal efforts, State and local governments, the private sector, scientific communities, health professionals, and the public;

(8)(A) contract with a scientific body, such as the National Academy of Sciences or the Federation of American Societies for Expermental Biology, to interpret available data analyses, and publish every two years, or more frequently if appropriate, except as provided in subparagraph (B), a report on the dietary, nutritional, and health-related status of the people of the United States and the nutritional quality (including the nutritive and nonnutritive content) of food consumed in the United States; or

(B) if the Secretaries determine that suffiicent data analyses are not available to warrant interpretation of such data analyses, inform Congress of such fact at the time a report required in subparagraph (A) would have been published, and publish such a report a least once every five years; and

(9)(A) foster cost recovery management techniques in the coordinated program; and

(B) impose appropriate charges and fees for publications of the coordinated program, including print and electronic forms of data and analysis, and use the proceeds of such charges and fees for purposes of the coordinated program (except that no such charge or fee imposed on an educational or other nonprofit organization shall exceed the actual costs incurred by the coordinated program in providing the publications involved).

(b) BIENNIAL REPORT.—The Secretaries shall submit to the President for transmittal to Congress by January 15 of each alternate year, beginning with January 15 following the date of the enactment of this Act, a biennial report that shall—

(1) evaluate the progress of the coordinated program;

(2) summarize the results of such coordinated program components as are developed under section 103;

(3) describe and evaluate any policy implications of the analytical findings in the scientific reports required under subsection (a)(8), and future priorities for nutrition monitoring and related research;

(4) include in full the annual reports of the Council provided for in section 202; and

(5) include an executive summary of the report most recently published by the scientific body, as provided for in subsection (a)(8).

SEC. 103. DEVELOPMENT OF THE COMPREHENSIVE PLAN FOR THE NATIONAL NUTRITION MONITORING AND RELATED RESEARCH PROGRAM.

(a) COMPREHENSIVE PLAN.—The Secretaries, with the advice of the Board, shall prepare and implement a comprehensive plan for the coordinated program which shall be designed to—

(1) assess, collate data with respect to, analyze, and report, on a continuous basis, the dietary and nutritional status of the people of the United States, and the trends with respect to such status (dealing with such status and trends separately in the case of preschool and school-age children, pregnant and lactating women, elderly individuals, low income populations, blacks, Hispanics, and other groups, at the discretion of the Secretaries), the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and relevant policy implications of findings with respect to such status, trends, and research;

(2) sample representative subsets of identifiable low income populations (such as Native Americans, Hispanics, or the homeless), and assess, analyze, and report, on a continuous basis, for a representative sample of the low income population, food and household expenditures, participation in food assistance programs, and periods experienced when nutrition benefits are not sufficient to provide an adequate diet;

(3) sponsor or conduct research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for conducting and reporting nutrition monitoring and surveillance;

(4) develop and keep updated a national dietary and nutritional status data bank, a nutrient data bank, and other data resources as required;

(5) assist State and local government agencies in developing procedures and networks for nutrition monitoring and surveillance; and

(6) focus the nutrition monitoring activities of Federal agencies.

(b) COMPONENTS OF PLAN.—The comprehensive plan, at a minimum, shall include components to—

(1) maintain and coordinate the National Health and Nutrition Examination Survey (NHANES) and the Nationwide Food Consumption Survey (NFCS);

(2) provide, by 1991, for the continuous collection, processing, and analysis of nutritional and dietary status data through stratified probability samples of the people of the United States designed to permit statisically reliable estimates of high-risk groups and geographic area, and to permit accelerated data analysis (including annual analysis, as appropriate);

(3) maintain and enhance other Federal nutrition monitoring efforts such as the Centers for Disease Control Nutrition Surveillance Program and the Food and Drug Administration Total Diet Study, and, to the extent possible, coordinate such efforts with the surveys described in paragraphs (1) and (2);

(4) incorporate, in survey design, military and (where appropriate) institutionalized populations;

(5) complete the analysis and interpretation of the data sets from the surveys described in paragraph (1) collected prior to 1984 within the first year of the comprehensive plan;

(6) improve the methodologies and technologies, including those suitable for use by States and localities, available for the assessment of nutritional and dietary status and trends;

(7) develop uniform standards and indicators for the assessment and monitoring of nutritional and dietary status, for relating food consumption patterns to nutritional and health status, and for use in the evaluation of Federal food and nutrition intervention programs;

(8) establish national baseline data and procedures for nutrition monitoring;

(9) provide scientific and technical assistance, training, and consultation to State and local governments for the purpose of—

(A) obtaining dietary and nutrition status data;

(B) developing related data bases; and

(C) promoting the development of regional, State, and local data collection services to become an integral component of a national nutritional status network;

(10) establish mechanisms to identify the needs of users of nutrition monitoring data and to encourage the private sector and the academic community to participate in the development and implementation of the comprehensive plan and contribute relevant data from non-Federal sources to promote the development of a national nutritional status network;

(11) compile an inventory of Federal, State, and nongovernment activities related to nutrition monitoring and related research;

(12) focus on national nutrition monitoring needs while building on the responsibilities and expertise of the individual membership of the Board;

(13) administer the coordinated program, define program objectives, priorities, oversight, responsibilities, and resources, and define the organization and management of the Board and the Council; and

(14) provide a mechanism for periodically evaluating and refining the coordinated program and the comprehensive plan that facilitates cooperation and interaction by State and local governments, the private sector, scientific communities, and health care professionals, and that facilitates coordination with non-Federal activities.

(c) ADDITIONAL REQUIREMENTS OF PLAN.—The comprehensive plan shall—

(1) allocate all of the projected functions and activities under the coordinated program among the various Federal agencies and offices that will be involved;

(2) contain an affirmative statement and description of the functions to be performed and activities to be undertaken by each of such agencies and offices in carrying out the coordinated program; and

(3) constitute the basis on which each agency participating in the coordinated program requests authorization and appropriation for nutrition monitoring and related research during the ten-year period of the program.

(d) PUBLICATION OF PLAN.—

(1) PROPOSED PLAN.—Within 12 months after the date of enactment of this Act, the Secretaries shall publish in the Federal Register a proposed comprehensive plan for public review for a comment period of no less than sixty days.

(2) FINAL PLAN.—Within sixty days after the comment period under paragraph (1) expires, and after considering any comments received, the Secretaries shall submit to the President, for submission to the Congress and for publication in the Federal Register, the final comprehensive plan.

(e) PROHIBITION ON CONSTRUING.—Nothing in this section may be construed as modifying, or as authorizing the Secretaries or the comprehensive plan to modify, any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) that specifies—

(1) the department or agency to which funds are appropriated; or

(2) the obligations of such department or agency with respect to the use of such funds.

SEC. 104. IMPLEMENTATION OF THE COMPREHENSIVE PLAN.

(a) IN GENERAL.—The comprehensive plan shall be carried out during the period ending with the close of the ninth fiscal year following the fiscal year in which the comprehensive plan is submitted in its final form under section 103(d)(2) and shall be—

(1) carried out in accordance with, and meet the program objectives specified in, section 103(a) and section 103(b);

(2) carried out, by the Federal agencies involved, in accordance with the allocation of functions and activities under section 103(c); and

(3) funded by appropriations made to such agencies for each fiscal year of the program.

(b) EXISTING LAW NOT AFFECTED.—Nothing in this title may be construed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

SEC. 105. SCIENTIFIC RESEARCH AND DEVELOPMENT IN SUPPORT OF THE COORDINATED PROGRAM AND COMPREHENSIVE PLAN.

The Secretaries shall coordinate the conduct of, and may contract with the National Science Foundation, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and other suitable Federal agencies for, such scientific research and development as may be necessary or appropriate in support of the coordinated program and the comprehensive plan and in furtherance of the purposes and objectives of this Act.

SEC. 106. ANNUAL BUDGET SUBMISSION

(a) ANNUAL REPORT.—The President, at the same time as the submission of the annual budget to the Congress, shall submit a report to the Committees on Agriculture and Science, Space, and Technology of the House of Representatives and to the Committees on Agriculture, Nutrition, and Forestry and Governmental Affairs of the Senate on expenditures required for carrying out the coordinated program and implementing the comprehensive plan. The report shall detail, for each of the agencies that are allocated responsibilities under the coordinated program—

(1) the amounts spent on the coordinated program during the fiscal year most recently ended;

(2) the amounts expected to be spent during the current fiscal year; and

(3) the amounts requested in the annual budget for the fiscal year for which the budget is being submitted.

(b) EXISTING AUTHORITY NOT AFFECTED.—Nothing in this title is intended to either—

(1) authorize the appropriation or require the expenditure of any funds in excess of the amount of funds that would be authorized or expended for the same purposes in the absence of the coordinated program; or

(2) limit the authority of any of the participating agencies to request and receive funds for such purposes (for use in the coordinated program) under other laws.

TITLE II—NATIONAL NUTRITION MONITORING ADVISORY COUNCIL

SEC. 201. STRUCTURE OF THE COUNCIL.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The President shall establish, within ninety days after the date of the enactment of this Act, a National Nutrition Monitoring Advisory Council. The Council shall assist in carrying out the purposes of this Act, provide scientific and technical advice on the development and implementation of the coordinated program and comprehensive plan, and serve in an advisory capacity of the Secretaries.

(2) MEMBERSHIP.—The Council shall consist of nine voting members, of whom—

(A) five members shall be appointed by the President based upon recommendations from the Secretaries; and

(B) four members shall be appointed by Congress, of whom—

(i) one shall be appointed by the Speaker of the House of Representatives;

(ii) one shall be appointed by the minority leader of the House of Representatives;

(iii) one shall be appointed by the President pro tempore of the Senate; and

(iv) one shall be appointed by the minority leader of the Senate.

(3) EX OFFICIO MEMBERS.—The Council also shall include the joint chairpersons of the Board as ex officio nonvoting members.

(b) SELECTION CRITERIA.—Each person appointed to the Council shall be selected solely on the basis of an established record of distinguished service and shall be eminent in one of the following fields:

(1) public health, including clinical dietetics, public health nutrition, epidemiology, clinical medicine, health education, or nutrition education;

(2) nutrition monitoring research, including nutrition monitoring and surveillance, food consumption patterns, nutritional anthropology, community nutrition research, nutritional biochemistry, food composition analysis, survey statistics, dietary-intake methodology, or nutrition status methodology; or

(3) food production and distribution, including agriculture, biotechnology, food technology, food engineering, economics, consumer psychology, or sociology, food-system management, or food assistance.

(c) PARTICULAR REPRESENTATION REQUIREMENT.—The Council membership, at all times, shall include at least two representatives from each of the three areas of specialization listed in subsection (b), and shall have representatives from various geographic areas, the private sector, academia, scientific and professional societies, agriculture, minority organizations, and public interest organizations and shall include a State or local government employee with a specialized interest in nutrition monitoring.

(d) CHAIRPERSON.—The Chairperson of the Council shall be elected from and by the Council membership. The term of office of

the Chairperson shall not exceed 5 years. If a vacancy occurs in the Chairpersonship, the Council shall elect a member to fill the vacancy.

(e) TERM OF OFFICE.—The term of office of each of the voting members of the council shall be 5 years, except that of the 5 members first appointed by the President, 2 shall be appointed for a term of 2 years, 2 for terms of 3 years, and one for a term of 4 years, as designated by the President at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of such member was appointed shall be appointed for the remainder of such term. No voting member shall be eligible to serve continuously for more than 2 consecutive terms.

(f) INITIAL APPOINTMENT.—The initial members of the Council shall be appointed or designated not later than ninety days of the date of the enactment of this Act.

(g) MEETINGS.—The Council shall meet on a regular basis at the call of the Chairperson, or on the written request of one-third of the members. A majority of the appointed members of the Council shall constitute a quorum.

(h) LIMITATION ON FEDERAL EMPLOYMENT.—Appointed members of the Council may not be employed by the Federal Government and shall be allowed travel expenses as authorized by section 5703 of title 5, United States Code.

(i) EXECUTIVE SECRETARY.—The Administrator of Nutrition Monitoring and Related Research (if appointed under section 101(d)) shall serve as the Executive Secretary of the Council.

(j) TERMINATION.—The Council shall terminate 10 years after the final comprehensive plan is prepared under section 103.

SEC. 202. FUNCTIONS OF THE COUNCIL.

The Council shall—

(1) provide scientific and technical advice on the development and implementation of all components of the coordinated program and the comprehensive plan;

(2) evaluate the scientific and technical quality of the comprehensive plan and the effectiveness of the coordinated program;

(3) recommend to the Secretaries, on an annual basis, means of enhancing the comprehensive plan and the coordinated program; and

(4) submit to the Secretaries annual reports that—

(A) shall contain the components specified in paragraphs (2) and (3); and

(B) shall be included in full in the biennial reports of the Secretaries to the President for transmittal to Congress under section 102(b).

TITLE III—DIETARY GUIDANCE

SEC. 301. ESTABLISHMENT OF DIETARY GUIDELINES.

(a) REPORT.—

(1) IN GENERAL.—At least every five years the Secretaries shall publish a report entitled "Dietary Guidelines for Americans". Each such report shall contain nutritional and dietary information and guidelines for the general public, and shall be promoted by each Federal agency in carrying out any Federal food, nutrition, or health program.

(2) BASIS OF GUIDELINES.—The information and guidelines contained in each report required under paragraph (1) shall be based on the preponderance of the scientific and medical knowledge which is current at the time the report is prepared.

(b) APPROVAL BY SECRETARIES.—

(1) REVIEW.—Any Federal agency that proposes to issue any dietary guidance for the general population or identified population subgroups shall submit the text of such guidance to the Secretaries for a sixty-day review period.

(2) BASIS OF REVIEW.—

(A) IN GENERAL.—During the sixty-day review period established in paragraph (1), the Secretaries shall review and approve or disapprove such guidance to assure that the guidance either is consistent with the "Dietary Guidelines for Americans" or that the guidance is based on medical or new scientific knowledge which is determined to be valid by the Secretaries. If after such sixty-day period neither Secretary notifies the proposing agency that such guidance has been disapproved, then such guidance may be issued by the agency. If both Secretaries disapprove of such guidance, it shall be returned to the agency. If either Secretary finds that such guidance is inconsistent with the "Dietary Guidelines for Americans" and so notifies the proposing agency, such agency shall follow the procedures set forth in this subsection before disseminating such proposal to the public in final form. If after such sixty-day period, either Secretary disapproves such guidance as inconsistent with the "Dietary Guidelines for Americans" the proposing agency shall—

(i) publish a notice in the Federal Register of the availability of the full text of the proposal and the preamble of such proposal which shall explain the basis and purpose of the proposed dietary guidance;

(ii) provide in such notice for a public comment period of thirty days; and

(iii) make available for public inspection and copying during normal business hours any comment received by the agency during such comment period.

(B) REVIEW OF COMMENTS.—After review of comments received during the comment period either Secretary may approve for dissemination by the proposing agency a final version of such dietary guidance along with an explanation of the basis and purpose for the final guidance which addresses significant and substantive comments as determined by the proposing agency.

(C) ANNOUNCEMENT.—Any such final dietary guidance to be disseminated under subparagraph (B) shall be announced in a public notice in the Federal Register, before public dissemination along with an address where copies may be obtained.

(D) NOTIFICATION OF DISAPPROVAL.—If after the thirty-day period for comment as provided under subparagraph (A)(ii), both Secretaries disapprove a proposed dietary guidance, the Secretaries shall notify the Federal agency submitting such guidance of such disapproval, and such guidance may not be issued, except as provided in subparagraph (E).

(E) REVIEW OF DISAPPROVAL.—If a proposed dietary guidance is disapproved by both Secretaries under subparagraph (D), the Federal agency proposing such guidance may, within fifteen days after receiving notification of such disapproval under subparagraph (D), request the Secretaries to review such disapproval. Within fifteen days after receiving a request for such a review, the Secretaries shall conduct such review. If, pursuant to such review, either Secretary approves such proposed dietary guidance, such guidance may be issued by the Federal agency.

(3) LIMITATION ON DEFINITION OF GUIDANCE.—For purposes of this subsection, the term "dietary guidance for the general population" does not include any rule or regulation issued by a Federal agency.

(4) DEFINITION OF IDENTIFIED POPULATION SUBGROUPS.—For purposes of this subsection, the term "identified population subgroups" shall include, but not be limited to, groups based on factors such as age, sex, or race.

(c) EXISTING AUTHORITY NOT AFFECTED.—This section does not place any limitations on—

(1) the conduct or support of any scientific or medical research by any Federal agency;

(2) the presentation of any scientific or medical findings or the exchange or review of scientific or medical information by any Federal agency; or

(3) the authority of the Food and Drug Administration under the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

SEC. 302. NUTRITION TRAINING REPORT.

The Secretary of Health and Human Services, in consultation with the Secretaries of Agriculture, Education, and Defense, and the Director of the National Science Foundation, shall submit, within one year after the date of enactment of this Act, a report describing the appropriate Federal role in assuring that students enrolled in United States medical schools and physicians practicing in the United States have access to adequate training in the field of nutrition and its relationship to human health.[H02OC0-V1]{H8609}health.

The SPEAKER pro tempore. Is a second demanded?

Mr. EMERSON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. EMERSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1608, the National Nutrition Monitoring and Related Research Act of 1989.

This legislation establishes a 10-year coordinated program to make more effective use of Federal and State expenditures for nutrition monitoring and requires a comprehensive plan to assess the dietary and nutritional status of the people of the United States. The legislation also provides for improvements in the quality of national nutritional and health status data and related data bases, and establishes mechanisms for addressing the nutrition monitoring needs of Federal, State, and local governments and the private sector. A procedure whereby dietary guidance issued by the Federal Government will be consistent with the Dietary Guidelines for Americans is included. Most importantly, the legislation establishes a central Federal

focus for the coordination, management, and direction of Federal nutrition monitoring activities.

The Committee on Agriculture has been involved in nutrition monitoring legislation since 1984 when our Subcommittee on Department Operations, Research and Foreign Agriculture joined with the Committee on Science and Technology's Subcommittee on Science, Research and Technology in public hearings on this subject.

I am very pleased that the problems that have been of concern in the past have been addressed in this legislation. It has the full support of the nutrition community, and the administration has advised us that it has no objection to the legislation.

To expedite consideration of this legislation prior to the end of the 101st Congress, both Chairman ROBERT ROE of the Committee on Science, Space, and Technology and Chairman JOHN DINGELL of the Committee on Energy and Commerce have agreed not to seek a sequential referral of this legislation. I appreciate very much this spirit of cooperation, and I recognize that this action does not in any way impinge on the jurisdiction of either the Committee on Science, Space, and Technology or the Committee on Energy and Commerce. In this regard, I wish to insert in the RECORD at this point an exchange of letters between Chairman ROE and Chairman DINGELL and myself on the matter of each committee's jurisdiction.

Mr. Speaker, the nutritional needs of our population must be addressed in an orderly and coordinated manner. This legislation provides that coordination, and I urge my colleagues to give their full support to H.R. 1608.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, September 28, 1990.

Hon. E. "KIKA" DE LA GARZA,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On July 18, 1990, the Committee on Agriculture favorably reported H.R. 1608, the de la Garza/Leahy "Nutrition Monitoring Act of 1990." The Committee on Energy and Commerce has requested a sequential referral on this bill, which covers health and related matters that are of concern to the Committee.

Similar bills were passed by the House in both the 99th and 100th Congress, and in both cases the jurisdiction of the Committee on Energy and Commerce was recognized and preserved. On both occasions when the Committee chose to waive its jurisdiction in the interests of expediting consideration of the legislation, the jurisdictional prerogative of the Committee was recognized in the debate on the floor and in letters exchanged with the Chairman of the Committee on Science, Space, and Technology.

I understand that the Committee on Science, Space, and Technology will not seek a sequential referral on H.R. 1608, to allow the bill to be brought to the House for consideration before the close of the 101st Congress. Therefore, in a spirit of cooperation the Committee on Energy and Commerce will also not seek sequential referral of H.R. 1608. However, this action to expedite consideration of the bill should not be interpreted in any respect to waive jurisdiction of the Committee on Energy and Commerce over provisions in H.R. 1608 or any other legislation addressing matters within the jurisdiction of the Committee. I respectfully request that our Committee be included in any future discussions or conference on this bill.

I recognize that this is important and timely legislation, and I stand ready to work with you as the Chairman of the Agriculture Committee to bring this bill to the floor quickly.

Sincerely,

JOHN D. DINGELL,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, September 28, 1990.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter in regard to H.R. 1608, the National Nutrition Monitoring and Related Research Act.

As you know, this bill, as ordered reported by the Committee on Agriculture on July 18, 1990, is widely supported by national agricultural and nutrition organizations. Similar legislation passed the House in both the 99th and 100th Congresses.

The Committee on Agriculture has addressed the concerns of the Administration over several provisions of H.R. 1608, and I have been advised that the Administration will not oppose the legislation.

It has been the intention of the Committee on Agriculture and that of the Committee on Science, Space, and Technology, which has jointly considered similar nutrition monitoring bills with this Committee, to place this legislation on the suspension calendar for passage prior to the end of the 101st Congress.

Since the Committee on Energy and Commerce has a jurisdictional concern with the bill, I appreciate that you are not pursuing at this time your request for sequential referral of the bill in order to expedite House Floor action on H.R. 1608. I recognize that this action is taken without any prejudice to the jurisdictional interests of the Committee on Energy and Commerce.

When H.R. 1608 is considered on the Floor, I will ask to have the relevant correspondence between our Committees relating to this legislation included in the record of the debate.

With best regards, I am

Sincerely,

E. (KIKA) DE LA GARZA,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, July 18, 1990.

Hon. ROBERT A. ROE,
Chairman, Committee on Science, Space, and Technology, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter concerning your Committee's interest in H.R. 1608, the National Monitoring and Related Research Act. We appreciate your decision to expedite consideration of the bill by not seeking sequential referral of H.R. 1608 based on the text of the bill as reported by the Committee on Agriculture on July 18, 1990.

In no respect should this action be considered a waiver of the Committee on Science, Space, and Technology's jurisdiction over provisions of H.R. 1608. I fully support any requests made by your Committee to be represented on any discussion or conference with the Senate concerning this legislation, as well as your continued interest in the appropriate authorizing responsibilities and oversight contained in this legislation.

I view this agreement between the Committee on Agriculture and the Committee on Science, Space, and Technology as a statement of continuing cooperation. I will ask to have included in the Record the correspondence relating to this legislation when it is considered on the floor of the House.

Sincerely,

E (KIKA) DE LA GARZA,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
SPACE, AND TECHNOLOGY,
Washington, DC, July 20, 1990.

Hon. E DE LA GARZA,
Chairman, House of Representatives, Washington, DC.

DEAR KIKA: I am writing in regard to H.R. 1608, the National Nutrition Monitoring and Related Research Act. As you know, similar legislation, H.R. 677 and S. 253 as amended and passed by the Senate on November 7, 1989 were jointly referred to the Committees on Agriculture and Science, Space, and Technology. I understand that on July 18, 1990 the Committee on Agriculture favorably reported H.R. 1608. I further understand that the bill as reported: incorporated H.R. 1608 as reported from the Subcommittee on Department Operations, Research and Foreign Agriculture which substituted S. 253 as passed by the Senate for the entire text of H.R. 1608; adopted the amendments submitted by the Administration and offered by Mr. Brown. The Science, Space, and Technology Committee concurred in the amendments and are pleased to learn that these amendments will alleviate the concerns of the Administration and they will thus not oppose the enactment of H.R. 1608.

Under normal circumstances, the Committee on Science, Space, and Technology would seek a sequential referral of H.R. 1608, especially since the bill now includes the entire text of S. 253 which was jointly referred to our Committee. However, we recognize the importance of H.R. 1608 and congratulate you on your efforts to bring the bill to the House for consideration before the close of the 101st Congress. Therefore, in a spirit of cooperation we will not seek sequential referral of H.R. 1608. However, this action to expedite consideration of the bill should not be interpreted, in any respect, to waive jurisdiction of the Committee on Science, Space, and Technology over provisions in H.R. 1608 or any other legislation addressing matters within the jurisdiction of the Committee on Science, Space, and Technology. Given that the subject matter of the legislation should be referred to our respective Committees, I respectfully request that our Committee be included in any future discussions or conference on this bill. Our Committee will, as we have over the past eight years, continue to share in the oversight and authorizing responsibilities of the legislation.

I am hopeful that the bill can be brought to the House for consideration immediately and that after many years of cooperative efforts between our two Committees on this bill a much needed public law will be realized. To clarify the history on this legislation, I would appreciate a letter confirming my understanding, and that our letters be placed in the Record during House consideration.

Sincerely,

ROBERT A. ROE,
Chairman.

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Science, Space, and Technology, the gentleman from New Jersey [Mr. ROE].

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

Mr. Speaker, I rise in support of H.R. 1608, the National Nutrition Monitoring and Related Research Act.

At this time I want to pay my high regards to our very distinguished chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA], to the gentleman from Missouri [Mr. EMERSON], the ranking member of the Subcommittee on Department Operations, Research and Foreign Agriculture, and to the gentleman from California [Mr. BROWN], who is his counterpart on the majority side.

Mr. Speaker, accurate and timely knowledge of the nutritional and health status of our citizens is directly related to the economic well-being of our Nation. We cannot maintain or improve the quality of life of our citizens without an understanding of the nutritional and health status of the population. We cannot develop prudent public policies regarding investments and priorities for research, education, regulation, public assistance, or health promotion and disease prevention programs without knowledge of trends in the nutritional and health status of the public. All other investments we authorize to maintain a strong and competitive U.S. position in science, technology, education, and defense will be of no avail unless we have a healthy America.

Yes, the Federal Government has implemented components of a nutrition monitoring system since the 1930's. However, past and current systems were neither coordinated nor comprehensive. The usefulness of the data to the food and health communities and to policymakers at the Federal, State, and local levels has proven to be limited because of inadequate methods, noncomparable standards, unlike population samples, and the lack of indicators to link food consumption patterns to nutrition and health.

The methods our family physicians use to determine and guide our health status are based on the methods developed for use in the nutrition monitoring system. Therefore, the accuracy of laboratory tests used to determine nutritional status would also be improved as the monitoring system is enhanced.

Scientific methods and technology to assess nutritional and dietary status were declared costly, imprecise, and unstandardized at hearings before the Committee on Science and Technology in 1979, and little has changed more than 10 years later. For example, the Department of Agriculture will release this month data from the 1987–88 decennial nationwide food consumption survey. Concerns have been expressed about the accuracy of the data and built-in bias due to response rates as low as 33 percent. It appears these concerns will become fact, based on preliminary results of the current General Accounting Office investigation requested by our colleague GEORGE E. BROWN, JR. If this is the case, our scare resources have been wasted, and once again users of the data will be left with inadequate tools to guide policy.

This situation must be corrected, since policy decisions based on these data and data from the health and nutrition examination survey conducted by the Department of Health and Human Services could affect, either positively or negatively, the physical health of individuals and the economic health of industries. For example, the Environmental Protection Agency relies on the food frequency data of these surveys to calculate risk assessments and to determine safe levels for pesticide use and related regulations. Therefore, these assessments must be as accurate as science and technology permit.

The legislative proposal before us today is designed to correct the deficiencies while maintaining the assets of Federal nutrition monitoring efforts. This is not a new proposal, but rather a slightly modified version of the measure which was passed in the 100th Congress by a vote of 311 to 84 in the House and by unanimous consent in the Senate. The public could have benefited from this measure over the past 2 years, if President Reagan had not pocket vetoed the bill in November 1988.

The Subcommittee on Science, Research and Technology held joint hearings on the bill in September 1989 with subcommittees of the Committee on Agriculture and has worked with the Committee on Agriculture to develop H.R. 1608. Therefore, to expedite passage of the bill, the Committee on Science, Space, and Technology has agreed to not seek sequential referral of the bill through an exchange of letters which Chairman DE LA GARZA will include in the RECORD. This same procedure was followed in reverse by the Committee on Agriculture when the Committee on Science, Space, and Technology brought a similar bill to the House in the 100th Congress.

We now have a new opportunity to enhance the benefits of our investment in nutrition monitoring. The Senate passed the bill by unanimous consent on November 3, 1989. The Bush administration has indicated they will not oppose H.R. 1608, as reported by the Committee on Agriculture.

I urge my colleagues to support H.R. 1608. The bill will provide the Congress the first opportunity to assess the adequacy of Federal nutrition monitoring efforts before authorizing and appropriating funding levels we deem necessary to meet the nutritional and health data needs of Federal, State, and local policymakers, food and agriculture industries, nutrition and health research communities, and health care providers and educators.

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

Mr. Speaker, I rise in support of H.R. 1608, the national nutrition monitoring and related research bill. The purpose of this bill is to establish a coordinated national nutrition monitoring and related research program and a comprehensive plan for the assessment of the nutritional and dietary status of the U.S. population. I am advised that the USDA has no objection to this bill, with the addition of amendments in the Committee on Agriculture to the bill concerning contracts, reports, the advisory council, and dietary guidance.

The subject of nutrition monitoring has been before the Agriculture Committee and the Congress for the past several years. Nutrition monitoring legislation, with which I have been involved, began in 1984 with H.R. 4686. That bill was defeated on the floor of the House of Representatives under suspension of the rules. In 1986, the House passed a nutrition monitoring bill, H.R. 2436; however, the Senate did not complete action on a measure and the effort died with the 99th Congress. In 1987 and 1988, nutrition monitoring legislation was again considered by the Congress. Both Houses passed a nutrition monitoring bill, which was later pocket vetoed by the President. That is where we are today.

Two bills were introduced this year in the House of Representatives—H.R. 1608 and H.R. 677. These are similar bills, both of which have as their goals the improvement and coordination of nutrition monitoring activities of the Federal Government.

This issue is one that, as I mentioned earlier, has been before the Congress over the past several years. Maintenance of a proper diet with good nutrition habits plays a vital role in our Nation's health. Additionally, knowing the patterns of food consumption assists the Federal Govern-

ment in linking food production to human nutrition and food needs. It is important that the information gathered by Federal agencies be coordinated and analyzed so that the goal of improvement in the health of Americans through good diets can be achieved.

It is my hope that we will pass a bill in this Congress to improve the nutrition monitoring system and provide more accurate and up-to-date information on the nutritional status of Americans. It must be noted that since 1977 the Federal Government has been moving toward creation of a national nutrition monitoring system.

There are two national surveys that are the basis for data concerning the nutritional status of Americans. They are the national food consumption survey—conducted by the USDA—and the health and nutrition examination survey—conducted by HHS. These are national surveys of a sample of the population that is representative of the entire population. Both are useful in that they identify the general well-being of the population and provide reference points by which other surveys of more limited scope may be evaluated.

In addition, the USDA initiated a new type of survey in 1985 entitled the continuing survey of food intakes by individuals. A nationally representative sample of women from 19 to 50 years of age, at all income levels, and their children, from ages 1 to 5, were surveyed for the dietary intake and eating habits for 12 months. A similar survey was conducted for low-income women and children. This is an important survey because it provides timely information on the adequacy of the diets of a selected group of people and an early indication of dietary change.

Such information, coupled with the work of both USDA and HHS, will serve to improve our knowledge and the programs aimed at bettering the lives of all Americans. No one can conclude that the Federal Government is not active in the area of nutrition monitoring. Nevertheless, improvements can and should be made.

Legislation to accentuate the activities of the Federal Government and to provide the American people with a clear and comprehensive program aimed at assessing the nutritional status of the population is needed.

Another important issue related to nutritional monitoring is that of dietary guidance. We must ensure that the Federal Government speaks with one voice when it disseminates information on dietary guidance to Americans. The bill before the House provides that USDA and HHS must publish the document "Dietary Guidelines For Americans" at least every 5 years. In addition, there is included a procedure whereby all dietary guidance issued by Federal agencies, in whatever format, is consistent with the approved dietary guidelines for Americans and that the Federal agencies are not out in left field when advising Americans of proper and healthful diets.

Mr. Speaker, I support the bill before the House of Representatives today and congratulate the chairman of the committee and the gentleman from California [Mr. BROWN] for their hard work.

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Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield as much time as he may consume to our distinguished colleague, the gentleman from North Carolina [Mr. VALENTINE].

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

Mr. Speaker, I rise in support of H.R. 1608, the National Nutrition Monitoring and Related Research Act.

A nutrition monitoring system is a basic tool necessary to examine the linkages between food consumption patterns, nutritional status, and health status. An effective national nutrition monitoring system is essential to assure: The safety and quality of the food supply; the nutritional needs of the public are met; and an appropriate data base exists for planning and guiding the expenditure of public funds for agriculture, nutrition and health research and intervention programs and policies. The purpose of the measure before us today is to ensure that our citizens receive a full measure of return from the Federal and State funds expended for nutrition monitoring activities.

The 1988 Surgeon General's Report on Nutrition and Health states that:

> Diet has always had a vital influence on health. As the diseases of nutrition deficiency have diminished, they have been replaced by diseases of dietary excess and imbalance—problems that now rank among the leading causes of illness and death in the United States, touch the lives of most Americans, and generate substantial health care costs.

Thus, it is not surprising that today the American public is more concerned, than at any other time in history, about the role that nutrition and diet play in their physical and economic well-being.

A comprehensive national nutrition monitoring system will provide the data necessary to further define the relationship between diet and health and provide an early warning mechanism to identify any significant changes in the nutritional and health status of the population. Thus, the operation of an effective national nutrition monitoring system is imperative.

To achieve maximum benefit from both Federal and State expenditures for nutrition monitoring activities, these governments must coordinate their activities and share expertise and data. Each of our State health departments is charged with the responsibility of promoting and protecting the health of the public. Many States are beginning to develop nutrition monitoring and surveillance systems as a basis for establishing health care and delivery priorities, establishing baseline health status values, and for evaluating the effectiveness of State health and nutrition services and programs. Thus, ensuring that Federal nutrition monitoring activities incorporate State data needs and that technology developed at the Federal level as transferred to States will increase the effectiveness of the system and reduce expenditures.

Recent testimony before the Subcommittee on Science, Research and Technology, by the Association of State and Territorial Public Health Nutrition Directors and the Association of State and Territorial Health Officers, regarding the need for a national nutrition monitoring system stated that:

> Perhaps our greatest need in the states is for technical assistance, the sharing of knowledge and expertise of those who work on these Federal projects with our staffs. Over the years, Federal agencies have become much more open and have shared vast amounts of data with us, but we need more than copies of computer tapes and printed reports. We would like assistance in interpreting and using the data. The plan required by this legislation would give a great deal of impetus to this sharing.

The Federal Government does have components of a nutrition monitoring system in place, but it is not adequately coordinated with all Federal agencies carrying out these activities or with State health agencies. The current system is far from comprehensive, and little attention has been given to developing the methods and technology which could improve the accuracy and usefulness of the resulting data. Improving biochemical methods used to assess nutritional status will not only enhance the value of the data, but the accuracy of the very tools the medical profession uses to determine our individual nutrition and health status.

The development of a coordinated and comprehensive national nutrition monitoring system is a complex task, and the scientists responsible for this task at the Federal level are to be congratulated for the improvements that have been implemented over the past several years. To allow additional improvements to move forward, a strategic plan is needed to integrate the activities of the seven or more agencies involved in nutrition monitoring and to identify budgetary resources the agencies propose to allocate to these activities.

At the present time, the resources each Federal agency either requests or expands for nutrition monitoring cannot be identified, because this activity is not documented in the budgetary request of any agency. Thus, for many years Congress has been blindly authorizing and appropriating funds for a piecemeal approach without any idea of the specific budgetary resources the seven or more agencies involved were allocating to this important national resource. As a result, Congress has had no means to review the direction of Federal nutrition monitoring activities and the funding excesses or deficiencies being allocated to these programs.

H.R. 1608 will sustain the advantages of current nutrition monitoring programs and assure the programs are upgraded through a systematic plan designed to meet the needs of the variety of users who rely on the data to accomplish their mission.

I wish to congratulate my colleagues who have worked so hard and persistently for passage of national nutrition monitoring legislation. I urge all of my colleagues to support H.R. 1608.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague from North Carolina for his statement.

Before yielding back the balance of my time, let me thank our distinguished colleague from Missouri, Mr. EMERSON, who is a dedicated Member in all aspects of our legislative work, but he is one of our experts in nutrition, nutrition monitoring, feeding the hungry of the world and within our country, and my special thanks to him.

Mr. BOEHLERT. Mr. Speaker, now I know for sure that it's fall. Passage of this bill has become a biennial fall rite. I hope that this can be the last year we need to go through this exercise.

H.R. 1608 is a modest bill that seeks nothing more than to ensure that the Government has a coherent system of nutrition monitoring. This is a step that should have been taken long ago—especially when one considers the enormous public appetite for nutrition information and the health claims for food that are purveyed to the public from all sides.

While the coordination between the agencies in charge of nutrition monitoring has improved in recent years, H.R. 1608 is still a necessary prod to adequate cooperation, consultation and planning.

A very similar bill to H.R. 1608 was passed at the end of the last Congress—our traditional time—but was pocket vetoed by President Reagan. The veto message indicated that no one in the White House had bothered to pay much attention to the bill; the President's complaints did not seem to relate to the bill's actual provisions.

This time around we paid attention to what legitimate concerns the administration did have—small matters, mostly—and my understanding is that President Bush will sign the measure.

The current nutrition monitoring system can devolve to easily into arguments like the one made famous in an old New Yorker cartoon in which a mother says, "Eat your broccoli, dear" and her young responds, "I say it's spinach, and I say the hell with it."

H.R. 1608 is long overdue. I urge its passage.

Mr. WALGREN. Mr. Speaker, I rise in support of H.R. 1608, the National Nutrition Monitoring and Related Research Act.

The Committee on Science, Space, and Technology and the Committee on Agriculture, in concurrence with the Committee on Energy and Commerce, have brought national nutrition monitoring legislation to the House for consideration during the past several Congresses. In the 100th Congress, the House passed legislation similar to that before us today by a vote of 311 to 84. The Senate passed the bill by unanimous consent. A public law to enhance national nutrition monitoring and related research could be in place today, if President Reagan had not pocket vetoed the bill in November 1988.

Over 20 years ago, the White House Conference on Food, Nutrition and Health called for improvements in the Nation's nutrition monitoring system. Since that time numerous reports of scientific and public health organizations, as well as advisory groups to the executive branch, have identified the need for enhancing the existing system and have developed recommendations for increasing the value of the system and the effectiveness of the Federal resources expended.

For example: In July 1986 the first report on Nutrition Monitoring in the United States, prepared by the DHHS-USDA Joint Nutrition Monitoring Evaluation Committee recommended that changes be made to:

Improve information exchange between data users and gatherers; increase use of data collected under the national nutrition monitoring system; improve methods and techniques for gathering information for assessing nutritional status; and increase resources for the national nutrition monitoring system.

The July 1988 Surgeon General's Report on Nutrition and Health stated:

Impressive evidence already links nutrition to chronic disease. However, much more information is needed to continue to identify changes in the national diet that will lead to better health for the Nation. Gaps in our knowledge of nutrition suggest further research and surveillance needs.

The March 1989 report of the National Research Council/National Academy of Sciences entitled, "Diet and Health: Implications for Reducing Chronic Disease Risk," recommended:

Improvement of the methodology for collecting and assessing data on the exposure of humans to foods and dietary constituents that may alter the risk of chronic diseases.

In April 1989, the Human Nutrition Board of Scientific Counselors, a USDA advisory board, adopted several resolutions relating to nutrition monitoring which urged the Secretary of Agriculture to support legislation to establish a plan for a national nutrition monitoring system, provide a mechanism for interdepartmental coordination of the various parts of such a system, and provide for cooperation between Federal and State systems.

In September 1989, DHHS and USDA released the second report on Nutrition Monitoring in the United States before joint hearings of the Subcommittee on Science, Research and Technology, which I chaired, and subcommittees of the Committee on Agriculture. The recommendations were very similar to those of the first report in 1986 and concluded that:

It is appropriate now to begin efforts to determine the most useful form of the (National Nutrition Monitoring System) NNMS in the future.

The report also notes that:

In addition, both the USDA and DHHS have developed plans for survey activities, to a large extent, through 1995; thus, recommendations offered now may not be implemented for some time.

This statement exemplifies the history of national nutrition monitoring—recommendations are out of phase with plans or are not included; and implementation and operational plan after plan are developed, but the ultimate goals are seldom achieved.

Witnesses at hearings of the Subcommittee on Science, Research and Technology, held almost every year since 1977, have stressed the importance of the need to improve dietary and nutritional status methods not only to improve the accuracy and value of the assessment to the health of the public, but to improve the costeffectiveness of both Federal and State expenditures.

I was dismayed to learn at our hearing last year that the administration's newest report addressed neither the adequacy of current methods nor specific recommendations for research to enhance nutritional status methods prior to forthcoming assessments already being planned. Administration witnesses conceded, however, that methods research was the most importnt element which could improve the value and usefulness of nutrition monitoring efforts and ensure that our investments produce the best possible data. Yet, the report did not focus on this critical aspect of nutrition monitoring.

Both the Reagan and Bush administration testified that much of the progress made in the nutrition monitoring system over the past 8 years was motivated by the threat of a public law such as the one we are considering today. However, that progress was made in a piece-meal fashion. A comprehensive system to meet the nutritional and health data needs of the 21st century and to ensure that public funds are not wasted on obsolete and ineffective systems is long overdue.

Before further patchwork plans are funded, the Congress and the executive branch must assure a plan is in place that will meet today's needs, and use today's technology and scientific knowledge. These essential elements were the objective of the legislation passed by the 100th Congress which was pocket vetoed by President Reagan in November 1988 and are the purpose of the proposed legislation before us today.

I am pleased to learn the Bush administration does not oppose this measure. I urge my colleagues to join our colleagues in the

Senate and support H.R. 1608 so the bill may be signed into law before the close of the 101st Congress.

Mr. BROWN of California. Mr. Speaker, I rise in support of H.R. 1608, the National Nutritional Monitoring and Related Research Act of 1990. This bill, cosponsored by 50 Members, is virtually identical to S. 257, which passed the Senate last year. H.R. 1608 has several minor amendments which we have incorporated to address the concerns of the administration. I would like to thank those in the administration who helped us perfect the bill this year, in particular I appreciate the assistance of Catherine Bertini, Assistant Secretary of USDA's Food and Nutrition Service. I would also like to thank the members of both the Agriculture and Science and Technology Committees for the efforts they have put into this bill over the past few years. This bill reflects the efforts of members on both committees; in fact, it goes back at least 10 years when we first identified the need to coordinate nutrition monitoring and research activities at the various Federal agencies.

As I've mentioned, this bill has a long history which I will not go into for the sake of time. Let me just say that after many years of refining this bill, we now have legislation that all interested parties have agreed upon. Nutrition groups such as the American Dietetics Association and the American Heart Association support this bill, alongside mainstream agricultural groups like the National Cattlemen's Association. Both the Committees on Agriculture and Science and Technology have perfected and approved versions of this bill. The Committee on Energy and Commerce has also lent the bill their support. Most importantly, those in the agencies who will carry out the provisions in this bill, principally the Departments of Agriculture and Health and Human Services, recognize that this legislation will strengthen and improve nutrition monitoring in this country and are not opposing its enactment.

For those of you who do not know what we mean by "nutrition monitoring," this term refers to all the Federal services which give us information on the diet and the nutritional status of Americans. There are two sides to nutrition monitoring: what we consume—the area where USDA is the expert, and how nutritious and healthy we are—the area where HHS is the expert. One side of this picture without the other is not very useful. That is precisely why we have worked so hard on this bill. For years, researchers have struggled to use disconnected information from various Federal agencies in an effort to get a complete picture of nutritional status in this country. This information is essential to the development of sound food, nutrition, and health policies at all levels of government. While the agencies involved have made great strides in the coordination of nutrition monitoring activities, there is still need for improvement, as has been identified through numerous committee hearings and in an ongoing GAO study which I requested earlier this year.

Again, for the sake of brevity, let me summarize how this bill will improve national nutrition monitoring. H.R. 1608 requires the leading agencies—USDA and HHS—to put together a coordinated nutrition monitoring program and to include specific activities in a comprehensive plan to achieve the goals of the program. Elements of the coordinated nutrition monitoring program include: a competitive grants program to develop uniform and cost-effective methods of measuring nutritional status, assistance to State and local governments to enhance nutrition monitoring capabilities, an interagency budget so that we in Congress know how much we're spending on the various nutrition monitoring activities across the agencies, coordination of publications and other nutrition information from the agencies, and regular reports on the nutritional status of the people of the United States and trends of food consumed in this country. The bill also establishes an advisory board to provide scientific advice on the development and implementation of the national nutrition monitoring system, and to serve as a link to the researchers and policy makers who use nutrition monitoring information. This advisory council will consist of experts from the private sector, academia, agriculture, and public interest organizations, among others. Finally, this bill will facilitate the publishing of nutrition information in this country by setting out specific procedures for the agencies to follow in reviewing nutrition information from sister agencies.

The links between nutrition and health have grown clearly evident in the past decade, and now more than ever we need to make the most of our resources by establishing an effective, interagency national nutrition monitoring system. Coordination of nutrition information and support for nutrition monitoring activities are what this bill provides. Let me just reiterate, that after years of refining this bill, we're all in agreement—the committees of jurisdiction, the nutrition and food and agriculture groups, and the agencies. Therefore, I urge my colleagues to support this bill.

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

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 1608, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed.

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

There was no objection.

OLDER WORKERS BENEFIT PROTECTION ACT

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1511) to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

The Clerk read as follows:

S. 1511

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 "Older Workers Benefit Protection Act".

TITLE I—OLDER WORKERS BENEFIT PROTECTION

SEC. 101. FINDING.

The Congress finds that, as a result of the decision of the Supreme Court in Public Employees Retirement System of Ohio v. Betts, 109 S.Ct. 256 (1989), legislative action is necessary to restore the original congressional intent in passing and amending the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), which was to prohibit discrimination against older workers in all employee benefits except when age-based reductions in employee benefit plans are justified by significant cost considerations.

SEC. 102. DEFINITION.

Section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630) is amended by adding at the end the following new subsection:

"(l) The term 'compensation, terms, conditions, or privileges of employment' encompasses all employee benefits, including such benefits provided pursuant to a bona fide employee benefit plan.".

SEC. 103. LAWFUL EMPLOYMENT PRACTICES.

Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended—

(1) in subsection (f), by striking paragraph (2) and inserting the following new paragraph:

"(2) to take any action otherwise prohibited under subsection (a), (b), (c), or (e) of this section—

"(A) to observe the terms of a bona fide seniority system that is not intended to evade the purposes of this Act, except that no such seniority system shall require or permit the involuntary retirement of any individual specified by section 12(a) because of the age of such individual; or

"(B) to observe the terms of a bona fide employee benefit plan—

"(i) where, for each benefit or benefit package, the actual amount of payment made or cost incurred on behalf of an older worker is no less than that made or incurred on behalf of a younger worker, as permissible under section 1625.10, title 29, Code of Federal Regulations (as in effect on June 22, 1989); or

"(ii) that is a voluntary early retirement incentive plan consistent with the relevant purpose or purposes of this Act.

Notwithstanding clause (i) or (ii) of subparagraph (B), no such employee benefit plan or voluntary early retirement incentive plan shall excuse the failure to hire any individual, and no such employee benefit plan shall require or permit the involuntary retirement of any individual specified by section 12(a), because of the age of such individual. An employer, employment agency, or labor organization acting under subparagraph (A), or under clause (i) or (ii) of subparagraph (B), shall have the burden of proving that such actions are lawful in any

civil enforcement proceeding brought under this Act; or";

(2) by redesignating the second subsection (i) as subsection (j); and

(3) by adding at the end the following new subsections:

"(k) A seniority system or employee benefit plan shall comply with this Act regardless of the date of adoption of such system or plan.

"(l) Notwithstanding clause (i) or (ii) of subsection (f)(2)(B)—

"(1) It shall not be a violation of subsection (a), (b), (c), or (e) solely because—

"(A) an employee pension benefit plan (as defined in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2))) provides for the attainment of a minimum age as a condition of eligibility for normal or early retirement benefits; or

"(B) a defined benefit plan (as defined in section 3(35) of such Act) provides for—

"(i) payments that constitute the subsidized portion of an early retirement benefit; or

"(ii) social security supplements for plan participants that commence before the age and terminate at the age (specified by the plan) when participants are eligible to receive reduced or unreduced old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.), and that do not exceed such old-age insurance benefits.

"(2)(A) It shall not be a violation of subsection (a), (b), (c), or (e) solely because following a contingent event unrelated to age—

"(i) the value of any retiree health benefits received by an individual eligible for an immediate pension; and

"(ii) the value of any additional pension benefits that are made available solely as a result of the contingent event unrelated to age and following which the individual is eligible for not less than an immediate and unreduced pension,

are deducted from severance pay made available as a result of the contingent event unrelated to age.

"(B) For an individual who receives immediate pension benefits that are actuarially reduced under subparagraph (A)(i), the amount of the deduction available pursuant to subparagraph (A)(i) shall be reduced by the same percentage as the reduction in the pension benefits.

"(C) For purposes of this paragraph, severance pay shall include that portion of supplemental unemployment compensation benefits (as described in section 501(c)(17) of the Internal Revenue Code of 1986) that—

"(i) constitutes additional benefits of up to 52 weeks;

"(ii) has the primary purpose and effect of continuing benefits until an individual becomes eligible for an immediate and unreduced pension; and

"(iii) is discontinued once the individual becomes eligible for an immediate and unreduced pension.

"(D) For purposes of this paragraph, the term 'retiree health benefits' means benefits provided pursuant to a group health plan covering retirees, for which (determined as of the contingent event unrelated to age)—

"(i) the package of benefits provided by the employer for the retirees who are below age 65 is at least comparable to benefits provided under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); and

"(ii) the package of benefits provided by the employer for the retirees who are age 65 and above is at least comparable to that offered under a plan that provides a benefit package with one-fourth the value of benefits provided under title XVIII of such Act.

"(E)(i) If the obligation of the employer to provide retiree health benefits is of limited duration, the value for each individual shall be calculated at a rate of $3,000 per year for benefit years before age 65, and $750 per year for benefit years beginning at age 65 and above.

"(ii) If the obligation of the employer to provide retiree health benefits is of unlimited duration, the value for each individual shall be calculated at a rate of $48,000 for individuals below age 65, and $24,000 for individuals age 65 and above.

"(iii) The values described in clauses (i) and (ii) shall be calculated based on the age of the individual as of the date of the contingent event unrelated to age. The values are effective on the date of enactment of this subsection, and shall be adjusted on an annual basis, with respect to a contingent event that occurs subsequent to the first year after the date of enactment of this subsection, based on the medical component of the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(iv) If an individual is required to pay a premium for retiree health benefits, the value calculated pursuant to this subparagraph shall be reduced by whatever percentage of the overall premium the individual is required to pay.

"(F) If an employer that has implemented a deduction pursuant to subparagraph (A) fails to fulfill the obligation described in subparagraph (E), any aggrieved individual may bring an action for specific performance of the obligation described in subparagraph (E). The relief shall be in addition to any other remedies provided under Federal or State law.

"(3) It shall not be a violation of subsection (a), (b), (c), or (e) solely because an employer provides a bona fide employee benefit plan or plans under which long-term disability benefits received by an individual are reduced by any pension benefits (other than those attributable to employee contributions)—

"(A) paid to the individual that the individual voluntarily elects to receive; or

"(B) for which an individual who has attained the later of age 62 or normal retirement age is eligible.".

SEC. 104. RULES AND REGULATIONS.

Notwithstanding section 9 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 628), the Equal Employment Opportunity Commission may issue such rules and regulations as the Commission may consider necessary or appropriate for carrying out this title, and the amendments made by this title, only after consultation with the Secretary of the Treasury and the Secretary of Labor.

SEC. 105. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this section, this title and the amendments made by this title shall apply only to—

(1) any employee benefit established or modified on or after the date of enactment of this Act; and

(2) other conduct occurring more than 180 days after the date of enactment of this Act.

(b) COLLECTIVELY BARGAINED AGREEMENTS.—With respect to any employee benefits provided in accordance with a collective bargaining agreement—

(1) that is in effect as of the date of enactment of this Act;

(2) that terminates after such date of enactment;

(3) any provision of which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)); and

(4) that contains any provision that would be superseded (in whole or part) by this title and the amendments made by this title, but for the operation of this section,

this title and the amendments made by this title shall not apply until the termination of such collective bargaining agreement or June 1, 1992, whichever occurs first.

(c) STATES AND POLITICAL SUBDIVISIONS.—

(1) IN GENERAL.—With respect to any employee benefits provided by an employer—

(A) that is a State or political subdivision of a State or any agency or instrumentality of a State or political subdivision of a State; and

(B) that maintained an employee benefit plan at any time between June 23, 1989, and the date of enactment of this Act that would be superseded (in whole or part) by this title and the amendments made by this title but for the operation of this subsection, and which plan may be modified only through a change in applicable State or local law,

this title and the amendments made by this title shall not apply until the date that is 2 years after the date of enactment of this Act.

(2) ELECTION OF DISABILITY COVERAGE FOR EMPLOYEES HIRED PRIOR TO EFFECTIVE DATE.—

(A) IN GENERAL.—An employer that maintains a plan described in paragraph (1)(B) may, with regard to disability benefits provided pursuant to such a plan—

(i) following reasonable notice to all employees, implement new disability benefits that satisfy the requirements of the Age Discrimination in Employment Act of 1967 (as amended by this title); and

(ii) then offer to each employee covered by a plan described in paragraph (1)(B) the option to elect such new disability benefits in lieu of the existing disability benefits, if—

(I) the offer is made and reasonable notice provided no later than the date that is 2 years after the date of enactment of this Act; and

(II) the employee is given up to 180 days after the offer in which to make the election.

(B) PREVIOUS DISABILITY BENEFITS.—If the employee does not elect to be covered by the new disability benefits, the employer may continue to cover the employee under the previous disability benefits even though such previous benefits do not otherwise satisfy the requirements of the Age Discrimination in Employment Act of 1967 (as amended by this title).

(C) ABROGATION OF RIGHT TO RECEIVE BENEFITS.—An election of coverage under the new disability benefits shall abrogate any right the electing employee may have had to receive existing disability benefits. The employee shall maintain any years of service accumulated for purposes of determining eligibility for the new benefits.

(3) STATE ASSISTANCE.—The Equal Employment Opportunity Commission, the Secretary of Labor, and the Secretary of the Treasury shall, on request, provide to States assistance in identifying and securing inde-

pendent technical advice to assist in complying with this subsection.

(4) DEFINITIONS.—For purposes of this subsection:

(A) EMPLOYER AND STATE.—The terms "employer" and "State" shall have the respective meanings provided such terms under subsections (b) and (i) of section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630).

(B) DISABILITY BENEFITS.—The term 'disability benefits' means any program for employees of a State or political subdivision of a State that provides long-term disability benefits, whether on an insured basis in a separate employee benefit plan or as part of an employee pension benefit plan.

(C) REASONABLE NOTICE.—The term "reasonable notice" means, with respect to notice of new disability benefits described in paragraph (2)(A) that is given to each employee, notice that—

(i) is sufficiently accurate and comprehensive to appraise the employee of the terms and conditions of the disability benefits, including whether the employee is immediately eligible for such benefits; and

(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

(d) DISCRIMINATION IN EMPLOYEE PENSION BENEFIT PLANS.—Nothing in this title, or the amendments made by this title, shall be construed as limiting the prohibitions against discrimination that are set forth in section 4(j) of the Age Discrimination in Employment Act of 1967 (as redesignated by section 103(2) of this Act).

(e) CONTINUED BENEFIT PAYMENTS.—Notwithstanding any other provision of this section, on and after the effective date of this title and the amendments made by this title (as determined in accordance with subsections (a), (b), and (c)), this title and the amendments made by this title shall not apply to a series of benefit payments made to an individual or the individual's representative that began prior to the effective date and that continue after the effective date pursuant to an arrangement that was in effect on the effective date, except that no substantial modification to such arrangement may be made after the date of enactment of this Act if the intent of the modification is to evade the purposes of this Act.

TITLE II—WAIVER OF RIGHTS OR CLAIMS

SEC. 201. WAIVER OF RIGHTS OR CLAIMS.

Section 7 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626) is amended by adding at the end the following new subsection:

"(f)(1) An individual may not waive any right or claim under this Act unless the waiver is knowing and voluntary. Except as provided in paragraph (2), a waiver may not be considered knowing and voluntary unless at a minimum—

"(A) the waiver is part of an agreement between the individual and the employer that is written in a manner calculated to be understood by such individual, or by the average individual eligible to participate;

"(B) the waiver specifically refers to rights or claims arising under this Act;

"(C) the individual does not waive rights or claims that may arise after the date the waiver is executed;

"(D) the individual waives rights or claims only in exchange for consideration in addition to anything of value to which the individual already is entitled;

"(E) the individual is advised in writing to consult with an attorney prior to executing the agreement;

"(F)(i) the individual is given a period of at least 21 days within which to consider the agreement; or

"(ii) if a waiver is requested in connection with an exit incentive or other employment termination program offered to a group or class of employees, the individual is given a period of at least 45 days within which to consider the agreement;

"(G) the agreement provides that for a period of at least 7 days following the execution of such agreement, the individual may revoke the agreement, and the agreement shall not become effective or enforceable until the revocation period has expired;

"(H) if a waiver is requested in connection with an exit incentive or other employment termination program offered to a group or class of employees, the employer (at the commencement of the period specified in subparagraph (F)) informs the individual in writing in a manner calculated to be understood by the average individual eligible to participate, as to—

"(i) any class, unit, or group of individuals covered by such program, any eligibility factors for such program, and any time limits applicable to such program; and

"(ii) the job titles and ages of all individuals eligible or selected for the program, and the ages of all individuals in the same job classification or organizational unit who are not eligible or selected for the program.

"(2) A waiver in settlement of a charge filed with the Equal Employment Opportunity Commission, or an action filed in court by the individual or the individual's representative, alleging age discrimination of a kind prohibited under section 4 or 15 may not be considered knowing and voluntary unless at a minimum—

"(A) subparagraphs (A) through (E) of paragraph (1) have been met; and

"(B) the individual is given a reasonable period of time within which to consider the settlement agreement.

"(3) In any dispute that may arise over whether any of the requirements, conditions, and circumstances set forth in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H) of paragraph (1), or subparagraph (A) or (B) of paragraph (2), have been met, the party asserting the validity of a waiver shall have the burden of proving in a court of competent jurisdiction that a waiver was knowing and voluntary pursuant to paragraph (1) or (2).

"(4) No waiver agreement may affect the Commission's rights and responsibilities to enforce this Act. No waiver may be used to justify interfering with the protected right of an employee to file a charge or participate in an investigation or proceeding conducted by the Commission.".

SEC. 202. EFFECTIVE DATE.

(a) IN GENERAL.—The amendment made by section 201 shall not apply with respect to waivers that occur before the date of enactment of this Act.

(b) RULE ON WAIVERS.—Effective on the date of enactment of this Act, the rule on waivers issued by the Equal Employment Opportunity Commission and contained in section 1627.16(c) of title 29, Code of Federal Regulations, shall have no force and effect.

TITLE III—SEVERABILITY

SEC. 301. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.[H02OC0-V2]{H8616}thereby.

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. CLAY] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. CLAY].

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

Mr. Speaker, today we will consider S. 1511, the Older Workers Benefit Protection Act of 1990, a bill that restores important civil rights protections that were abruptly taken away from older workers last year by the Supreme Court in Public Employees Retirement System of Ohio versus Betts.

I want to express my sincere thanks to the ranking Republican member of the Committee on Education and Labor, Mr. GOODLING, and the other Republican members of the committee, for their cooperation. Protection of older workers' rights is obviously not a partisan issue and we are delighted that we were able to resolve our differences and bring this bill before the House today with bipartisan support. This bill is clearly a compromise and, like all compromises, neither side is entirely comfortable with the result. But we do greatly appreciate the support of the gentleman from Pennsylvania.

For more than 20 years, the Age Discrimination in Employment Act [ADEA] has prohibited employers from discriminating against older workers in compensation, a term that includes both pay and employee benefits. Yet the Supreme Court unexpectedly and wrongly concluded that Congress did not intend to include employee benefits when it prohibited age discrimination in compensation. In addition, the Court invalidated regulations that had been promulgated and enforced by six Presidential administrations—Republicans and Democratic alike. In reaching its decision in Betts, the court also repudiated virtually every Federal court that had considered the issue.

Immediately after Betts was decided, the distinguished chairman of the Special Committee on Aging, Chairman ROYBAL, introduced legislation, H.R. 3200, to reverse Betts. I am proud to be an original cosponsor of that bill with Chairman HAWKINS, Mr. MARTINEZ, and Mr. BILBRAY. We are joined

by over 100 other Members of the House. An identical bill, S. 1511, was introduced in the Senate. Our original bill would merely have reinstated the law to what it was prior to the Betts decision and applied it to all cases that were pending when Betts was decided.

H.R. 3200, as introduced, codified the 20-year-old regulations first issued by the Department of Labor and then adopted by the Equal Employment Opportunity Commission when it assumed jurisdiction over the ADEA in 1979. These regulations contained the so-called equal benefit or equal cost rule. This rule is quite simple. Generally, an employer must provide the same benefits to all workers. But if the cost to the employer of providing a particular benefit to an older worker is greater than the cost of providing the same benefit to a younger worker, the employer is permitted to provide smaller benefits to older workers, so long as the employer spends at least the same amount of money for all workers.

At both House and Senate hearings, the bill was endorsed by the Equal Employment Opportunity Commission, with one caveat: we were asked to clarify that voluntary early retirement incentive plans did not necessarily have to meet the "equal benefit or equal cost" rule, but rather that they should be lawful as long as they furthered the purposes of the ADEA. We agreed to their request.

As the process continued, however, we began to hear from others who were not as supportive of the introduced bill as the administration first appeared to be. Many in the business community and some unions urged us to make certain exceptions to the "equal benefit or equal cost" rule to accommodate practices that they felt were or should be lawful under the ADEA. H.R. 3200, as reported by the Committee on Education and Labor, reflects our efforts to meet their legitimate concerns.

A major controversy quickly emerged on the issue of retroactivity. Some in the business community actually tried to argue that it would be unfair to reinstate the law retroactively since, according to them, the law pre-Betts was unsettled. Some opponents of the bill had the audacity to claim that the regulations—first issued by the Department of Labor in 1969 and later adopted by the EEOC—that had been in existence for 20 years and had been consistently upheld by the courts were not, in fact, an accurate statement of the law. These few companies, many of whom had been successfully sued in the past by their own employees for violating the ADEA, have been trying for months, both on their own and within employer trade associations, to stir up enough confusion to keep this bill from moving forward.

In the course of our work on this issue over the past year, however, two things became very clear. First, while most private employers and State and local governments were complying with the EEOC regulations that formed the basis for pre-Betts law, a fair number of companies and States, including some rather large and vocal ones, were not. The Supreme Court provided these companies and States with an extraordinary and unexpected windfall—the opportunity to continue their blatant discrimination against older workers in employee benefits without penalty. As a result of the Supreme Court's decision, conduct that was clearly in violation of the EEOC regulations before Betts, now might not be unlawful, unless the employer was using the employee benefit plan to discriminate in some other aspect of employment, such as to retire an older worker involuntarily.

The second thing that was clear was that opponents of the bill were desparately trying to avoid dealing with the real issue: the fundamental unfairness and unlawfulness of denying older wokers an employee benefit solely on account of age. Instead, opponents sought to mischaracterize the issue, arguing that H.R. 3200 was another attempt by Congress to restrict employer flexibility to design employee benefit plans, and not a question of fundamental civil rights for older workers.

Opponents tried to argue that pensions and other benefits were already heavily regulated under the Employee Retirement Income Security Act of 1974 [ERISA] and the Internal Revenue Code [the code]. If a practice were lawful under ERISA and the code, it was not and should not be unlawful under the ADEA.

That is nonsense. The rules under ERISA and the code have an entirely different focus. They prohibit an unrelated type of discrimination: skewing the benefit plan to favor high-paid workers. That has nothing to do with age discrimination. A practice can be perfectly permissible under ERISA and the code and at the same time can be discriminatory under our civil rights laws.

For instance, an employer could design a plan that covers only its white employees. As long as this blatant race discrimination does not disproportionately favor high-paid workers, the employer may be in compliance with the code. Similarly, since the code rules prohibiting discrimination do not apply to health insurance benefits provided through insurance companies, an employer could design a health plan that excludes all female employees and not violate the code. Who would say that either of these programs are lawful or should be?

So my colleagues, don't be deceived. This is not a complicated employee benefits issue. It is a fundamental civil rights issue. We do not permit employers to pay an older worker less than a younger worker solely because of age; employers must be prohibited from providing older workers smaller benefits or no benefits solely because of their age or other proxies for age for example, pension or Medicare eligibility. Until the Supreme Court decided Betts last year, that was the law under ADEA since 1967 for private employers and since 1974 for State and local governments. The "equal benefit or equal cost" rule is not some new idea that we came up with in the last few months. It has been the law for many years, although some have clearly chosen to ignore it until now.

The Older Workers Benefit Protection Act reaffirms the original intent of Congress that employers may not discriminate against older workers in employee benefits. It also reaffirms the limited exception to that broad principle: the so-called "equal benefit or equal cost" rule.

Finally, the bill provides carefully crafted narrow and limited exceptions to the "equal benefit or equal cost" rule for certain practices that may have been unlawful under the EEOC regulations before Betts. As floor manager for S. 1511 and chairman of the Subcommittee on Labor-Management Relations which has primary jurisdiction over employee benefit plans, I have prepared an explanation of this important bill which summarizes the key issues addressed in the bill and briefly explains our concerns. I include this explanation of S. 1511 in the RECORD at this point.

EXPLANATION OF S. 1511

OVERVIEW

In general, the Older Workers Benefit Protection Act clarifies and restores one of the original purposes of the Age Discrimination in Employment Act (ADEA): the elimination of age discrimination in employee benefits. It does so by:

1. specifying that the ADEA's prohibition against age discrimination in "compensation, terms, conditions, or privileges of employment" covers employee benefits and employee benefit plans.

2. making clear that employers seeking to rebut a charge of age discrimination in employee benefits must prove (as an affirmative defense) that they have provided equal benefits to, or incurred equal costs for providing those benefits to, all workers. S. 1511 does this by codifying the regulations originally developed by the Department of Labor and adopted by the Equal Employment Opportunity Commission (EEOC) when it assumed jurisdiction over the ADEA in 1979.

3. reestablishing the principle that employers bear the burden of proving this "equal benefit or equal cost" affirmative defense.

4. clarifying that all forms of age discrimination in employee benefits are forbidden by the ADEA, regardless of whether the discriminatory provisions pre-date the Act.

More specifically, S. 1511:

1. revises section 4(f)(2) of the Act to eliminate the word "subterfuge", thus clarifying that, subject to the next three para-

graphs, the only justification for age discrimination in an employee benefit is the increased cost of prividing that particular benefit to older workers. In determining whether the "equal benefit or equal cost" rule is met, the practices that were permissible under the EEOC regulation (29 C.F.R. section 1625.10) remain permissible under the bill (e.g., 5-year age banding to aggregate costs and age-based cost-justified reductions in long-term disability and group term life insurance benefits).

2. protects certain employee benefit practices that might otherwise be challenged under the equal benefit or equal cost rule by creating additional safe harbors, beyond those previously contained in the EEOC regulations. For instance, new section 4(1) protects subsidized early retirement payments and social security "bridge" payments (payments designed to bridge the gap between early retirement and social security eligibility).

3. codifies, with limited exceptions, the strict prohibition contained in the EEOC regulations against using the value of a participant's previously earned pension benefits as a means to deny the participant any other employee benefit. The only exceptions to the prohibition involve disability benefits in certain specified circumstances and severance pay in very limited specified circumstances. These two forms of benefit packaging were not previously permitted under the EEOC regulations.

4. protects voluntary early retirement incentive plans that are consistent with the relevant purpose(s) of the ADEA. The employer has the burden of proving that such plan meets this test. The one purpose of the Act that is always relevant is the purpose of prohibiting arbitrary age discrimination in employment. The other two purposes ("to promote employment of older persons based on their ability rather than age" and "to help employers find ways of meeting problems arising from the impact of age on employment") may be relevant on a case by case basis.

In summary, no employee benefits plans or benefit practices that were lawful under the EEOC regulations that had been the basis for pre-*Betts* law would be unlawful under this bill. Some plans or practices that were either unlawful or questionable under pre-*Betts* law could be lawful for the first time under this bill, provided that these plans or practices do not result in requiring or permitting the involuntary retirement of a worker based on age.

DESCRIPTION OF MAJOR FEATURES OF THE BILL

I. Title I—Overruling Betts

Through this legislation, Congress intends to make unmistakably clear that the ADEA's purpose of eliminating arbitrary age discrimination in employment includes the elimination of age discrimination in all forms of employee benefits. It is little consolation to an older worker to be protected from discriminatory wage payments if an employer is free to discriminate based on age in the broad range of employee benefits that are included as part of an individual's compensation, benefits that often are valued between one-quarter and one-third of earned wages.

The decision of the Supreme Court in *Public Employees Retirement System of Ohio* v. *Betts*, 109 S. Ct. 2854 (1989), incorrectly sanctioned the creation of a two-tiered system of compensation under the ADEA, one in which older workers inevitably will be become targets. The bill clearly avoids this draconian result by overturning both the reasoning and the holding of the Court in *Betts*. Thus, in enacting this bill, Congress explicitly and completely rejects both the reasoning and the holding in Betts.

Congressional reaffirmation of the original "equal benefit and equal cost" principle, subject to the narrow exceptions the Congress has crafted, will ensure that productive older workers, an ever-growing segment of our labor force both in numbers and importance, are not discouraged from remaining actively employed. The elimination of mandatory retirement, the requirement of non-discriminatory pension accruals for employees working beyond normal retirement age, and recent changes in the social security system are designed to eliminate barriers, monetary and otherwise, to the continued employment of older persons.

The provisions of this bill are consistent with those overall changes in national policy and Congress intends, as it does with all remedial statutes, for any ambiguities in statutory language to be resolved in favor of protecting older workers. In addition, because many of the provisions in the bill are identical to or refinements of provisions in H.R. 3200, as reported by the Committee on Education and Labor on August 3, 1990 (H. Rept. 101-664, 101st Cong. 2d Sess.), we hereby incorporate by reference the discussions and explanations of the provisions of the bill contained in that report.

A. Codification of the "Equal Benefit or Equal Cost" Rule

The legislative history of the ADEA in 1967 reflects the awareness of Congress that a tension exists between the two major purposes of the act: promoting the employment of older workers and eradicating arbitrary age discrimination. Under other civil rights statutes, such as those involving race or sex, employers must provide the same employee benefits to all workers. In contrast, the Age Discrimination in Employment Act permits an employer either to provide equal benefits to all workers or to spend the same amount of money for a particular benefit, even though a lesser benefit for older workers might be the result. Congress recognized that the effect of requiring employers to provide all workers the same employee benefits, regardless of the type of benefit involved, might result in discouraging employers from hiring older workers because some types of benefits are simply more costly to provide for older workers.

Thus the EEOC regulations (like prior DOL regulations issued in 1969 and 1979) adopted the "equal benefit or equal cost" rule as a benchmark to assure that any differentiation between the benefits provided to older and younger workers was not the result of arbitrary age discrimination but rather was based on employer-specific, age-related cost justification. (See, *e.g.*, *EEOC* v. *City of Mt. Lebanon*, 842 F.2d 1480 (3d Cir. 1988). Under this approach, an employer that provides a particular employee benefit must generally provide the same benefit to all workers. But if the cost to that employer of providing that benefit is greater for older workers than younger workers, the employer may provide a smaller benefit to older workers, so long as the employer spends at least the same amount of money for all workers.

The bill codifies the "equal benefit or equal cost rule" as articulated in the EEOC regulation (29 CFR section 1625.10) with the enumerated exceptions described below. These exceptions were carefully crafted and should be narrowly construed, not used as the basis for creating further exceptions by analogy or otherwise. Nothing in the amendments to the ADEA contained in S. 1511 is intended to change those provisions in the regulations with respect to the type of benefits covered under section 4(f)(2) (e.g., consistent with the regulation, section 4(f)(2) as amended should not be interpreted to apply to benefits such as paid vacations and uninsured paid sick leave).

Since the ADEA covers only employees and those individuals seeking employment, nothing in the bill would apply the provisions of the ADEA to retirees. Thus, for example, it would not be a violation of the ADEA, if an employer provided an *ad hoc* cost-of-living adjustment to all current retirees above a certain age. Of course, nothing in the bill would alter the current protection under the ADEA for an employee whose retirement or health benefits are discriminatorily structured based on age at the time of retirement. Thus the "equal benefit or equal cost" rule would continue to apply to any such promise upon retirement.

B. Benefit Packaging or Integration

Prior to *Betts*, Federal courts had routinely upheld the long-standing prohibition against combining pension benefits with any other benefit (including specifically severance pay). See e.g., *EEOC* v. *Westinghouse Elec. Corp.*, 725 F.2d 211 (3rd Cir. 1983), cert. denied, 469 U.S. 820 (1984); *EEOC* v. *Borden's, Inc.*, 724 F.2d 1390 (9th Cir. 1984). Under the bill, however, employers are given flexibility to engage in a narrowly drawn form of benefit packaging that prior to *Betts* was unlawful under the EEOC regulations. An employer may not use these techniques if they have the effect of requiring or permitting the involuntary retirement of an individual because of age.

1. Severance

Under S. 1511, employers may use two specific types of benefit packaging in connection with severance. First, when a "contingent event unrelated to age" (i.e., a plan shutdown or layoff) occurs, the employer may reduce the severance benefits that would otherwise be provided to workers by the value of their retiree health benefits. Second, the value of additional pension benefits that are provided to workers solely because of the closing or layoff (so-called "shutdown sweeteners") may be offset against severance pay. In no other instance may an employer reduce or deny severance based on pension eligibility or pension receipt.

With respect to retiree health benefits, an employer may not use this exception to the pre-*Betts* rules governing benefit packaging contained in the EEOC regulation unless the retiree health benefits offered are at least as valuable as Medicare (or at least as valuable as 25% of Medicare for workers over age 65).

In order to simplify the offset calculation, S. 1511 provides specific dollar figures (based on General Accounting Office data) to calculate the retiree health benefit values (both pre-65 and post-65). Separate values also are provided distinguishing between employer promises of retiree benefits that are of limited duration or employer promises that are of lifetime duration. All values are adjusted annually based on the medical component of the Consumer Price Index.

For example, if the employer's promise of retiree health benefits is of limited duration, the employer may offset $3,000 per year up to age 65 for each year of promised benefits and $750 per year thereafter.

Assume an employee is 62 when the plan shutdown occurs and the employer is offering a severance benefit equal to $10,000. If the employer promises only to provide health benefits until the retiree is 65, the employer may only offset $9,300 (3 years × $3,000 per year) against the severance. Thus the employee would be entitled to $1,000 in severance as well as the retiree health benefit.

On the other hand, if the employer's promise of retiree health benefits is of unlimited duration, the employer may offset $48,000 for workers under age 65 and $24,000 for workers age 65 or older. Thus under the example described above, the employer may deny severance benefits to the 62-year-old since the value of retiree health benefits ($48,000) is larger than the severance payment ($10,000).

With respect to shutdown sweeteners, the bill permits the value of such sweeteners to be deducted from severance pay. For instance, suppose an employer provides that if a plant shuts down, pension-eligible employees would be eligible for an extra pension benefit of $100 a month for the next 2 years. The employer may deduct the value of the shutdown sweetener ($100 per month x 12 months x 2 years) from the employee's severance pay, provided that the employee is eligible (on the date of the shutdown) for a pension that is not reduced on account of the employee's age. No deduction is permitted for any employee who, at the time of the shutdown, will only be entitled to a pension that is reduced (either on an actuarial basis or otherwise) because the employee is younger than normal retirement age.

2. Long-term disability benefits

The only other exception to the pre-*Betts* rule governing benefit packaging found in the EEOC regulation relates to long-term disability benefits and pensions.

Under S. 1511, in two instances, long-term disability may be reduced by the amount of certain pension benefits. First, pension benefits which the employee voluntarily elects to receive could be offset. Second, if the employee is entitled to a pension that will not be reduced (either actuarially or otherwise) because of the employee's age, the value of that pension could be offset after the employee reaches the later of age 62 of normal retirement age.

Although the bill authorizes a monetary offset to long-term disability benefits for certain pension benefits, it does not authorize an employer to abrogate any rights an employee may have that are associated with disability (e.g., recall rights, continued pension accruals under section 4(j) of the ADEA), if those rights are otherwise protected under the ADEA.

The offset to long-term disability benefits (like the severance offset described above) may not be made if it requires or permits involuntary retirement. For example, in some cases, the offset may not have the effect of requiring involuntary retirement. An individual with an independent source of income and no immediate short-term income needs may receive a reduced long-term disability benefit and decide not to draw the pension benefit to which he or she may be entitled for several years, thus retaining the option to return to work and/or continuing pension accruals. On the other hand, to reduce the long-term disability benefit of an individual with critical short-term income needs and no other source of income except his or her pension may result in constructively forcing that individual to retire in order to meet those financial needs. Such involuntary retirement would be prohibited under these amendments, as it would be under the *Betts* decision itself.

C. Voluntary Early Retirement Incentive Plans

S. 1511 permits early retirement incentive plans that are both truly voluntary and consistent with the relevant purpose or purposes of the ADEA. In addition, a safe harbor is provided for two prominent types of early retirement programs: subsidized early retirement and social security "bridge" payments (see H. Rept. 101-664, 101st Cong. 2nd Sess. 37 for a description of these programs). As with all affirmative defenses, the employer has the burden of proving that any early retirement incentive plan is consistent with the relevant purpose of purposes of the ADEA when the defense is raised by the employer to rebut a plaintiff's claim of age discrimination.

The phrase "purposes of the Act" has been used as a standard in the ADEA for over 20 years, and the common approach has been to consider only the purpose or purposes that are relevant to the issue at hand. The bill endorses that approach. An early retirement incentive plan or a feature of the plan need not be shown to be consistent with every purpose of the ADEA in order to be found lawful. The one purpose that is always relevant, however, is "to prohibit arbitrary age discrimination in employment." The other two purposes ("to promote the employment of older persons based on their ability rather than age" and "to help employers and workers find ways of meeting problems arising from the impact of age on employment") may be relevant on a case by case basis. If the plan or a feature of the plan is challenged, however, the employer must prove that the plan or feature is consistent with every purpose that is relevant.

Early retirement incentive plans that withold benefits to older workers above a specific age while continuing to make them available to younger workers may conflict with the purpose of prohibiting arbitrary age discrimination in employment. *See Karlen* v. *City Colleges of Chicago*, 837 F.2d 314 (7th Cir.), cert. denied, 486 U.S. 1044 (1988); *Cipriano* v. *Board of Education of North Tonawanda*, 785 F.2d 51 (2d Cir. 1986); *EEOC* v. *Westinghouse Elec. Corp.*, 725 F.2d 211 (34rd Cir.) cert. denied, 469 U.S. 820 (1984); *EEOC* v. *Borden's Inc.*, 724 F.2d 1390 (9th Cir. 1984). This purpose is also undermined by denying or reducing benefits to older workers based on age-related stereotypes or some other commonly recognized proxy for age (e.g., pension eligibility or receipt). In determining whether a program is consistent with the purpose of prohibiting arbitrary age discrimination in employment, non-age related cost to the employer is never an acceptable basis for providing lesser benefits for older workers (*Metz* v. *Transit Mix Inc.*, 828 F.2d 1202, 1206 (7th Cir. 1987)).

D. Burden of Proof

The Supreme Court in Betts erroneously held that section 4(f)(2) of the Act is not an affirmative defense, and therefore, the employee bears the burden of proof under the exception for employee benefit plans. The bill reverses that holding and reestablishes the principle that employers bear the burden of proving the "equal benefit or equal cost" affirmative defense and any other affirmative defenses under sections 4(f)(2) or 4(l). This is consistent with the allocation of burden of proof with respect to other affirmative defenses under the ADEA. For instance, the courts and the executive branch have uniformly held that the "bona fide occupational qualification" exception in section 4(f)(1) is an affirmative defense for which the employer bears the burden of proof. See, *e.g.*, *Heiar* v. *Crawford County*, 746 F.2d 1197-98 (7th Cir. 1984), cert. denied, 472 U.S. 1027 (1985); *Hoefelman* v. *Conservation Commission*, 718 F.2d 281, 283 (8th Cir. 1983). Accord 29 CFR 1625.6. Similarly, the EEOC and some circuit courts have concluded that the "reasonable factors other than age" exception included in section 4(f)(1) is an affirmative defense for which the employer bears the burden of proof. *See Criswell* v. *Western Airlines*, 709 F.2d 544, 552-53 (9th Cir. 1983), affirmed on other grounds, 72 U.S. 400 (1985). Accord 29 CFR 1625.7.

E. Effective Date

The changes made by the bill apply to any employee benefit established or modified on or after the date of enactment and to other conduct occurring more than 180 days after the date of enactment. In other words, existing plans would have 180 days to be brought into compliance, but any new benefit or new plan (or an modification of any existing one) is immediately subject to the changes made by the bill.

S. 1511 contains two exceptions to that general effective date:

1. collectively bargained plans

If a collective bargaining agreement is in effect as of the date of enactment and contains provisions that would be superseded by the amendments to the ADEA contained in this bill, employers and unions would have until the date the contract expires or June 1, 1992, whichever is earlier, to bring their plans into compliance with respect to employees covered under the bargaining agreement, since unilateral employer action is not possible to conform the plan to these amendments.

2. state and local government plans

If a state or local government employee benefit plan contains provisions that would be superseded by the amendments to the ADEA contained in this bill, a deferred effective date for compliance (similar to that for collectively bargained plans) is provided. State and local governments would have two years from the date of enactment to bring their plans into compliance.

Because a number of state and local governments provide disability benefits in a manner that would be superseded by the amendments made by the bill, a special rule authorizing an election by state and local employees who were hired prior to the effective date is also contained in the bill. After reasonable notice and an election period of at least 180 days, these employees could make a one-time election to retain coverage under the old plan for disability benefits or to be covered under new disability benefits that conform to the amendments made by this bill. Of course, no state or local government would be required to offer this election. If the government chose, it could simply provide disability benefits to all its employees—existing and new—under a plan that fully complies with the amendments to ADEA made by the bill.

Finally, the bill requires the EEOC and the Secretaries of Labor and the Treasury to provide assistance to state and local governments in identifying and securing independent technical advice.

II. Title II—Waivers

S. 1511 also amends the ADEA to ensure that older workers are not coerced or manipulated into waiving their rights under ADEA. The bill establishes threshold requirements for judicial consideration of ADEA waivers executed after the date of enactment. A waiver is not valid unless it is knowing and voluntary.

The bill provides certain minimal procedural requirements that must be met: the waiver must be part of a written agreement; the individual may not waive rights that arise after the waiver is executed; the wavier must be in exchange for something of value in addition to whatever the individual is already entitled to receive; the individual must be advised in writing to consult with an attorney; and the individual must have a reasonable period of time in which to consider the agreement.

In addition, if a waiver is requested from a group of employees as part of an exit incentive program, the following additional procedural requirements must be met: the employer must provide specific information about the eligibliity factors for inclusion of individuals in the progrm and the age profiles of individuals who are included in and excluded from the program.

Regardless of whether the waiver is requested as part of the settlement of an individual claim of age discrimination or as part of a group exit program, the employer may not mislead or deceive the employee(s) with regard to any information provided as to any subsequent action (e.g., layoffs).

In summary, no employee benefit plans or benefit practices that were lawful under the EEOC regulations that formed the basis for pre-Betts law would be unlawful as a result of the passage of this bill. Some employee benefit plans or benefit practices that were unlawful or questionable before Betts could be lawful for the first time, provided that these practices do not require or permit the involuntary retirement of a worker based on age.

Today we are asking members of the House to accept the bill as it passed the Senate. We are also adopting the statement of managers on the part of the Senate. I include the Senate statment in the RECORD at this point.

S. 1511 FINAL SUBSTITUTE: STATEMENT OF MANAGERS

VOLUNTARINESS

1. The managers wish to make clear that it is the plaintiff's burden under the ADEA to demonstrate that his or her retirement was involuntary. Such a claim would be raised under section 4(a). Under the ADEA, an employer does *not* have to prove that an early retirement incentive plan is voluntary. Of course, no employee benefit plan—including an early retirement incentive plan—may require or permit the involuntary retirement of any individual.

2. The fifth sentence of the second full paragraph on page 27 of the Senate Committee Report is expressly disavowed. [This corresponds to the last sentence on page 43 of H. Rept. 101-664]

3. Because, by definition, early retirement incentive plans are made available exclusively to older workers, relevant circumstances must be carefully examined to ensure that older workers make a voluntary decision. In order to determine whether a voluntary decision has been made, among the factors that may be relevant are (1) whether the employee had sufficient time to consider his or her options; (2) whether accurate and complete information has been provided regarding the benefits available under the early retirement incentive plan; and (3) whether there have been threats, intimidation and/or coercion. The employee retains the burden of proof regarding the issue of involuntariness.

4. Some observers have construed language in the Committee Report to mean that an early retirement incentive offer that was very generous, in other words, almost too good to refuse, might also be challenged on the basis of voluntariness. Nothing in these amendments should be construed to give rise to any challenge to an early retirement incentive plan on the basis that the attractiveness of the offer induces employees to retire. The attractiveness of an early retirement incentive does not call into question the voluntariness of an employee's decision to take advantage of that incentive.

EARLY RETIREMENT INCENTIVE PLANS

1. At the outset, we wish to explain the meaning of the provision requiring that certain early retirement incentive plans must be "consistent with the relevant purpose or purposes of the Act." This standard does not apply to early retirement incentive plans described in paragraph 4(l)(1). It also does not apply to such plans unless a prima facie case of age discrimination has been established under section 4(a).

Under new paragraph 4(f)(2)(B), an early retirement incentive plan must be consistent with the relevant purpose or purposes of the ADEA. The phrase "purposes of the Act" has been used as a standard in the ADEA for over 20 years, and the common approach has been to consider only the purpose or purposes that are relevant to the issue at hand. We endorse that approach. An early retirement incentive plan need not be shown to be consistent with every purpose of the ADEA in order to be found lawful. That would be an impossible burden for an employer to meet. As a general matter, the purpose implicated in considering an early retirement incentive plan or any particular feature of such a plan is the purpose of prohibiting arbitrary age discrimination in employment.

Early retirement incentive plans that withhold benefits to older workers above a specific age while continuing to make them available to younger workers may conflict with the purpose of prohibiting arbitrary age discimination in employment. The purpose of prohibiting arbitrary age discrimination in employment also is undermined by denying or reducing benefits to older workers based on age-related stereotypes. For example, it would be unlawful under this substitute to exclude older workers from an early retirement incentive plan based on stereotypical assumptions that "older workers would be retiring anyway."

2. It is also clear that a wide variety of voluntary early retirement incentive plans would be lawful under the ADEA. For example, early retirement incentives that provide a flat dollar amount (e.g., $20,000), service-based benefits (e.g., $1,000 multiplied by the number of years of service), or a percentage of salary to all employees above a certain age were permissible before the Betts decision and would remain lawful under this substitute. Similarly, early retirement incentives that provide flat dollar increases in pension benefits (e.g., $200 per month) or percentage increases (e.g., 20%), would continue to remain lawful. Finally, early retirement incentives that impute years of service and/or age would satisfy the ADEA. For example, a plan that gives employees who have attained age 55 and who retire during a specified window period credit for 5 additional years of service and/or age would be lawful.

We recognize that employees may welcome the opportunity to participate in such programs, and we do not intend to deprive employees of such opportunities or to deny employers the flexibility to offer such programs rather than resorting to involuntary layoffs.

BURDEN OF PROOF IN SECTION 4(f)

1. Under section 4(f)(2)(A), the substitute provides that the employer bears the burden of proving that a bona fide seniority system is not intended to evade the purposes of the ADEA. The managers wish to make clear that this burden of proof does not disturb or affect the allocation of burdens of proof for seniority systems under Title VII.

2. The substitute deletes any reference to paragraphs 4(f) (1) and (3) of the Age Discrimination in Employment Act (ADEA). The Betts decision did not involve interpretation of those two paragraphs. The two paragraphs are removed because they are unchanged by Betts or by this bill.

In particular, the managers declare that they are not disturbing or in any way affecting the allocation of the burden of proof for paragraph 4(f)(1) under pre-Betts law. Prior to Betts, courts had allocated the burden of proof under paragraph 4(f)(1). This bill overturns the Supreme Court's allocation of the burden of proof under paragraph 4(f)(2). Because the allocation of the burden of proof under paragraph 4(f)(1) was not at issue in Betts, the managers find no need to address it in this bill.

ACTUARIAL PRACTICES

The substitute incorporates the equal benefit equal cost rule into section 4(f)(2). We note that in complying with this provision, the employer may base necessary cost data on generally accepted actuarial principles, such as actuarial extrapolation, smoothing and averaging, and on the use of reasonable related data—*e.g.*, as to the effects of aging on disability incidence and costs. In all circumstances, the employer must base calculations on the best reasonably available data.

STATE ELECTION PROCEDURES

The substitute allows state and local governments to offer existing employees an election between existing and newly-created disability benefits. The decision whether to have an election procedure is at the discretion of the affected state or local government. It is the managers' intent that the election provided for under section 105(c) of the bill be a one-time election to be used in the context of complying with this bill. The managers intend that once an employee either elects or does not elect to be covered by the new disability benefits under section 105(c)(2), the employee may not change his or her decision. Thus, an employee will not be permitted to opt in and out of the two plans. The flexibility that the substitute provides for state and local governments is negated if employees are given such discretion. An employer shall use an effective method of transmitting notice, such as the mailing of notice to an employee's last

known address, or the inclusion of notice in the employee's paycheck.

WAIVERS AS A DEFENSE

The managers intend that in any dispute over whether the requirements, conditions and circumstances set forth in paragraph 7(f)(1)(A)-(H) or 7(f)(2)(A)-(B) have been met, the party asserting the validity of the waiver shall have the burden of proving in a court of competent jurisdiction as an affirmative defense that the waiver process satisfied each of the factors in that paragraph. With respect to the allocation of burdens of proof and production on the issue of whether a waiver was "knowing and voluntary," the managers do not intend to disturb the law as it existed prior to passage of this bill, including the law under Rule 12 and Rule 56 of the Federal Rules of Civil Procedure.

RETIREE HEALTH

Many employer-sponsored retiree medical plans provide medical coverage for retirees only until the retiree becomes eligible for Medicare. In many of these cases, where coverage is provided to retirees only until they attain Medicare eligibility, the value of the employer-provided retiree medical benefits exceeds the value of the retiree's Medicare benefits. Other employers provide medical coverage to retirees at a relatively high level until the retirees become eligible for Medicare and at a lower level thereater. In many of these cases, the value of the medical benefits that the retiree receives before becoming eligible for Medicare exceeds the total value of the retiree's Medicare benefits and the medical benefits that the employer provides after the retirees attains Medicare eligibility. These practices are not prohibited by this substitute. Similarly, nothing in this substitute should be construed as authorizing a claim on behalf of a retiree on the basis that the actuarial value of employer-provided health benefits available to that retiree not yet eligible for Medicare is less than the actuarial value of the same benefits available to a younger retiree.

It is critical that we reverse Betts and restore the protection from age discrimination in employee benefits that the Supreme Court took away from older workers last year. I strongly prefer H.R. 3200 as the Committee on Education and Labor reported it. As this bill has evolved, we have had to make many difficult compromises and the Senate bill contains some of the more painful ones. But I have reluctantly concluded that the only way that Congress can pass a law this year is to adopt the Senate bill. Senators PRYOR, METZENBAUM, HEINZ, and JEFFORDS reached a compromise with Senator HATCH last week that resulted in the Senate passing the bill by 94 to 1.

If it were not so late in the legislative session, I would be unwilling to accept this Senate compromise. But there is not time for a conference with the Senate and time is of the essence.

Some of you have asked about the position of the administration on S. 1511. If we pass the Senate bill today, we have been informed that the President will sign it.

After all, the Bush Justice Department argued in the Supreme Court in favor of June Betts and in strong support of the EEOC regulations that we are codifying today. The Bush EEOC testified before both House and Senate committees in support of our original bills that were substantially tougher on employers than the bill before us today. The Senate bill addresses each and every concern raised in the letter last March from Roger Porter of the White House domestic policy staff.

The Senate passed S. 1511 by an overwhelming margin: 94 to 1. Today we must close the loophole opened by the Supreme Court in Betts once and for all and reaffirm the right of older workers to nondiscriminatory employee benefits.

I urge passage of S. 1511.

□ 1120

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

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

Mr. Speaker, I, too, want to congratulate all who negotiated this legislation so that it is now coming to us in this form.

I am getting close to believing in modern miracles. When it left the committee I thought it smelled like a skunk, and now, as it returns from negotiations it almost smells like a rose, almost, as I said. So they have come a long, long way.

My greatest fear, of course, when it left committee was that a year from now we were going to have 50, 55, 60, 62-year-old workers descend upon Washington, DC, hoping that the only thing they were going to throw at us were tomatoes and eggs, because I had a feeling that it was going to be worse than catastrophic health care when they discovered that they believed we in the Congress prevented them from getting the same kind of early out that their neighbor got.

The Older Workers' Benefit Protection Act has been the focus of much discussion in the 14 months since its introduction. This is understandable given the bill's subject, the very complicated legal area of employee benefits and pensions.

While we are committed to ensuring that the rights of older Americans in the work force are protected, some of us have paused at certain of the bill's provisions which we believed were unnecessarily disruptive of existing benefit arrangements and which we felt would result in decreased benefits to workers of all ages.

One of the difficulties in providing older workers with protection against discrimination on the basis of age in the area of employee benefits is that certain benefits are structured around age-related factors. For example, one area where we felt the provisions of H.R. 3200 were particularly problematic were those which called into question the ability of employers to offer early retirement incentives. These popular incentives often use age eligibility criteria and were jeopardized by a combination of the bill's general prohibition on the use of age-based factors and the restrictions on the use of ADEA waivers.

We had similar concerns about the bill's effect on benefit packaging and ERISA features of many plans.

I would like to very quickly review the changes that were made that I think make this an acceptable piece of legislation. In the Hatch compromise, it provides that a voluntary early retirement incentive plan consistent with the relevant purpose or purposes of the act is not a violation of ADEA. It broadens the integration of disability and pension by allowing disability to be offset by pension whenever an employee voluntarily elects to receive a pension or when the employee reaches the latter of age 62 or normal retirement age. It allows severance to be offset by both retiree health benefits and pension sweeteners, that is, additional pension benefits. It provides a 6-month phase in after enactment for application to private employers and clarifies that the bill's provisions do not apply to ongoing benefits that began before the bill's effective date.

It modifies several of the burden-of-proof provisions in the bill and, particularly, clarifies that the employee has the burden of proof on the issue of whether he or she was involuntarily retired. It alters the coverage of State and local plans to provide that current employees may elect to receive either existing disability benefits or the disability benefits as modified to comply with the act and to require that EEOC and the Secretaries of Labor and the Treasury provide States with technical assistance in complying with the act.

It modified the ADEA waivers provision with respect to the burden of proof on knowing and voluntary.

With these changes, we have a bill that I think most people can support, not a perfect bill, but then we do not pass very many perfect bills out of either the House of Representatives or the Senate or out of conference.

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

Mr. GOODLING. I am happy to yield to the gentleman from Pennsylvania.

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

The gentleman from Missouri, the chairman of the subcommittee, alluded to the fact that the administration, in whatever way he described, has joined in the approval of this legislation. I wanted to make sure that that was the case. I have no documentation to indicate that that is so.

Mr. GOODLING. The administration has joined in saying that they would not veto the legislation.

Mr. GEKAS. I thank the gentleman.

Mr. GOODLING. Another member of the committee will tell us what they said, and I am just telling the gentleman what they will not do.

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

Mr. GOODLING. I am happy to yield to the gentleman from Texas.

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

Mr. Speaker, as I understand the administration's position on this specific bill, it is that the administration has no position, that is, the administration has said specifically that they do not plan to veto the bill, but they are in no way endorsing this bill either.

Mr. GOODLING. They have four concerns left in the legislation.

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

Mr. GOODLING. I am happy to yield to the gentleman from Missouri.

Mr. CLAY. Mr. Speaker, I think what I said was that we had made many changes in this bill to accommodate the concerns of business, of labor and the administration.

Mr. GEKAS. So we are not in a place where we can say that it is completely settled, but at least the committee has done its work is what the gentleman is saying.

Mr. GOODLING. The administration will not have a signing ceremony where they will invite the gentleman and a band, et cetera, and so forth, because they are in love with the legislation.

Mr. GEKAS. That will not be the first time that I have not been invited. I thank the gentleman.

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

Mr. CLAY. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Speaker, I rise to support Mr. CLAY and Chairman HAWKINS on this legislation to reverse the Betts Supreme Court case, which overturned 20 years of age antidiscrimination laws.

I support the passage of this bill only because it is necessary to clarify that the Age Discrimination in Employment Act does not allow the calculation of employee benefits to discriminate against older workers. But I have some very strong reservations about what we have done to the current ADEA law in order to get this bill through.

In my opinion, H.R. 3200 has violated a sacred principle that we have held for over 20 years, validated by amendments passed in 1987, that, with the exception of pension benefits, which are accrued on the basis of age, age should never be the basis of calculating the amount of benefits one employee receives over another. But in this bill, in order to settle political interests we had to carve out numerous exceptions to this rule, exceptions in areas that previous law governed and prohibited.

However, in the end, it comes down to protecting the interests of older workers. The question for us to resolve is whether the older worker community would be hurt more by us not passing a bill to limit and clarify the benefit discrimination in the workplace or by passing this bill which will dilute concrete laws and precedence in this area.

I have one further concern over the time of coverage of this legislation. All previous discriminatory conduct in benefit settings are immunized. This means that pending lawsuits—the EEOC has at least 130 cases—filed under the previous laws and guidelines, and in place before the Betts Supreme Court decision, are absolved by the newer discrimination standards of this bill. We say to those victims, sorry, but we changed the rules, your case is no longer viable under these newer standards of discrimination.

Mr. Speaker, I state these concerns out of a belief that older workers must be protected from discrimination and not be forced to retire by the conditions dictated against them. In the end, I have decided by a narrow balance that to protect these rights we should pass this legislation. We will be signaling that the Supreme Court was dead wrong in its conclusion of law in that case. What I am not certain is if we have in this bill extended or retreated from the protection of older workers' rights.

I urge my colleagues to vote this bill out of this Congress.

□ 1130

Mr. GOODLING. Mr. Speaker, I yield 4 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA], a member of the subcommittee, who has worked on these issues long and hard for many years.

Mrs. ROUKEMA. Mr. Speaker, I rise in support of the compromise embodied in S. 1511, the Older Workers Benefit Protection Act.

Because this compromise represents a very significant improvement over the original bill, I believe this legislation now provides reasonably clear guidance to employers as to what constitutes age discrimination in employee benefits, while preserving some customary benefit practices that are desirable to older workers and younger workers facing involuntary termination.

By no means is this a perfect bill. However, based upon the earlier versions of legislation intended to overturn the Supreme Court's decision in Public Employee Retirement System of Ohio versus Betts, this compromise is perhaps as much as we could hope to achieve in attempting to bring fairness and uniformity to the very complex undertaking of subjecting employee benefits to scrutiny under the Age Discrimination in Employment Act.

The purpose of this legislation is to ensure that older workers do not receive less benefits than younger workers. To that end, older workers cannot receive less severance than younger workers with certain specified exceptions, in the form of offsets for retiree health benefits, and pension sweetners. In addition, the bill provides that workers who are on disability cannot be forced to receive only their pension at retirement age. Under this bill, they will receive the difference between what is typically a lower pension benefit and the higher disability benefit. The end result is that older workers will not find themselves penalized by virtue of their age and pension eligibility when it comes to receiving benefits.

When we considered the original legislation in the Education and Labor Committee, I offered amendments concerning the effects of the bill on early retirement window programs, and its retroactive application to cases dismissed prior to the enactment of the bill. I am pleased to note that these concerns have been substantially resolved by the Senate compromise before us today.

The compromise does not include earlier language that required early retirement plans to be permanent features of benefit plans. As a result, early retirement window plans, which are typically offered for a temporary window in time during downsizing or restructuring, are retained under the Senate-passed version of the legislation. Problems of retroactively have been resolved. Further, these Amendments to the Age Discrimination in Employment Act of 1967 will only apply to conduct occurring 6 months after the date of enactment.

Of particular concern to myself and my Education and Labor Committee colleagues was the effect of this bill on public benefit plans enacted by State statute, and only capable of modification by the affirmative act of State Legislatures or local bodies.

This bill will potentially cost States millions of dollars per year in conforming their disability benefit practices to new law which prohibits placing an employee who is receiving disability payments and who reaches retirement age on their pension which may be less than the disability payments. The prohibition on this practice is still in force; however, affected States have 2 years from enactment to conform their statutory plans to the requirements of this bill. Moreover, those States which have a constitu-

tional prohibition against decreasing benefits may hold an election whereby individual employees may elect to be covered under new disability benefits or to remain under the preexisting plan. This provision mitigates some of the costs to States of conforming to this legislation.

I support this compromise because it addresses many problems contained in the original bill, and because I believe that the Congress should affirmatively bring employee benefits into the orbit of laws against age discrimination. While the compromise is not perfect, it is palatable to many in the business community with whom I have spoken since the Senate passed S. 1511 on September 24. I hope my colleagues will support this bill as being a fair resolution of many business concerns and as a real effort to maintain early retirement programs enjoyed by older workers.

Mr. CLAY. Mr. Speaker, I yield such time as he may consume to the original cosponsor of the bill and the chairman of the Select Committee on Aging, the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Speaker, as Chairman of the Select Committee on Aging, I rise in support of an important piece of legislation which will preserve the fundamental civil rights of this Nation's older workers. S. 1511, the Older Workers Benefit Protection Act, will overturn the U.S. Supreme Court's decision in Public Employees Retirement System of Ohio versus Betts, and reassert Congress's original intent that the Age Discrimination in Employment Act, the landmark Federal law protecting older workers from age discrimination in the workplace, prohibits arbitrary age discrimination in the provision of employee benefits.

For more than 20 years, older workers have been protected from age discrimination not only in hiring, firing, promotions, demotions, and wages, but also in the critical area of employee benefits. However, on June 23, 1989, the Supreme Court in the Betts decision essentially eliminated the applicability of the ADEA to employee benefits. The Court's view of the ADEA was contrary to the interpretations of the two Federal agencies that have had responsibility for enforcing the ADEA, the Department of Labor, and the Equal Employment Opportunity Commission, and numerous lower Federal courts. Justice Marshall, in his vigorous dissent in Betts stated that the decision gives employers a free hand to fashion discriminatory benefit programs.

In August of last year, I introduced the Older Workers Benefit Protection Act in the House, H.R. 3200, along with Representatives HAWKINS, CLAY, and MARTINEZ. Identical legislation, S. 1511, was introduced in the Senate by Senators PRYOR, METZENBAUM, and JEFFORDS. The sole purpose of this legislation was to reverse the Betts decision, and to reassert Congress's original intent in enacting the ADEA in 1967 to protect older workers from arbitrary age discrimination in all critical aspects of the employment relationship, including employee benefits. The legislation did this by putting into law the Federal agency rule in effect for 20 years prior to the Betts decision, the equal benefit—equal cost rule, which was invalidated by the Court.

Following the introduction of this legislation, the Select Committee on Aging together with two subcommittees of the House Education and Labor Committee, the Subcommittee on Labor-Management Relations, and the Subcommittee on Employment Opportunities, held a hearing on this matter. At that hearing we heard the moving testimony of Carolyn Betts, the daughter of June Betts, the claimant in the Betts case. We heard Carolyn Betts describe how her mother, who was severely disabled with Alzheimer's disease, was denied disability benefits by her employer simply because she was over the age of 60. I would like to enter into the record at this time a letter recently sent by Carolyn Betts to the White House. We also heard testimony from the EEOC, supporting the reversal of the Betts decision, and stating that if it was not reversed, older workers would face increasing uncertainty about their future benefits.

The House Education and Labor Committee subsequently approved H.R. 3200 on April 4, 1990, amending the legislation to reduce restrictions on certain employee benefit arrangements offered by employers, and providing special transition rules for collectively bargained, and State and local plans. The committee also strengthened the protections for older workers, adding a provision to protect older workers from unknowing and involuntary waivers of their ADEA rights.

The Senate legislation before us today, S. 1511, is a compromise version of the bill originally introduced and that was reported by the Education and Labor Committee. However, I believe this is still a very important and effective bill that will go far to protect the rights of older workers. It retains the basic protections of the House bill, by overturning the Betts decision, and preserving the employment and benefit rights of older workers.

Specifically, S. 1511 makes it clear that the ADEA's prohibition against age discrimination in compensation, terms, conditions, or privileges of employment covers employee benefits and employee benefit plans. Second, S. 1511 codifies the equal benefit—equal cost rule, requiring employers who seek to rebut a charge of age discrimination in employee benefits to prove that they have provided equal benefits to, or incurred equal costs for providing those benefits to all workers. In addition, it reaffirms that employers bear the burden of proving the equal benefit—equal cost affirmative defense. The bill also makes it clear that the ADEA applies to all employee benefit plans, regardless of whether the plans were established prior to ADEA's enactment in 1967.

I would like to make several additional clarifying points about the compromise provisions of S. 1511.

The bill, for the first time, gives employers some flexibility to engage in a very limited form of benefits packaging that was unlawful prior to the Betts decision. I would like to emphasize, however, that an employer cannot use these techniques if they have the effect of requiring or permitting the involuntary retirement of an individual because of age.

With specific regard to severance, S. 1511 allows employers to use two types of benefit packaging. When a contingent event unrelated to age occurs, for example a plant shutdown or layoff, an employer may offset severance benefits by the value of retiree health benefits. In addition, the value of additional pension benefits that are provided to workers because of the closing or layoff—shutdown sweeteners—may be offset against severance pay. S. 1511 does not allow an employer to reduce or deny severance to workers based on pension eligibility or pension receipt in any other instance.

S. 1511 also allows an employer to reduce long-term disability benefits by the amount of certain pension benefits. It should be noted, however, that S. 1511 does not authorize the abrogation of any rights an employee may have that are associated with disability, if those rights are otherwise protected by the ADEA.

With regard to early retirement incentive plans, S. 1511 permits these plans if they are truly voluntary and consistent with the relevant purpose or purposes of the ADEA. If a program is challenged however, the employer has the burden of proving that an early retirement incentive plan is consistent with the relevant purpose or purposes of the ADEA. It should also be noted that early retirement incentive plans that withhold benefits to older workers above a certain age while continuing to make them available to younger workers may conflict with the ADEA's purpose of prohibiting arbitrary age discrimination in employment. Moreover, in determining whether a program is consistent with this purpose of the ADEA, non-age related cost to the employer is never an acceptable basis for providing lesser benefits for older workers.

In closing, I would like to state that while S. 1511 is clearly not as strong as my original bill, I agree with the Senate sponsors that we must we pass legislation in the 101st Congress that overturns the Betts decision, and restores the ADEA to what it was when we passed it in 1967, the landmark Federal law that protects the full employment rights of older workers. S. 1511, will do this and ensure millions of older workers continued equality in the workplace.

WASHINGTON, DC, MAY 9, 1990.

President GEORGE BUSH,
The White House,
1600 Pennsylvania Avenue, NW.,
Washington, DC.

DEAR MR. PRESIDENT: I am writing to you on behalf of my mother, June Betts. She is unable to write to you herself since she suffers from Alzheimer's disease and is bedridden in a nursing home. My mother is the plaintiff in Public Employees Retirement System of Ohio versus Betts. This is the case in which the Supreme Court said it was permissible for employers to discriminate against older workers in employee benefits.

Until recently, your administration has been a strong and important supporter of my mother's efforts to obtain her full and fair disability benefits from the State of Ohio, after being disabled due to Alzheimer's disease. Your strong support in the Supreme Court, not only in a brief but in oral argument, supporting my mother's case, as well as in testimony before Congress, encouraged my family to continue to fight for my mother's rights after losing our case in the Supreme Court.

Now, you have abruptly abandoned your support for my mother's cause. In a letter to Representative William Goodling dated March 27, 1990, Mr. Roger Porter ignored your administration's prior support for the Older Workers' Benefit Protection Act (S. 1511/H.R. 3200) and threatened a veto of this bill. This legislation was introduced to reverse the Supreme Court's ruling in my mother's case and to insure that she, and thousands of other older workers, do not lose benefits they have already earned.

Today, my mother is unable to recognize her family or to care for herself. She suffers from the final stages of Alzheimer's disease, partial paralysis due to a stroke, and inoperable breast cancer. Before her illness my mother was the most independent and resourceful person I knew. She was committed to public service and helping other, less fortunate people. For almost 30 years, she raised her children and served sincerely and conscientiously as the wife of a parish priest. When her children left home, mother returned to school, obtained a Master's degree and in 1978, at age 54, she began a career as a speech pathologist for retarded children and adults with the Hamilton County (Ohio) Board of Mental Retardation. In 1982, my parents were divorced.

About this time, mother began exhibiting signs of what doctors at first thought was an emotional breakdown. Although her condition got worse and worse, she continued working, paying her taxes and contributing to her church and community. The rapid onset of what was finally diagnosed as Alzheimer's meant that she was demoted to lower paying jobs with less responsibility. By the time she was too ill to work, she was babysitting for retarded adults. Mother was distraught, but not beaten—after losing her job, she continued to volunteer at a camp for retarded children for a short time until that, too, became impossible for her to do.

Mother was forced to leave work because of Alzheimer's at age 61, but Ohio PERS refused her a disability benefit solely because she became disabled after age 60. Frankly, Mr. President, if my mother had given up sooner, and left work when she first became ill at age 58, she would be getting a much higher benefit. But, mother didn't want to quit work and become dependent upon anyone. As a result, my mother receives only $158 per month in early retirement benefits, rather than $350 per month in disability retirement benefits that she would receive if she had left work when she was younger and first became ill.

Ohio PERS is penalizing my mother for working as long as she was physically and mentally able to work, by denying her the benefits she has earned. But, self-sufficiency and work were important to my mother; she would never have considered leaving before she had to. This summer, mother's financial assets will be exhausted and she will become a ward of the State and a recipient of Medicaid assistance. Of all these tragedies, this last is probably the one that would most appall and embarrass her.

My mother sued Ohio PERS for age discrimination, and won in the Federal district and appellate courts. When Ohio PERS appealed to the U.S. Supreme Court, your administration not only filed a friend of the court brief on my mother's behalf, but orally argued before the court, saying that for 20 years, the Age Discrimination in Employment Act [ADEA] had prohibited the type of discrimination Ohio PERS was engaged in. After we lost before the Supreme Court, the EEOC, testifying for your administration before the U.S. Senate and House of Representatives, supported legislation introduced to reverse my mother's case and restore this long-standing interpretation of the ADEA.

Despite all this, Mr. Porter's letter stated that you might veto this legislation. My family and I were shocked and disappointed to learn of this change of heart. Mr. Porter's letter never refers to your administration's Supreme Court brief, oral argument or congressional testimony. Indeed, it directly, and without explanation, contradicts your administration's previous public statements on many of the issues pertinent to this bill.

My family and I cannot understand what has caused this abrupt change in your position. Certainly, no one is more deserving of your support than my mother, who spent her life helping others. She is not asking for a handout—she is asking only for the benefits she worked for and earned.

My mother is just one person among many. And, her problem is one that faces many women who, after one career raising their families, return to the labor force. How many millions of other midlife and older women workers will lose their benefits before employers are once again prohibited from discriminating against them?

It was to prevent what happened to my mother that the ADEA for 20 years prohibited employers from discriminating on the basis of age in employee benefits. Most employers complied with the law; unfortunately for my mother, Ohio did not.

I plead for your support on my mother's behalf, because she is powerless to plead for herself. Please once again support this bill, for the same reasons you supported it before: older workers, like June Betts, deserve to be treated fairly and honestly in all aspects of their employment and deserve the benefits they have earned.

Very truly yours,

CAROLYN A. BETTS.

Mr. GOODLING. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I rise in opposition to this legislation.

I want to start by saying that I am under no illusion that my simple statement here today would be able to defeat this legislation. It appears that it is going to pass by the requisite two-thirds vote, but I rise because House Members need to know what this legislation does and how in many ways it is similar to the catastrophic health insurance legislation that we passed several years ago and subsequently repealed.

Now, I have listened to the speakers here today rather carefully, and in fact the best comment I have heard about this legislation came from one Member who commented that this legislation is not worse than the catastrophic of 2 years ago, but I would contend that while indeed it is not worse than the catastrophic health insurance we passed, it is still catastrophic. The legislation still hurts retirees. It still hurts those workers who are covered by pension plans, and specifically defined benefit plans and it still hurts workers who are seeking retirement and severance benefits suited to their own particular needs, but I am under no illusion about whether the legislation will pass or not. It is likely to be passed and to indeed become law.

I would note, as has been said earlier, that there is no known organized group against this legislation.

I would also note that so far as I know there is no known organized group for this legislation, with the possible exception of the AARP who also advocated the catastrophic legislation some years ago.

I would note that the Department of Labor upon reviewing this legislation is not for it. The administration is not for it. The teachers' retirement systems are not for it. Public pension plans and private pension plan administrators are not for it. Retirees are not for it. The EEOC is not for it. The employer community is not for it.

Those who start or who might start pension plans or who choose to start or to stop pension plans are not for it.

The best that we can say is that there are no organized groups who are against it, and I would suggest the reason there is no organized group against it is that there is a great fear that unless we pass something that is a little bit bad, like this is, then the Congress could come along subsequently and pass something far worse.

I would suggest, Mr. Speaker, that this in fact is a victory for lobbyist

groups inside Washington and is a defeat for the Members that they represent in the rest of America. It is a defeat for retirees and it is a defeat for workers.

As each Member thinks about how to vote, I just ask that you judge this legislation against the standard of current law. As measured against current law, this legislation makes it worse for retires who are trying to retire early. It makes it worse for current retirees. It makes it worse for workers who are trying to retain their benefits.

Let me give the House just a little bit of background. First, neither the House nor the Senate, none of the committees of the House or the Senate, have had a chance to examine this legislation. This version of the bill emerged full grown on to the Senate floor, handed to the Senate and with no debate, with some discussion in which one of the Senators acknowledged that he was not sure what all was in it, and he was one of the principal sponsors. It was passed with no hearings, no markup, no debate.

It is being considered today without any consideration by any committee of jurisdiction or any other committee in the House, and it is being considered today under a suspension of the rules, so there is no opportunity today for amendments or any kind of real debate.

Let us talk about what this legislation does at its heart. At its heart this bill, and if you get nothing else, this is what you need to remember before you vote, at its heart this bill prohibits the payment of enhanced severance pay to persons who are not eligible for retirement unless an equal amount is paid to those who are eligible for retirement.

At its heart this bill prohibits an employer from offering on an early retirement package, on a voluntary retirement, this bill at its heart prohibits an employer from offering a package of benefits to workers that they voluntarily choose to accept and which workers who are not yet eligible for retirement receive a dollar amount under what is called severance, and workers who are eligible for retirement receive a package of dollar amounts and other monetary benefits, including their retirement package.

So at its heart this bill hurts the 50-year old worker who voluntary wants to retire and who is offered, Mr. Speaker, money, dollar amounts, an enhanced retirement package to voluntarily retire.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. GOODLING. Mr. Speaker, I yield 4 additional minutes to the gentleman from Texas.

Mr. BARTLETT. So in this case both lose, the worker who wants to retire and receive enhanced severance benefits would not be able to get those benefits, so if you have a 50-year-old worker in your district who wants to retire and go to a lake cabin or start another job and take his enhanced severance package with him, this stops him or her from doing it, and if you have a retiree who wants to get an enhanced retirement package for early retirement, you can forget the enhancement, because employers are prohibited from doing it, unless they make them exactly equal and not count the retirement cost, and not be able to count that, but to require the same dollar amount of severance package.

Second, there are no offsets permitted in this bill. That means that if a retirement system, as many do, offers a dollar amount for a death benefit for a disabled worker who is on a disability benefit, if that pension plan offers a larger dollar death benefit for that 40-year-old disabled worker than they do for a 70-year-old retiree, you can kiss that death benefit goodbye, and their families therefore suffer.

Third, H.R. 3200 requires what is called global information or the totality of information about the whole company's and early retirement packages to be provided in advance to every worker, an invitation to lawsuits. Current law says that each worker gets the total package of information relevant to his or her case.

This would say the global package in some kind of anticipatory way has to be offered, an advantage only to class action plaintiffs' lawsuits.

Last, I want to note that H.R. 3200 does not apply to Congress. Oh, there was an amendment offered in the subcommittee and another one at the full committee and another one at the Rules Committee that would apply just to congressional employees and congressional retirees, but that amendment is not included in this so once again the Congress of the United States is passing a law that we impose new retirement burdens on the rest of the world, everyone except for Federal workers in this case, and specifically for congressional retirees.

Last, defined pension plans, Mr. Speaker, are declining. We have had a 50-percent reduction in the number of defined benefit plans since 1974. This will reduce it further by giving an additional reason that defined benefit plans would not be started and others would be terminated.

□ 1150

I would say to my colleagues that this is catastrophic revisited. The best that you can say about it is this is not as the catastrophic health insurance bill several years ago was, but it is still worse than current law, it still hurts retirees and it hurts workers, young and old. It has not been debated. It has not been thought about. It is not subject to amendment.

We are exempting congressional employees from the coverage of this bill and exempting it deliberately. I would suggest that if the sponsor of the bill were willing to accept an amendment at this time, I have an amendment prepared, and I would say to the sponsor of the bill, to offer that amendment to apply this to Congress, per se, as a congressional protection for our own employees. I would be prepared to offer that at this time.

I would be prepared to offer that subsequent to suspension. I would be prepared to offer that at any time the sponsor of the bill would make it in order to allow an amendment for congressional coverage to be offered.

But I would suggest that that amendment will never be allowed to be offered because the House would be forced to vote for this bill without a debate and without amendments being made in order. Mr. Speaker, I thank the gentleman for the additional time.

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

Mr. Speaker, in response to the eloquent statement by the gentleman that Federal employees are not included in this bill, I might say to him—and he is carrying the water for the President of the United States—that the Senate adopted a provision covering Federal employees and the White House insisted that that be dropped. So Mr. HATCH, Senator HATCH, offered the motion to drop it, and it carried.

So Federal employees are not covered in this bill because the administration was opposed to them being covered.

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

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

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Speaker, would the gentleman accept the amendment at this time?

Mr. CLAY. I think the gentleman ought to talk to the administration, the one that he is carrying the water for, and see if they would accept it, see if they—if the gentleman calls them and they accept it, yes, I will accept it. Will you call the White House, please?

Mr. Speaker, let me say to the speaker that, despite the objections of the gentleman from Texas, that the Senate passed this bill by a vote of 94 to 1—overwhelmingly, some people might say.

Let me also reemphasize that the bill restores 20-year-old civil rights protections for older workers, unexpectedly stripped away last year in the Betts decision, when the Supreme Court, contrary to the position of both Mr. Bush's and Mr. Reagan's Justice Departments, misinterpreted congres-

sional intent. That is why it is necessary for us to enact this bill today.

Over on the Senate side there was a compromise that was structured by Senator HATCH and Senator PRYOR, and that compromise was approved by a vote of 94 to 1, because it was a fair and a balanced version of the bill, and that is why I do not believe that this bill is going to be defeated here in the House today.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. I thank the gentleman for yielding time to me.

Mr. Speaker, as a cosponsor of H.R. 3200, the House version of the Older Workers' Benefits Protection Act, I rise in support of S. 1511.

Since 1967 the Age Discrimination in Employment Act has guaranteed that equal treatment in all aspects of employment would not be selectively applied on the basis of age. In 1989, the Supreme Court's Ohio versus Betts decision denied this longstanding right for older workers by voiding ADEA coverage of employee benefits.

Congress never intended that age discrimination could be practiced in some areas of employment but not others. S. 1511 makes it clear that the ADEA protects workers from age discrimination in wages, promotions, and hiring—and employee benefits. S. 1511 codifies the equal benefit—equal cost rule, an ADEA regulation which, for over 20 years, has required employers to provide all workers with equal benefits or incur equal costs in all benefit plans. Finally, S. 1511 protects older workers from unknowing waivers of their ADEA rights.

Mr. Speaker, S. 1511 is a compromise measure which carries the support of an esteemed group of Senators on both sides of the aisle. If the House approves the bill today, the President will look favorably upon it. Unfortunately, the clarification of the ADEA comes too late for June Betts, the unhappy plaintiff who contracted Alzheimer's disease at age 61 and was denied disability benefits because of her age. But for millions of older workers in the future, equality in the workplace will once again be secure with the enactment of this bill.

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

Mr. Speaker, let me just close my 1-minute by saying that the administration as well as Members of the House and Senate all agreed that the Betts decision had to be addressed. While we still have some concerns about the coverage of the employee benefit plans operated by State and local governments and about the restrictions on benefit packages, we believe the version of the Older Workers Benefits Protection Act is a reasonable compromise.

Obviously, in legislation that is the product of compromise, each side has to yield on issues which they believe their position is the correct policy choice. In agreeing to a compromise in this legislation, each of us was uniform in our belief that older workers should be protected from arbitrary discrimination on the basis of age in all phases of employment, including employee benefits.

This belief was strong enough to fuel this compromise legislation which I believe offers significant protection to older workers while retaining some flexibility to employers in developing benefit arrangements.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BRENNAN. Mr. Speaker, I urge my colleagues to join me in support of S. 1511, the Older Workers Benefit Protection Act. This measure reaffirms the basic tenets of the Age Discrimination in Employment Act [ADEA] of 1967—by making clear that discrimination on the basis of age in virtually all forms of employee benefits is unlawful and will not be tolerated.

For over 20 years, the ADEA has been interpreted as prohibiting employers from arbitrarily discriminating older workers in all areas of employment, including employment benefits.

However, last year, in a decision which effectively reduced the rights of older Americans, the Supreme Court ruled to permit age discrimination in employee health benefit plans. Despite a 20 year history of settled interpretations of the ADEA by the courts and Federal agencies, the Supreme Court ruled to allow employers to establish employee benefit plans that clearly discriminate against older workers.

Surely the Congress, in passing the Age Discrimination in Employment Act, did not intend to prohibit discrimination in all but one area of employment. Yet, as interpreted by the Supreme Court, employers are prohibited from discriminating in such areas as hiring, firing, wages, and promotions—but are allowed to discriminate with regard to employee benefits.

This Congress must continue to oppose discrimination in any form. I urge my colleagues to join me in support of the Older Workers Benefit Protection Act, to ensure equity for employees of all ages.

Mr. GUNDERSON. Mr. Speaker, after months of deliberation and negotiation, we finally have an older workers benefits protection package that truly protects older workers' benefits without harming a number of other benefits they currently enjoy. I am pleased to be able to support H.R. 3200.

While I still have reservations about a number of the aspects of this legislation, I appreciate the good faith efforts that went into the compromise we are considering today. In the absence of concerted opposition from the very groups that opposed the original bill, it's safe to say we've arrived at a reasonable solution.

As mentioned, some concerns remain. Specifically, I am still concerned that this bill: unduly restricts the ability of State and local governments and private employers to integrate benefits in employee benefit plans; requires that a retiree's health plan must have a specified minimum value before an employer is permitted to offset its value from severance payments otherwise due the employee—a provision making early retirement options less likely for older workers; only allows employers to offset the value of pension sweeteners from severance payments in the cases of immediate and unreduced pensions and; sets up a dual standard of judging age discrimination between State and local government and private employers on the one hand, and Federal employers on the other.

However, in the two most contentious areas of the original legislation—and those most objectionable to me and many older workers—an agreement was reached.

First, H.R. 3200 would only apply to prospective cases, not those in effect prior to enactment of this legislation. The original bill would have applied retroactively to all cases pending, allowing many previously agreed to, and pending cases to be reopened. The solution reached protects those older workers who have worked out early retirement programs from having to rehash new agreements.

Second, and most important to protecting older workers' options in "early out" programs, the compromise preserves the right of employers to offer certain severance plans. Prior to this agreement, H.R. 3200 would have eliminated an employee's opportunity for financial severance deals in place of outright layoffs in the event of downsizing by a company. Under the agreement, voluntary retirement incentive plans which are consistent with the relevant purpose of the Age Discrimination in Employment Act [ADEA] would be allowed.

Again, while I would have preferred outright guarantees for older workers' rights to take advantage of early severance plans, this agreement comes a long way. Recalling my efforts in committee deliberations on this provision of the bill, I appreciate the fact that much of my own views are reflected in the final agreement. I look forward to passage of this legislation which carefully and sensitively balances protecting older workers from discrimination in the workplace with assuring their rights to good early retirement opportunities.

Mr. HAWKINS. Mr. Speaker, today we are considering yet another piece of legislation which restores civil rights arbitrarily stripped away by the Supreme Court. In this instance, we are talking of millions of older Americans—and all younger Americans who will one day by older Americans—to equality and fairness in the workplace.

Since the passage of the Age Discrimination in Employment Act in 1967, older Americans have been guaranteed equal opportunity in the workplace. Prior to the Betts decision, no court had ever questioned whether this protection extended to employee benefits. Indeed, for over 20 years executive branch regulations expressly prohibited age discrimination with regard to employee benefits. Employers were required to provide employees with the same benefits regardless of age,

unless providing equal benefits would cost more for older workers. Every administration since passage of the ADEA has agreed that this is a proper interpretation of the ADEA.

In Betts, the Supreme Court repudiated this long-standing Federal regulation, leaving employers free to discriminate with regard to employee benefits provided that such discrimination is not a subterfuge for discrimination in hiring, promotion, or other areas of employment. The inequity and illogic of the Court's ruling are obvious: Employers are precluded from discriminating with regard to wages, but are free to do so with regard to benefits, which are simply another form of compensation. On average, employee benefits comprise over a quarter of an employee's overall compensation package, and become more imporant as an employee gets older. Yet under the Betts ruling, employers have virtual free rein to reduce older workers' benefits, or deny them altogether, because of age.

The Older Worker's Benefit Protection Act overturns the Betts decision and restores the equal benefits/equal cost rule. S. 1511 also makes clear that all employee benefit plans are covered by the ADEA regardless of the date on which they were established, contrary to the Supreme Court's reading of the act. Finally, the bill includes guidelines which govern employee waivers of ADEA rights, ensuring that such waivers are both knowing and voluntary. I should note that many of the provisions of S. 1511 parallel those in H.R. 3200, and as such the Education and Labor Committee's report on H.R. 3200 remains a valid and useful source of explanation for the provisions of S. 1511.

The bill before us today, which the Senate approved by an overwhelming vote of 94–1, also contains many provisions which are helpful to employers. Some of these provisions expressly sanction benefits practices which were not permitted by pre-Betts law.

In addition, the ADEA will expressly recognize for the first time that early retirement incentive programs may be lawful if consistent with the relevant purposes of the act. Under this provision, the courts shall continue to evaluate such programs on a case-by-case basis as they have in the past. Consistent with prior case law, early retirement incentive programs that deny benefits to workers above a specific age may conflict with the statutory purpose of prohibiting arbitrary age discrimination in employment. See *Karlen* v. *City Colleges of Chicago,* 837 F.2d 314 (7th Cir.), cert. denied, 486 U.S. 1044 (1988); *Cipriano* v. *Board of Education of North Tonawanda,* 785 F.2d 51 (2d Cir. 1986); *EEOC* v. *Westinghouse Electric Corp.,* 725 F.2d 211 (3d Cir.), cert. denied, 469 U.S. 820 (1984); *EEOC* v. *Borden's Inc.,* 724 F.2d 1390 (9th Cir. 1984).

Of course, these provisions should not be interpreted to alter the fundamental purposes and principles of the ADEA. Thus, subject to the narrow and limited exceptions contained in the bill, pension eligibility and early retirement eligibility continue to be proxies for age, and employment decisions based on such factors are unlawful under the ADEA. See *EEOC* v. *Westinghouse Electric Corp.,* 725 F.2d 211, 223 (3d Cir.), cert. denied, 469 U.S. 820 (1984); *EEOC* v. *Borden's Inc.,* 724 F.2d 1390 (9th Cir. 1984). Nor may an employer reduce or deny an individual's severance benefits based on his pension eligibility or pension receipt, except to the limited extent permitted under these amendments.

Similarly, employment decisions based on years of experience or higher salaries are prohibited where those factors are proxies for age. See *Geller* v. *Markham,* 635 F.2d 1027 (2d Cir. 1980), cert. denied, 451 U.S. 945 (1981); *Metz* v. *Transit Mix Inc.,* 828 F.2d 1202 (7th Cir. 1987). The Federal courts have regularly held that economic considerations are insufficient to justify discrimination based on age. See *EEOC* v. *Westinghouse Electric Corp.,* 725 F.2d at 223; *Leftwich* v. *Harris-Stowe State College,* 702 F.2d 686 (8th Cir. 1983); *Geller* v. *Markham,* 635 F.2d at 1034; *Smallwood* v. *United Airlines Inc.,* 661 F.2d 303 (4th Cir. 1981), cert. denied, 456 U.S. 1007 (1982). These principles will continue to apply in evaluating the legality of early retirement incentive programs as well as other benefit arrangements. Finally, these amendments do not alter existing regulations and case law defining what types of benefits are covered by section 4(f)(2).

The bill the Senate passed, and the bill before us now, fully overturns the Betts decision and its reasoning, although it does not fully restore pre-Betts law. Even with its many concessions and compromises, this legislation remains critically necessary to restore the basic rights of older workers to equal opportunity and equal treatment in the workplace. I therefore urge my colleagues to support and vote for the Older Worker's Benefit Protection Act.

Mr. RICHARDSON. Mr. Speaker, I rise today to express my support for S. 1511, the Older Worker's Benefit Protection Act. I am a cosponsor of similar legislation in the House and am pleased to have the opportunity to voice my support on the floor.

While many Americans continue to experience discrimination in the workplace, Congress is working hard to eliminate it. As a Hispanic, I have seen racial discrimination throughout our country. I have, however, also worked hard to do my share to eradicate such prejudices. That is why it is so disheartening to know that the Supreme Court would condone age discrimination through the Betts decision. Older workers provide an important role in our Nation's work force; they are knowledgeable, loyal, productive, and contribute a great deal to our country. It is unfair for their benefits to be reduced simply because they are older. Such discrimination cannot be tolerated.

S. 1511 restores basic civil rights protection to millions of older workers by preventing discrimination in benefit programs. This important piece of legislation will provide millions of older workers across the country with the knowledge that their benefits are secure.

Mr. Speaker, I am proud to support this legislation and I urge my colleagues to do the same.

Ms. SCHNEIDER. Mr. Speaker, I rise today in support of S. 1511, The Older Workers Benefit Protection Act. This measure will protect older workers from age discrimination in pension and benefit programs. It overrules a recent Supreme Court decision which would have allowed companies to offer reduced benefits to employees over 65 for programs like life insurance—that cost more to provide to an older worker.

Age discrimination is wrong. As our labor force shrinks, older workers will continue to make an increasingly important contribution to our economy. We need the expertise and productivity that our older workers can offer, and the last thing we should be doing is allowing businesses to discourage an important portion of the work force by reducing benefits.

My State of Rhode Island has the fourth highest percentage of elderly in the Nation. These older Americans deserve the right to work without the fear of discrimination. Older workers make a tremendous contribution to our society. We simply can't afford to discriminate against them. It is unfair, it hurts them, and it hurts our national economy as a whole.

The intent of this legislation is to ensure that no employer can discriminate on the basis of age. These provisions apply to private sector employers as well as to State and local governments. It specifically bans age discrimination in compensation, terms, conditions, or privileges of employment and applies to employee benefits and employee benefit plans as well as to wages, hiring and firing. It requires that employers seeking to rebut a charge of age discrimination in employee benefits provide that they have provided equal benefits for employees of all ages. The measure also includes provisions designed to ensure that older workers are not coerced or manipulated into waiving their rights under the Age Discrimination Employment Act.

I am proud to have been a cosponsor of this legislation. It is high time we passed legislation to ensure fair treatment of our older workers.

Mr. GUNDERSON. Mr. Speaker, after months of deliberation and negotiation, we finally have an older workers' benefits protection package that truly protects older workers' benefits without harming a number of other benefits they currently enjoy. I am pleased to be able to support H.R. 3200.

While I still have reservations about a number of the aspects of this legislation, I appreciate the good faith efforts that went into the compromise we are considering today. In the absence of concerted opposition from the very groups that opposed the original bill, it's safe to say we've arrived at a reasonable solution.

As mentioned, some concerns remain. Specifically, I am still concerned that this bill: unduly restricts the ability of State and local governments and private employers to integrate benefits in employee benefit plans; requires that a retiree's health plan must have a specified minimum value before an employer is permitted to offset its value from severance payments otherwise due the employee—a provision making early retirement options less likely for older workers; only allows employers to offset the value of pension sweeteners from severance payments in the cases of immediate and unreduced pensions and; sets up a dual standard of judging age discrimination between State and local government and private employers on the one hand, and Federal employers on the other.

However, in the two most contentious areas of the original legislation—and those most objectionable to me and many older workers—an agreement was reached.

First, H.R. 3200 would only apply to prospective cases, not those in effect prior to enactment of this legislation. The original bill would have applied retroactively to all cases pending, allowing many previously agreed to, and pending cases to be reopened. The solution reached protects those older workers who have worked out early retirement programs from having to rehash new agreements.

Second, and most important to protecting older workers' options in "early out" programs, the compromise preserves the right of employers to offer certain severance plans. Prior to this agreement, H.R. 3200 would have eliminated an employee's opportunity for financial severance deals in place of outright layoffs in the event of downsizing by a company. Under the agreement, voluntary retirement incentive plans which are consistent with the relevant purpose of the Age Discrimination in Employment Act [ADEA] would be allowed.

Again, while I would have preferred outright guarantees for older workers' rights to take advantage of early severance plans, this agreement comes a long way. Recalling my efforts in committee deliberations on this provision of the bill, I appreciate the fact that much of my own views are reflected in the final agreement. I look forward to passage of this legislation which carefully and sensitively balances protecting older workers from discrimination in the work place with assuring their rights to good early retirement opportunities.

Mr. RINALDO. Mr. Speaker, I rise in strong support of H.R. 5794, the Age Discrimination Claims Assistance Amendments of 1990. This bipartisan legislation provides important relief to older workers who have filed age discrimination cases and is very similar to the Claims Act of 1988.

H.R. 5794 would restore the legal rights of older workers. Because of the EEOC's and FEPA's inability to process older worker age discrimination cases within the 2- and 3-year limitation contained in the law, several thousand older workers who filed age discrimination charges under the Age Discrimination Employment Act lost their opportunity to file suits in Federal court.

As an original cosponsor of this legislation, I would like to commend the excellent job done by all the committees involved. Among them, my colleagues: Select Committee on Aging chairman, EDWARD R. ROYBAL; Education and Labor chairman, AUGUSTUS HAWKINS; ranking member of the Education and Labor Committee, WILLIAM GOODLING; chairman of the Subcommittee on Employment Opportunities, MATTHEW MARTINEZ; and the ranking member of that subcommittee, STEVE GUNDERSON.

In addition, I would like to thank officials at the EEOC for their acknowledgement that a problem currently exists and for their willingness to work with the appropriate committees to grant extensions for persons who filed claims under the ADEA. A permanent solution to this situation must be our immediate next step.

As members of the work force, older workers are an integral part of the economy. They are reliable, exhibit excellent skills, and bring a wealth of experience to their jobs. Unfortunately older workers are often forced out of their jobs to make room for younger employees. Too many times older workers are driven into early retirement, left without severance pay, and saddled with a reduction in their pension benefits. And frequently, older workers are pushed out of their jobs because an employer wishes to avoid paying higher health benefits.

The purpose of the Age Discrimination in Employment Act [ADEA] is to ensure that age discrimination cases I just alluded to are prevented, and that the enforcement process recognizes the abuses against older workers and swiftly acts to correct them.

It is my sincere hope that we are not back here in 2 years confronting this serious problem once again. I look forward to working with my colleagues on both sides of the aisle, and the agencies committed to enforcing the ADEA, to find a permanent resolution. I urge the Members of the House to vote in favor of the Age Discrimination Claims Assistance Amendments of 1990.

Mr. CLAY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and pass the Senate bill, S. 1511.

The question was taken.

Mr. BARTLETT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1511, the Senate bill just considered.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

APPOINTMENT OF CONFEREES ON HOUSE CONCURRENT RESOLUTION 310, BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEARS 1991, 1992, 1993, 1994, AND 1995

Mr. PANETTA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 310), setting forth the congressional budget for the U.S. Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, with Senate amendments thereto, disagree to the Senate amendments and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, and I do not intend to object, I yield to the distinguished gentleman from Pennsylvania [Mr. WALKER] for the purpose of questioning what is taking place.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

I am just trying to ascertain exactly what we are doing here. This is now an action designed to take the budget to conference at this point; the assumption would be that the conferees will then adopt that which has been decided by the budget summit and then the House will be afforded the opportunity to vote on this action when that returns from the conference perhaps as early as tommorrow, is that correct?

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

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

□ 1200

Mr. PANETTA. The gentleman from Pennsylvania [Mr. WALKER] is absolutely correct. The purpose of this is to develop the conference; the conference will incorporate the summit agreement and then bring that conference report to the floor either tomorrow or Thursday.

Mr. WALKER. Mr. Speaker, will the gentleman from Minnesota yield further?

Mr. FRENZEL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. So that this particular act is simply to get a document in place that has the numbers that should reflect what the agreement has done. There would be no particular point in holding anything up for any of us at the present time who may be opposed to the agreement, but rather our shot is going to come at the time that the gentleman brings the package back to the floor.

Is that correct?

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

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

Mr. PANETTA. The gentleman from Pennsylvania [Mr. WALKER] is correct. He will have adequate opportunity at that time.

Mr. WALKER. And maybe many times.

I thank the gentleman from Minnesota [Mr. FRENZEL] for yielding.

Mr. FRENZEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees: Messrs. PANETTA, GEPHARDT, and FRENZEL.

There was no objection.

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967 AMENDMENTS RELATIVE TO EMPLOYEE GROUP HEALTH PLANS

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5759) to amend the Age Discrimination in Employment Act of 1967 to clarify the application of such act to employee group health plans.

The Clerk read as follows:

H.R. 5759

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(1)(2) of the Age Discrimination in Employment Act of 1967, as added by the Older Worker's Benefit Protection Act, is amended—

(1) in subparagraph (A)—

(A) in clause (i) by striking "and" at the end,

(B) in clause (ii) by striking the comma at the end and inserting "; or", and

(C) by inserting after clause (ii) the following:

"(iii) the values described in both clause (i) and (ii);", and

(2) by adding at the end the following:

"(G) Nothing in this paragraph shall be construed to require a group health plan covering retirees to provide benefits both to—

"(i) retirees who are below age 65; and

"(ii) retirees who are age 65 and older; in order to make the deduction for retiree health benefits described in this paragraph.".

The SPEAKER pro tempore (Mr. MONTGOMERY). Under the rule, a second is not required on this motion.

The gentleman from Missouri [Mr. CLAY] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. CLAY].

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

Mr. Speaker, I support H.R. 5759, a bill introduced by my colleague from Pennsylvania [Mr. GOODLING], the ranking Republican member of the committee. As I said before, I appreciate his cooperation in assuring that important protections for older workers under the ADEA are restored through S. 1511, the Older Workers Benefit Protection Act. I also support his effort to clarify certain provisions in S. 1511 which we have just passed.

S. 1511 authorizes a specific type of benefit packaging in connection with severance pay that was prohibited under the EEOC regulations that formed the basis of pre-Betts law. Under S. 1511, an employer may reduce the severance benefits that might otherwise be provided to an employee by the amount of certain retiree health benefits or certain pension shutdown sweeteners or both. The first amendment contained in this bill is simply designed to clarify that fact.

The second amendment makes it clear that nothing in the paragraph providing for the offset for certain retiree health benefits under S. 1511 requires an employer to provide retiree health benefits for retirees both above and below age 65 in order to make the offset. Examples of how the rule works can be found in House Report 101-664—101st Cong. 2d Sess. In general, however, if the employer is trying to determine the amount of the offset for an employee age 62 in a case in which an employer provides health benefits to only age 65, the employer may only deduct $9,000—$3,000 per year times 3 years—from the amount of severance pay to which the employee might otherwise be entitled.

These two amendments are directed only at the technical issue of what can be offset against an employee's severance payment under the narrow exception for certain offsets under section 4(1)(2) of the ADEA, as added by S. 1511. These amendments are not intended to and do not alter in any way the current protection under the Age Discrimination in Employment Act for an employee who retiree health benefits are discriminatorily structured on age at the time of retirement.

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

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

Mr. Speaker, H.R. 5759 merely provides technical corrections to the Older Workers Benefit Protection Act which we just considered. This bill has the support of the chairman of the Education and Labor Committee and of both the chairman and ranking member of the Labor-Management Subcommittee.

The first provision clarifies the parameters of the offset against severance pay that is available to employers. An employer may offset severance by any retiree health benefits, by any pension sweeteners, or by both retiree health benefits and pension sweeteners. This language is intended to clarify that the offering of retiree health benefits is not a precondition to using the offset for pension sweeteners, and vice versa.

The second provision also relates to the severance offset by clarifying the definition of retiree health benefits. It provides that, in order to use the offset for retiree health benefits, an employer is not required to offer health benefits to both pre-Medicare eligible and post-Medicare eligible retirees. An employer may offer health benefits only to pre-Medicare eligible retirees.

Mr. Speaker, as I mentioned, this bill adds clarity to some of the provisions of the Older Workers Benefit Protection Act. I hope that everyone will support this legislation as we must be as precise as possible in legislating in the area of employee benefits.

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

Mr. CLAY. Mr. Speaker, I have no further requests for time.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise in support of passage of H.R. 5759, introduced by ranking member BILL GOODLING to provide technical corrections to S. 1511, the Older Worker Benefit Protection Act.

This bill makes two important clarifying changes:

It clarifies that in order to make a deduction for retiree health benefits from severance pay, an employer may have a retiree health plan that covers an employee prior to age 65 or after age 65; that an employer may have a health benefit that covers either age bracket or both age brackets, and still avail of the offset against severance.

Further, this technical corrections bill ensures that the plain language of the statute states that an employer may deduct from severance the value of retiree health benefits, or the value of any additional pension sweeteners, and may deduct both these values in the event that the employer offers both benefits.

This technical corrections bill cures some weak drafting that would have raised interpretive difficulties for those employers attempting to conform their benefits practices to the Older Workers Benefit Protection Act.

Therefore, I join with the distinguished ranking member, Mr. GOODLING, and the other cosponsors of this bill, Chairman HAWKINS and Labor-Management Subcommittee Chairman BILL CLAY, in supporting this bill, and in urging my colleagues to pass H.R. 5759 under suspension of the rules.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and pass the bill, H.R. 5759.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

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

There was no objection.

ASKING MEMBERS TO ADDRESS CONCERNS ON BUDGET

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

Mr. SISISKY. Mr. Speaker, today will be the first day of a meeting that the Committee on Armed Services will have on this very important markup. We have pretty well set the date that we will bring back the report from both Houses, a conference report on October 1.

Mr. Speaker, I would ask the membership of this body that, if they have any problems with any part of the bill, that they would see the members of the conference committee and, of course, address the issues there.

The strange phenomena this year is that the budget that the House passed and the budget authority is $282.8 billion. The budget agreement that we will be voting on tomorrow calls for a budget of $289.1 billion. The difference is $6.3 billion.

Mr. Speaker, hopefully we will come to some agreement on how we do this, and again I would ask the Members of the body, if they have any comments concerning this issue, to address their issues to the conferees.

MODIFY CUTBACKS IN MEDICARE FUNDING

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

Mr. KLECZKA. Mr. Speaker and Members, I take the floor this afternoon to discuss for a short time this budget agreement which is before the Members of Congress.

I guess all of us, as we read the document, can provide some criticism. Somewhere there is a comma misplaced, and a T is misplaced, and some do not like the excise tax increase, but this Member, representing the Fourth District in Wisconsin, has a serious problem as relates to the cutbacks in Medicare funding.

Mr. Speaker, if my colleagues look at the agreement, they will find that about $120 billion in domestic spending is being cut. However one-half of that, or $60 billion, comes from one program, and the program is a Medicare Program. If my colleagues look at the $60 billion cut in Medicare, they are going to find that one-half is cut from providers, doctors, hospitals, the providers of the program. But fully one-half of the other $30 billion comes from the senior citizens around this country, through increased premiums, through increased deductibles.

So, Mr. Speaker, if my collleagues look at the total cuts in this agreement, 25 percent of those are on the backs of the senior citizens. I, as one Member, cannot support the budget agreement in its current form, and to those who did the negotiating, to those in power around here: If, in fact, between now and Friday that one portion could be modified, I am not saying totally eliminated, but modify it, cut it back, be less harsh, and be less cruel; if that could be accomplished between now and Friday, I sure would consider supporting the budget resolution.

SUPPORT THE CIVIL RIGHTS ACT OF 1990

(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, as a member of the Hispanic caucus representing a large Hispanic native American constituency, I hope today we do support the conference report on the Civil Rights Act of 1990. By passing this legislation, we send a message to all Americans that we are not going to tolerate discrimination in the workplace. We assured them that we have not abandoned the cause of fairness and justice, as it seemed last year when the Supreme Court stripped away many protections, setting back the clock on civil rights.

Mr. Speaker, we are going to hear the same rhetoric, that this bill is antibusiness, and a quota bill, and that President Bush has indicated he will veto it. I am very concerned about these remarks because this bill has been compromised to the hilt, and I am concerned also about the administration's lack of response to recent derogatory comments made by the Japanese justice minister about American blacks. The Japanese had made similar comments about Hispanics some 2 years ago. Such remarks are an affront to all Americans and necessitate a strong response.

Despite this, a struggle for civil rights will endure because of the deep commitment of many who know what is fair and what is right. I say to my colleagues, "Let's move forward, not backward, in providing equal rights for all Americans," and I urge everyone to vote "yes" on this conference report.

□ 1210

FAMILY UNITY AND EMPLOYMENT OPPORTUNITY IMMIGRATION ACT OF 1990

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 484 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 484

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4300) to amend the Immigration and Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed ninety minutes, with sixty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, as modified by the amendments printed in part 1 of the report of the Committee on Rules accompanying this resolution, as an original bill for the purpose of amendment under the five-minute rule, said substitute, as modified, shall be considered as having been read, and all points of order against said substitute, as modified, are hereby waived. No amendment to said substitute shall be in order except those printed in part 2 of the report of the Committee on Rules. Said amendments shall be considered in the order and manner specified in the report, shall be considered as having been read, shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report, and said amendments shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order are hereby waived against the amendments printed in the report. It shall be in order to consider the amendments by Representative Richardson of New Mexico numbered 18 and printed in the report of the Committee on Rules en bloc. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After passage of H.R. 4300, it shall be in order to take from the Speaker's table the bill S. 358 and to consider the bill in the House. It then shall be in order to move to strike all after the enacting clause of S. 358 and insert in lieu thereof the provisions of H.R. 4300 as passed by the House, and all points of order against the motion

are hereby waived. It shall then be in order to insist on the House amendment and to request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR. Mr. Speaker, for purposes of debate, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, today we have an opportunity to consider profamily legislation.

H.R. 4300—the Family Unity and Employment Opportunity Immigration Act—substantially revises our Nation's laws to help unite immigrant families.

The number of slots would be expanded so that children and spouses of permanent residents may join their families in this country.

The wait for family reunification can be long and painful. For natives of most countries, the wait averages 3 years. For countries with long backlogs, such as Mexico, families can be separated for as long as 15 years.

Not only is it antifamily to allow such long separations, it is also counterproductive. For it only encourages illegal immigration as the best way to become united with loved ones.

In addition to its family unity provisions, H.R. 4300 would also help diversify our immigrant population by broadening the numbers allowed from countries who have been largely shut out in the last quarter century.

Visas are specifically set aside for natives of Eastern Europe, for instance. The end of the cold war and the dramatic changes of the past year call for a revision in our existing East European immigration policies.

Individuals from countries adversely affected by current law—such as Ireland, Italy, Poland, and Argentina—will now have the opportunity to apply for conditional residence status if they have a firm offer of employment for 1 year.

The rule under which this bill will be considered also makes in order legislation to extend the time that Salvadoran and other political refugees may stay in this country.

Chairman MOAKLEY has worked long and hard on this issue, and the House already adopted similar provisions last October. The continuing wars in El Salvador and Lebanon, and the plunder of Kuwait, make this vehicle timely and appropriate for reconsideration of this issue.

Mr. Speaker, the world is dramatically changing. From time to time we must adjust our policies to reflect such changes.

America has been, and always will be, the beacon of freedom. We must do everything we can to preserve that heritage, and we should not be denying immigrant families the most fundamental right—the chance to be together.

House Resolution 484 is a modified open rule providing 90 minutes of general debate, with 1 hour equally divided between the chairman and ranking minority member of the Judiciary Committee, and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Education and Labor Committee.

All points of order against consideration of the bill are waived.

The rule makes in order a substitute—modified by the amendments printed in part 1 of the report—as an original bill for the purpose of amendment. Part 1 amendments include an amendment by the Ways and Means Committee to strike section 111, relating to admission fees for certain types of employment. A second amendment by Chairman MOAKLEY would provide temporary protected status for national in El Salvador, Lebanon, Liberia, and Kuwait.

All points of order against the substitute as modified are waived.

The rule makes in order no other amendments except the amendments printed in part 2 of the report, to be considered in the order and manner specified in the report, with debate time equally divided and controlled by the proponent and a Member opposed. All points of order against the amendments are waived.

The amendments are not subject to amendment except as specified in the report, nor to a demand for division of the question in the House or in the Committee of the Whole.

The rule makes it in order to consider amendments en bloc printed in the report, if offered by Representative RICHARDSON.

The rule provides one motion to recommit with or without instructions.

Finally, after passage of H.R. 4300, the rule makes it in order to insist on a conference with the Senate.

House Resolution 484 is a fair rule that will expedite passage of compassionate legislation that will allow families to be united.

Mr. Speaker, I urge my colleagues to support it.

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

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the gentleman from Michigan [Mr. BONIOR] has appropriately explained the provisions of the rule.

Mr. Speaker, this rule should be defeated because it prohibits the House from even considering several important amendments which should have been allowed.

During the Rules Committee hearing on this bill, the gentleman from Florida [Mr. MCCOLLUM] asked to have made in order an amendment designed to expedite the deportation of criminal aliens.

Out of the several amendments presented in the Rules Committee by the gentleman from Florida, this was the one that he requested be given top priority. But what this rules does is leave out the top priority amendment while making in order two amendments by the gentleman from Florida, which he described as having lower priority. According to testimony in the Rules Committee there have been only 22,000 aliens deported in the last 3 years out of 1.5 to 2 million that were eligible to be deported. From the time of apprehension, through the judge's decision and then through all the appeals the process can take years. The amendment of the gentleman from Florida is designed to expedite the deportation of aliens convicted of serious crimes. It should have been included.

Another amendment which should have been included was one offered by the gentleman from Michigan [Mr. DAVIS] to preserve traditional shipboard activities, but prohibit the flying in of aliens to load and unload cargo in U.S. ports.

The gentleman from Michigan [Mr. DAVIS] is the ranking Republican member of the Committee on Merchant Marine and Fisheries. When he appeared in the Rules Committee, he stated that he was also appearing on behalf of the committee's chairman. Such a request should have been honored.

An open rule which would have allowed these and other amendments was offered in the Rules Committee, but it was not accepted.

I ask for a "no" vote on this rule. If this rule is defeated, the Rules Committee could then go back and report a rule to allow the House to consider some of the important issues this rule does not allow.Payroll No.: 78255 -Name: Rogers, J.D. -Folios: 276-279 -Date: 10-01-90 -Subformat:

□ 1220

Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I am compelled to rise in opposition to this rule. H.R. 4300 is far too important a bill than to be considered under the terms of a restrictive rule. Frankly, Mr. Speaker, I consider H.R. 4300 to be the sleeper of the year. This is a bill which has very far-reaching implications. Indeed, it virtually rewrites existing immigration law.

I don't know how many members other than those on the Judiciary Committee are even remotely familiar with what is in this bill. Only four times in the 201-year history of this Government has Congress considered a bill dealing with legal immigration.

The most recent time we did so was 25 years ago. I seriously question whether considering a bill of this importance is appropriate in the closing days of a contentious session of Congress.

However, I am confident that the likelihood of getting a conference report on H.R. 4300 is even smaller than the proportion of Members who know what is in the bill. And even if a conference report is reached, the administration has already announced very emphatically that the bill will be vetoed if it comes up in anything close to its present form.

Moreover, the administration would like to see this rule defeated. Why even waste our time on a bill that is going nowhere? We shouldn't be considering H.R. 4300 at all. But if we must, let's at least consider it under an open rule. Every Member should have a chance to get a crack at this bill.

I would remind my colleagues, particularly those on the other side of the aisle, that restrictive rules cut both ways. For example, in this rule, amendments filed by Mr. SOLARZ, Mr. SLATTERY, Ms. PELOSI, and one of two amendments filed by Mr. DORGAN were not made in order. So it's not just Republicans who suffer under restrictive rules.

One particular amendment that was not allowed is the McCollum amendment which would let the Secretary of State and the Attorney General negotiate with other countries to deport illegal aliens who are convicted felons incarcerated in our overcrowded prisons that cost the taxpayers $27,000 a year.

Vote no on this rule.

Mr. BONIOR. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I rise in support of the rule for the consideration of H.R. 4300. The bill, which was the subject of many hearings before the Immigration Subcommittee and 2 days of markup before the full Judiciary Committee, is a well-crafted and careful legislative response to serious immigration issues which confront the Nation. The Rules Committee has done an excellent job of sifting through the myriad amendments which were proposed, and coming up with a rule which deals with the majority of issues which are outstanding.

While I know that all Members' amendments were not made in order, the Rules Committee has made a complete analysis of the bill and has made in order a broad range of amendments that will permit full debate and discussion of the major issues in H.R. 4300 while also allowing the House to consider the bill expeditiously and move it forward through the legislative process. That rule is fair and appropriate, and I urge my colleagues to support it.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I am constrained to rise and comment on some of the things that have been said here. As one of the original authors of this legislation, I cannot see how this rule can be characterized as a closed rule when there are 23 amendments that have been made in order.

Second, I go back to a period of 11 years ago, and the formation of the Hesburgh Commission. Our results, which went to the President and Congress in January 1981, had basically two components. One dealt with the documented population of the country through employer sanctions and legalization, and the other dealt with legal migration. It took us 6 years to deal with half of that report.

In 1986 we did pass the Immigration Reform and Control Act, which dealt with undocumented aliens in the United States.

The second part of that report, which has been before the Congress now for 11 years, dealt with legal migration. That is what we are dealing with today.

Mr. Speaker, this measure has passed the Senate I think three times. If Members are not familiar with it, it is because of lack of interest in the subject matter. We are dealing with some new facts in that the American business community is interested in the employer-related provisions and the skilled workers that are included in the bill.

The cornerstone of our immigration policy in this legislation remains steadfast, what it has been since the middle 1960's, and that is family reunification. So I think that every argument we have heard can be turned around. This may be the last opportunity, rather than being too late in this session, for us to get it out, get about considering this measure, get to conference, and come back with legislation that will finally end this long trail of needed reform in our immigration laws.

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

Mr. Speaker, I would just echo the remarks of the gentleman from New York [Mr. FISH]. I think he is absolutely correct in his assessment and view on this issue. We received I believe 47 amendments in the Committee on Rules. We made half of them in order. Of the 23, 11 were offered by Republicans, close to half.

My only regret is that we did not help the gentleman from Michigan [Mr. DAVIS]. I thought he had a reasonable request. We were not able to accommodate him. At some future point that may rectify itself.

Mr. Speaker, if a Member has Polish, Italian, Irish, or Lebanese constituents in their district, they ought to know that they are very, very interested in this bill. Those committees have a real interest in this bill, in bringing families together who emanate from those particular constituencies. So I hope Members will consider these factors as they consider this rule.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Connecticut [Mr. MORRISON], an expert on immigration policies.

Mr. MORRISON of Connecticut. Mr. Speaker, I rise in support of this rule and commend the Committee on Rules for doing a superb job with a piece of legislation that is comprehensive and complicated, but about which there are only a limited number of really controversial issues.

What the Committee on Rules has done is to make in order a balanced set of amendments that allows proponents and opponents of this legislation to put their arguments forth and allows Members of the House to be heard and to be counted on exactly what this legislation should look like.

This is a rule that ought to be passed. It shows that the Committee on Rules can craft a rule that is fair to both sides of the aisle on a complicated issue and allows Members to have their day before their colleagues to make their case.

□ 1230

This legislation is important legislation. I thank the gentleman for New York for pointing out how long it has been since our legal immigration system was reviewed and restructed to take account of changing times and suggestions that have been made by experts who have studied the system.

This legislation accomplishes three important goals.

First, it strengthens our system of family reunification, and it does it by focusing most on the most immediate relatives—the spouses and minor children of permanent residents of the United States, who under current law are separated year after year after year. This is not a profamily policy. We want to change the immigration law to reflect a profamily policy.

Second, it provides to the employers and the employees of this country a system of legal immigration for permanent residents of individuals who are needed in our economy, needed to save American jobs, needed because skilled workers are not available among American workers and their absence is causing factories to close and factories to go out of the country. This is not just for the benefit of employers; it is for the benefit of all, because it allows for growth in our economy and growth in American jobs.

Third, and also important, it ensures long-term diversity in our flow of immigrants from around the world. It is

in the interest of the United States to be a beacon to people from all over the world, and it is absolutely key to political support for our immigration system that all of the diverse groups that make up our country know that our immigration laws understand their interests and the concerns that they have that people from the parts of the world that their ancestors have come from will also be fairly considered under our immigration system.

This is legislation which will enhance and strengthen our immigration laws. The gentleman from New York [Mr. SOLOMON] suggested that somehow this legislation was not going anywhere because we had heard one of those vague veto threats that too frequently flows across his Chamber. The truth is that as the Wall Street Journal said yesterday, this is legislation that most Republicans should want to support because it is good for the American economy. It is a progrowth measure, and it has a lot of support over in the White House that is growing as people actually pay attention to what this legislation does.

I think this is legislation that, when worked out in conference with the Senate, will receive the President's support and the President's signature, as it should; and this rule certainly should receive the support of my colleagues in the House today.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. MCGRATH].

Mr. MCGRATH. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in support of the rule.

Mr. Speaker, the bill we are currently debating is the most important immigration legislation to come out of this Congress, and I am proud to voice my support for it. Family unification is the cornerstone of immigration to the United States. Prolonging the separation of spouses from each other, and from their children, is inconsistent with the principles on which this nation was founded. Yet current law, causes this to occur all too often. H.R. 4300 would substantially correct this shortcoming. Spouses and children of U.S. citizens are already exempted from the numerically limited preference system, so that close family members can be together. Recognition of the same special family relationship for the spouses and children of permanent residents would go a long way toward achieving the laudable and humanitarian goal of family reunification. Furthermore such provisions embody sound public policy. An immigration system which provides for the speedy reunification of close family members, will aid in defusing the frustration of separation families that often spurs illegal immigration.

Commonsense and compassion argue for adoption of this bill's provision for reduction of the backlog in the second and fifth preference categories. Lengthy backlogs, such as the ones of as long as 20 years currently suffered by some nationalities under the fifth preference would be substantially shortened. These measures reinforce the position of family values as the cornerstone of U.S. immigration policy.

The family structure is one of our great Nation's strongest assets. Promoting family immigration would show that we still believe that the family is this country's most important social network.

But families separated by harsh immigration policies are not the only ones who deserve to obtain the help this measure provides. The Irish and other adversely affected groups, would gain denied justice in the immigration arena from the enactment of H.R. 4300. Present law, by nearly excluding these groups from the competition for available visas, has virtually eliminated them from the immigration process. This measure would ensure the just treatment of such immigrants. It would establish a long-needed diversity visa program favoring those from currently underrepresented parts of the world, and providing temporary priority for those among these groups who are seeking employment here. Additionally, much-needed transition provisions would let a limited number of natives of adversely affected countries, already living here apply for permanent residence. As one who has witnessed a steady influx of illegal immigrants from these countries, especially the Irish, I am greatly encouraged by the prospect of allowing these people to stop living their lives in the shadows, as the flaws inherent in the present law, force them to do. I look forward to the day when these immigrants are allowed to become content, productive, legal residents of the United States.

Fairness and justice in the immigration system must be achieved. H.R. 4300 would bring fairness and justice to families separated from their loved ones, and to potential immigrants from under represented nations. Much of the frustration which incites illegal immigration would be drastically reduced.

I urge my colleagues to keep these worthy aims in mind, and join me in support of this bill. When the time comes to vote upon this legislation, I will be proud to cast my vote for H.R. 4300.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Speaker, I thank my colleague from Tennessee for yielding time to me.

Mr. Speaker, I rise in opposition to this rule.

First of all, I would like to thank the chairman of the Rules Committee for making a number of amendments in order. As he explained a while ago, the minority received about half of the amendments, and that is much appreciated. However, the fact that all amendments are important should not lead us to ignore the fact that many substantive amendments were not made in order, and that is a real concern to me, Mr. Speaker. I am concerned not only for myself, I am concerned for other Members, but I am especially concerned for the citizens of America, because their voice needs to be heard on the House floor, and by having so many amendments not be ruled in order their voice will not be heard.

There is simply no way to discuss so many issues of so much concern to so many people unless we have far more amendments that would have been approved. Other Members of Congress, and especially the administrations would have liked to have seen a number of substantive amendments ruled in order.

The administration itself feels so strongly, is so strongly opposed to this bill, Mr. Speaker, that they have given 14 reasons why they are opposed. The Attorney General, the Secretary of Labor, and the Secretary of Transportation have strongly recommended a veto of this bill.

Of the 14 objections that the administration have, amendments were allowed to respond to only 5. Nine of the administration's objections were not heeded.

□ 1240

Mr. Speaker, where is the amendment that would allow us to reimburse State and local governments for the costs that they are going to incur while providing educational services, health care, and government services to individuals in their communities? If we were to talk to any big-city mayor, if we were to talk to any Governor, we would realize that the expenses that are going to be incurred as a result of increased immigration are very real, yet there is no provision in this rule to allow an amendment to be offered to govern that concern.

Mr. Speaker, where is the amendment that would reply to the needs of the businesses? For example, for the first time ever in this bill, there is a cap on temporary skilled workers. These are individuals who are allowed to come into this country temporarily when there is a proven absence of an American worker who could fill that particular position.

The Wall Street Journal editorial yesterday has been quoted once, and I will quote it again; "The bill's 25,000 annual ceiling on temporary skilled workers makes no economic sense at all."

Mr. Speaker, we have a bill that is going to increase immigration by hundreds of thousands, and yet we put a cap on temporary skilled workers. I see no justification for that.

Mr. Speaker, where is an amendment that would deal with an issue that we all remember all so well, and that is the issue of amnesty? That was a major issue back when FIRCA was debated back in 1986. It was a very controversial issue then. In fact, a compromise was agreed to back in 1986. There was a solemn vow that we would bring up amnesty one time, once, and only once, and there would be no more amnesty. Yet, in this bill, there are two amnesty provisions, and yet no amendments to deal with either one.

Mr. Speaker, back in 1986, the issue of amnesty was so contentious that 192 Members of the House voted to strike the amnesty provision. Yet, those Members who are still in Congress today, the citizens they represent, are not going to be able to be heard when it comes to an amendment.

Mr. Speaker, there is a second amendment we might call the second amnesty program, or we might call it Amnesty II, for individuals who have overstayed their travel visas; they are here illegally, and they are going to be allowed to stay forever if they are from certain oppressed countries, countries like Japan and France.

Mr. Speaker, that is special-interest legislation at its best, and in any case, the whole House should be allowed to decide whether an amendment should be approved or not approved pertaining to that particular concern.

Mr. Speaker, there are other amendments that should have been allowed, amendments that tie an increase in legal immigration to our efforts to control illegal immigration.

The rule has denied the House the opportunity to vote on another very troublesome issue in H.R. 4300 concerning new prohibitions on longshore work. A amendment from the ranking Republican member of the Committee on Merchant Marine and Fisheries was precluded despite the serious adverse consequences that the bill's longshore provisions would have on U.S. ports, U.S. ships, and U.S. businesses.

The rule failed to provide consideration of an amendment by my colleague, the gentleman from Florida [Mr. McCollum], which would have created critical new tools for the Department of Justice to remove criminal aliens.

Mr. Speaker, there are a number of important issues that have not been addressed by the Committee on Rules, and, as such, in my judgment, the rule should be defeated because it does not really respond to the concerns of the other Members, and it does not respond to the concerns of the administration. It does not respond to the concerns of the citizens.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BONIOR. Mr. Speaker, I have no further requests for time, 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. Montgomery). The question is on the resolution.

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

Mr. QUILLEN. 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 245, nays 165, not voting 23, as follows:

[Roll No. 398]

YEAS—245

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bateman
Bates
Beilenson
Berman
Bevill
Bilbray
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Browder
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clarke
Clay
Clement
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Coyne
Darden
Davis
de la Garza
DeFazio
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Gray
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Hoyer
Huckaby
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Manton
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Pickett
Pickle
Poshard
Price
Rahall
Ray
Richardson
Roe
Ros-Lehtinen
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Weiss
Wheat
Williams
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NAYS—165

Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Dannemeyer
DeLay
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Emerson
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Gillmor
Gingrich
Goodling
Goss
Grandy
Grant
Green
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Kasich
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lent
Lewis (CA)
Lightfoot
Livingston
Lowery (CA)
Lukens, Donald
Machtley
Madigan
Marlenee
Martin (NY)
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Moorhead
Morella
Morrison (WA)
Nielson
Oxley
Packard
Parris
Pashayan
Paxon
Penny
Petri
Porter
Pursell
Quillen
Ravenel
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rohrabacher
Roth
Roukema
Saxton
Schaefer
Schiff
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Slattery
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stallings
Stangeland
Stearns
Stump
Sundquist
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weldon
Whittaker
Wilson
Wolf
Wylie
Young (FL)

NOT VOTING—23

Boggs
Cox
Crockett
Dellums
DeWine
Downey
Edwards (OK)
Engel
Johnston
Kennedy
Lewis (FL)
McNulty
Myers
Neal (MA)
Neal (NC)
Owens (NY)
Rangel
Regula
Rowland (CT)
Saiki
Towns
Washington
Whitten

□ 1304

The Clerk announced the following pair:

On this vote:

Mr. Engel for, with Mr. Lewis of Florida against.

Messrs. FAWELL, GOODLING, and RIDGE changed their vote from "yea" to "nay."

Ms. MOLINARI changed her 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.

The SPEAKER pro tempore. (Mr. MONTGOMERY). Pursuant to House Resolution 484 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4300.

□ 1305

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4300) to amend the Immigration of Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for other purposes with Mr. DARDEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes, the gentleman from Texas [Mr. SMITH] will be recognized for 30 minutes, the gentleman from Ohio [Mr. SAWYER] will be recognized for 15 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, H.R. 4300, the Family Unification and Employment Opportunity Immigration Act of 1990, reforms America's legal immigration quota system. It expands the annual immigration numbers from the current level of 530,000 to roughly 800,000 per year. The Senate has around 630,000 in their bill, and when we go to conference we will obviously have to adjust these numbers. This legislation will ease current U.S. immigration restrictions that hinder the reunification of immediate family members, reduce barrier on immigrants from countries which were traditional sources of immigrants to the United States. Most important, H.R. 4300 marks a shift in legal immigration policy to place greater emphasis on employment-based immigration. It will increase the number of highly skilled or otherwise needed foreign-born workers.

An important aspect of this bill is its provision to allow spouses and minor children of permanent residents to be treated as immediate relatives. This will permit the reunification of families without requiring them to wait at least 2 years under the current law. There are several hundred thousand spouses and children of permanent residents on the waiting list. The enactment of this bill would greatly reduce the backlog.

The provisions of the bill would also correct inequities against would-be immigrants of certain countries. Currently, most immigration is limited to families of recently arrived immigrants. Individuals from countries which are adversely affected by this policy will be able to become eligible for resident status if they have a firm offer of employment for 1 year and have been in the United States continuously since January 1, 1990. As a result, the flow of legal immigration will be restored from countries adversely affected by prior law.

The bill allows 75,000 principals to enter the United States for employment in order to remedy critical labor shortages in specific fields. These immigrants will require employer attestation that U.S. workers will be recruited in the future and that the wages and working conditions of present U.S. workers are not adversely affected.

The legislation also revises the terms and conditions under which foreign workers may come temporarily to the United States. Many of the provisions in this measure broaden the availability of visas to individuals to remedy U.S. labor shortages. Other changes in the bill modernize outdated laws or ease harmful consequences of the 1952 Immigration and Nationality Act.

In summary, Mr. Chairman, H.R. 4300, as amended, is a reasonable and carefully drafted reform of our Nation's legal immigration policy. I particularly want to congratulate the chairman of our Immigration, Refugees and International Law Subcommittee, the gentleman from Connecticut, for his tireless efforts in bringing this bill to the floor today.

□ 1310

I would add one other thing to the Members: I would hope that we could handle all of the amendments today. Those that are acceptable we can agree to; those that are not, we can vote on, and we would preferably not have too many record votes and could finish this bill by 6 p.m. I understand there are a lot of matters going on at 7 p.m. I would hope that would be our program for the afternoon.

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

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] is recognized for 30 minutes.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from New York [Mr. FISH], the ranking member of the Committee on the Judiciary.

Mr. FISH. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 4300.

The United States of America was built on immigrants. From the English Pilgrims to the Irish and Italians at the turn of the century to the Asian and Hispanics of recent times, this country thrives on the new blood and vitality brought by immigrants.

Mr. Chairman, I believe that H.R. 4300 continues America's longstanding commitment to immigration.

H.R. 4300 enhances the unification of families who have been separated by their own unfortunate circumstances and by our immigration laws. It retains family unification as the cornerstone of American immigration law and policy.

H.R. 4300 also addresses America's needs in a global economy. At a time when the United States needs highly skilled workers—scientists, engineers, computer experts, and other professionals—H.R. 4300 responds to that need. By increasing the number of employment-based visas, H.R. 4300 allows business to import the necessary skills to help it remain competitive in the international economy.

H.R. 4300 rights some of the wrongs caused by past and current immigration laws. It creates opportunities to immigrate to natives of countries who are virtually shut out of the immigration system. The diversity and transition programs of H.R. 4300 will allow the Irish, Africans, Eastern Europeans, Tibetans, Western Europeans, and others to find their way back into the immigration flow which they had been excluded from for 25 years or more.

H.R. 4300 includes these currently disadvantaged without affecting the immigration opportunities of the Asians and Hispanics who, until recent times, were themselves excluded from immigration to the United States.

I do not believe that immigrants are a burden to the United States. Instead, I believe that immigrants are what makes America great.

Everyone knows a recent immigrant who owns the corner store or whose child has graduated first in his or her class. Among whom America counts among its immigrants are scientists and songwriters, athletes and artists, politicians and physicists.

Mr. Chairman, the Senate three times has passed a legal immigration bill. Now is the time for the House to

act, go to conference and achieve an updated law this Congress.

I have two amendments which I urge my colleagues to support. The first, offered on behalf of the State Department, extends the Visa Waiver Program which allows short-term visitors from certain countries to enter the United States without a visa. My second amendment extends the deadline of stage 2 of the legalization program from 1 year to 2 years, to achieve the goals of the 1986 Immigrant Reform and Control Act.

H.R. 4300 assures us that our great tradition of immigration will continue and grow.

I urge my colleagues to join me in supporting H.R. 4300.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all I want to compliment my colleagues who have been instrumental in writing this legislation and who support it. I know they are well motivated, and I admire their humanitarian impulses.

I want to say that the administration shares their desire to increase immigration. Where we part ways is on how to bring about that increase in immigration. The administration has different priorities.

The administration would like to give greater priority to immediate families. They would like to see us have more immigrants come in who are mothers and fathers and children. They would like to give less priority to the extended family members; that is, married brothers, sisters, for example, aunts, uncles, and cousins.

The administration would like to give more priority to skilled workers and, perhaps as a result, less priority to unskilled workers.

H.R. 4300 gives only 10 percent of its numbers specifically to skilled immigrants, so-called employment based.

H.R. 4300 is a radical departure from our current immigration laws. I would say that when we consider it today we need to remember several things.

First of all, as we stand here today, we are going to be debating a bill that professes to, proposes to change our immigration policy for only the fifth time in Congress' 203-year history.

The bill is going to have a dramatic impact on America's population, its work force, and the quality of life for decades to come.

I think we need to remember that America right now is already the most generous country in the world. We admit as many immigrants as the rest of the world combined.

We should continue to be the most generous country. No doubt we will continue to admit all those immigrants. We are all very, very familiar with the successes of hundreds of thousands, if not millions, of immigrants.

That is not the point here. The point is America simply cannot admit every single individual who wants to come to our shores.

One of America's most distinguished families, the Kennedy family, a member of that family wrote a book when he was a Senator, and I am referring to John F. Kennedy. He wrote a book in 1956 called "A Nation of Immigrants."

At that point, he said that we do need a limitation upon immigration:

> We not longer need settlers for virgin lands. Our economy is expanding more slowly than in the 19th and early 20th centuries.

Mr. Chairman, when he wrote that, our immigration level was one-half of what it is today. Unfortunately, because we cannot accommodate every individual who wants to come to this country, we are going to have to engage is some degree to some selectivity. We need to have individuals admitted to this country who can contribute to the productivity of America, who can help us better compete in the international workplace.

I know there are those who say that history would disprove those who are opposed to this bill, but that is not the point. We do not support a decrease in the levels of immigration; we do not want a limit as to which countries can have immigrants come to America. We support an increase. The question again is on what priorities should we have as a country.

□ 1320

Mr. Chairman, I think those priorities should be on immediate family members and upon skilled workers.

Mr. Chairman, we are going to hear a lot about fairness today, but I would like to ask my colleagues some questions.

First of all, is it fair for State and local governments to have to pick up almost the complete cost of educating, providing health care and government services to immigrants who will come to this country? And when I say, "Will State and local governments have to pick up the tab," of course I am talking about the taxpayers who ultimately are going to have to shoulder that burden. Is it fair for business, for the first time in history, to put a cap on the number of individuals who can come to this country temporarily as skilled workers.

Mr. Chairman, every study of which any of us is aware of points to the need to have more skilled workers in this country's future. In fact, one survey, called Work Force 2000, said that by the year 2000, 80 percent of our workers would need to be skilled workers. We need to give more preference to immigrants who are skilled workers and possess the necessary skills.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield for a question?

Mr. SMITH of Texas. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, I thank the gentleman from Texas [Mr. SMITH], my colleague, for yielding, and I think he asked a very important question when he talked about who bears the cost.

However, Mr. Chairman, I think it is also fair to point out that again units of local government and States now bear the cost for those who are here illegally or for those who are inside the United States, residing here undocumented, and once again the Federal Government refuses to participate in providing the research necessary for units of local government and States to provide health care, as well as education, for those children of undocumented workers.

Mr. SMITH of Texas. Mr. Chairman, reclaiming my time, I just say to the gentleman from Texas [Mr. COLEMAN], my colleague, that I think he makes a legitimate point. But my concern is that we do not add to the burden of State and local governments that the gentleman from Texas [Mr. COLEMAN] would like to see reimbursed, and, if this bill passes, we are putting a massive burden, financial burden, on those same States, cities, and localities, and we do not need to make it a worse situation.

Mr. Chairman, another provision in this bill that I think is unacceptable, as well, is this bill has two amnesty provisions. Sometimes they are labeled using other phrases, but in point of fact we cannot hide two amnesty provisions in H.R. 4300. When we talk about amnesty, we are talking about rewarding law breakers and, in effect, penalizing law abiders. We are talking about giving amnesty to individuals who came to this country illegally, received amnesty and whose family members are now illegal aliens.

Mr. Chairman, we are going to allow illegal aliens who are in this country as recently as January 1 of this year to stay here forever. Meanwhile, we are saying to the other individuals who are likewise permanent residents that, "If you have tried your best to obey the law, if you have said, 'I'll go through the regular process and wait my turn in order to get my family in,' " we are saying to them, "You're a real dummy for obeying the law. You should have had your family come in illegally."

Mr. Chairman, that is no message to send. If this bill becomes law, and the amnesty provision becomes effective, what we are saying to individuals is, "If you have a family in this country, go on and come in illegally because sooner or later there will be another amnesty just like this one." That is

going to have an incredible magnet effect, and the result is going to be a dramatic increase in illegal aliens.

I might remind our colleagues, Mr. Chairman, that right now, as we stand here, any individual who has a preference visa, any individual who is a permanent resident, can become a citizen in anywhere from zero to 5 years, and at that point automatically can bring in all immediate family members.

So, Mr. Chairman, there are other alternatives to having an amnesty, and I would say again that, when it comes to amnesty, that issue was debated for long and hard back in 1986, and 192 of our colleagues voted against amnesty back then. That is a provision that was so controversial that there was an agreement made at that time that that would be a once and only amnesty. There would be no more because of this magnet effect, and here we are today talking about not one, but two, amnesty provisions in H.R. 4300.

The second amnesty provision basically says, "If you have come to this country and overstayed your travel visa, and you're now here illegally, and you happen to be from one of 35 so-called disadvantaged or oppressed countries, countries like Japan, and France, and so on, you could stay here forever." Well, Mr. Chairman, that is special interest legislation at its best.

Supposedly, in 1965 we took discrimination out of our immigration laws. What this bill does is to put discrimination back in, and it gives amnesty to illegal aliens, to countries that benefited from the discrimination of the pre-1965 law.

Mr. Chairman, there are a number of studies that have been conducted. Some have endorsed more immigration. Some have opposed any substantial increase in immigration. But I do not know of any study that has unequivocally endorsed this bill, H.R. 4300, because of its dramatic increase in immigration, 60 percent in the next few years. Every study that I am aware of that has endorsed an increase in immigration along the lines of H.R. 4300 has always conditioned their findings. Either they are talking about continued economic expansion being necessary to accommodate those individuals, or they use old data.

Mr. Chairman, let me read excerpts from a book by Julian Simon who is considered sort of the guru of those who would want to dramatically increase immigration levels, and I say that here is an individual who is often cited as someone who favors the levels of, say, H.R. 4300, and yet this is what he says in his book:

There is no doubt that workers in some industries suffer immediate injury from the addition of immigrants in the same category, and he goes on and suggests that immigrants be chosen more for their economic characteristics and less on the basis of family connections.

Mr. Chairman, that is exactly what I am saying, and that is exactly what the administration is saying, is give preference to those individuals who have the skills, who have the education, to be productive members of American society and help us compete in the international marketplace.

Mr. Chairman, the most recent study, and one which has superseded Mr. Simon's work, is one by Prof. George Borjas, and he raises these concerns. He talks about injury to American workers from a massive influx of immigrants. He, too, talks about the need to have skilled and educated immigrants. But more especially he says that contrary to all the other surveys of immigrants who have come to this country, the current wave of immigrants, who came in the 1970's, and we do not have the data on the immigrants who came in the 1980's yet, but those who came in the 1970's are participating in welfare to an extent larger than any other wave of immigrants. He uses the word that America has become a welfare magnet because we give individuals in government transfer payments, many instances more than they make in their own countries.

Mr. Chairman, Mr. Borjas says that the immigrants who came in the 1970's will cost American taxpayers $30 billion in those welfare payments. Well, if H.R. 4300 becomes law, we are talking about at least a 50-percent increase in immigrants. That means $45 billion in welfare payments, but it is actually more than that because one of Mr. Borjas' other findings is, unfortunately, that immigrants coming into this country are not only participating in welfare more than immigrants in the past, but the longer they are here in the country, the more they are taking those government transfer payments.

The point here is not to say that many immigrants are costing us money, because I think relatively few are, but the point is that those who do, have a dramatic impact on our taxpayers in this country.

Mr. Chairman, I point to another study, and this perhaps is the most important study of all, and these are public opinion polls taken over the past 5 years. Every single public opinion poll, whether it be by the New York Times, CBS, Roper, Gallup, whoever have you, has shown that fewer than 10 percent of the individuals in America want to increase immigration. The vast majority, in fact, want it to remain the same or actually have it decreased. Those individuals have a real concern about the cost of immigrants, and I think it is a concern that we need to address.

Every study, including the studies I have mentioned, talk about the need for skilled workers, and yet 4,300 does not go far enough in emphasizing those skilled workers and giving a priority to individual immigrants who might be able to come to this country with the skills and the talents that we need.

□ 1300

Mr. Chairman, there is another study that is often cited that has been the subject of several "Dear Colleague" letters, and that is the deTocqueville study. This is a study, just to put it in perspective for my colleagues, that was based upon opinions, not statistical evidence, not quantitative evidence, but on the opinions of 38 economists. Interestingly enough, this poll was sent out to 58 economists. Only 38 felt it necessary to respond. Obviously the poll picked who they were going to send the survey to, and on the basis of this survey, we are told that 80 percent of these economists want increased immigration.

But the actual question to these individuals was: "Do you think that 20th century immigration, looking backward, has been good for the country?" I think all of us would agree that that has been the case.

Mr. Chairman, let me conclude by simply saying that we also need to be concerned about the impact of immigrants on our own underclass. It is widely thought that immigrants who do not possess the skills and the education that we would think are necessary for them to be productive members of American society are going to, therefore, end up competing with the exact same type of individuals in American society, those who are underskilled when they come to America.

Gov. Richard Lamm of Colorado writes this:

> Why is it that the other industrial countries who are beating us in the international marketplace take few or no immigrants? . . . . We can either import large numbers of low-skilled workers or we can reach down and train our own underclass. We cannot do both . . . . Wave after wave of immigrants arrive to take the jobs that can start our own underclass on the road to success. . . . No other nation in the world has the delusion that it can ignore its own poor while importing a whole generation of poor people every year. . . . Our first duty ought to be to our own poor. We are crazy to think we can bring in millions of low-wage, unskilled immigrants to do our basic work and ignore our own workers. Instead of incorporating our own poor into the economy, we are adding a second underclass to American society, and we shall pay a heavy price for this. America is heading toward an immigration crisis.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. I will be happy to yield in just a moment.

In conclusion, Mr. Chairman, what I do simply say is that H.R. 4300 goes in the wrong direction. While all of us can be in favor of increased immigra-

tion and all of us consider ourselves to be pro-immigrant, nevertheless H.R. 4300 has the wrong priorities. We need to given greater priority to skilled immigrants who are coming to this country and greater priority to reunifying immediate family members and perhaps somewhat less priority to the unskilled and to the extended family members.

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

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Texas yield to the gentlewoman from Ohio?

Apparently not.

The gentleman from Ohio [Mr. SAWYER] is recognized for 15 minutes.

Mr. SAWYER. Mr. Chairman, I yield myself such time as I may consume, and I rise representing the Committee on Education and Labor in its particular interest in H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990.

I wish to thank the chairman of the full Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS] for his patience in preserving the jurisdictional claims of the Committee on Education and Labor, as well as facilitating our substantive considerations. I wish as well to express my deep appreciation to the gentleman from Connecticut [Mr. MORRISON], chairman of the Subcommittee on Immigration, Refugees, and International Law, for the courtesies he has extended to me as chairman of the Education and Labor Task Force on immigration, and for his willingness to recognize the importance of the labor market aspects of this legislation. He encouraged the active participation of the task force in the formulation and the presentation of H.R. 4300, and I thank him for that opportunity.

The Committee on Education and Labor has since 1985 maintained a Task Force on Immigration for the purpose of considering the labor aspects of any immigration proposal. It is clear, under the rules of the House of Representatives, that our committee has jurisdiction over the importation of foreign labor and the setting of wage and labor protections afforded those workers. In the last few years there have been a number of studies, including the one mentioned earlier in this debate today, the Hudson Institute's "Work Force 2000 Report," which graphically illustrates the interrelationship between immigration policies and the demands of the labor market.

These reports simply recognize that both the demographics of the domestic labor force and businesses' demand for both skilled and unskilled workers are changing. This is especially significant as we, as a nation, seek to establish our place in a more competitive global economy in an age of uncertainty, in a time of great change.

As we look toward a world of multinational and transnational corporations and global markets, with a greater and a freer flow of products and people in international commerce, we must also remember that our role in this marketplace should not be built on Third World wages and working conditions. We as a nation have a responsibility to first employ the domestic work force at wages and working conditions which are competitive and not substandard. In the name of global competition, we should not condone the admittance or use of any foreign workers at less than prevailing wages and benefits, particularly when domestic workers are available at those same wages and working conditions. It seems to me a simple proposition that foreign workers should be admitted only when there are real and measurable shortages in the occupation for which they are sought and not simply when an employer states he or she has a need and determines it is cheaper to use foreign workers.

It is also my view that we have a responsibility to not only employ domestic workers first but we have a concurrent duty to educate and train our people for the jobs where shortages now exist or are projected to occur in the future. This is a shared responsibility, and we must begin to take it seriously.

Mr. Chairman, I am pleased that H.R. 4300 reflects this necessary balance between the legitimate needs of business to meet labor shortages in a timely fashion with the equally important need to protect the jobs of American workers at sound wages and working conditions.

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

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GOODLING] is recognized for 15 minutes.

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990, represents the first major reform of our Nation's legal immigration laws since 1965 and would restructure the system for the admission of employment based immigrants. As reported by the Judiciary Committee, the bill contains numerous provisions that would impact on the supply of and the demand for labor including provisions that modify the existing categories for the admission of priority workers and other employment-based aliens, revise the labor certification process in cases of demonstrated labor shortages, require the payment of fees for the admission of certain employment-based aliens, and amend the Immigration Reform and Control Act.

In today's labor climate, one of the goals of immigration legislation should be to make our system for the admission of aliens more responsive to our need for workers in labor shortage areas. Given the projections in the Workforce 2000 report that the availability of workers in certain occupations may be insufficient to meet the demand, we must begin to develop a strategy to insure that the American enterprise is not handicapped by a shortage of labor. Along with the improving the recruitment, training and education of American workers, our immigration policy can and should play an important role in that strategy.

It is unclear whether H.R. 4300 does in fact make our legal immigration system more responsive to our labor needs. Several of the priority categories for the admission of employment-based aliens are too narrowly defined to allow for the admission of workers with needed skills. The bill also contains a cap on the number of employment-based nonimmigrants which will similarly limit the flexibility of U.S. companies to respond to changing labor needs. The labor attestation process for the admission of workers in labor shortage occupations will cause added delays and costs.

Several of my colleagues had drafted amendments which were directed at making the provisions of H.R. 4300 more receptive to the need for both skilled and unskilled labor while protecting the interests of American workers. I am disappointed that most of these amendments were not made in order. In their current form, the employment-based immigration provisions of H.R. 4300 make our legal immigration policy an obstacle to the ability of American businesses to compete in the world marketplace.

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

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield 8 minutes to the gentleman from Connecticut [Mr. MORRISON].

□ 1340

Mr. MORRISON of Connecticut. Mr. Chairman, I thank the gentleman from Texas [Mr. BROOKS], the chairman of the Committee on the Judiciary, for yielding me this time. I thank the gentleman for his leadership in helping us move to the floor of this House a far-reaching and important reform of our immigration system. The last time the Congress acted upon the overall structure of the legal immigration system in this country was in 1965. That is 25 years ago, and those 25 years have seen many changes within the United States and around the world.

Those changes require that our immigration system be adjusted and updated and reformed in order to see to it that its fundamental goals are still pursued in a way that is relevant with the times.

Mr. Chairman, immigration has been a source of great strength to this country. Immigration has been the source of perhaps our greatest strength. It is what makes us a nation by choice, a nation which people have selected as the Nation to which they would come and live. No ethnic group, no religion, no geographical accident defines this Nation. This Nation is defined by a voluntary adherence to far-reaching principles of human rights and democracy.

People have come here in pursuit of these ideals, and to live them out day by day. Only through immigration and the continuation of our open and generous immigration policy can we continue to be for all the world a nation of choice, a nation composed of self-selected strivers, who seek to make their own lives better, to make the lives of their children more hopeful and, in doing so, to make the future of this Nation stronger and better for those who are here already, as well as those who come in the future.

This bill covers three major areas of concern in immigration, and I think it does so in an appropriate way.

First and foremost, it reforms and improves the fundamental principles of our immigration system as reformed in 1965 under the leadership of our esteemed past chairman of the Committee on the Judiciary, Peter Rodino.

That principle is one of a profamily immigration policy. Unifying families, especially the nuclear family, has been a critical priority of our immigration system.

Nonetheless, under our existing law the immediate relatives of people who have been admitted to live permanently in the United States may be prevented from joining their family members for years and years on end.

That is not conducive to good family life, good citizenship, nor is it conducive to adherence to the legal standards of immigration. What family stays apart from its children or its spouse for years and years on end? It does not happen. It ought not to happen. The law ought not to condone it nor seek to enforce those kinds of separations.

Mr. Chairman, this legislation moves in the direction of allowing the immediate families to unite immediately. That is the principle that our law should follow. That is a profamily immigration policy.

The bill also acts to reduce backlogs for other family members who are waiting to join their families here in the United States, a positive commitment to our profamily family unification principles in immigration.

Second, the bill speaks to the changes in the work force of this country. Some people misunderstand the double-edged sword of the lack of needed workers in our economy. Certainly if workers are brought into the United States and allowed to displace Americans from their jobs, that would be wrong. This bill does no such thing.

Equally true, however, is if employers in this country have a need for workers who they cannot find in the United States, and they are denied the opportunity to bring those workers to this country, if they are denied the opportunity to bring needed skilled workers into their work force, American workers are just as certainly displaced. American factories are closed and American workers are laid off. Companies go to other nations in the world to find the workers that they need, and they relocate American jobs out of this country. So those who are concerned about protecting American jobs must understand that this is a double-edged sword, and we must walk the careful path of an immigration law which admits needed workers to the country, but holds them up to the test that they are in fact needed.

This legislation does so. In fact, contrary to what the gentleman from Pennsylvania suggested, the attestation process in this legislation is more expeditious for the companies that would seek to bring skilled workers here than our current law. It is an important improvement.

Mr. Chairman, this moves in the direction of bringing in permanent workers, rather than temporary workers, and it is permanent immigrants who make sure that there is not an undercutting of labor, wages, and conditions here in this country.

In addition to that, this legislation originally contained a provision by which employers who brought individuals to this country would be required to provide funds for education and training. The Committee on Ways and Means objected to that provision as a tax. It has been stricken from the bill. I will offer an amendment that provides for a training requirement in order to see to it that as workers are brought to this country as immigrants because of the lack of necessary workers over here, there will also be a commitment on behalf of those employers to invest in the training of American workers to fill those jobs in the future.

Mr. Chairman, let me say that the employment-related provisions of this bill are employer oriented. They do not delegate to bureaucrats the question of who should come in, but rather provide to employers the choice. That is the answer to those who say they should be more skilled or less skilled. Let us have American employers in our market economy make the selection of which workers are, in fact, needed, rather than have Congress or the Department of Labor seek to make those decisions.

Mr. Chairman, I think that is why even the Wall Street Journal, which has not said nice things about most of my bills here, has said that this is the best Democratic bill they have seen in many years. So I would hope that Republicans would take a close look at it.

Finally, this legislation provides for diversity of immigration and the protection of people temporarily here in this country.

Mr. Chairman, I am pleased to speak today on behalf of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990.

H.R. 4300 is a comprehensive immigration bill addressing issues of family reunification, employment based immigration, immigration for the purpose of promoting cultural diversity, nonimmigrant employment of aliens, and miscellaneous immigration-related matters.

This bill represents the first major change in the law governing legal immigration in 25 years. In 1980, Congress passed the Refugee Act dealing with refugee and asylum issues. In 1986, the Immigration Reform and Control Act [IRCA] was passed, relating to the legalization of the undocumented and employer responsibility for the hiring of documents workers. But not since 1965 has Congress enacted legislation dealing with the wide scope of legal immigration issues, the family preference system and employment based immigration.

Under current law the United States admits about 530,000 immigrants annually—not including refugees. Under H.R 4300 this figure would go to 775,000, with a temporary increase of 50,000 annually for backlog reduction. These increases, cut way back from the bill as originally introduced, are nominal compared to the overall size of the existing U.S. labor force of 125 million.

The three linchpins of this legislation fully justify the additional numbers. The bill would allow: first, immediate family members to be united; second, U.S. businesses to be more competitive in work markets; and third, immigration from countries that have, in the last quarter century, been largely shut out by U.S. immigration law.

Many of you I'm sure saw the glowing editorial about H.R. 4300 in the Wall Street Journal yesterday. It describes the bill as one that will "* * * spur the economy, create new jobs and make the U.S. more competitive." The Journal quoted a survey of 38 leading economists from John Kenneth Galbraith to Milton Friedman and found that they all concurred that immigration has a favorable impact on U.S. economic growth; 80 percent of them found it to have a very favorable impact.

At the hearings conducted on the bill by my subcommittee, Members heard from a host of witnesses who testified that immigrants have a positive effect on the economy. The experts agree that within the next 50 years this Nation will face a declining rate of population growth. As the baby boom generation ceases to have children, we shall find ourselves with an aging work force.

The average age of an American worker in the year 2000 will be almost 40. More and more of our population will be dependent on Social Security, and fewer and fewer young, skilled, productive workers, will be paying taxes and contributing to the gross national product. Immigration and Naturalization Service [INS] Commissioner Gene McNary was quoted recently in Newsweek magazine as saying: "There is a pretty good argument that we need these people to complement our aging work force." Newsweek stated that Mr. McNary believes a healthy economy can absorb up to 1 million immigrations each year.

A study prepared for the U.S. Department of Labor, Workforce 2000, is one study among several, that indicates that the education and skills of the emerging U.S. labor force will be unable to match U.S. labor market needs. Because it is unlikely that a sufficient number of U.S. workers will be trained quickly enough to meet legitimate employment needs, and because such needs are already unmet, our committee was convinced that immigration has a part to play in an overall strategy creating a workforce that will keep America competitive in the global economy in the 21st century.

FAMILY UNIFICATION

H.R. 4300 makes two important change with respect to family reunification. The first is the provision allowed spouses and minor children of permanent residents to be treated as immediate relatives. Unlike the immediate relatives of citizens, who are allowed to enter the United States in unlimited number, the immediate relative spouses and minor children of permanent residents, under current law, have to wait for as many as 15 years to be reunited with their families.

Keeping nuclear families together is a cornerstone American value. It is a value central to my own concern, and central to this bill. There are over 400,000 spouses and children of permanent residents worldwide on the waiting list. H.R. 4300 will permit up to 115,000 of them to be admitted annually as immediate relatives. Adult children of permanent residents will continue to be admitted in the limited second preference category.

The other provision relating to family unification is the family fairness provision that was restored to the bill at the full committee markup. This provision requires a stay of deportation for spouses and minor children of legalized aliens who entered the United States before January 1, 1990. Its purpose is to allow husbands and wives, and parents, and children to remain together. This provision will keep us from wasting valuable enforcement resources on deporting children and spouses who will ultimately be allowed to enter the country anyway.

EMPLOYMENT BASED IMMIGRATION

The second major concern that H.R. 4300 responds to is the need of employers for certain types of workers. The bill would increase the annual number of employment based visas from slightly more than 20,000 under current law, to 75,000.

There are two groups of employment based admissions. The first is for those with extraordinary ability, executives, and university professors whose entry is in the national interest and for whom there is no U.S. labor displacement. The second category consists of those who fill a vacancy for which no American worker can be found. Important labor safeguards are incorporated into the bill, requiring recruitment efforts by employers and payment of prevailing wages.

Temporary visas would be facilitated under the bill for those of extraordinary ability, entertainers and athletes, people with special business expertise, and others. In order to assure that U.S. workers are not displaced, consultation with labor groups would be required for the issuance of certain employment-based visas. Visas for temporary workers have been expanded in some instances to allow multinationals to transfer employees from abroad for career development.

DIVERSITY

The third significant change rendered by the bill relates to the broadening of the regional bases from which people come to the United States. H.R. 4300 endeavors to reverse the unintended inequities that resulted from the 1965 Immigration and Nationality Act [INA]. Individuals from countries deemed "adversely affected" by the 1965 law, including Ireland, Italy, Poland, Argentina, and Japan, will now have the opportunity to apply for conditional residence status if they have a firm offer of employment for at least 1 year. This program will provide for 25,000 visas annually for 3 years.

Other temporary measures designed to enhance diversity include: First, priority for natives of adversely affected countries for certain employment based visas; second, 15,000 immigrant visas annually for natives of Eastern Europe and from the continent of Africa. Both of these provisions target areas of the world from which immigration to the United States has been notoriously low. Finally, in an effort to maintain an ongoing diverse flow of immigrants, the bill provides for a self-correcting program for natives of foreign states that have sent fewer than 50,000 immigrants to the United States over the preceding 5-year period.

Consideration of a new approach to legal immigration began with the work of the Select Commission on Immigration and Refugee Policy chaired by the Rev. Theodore Hesburgh, which submitted its final report to the President and Congress on March 1, 1981. Congressional focus during the 1980's then shifted to curbing illegal immigration, leaving the second portion of the Commission's recommendations, with respect to legal immigration, for future Congresses.

In the 101st Congress, S. 358 was passed by the Senate on July 13, 1989, by a vote of 81 to 17. On the House side my subcommittee began a series of hearings, sometimes held jointly with the Immigration Task Force of the House Education and Labor Committee, in September 1989. The subcommittee heard from some 50 witnesses, including administration officials, economists, state and local officials, immigrant advocates and immigrant opponents, and representatives of business and labor. On March 19, 1990, I introduced H.R. 4300 and the bill was marked up by the subcommittee in course of the following several weeks. The full Judiciary Committee considered the bill on July 31 and August 1, 1990, and on the latter date ordered the bill, as amended, favorably reported to the House by a recorded vote of 23 to 12.

H.R. 4300 enjoys significant bipartisan support in the House, and wide and diverse support in the community at large. Endorsements run the gamut from right to left; from conservative think-tanks to labor organizations and the Wall Street Journal. Supporters include the Catholic Conference, and the major Hispanic, Asian, Irish, Jewish, and Eastern European groups.

I look forward to the support of all my colleagues as well.

Mr. BERMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I rise in strong support of this bill, particularly the provisions that have to do with the country of Lebanon and the immigrants from Lebanon to this country.

Mr. Chairman, it is a very difficult task to produce a bill which is fair, compassionate, and good for the economy. I believe H.R. 4300 meets these objectives.

Over the years, immigrants have been the lifeblood of this country, both economically and spiritually. I believe we have an obligation to share this experiment in freedom with other people in the world who are oppressed. We cannot shut the doors to them—diversity is good for this country. At the same time, we cannot simply throw the doors open and see what happens. We must control the flow of immigrants into this country so they can become productive members of American society.

I want to especially bring the attention of my colleagues an amendment I offered in the Judiciary Committee to provide some relief to the unfortunate citizens of Lebanon, who have lived trapped and under siege for over a decade. While the media seems to have lost interest in Lebanon, the country is politically very unstable and living conditions are impossible. Since February, over 1,000 people have been killed and 3,500 wounded, mostly in shelling of urban areas. Over half of the population are refugees in their own country, displaced by the war. Public water and electricity are almost nonexistent. Efforts to resolve the war have failed and there is no way of predicting whether all-out fighting will break out again tomorrow.

I venture to say I cannot imagine where else in the world conditions are as bad. I became involved in this crisis when a family member of a constituent was killed while awaiting approval of his application for a visa to come to the United States. There is something wrong when the immigration process puts people whose lives are in jeopardy on a daily basis on a list 8 years long. Fifth preference visa applicants who applied in 1982 are just now getting approval. If you were Lebanese and applied tomorrow for a fifth preference visa, the wait would be 25 years. The Lebanese do not have the luxury of waiting for their turn under the present system. My amendments may save some innocent lives.

My amendment addresses the desperate need of Lebanese trapped in random violence

to get out of the country to join family in the United States. It is a curious thing that these people do not qualify as refugees because they are threatened by general anarchy and violence, rather than specific persecution. The amendment attempts to address the backlog of second and fifth preference visa applicants by adding 5,000 new visas in years 1991 through 1995, or 1,000 new immigrant visas each year for 5 years. I want to make it very clear that these are additional visas to those provided in the bill, and that citizens of Lebanon are eligible on an equal footing for the other visas made available under the backlog reduction provisions of the bill. These additional visas should not in any way reduce their chances of obtaining a visa under other sections of H.R. 4300.

I understand concerns about special treatment for citizens of one country, but I fear that if we make them wait their turn in line, they may not be alive when their names are called. I believe this is a humanitarian gesture and the most fair way to do it.

I also want to thank and commend the chairman of the Rules Committee, Mr. MOAKLEY, for his amendment to grant temporary protected status to citizens of Lebanon, El Salvador, Kuwait, and Liberia who are presently to return Nicaraguans with justifiable fear of being sent home to face political persecution and even death. While the situation has changed for the better in Nicaragua, it may be worse in El Salvador. Congresswoman OAKAR and I introduced a similar measure specifically directed toward Lebanon last year, and I appreciate the chairman's including Lebanon in his amendment. This is the right thing to do.

I hope my colleagues will join me in supporting this important and worthwhile legislation.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I commend the committee for bringing this bill to the floor in its present form. In drafting H.R. 4300, the committee has shown a deep concern for and understanding of the problems that face Hong Kong as Communist Chinese takeover of the colony in 1997 nears.

After the brutal and bloody massacre at Tiananmen Square and the repression that followed, the people of Hong Kong have become extremely anxious about their homeland reverting to control of the People's Republic of China in 1997. As a consequence, Hong Kong is experiencing a brain drain which will see 62,000 people leave Hong Kong in 1990 alone. Most of those leaving are the better educated who held middle and higher level management positions in Hong Kong. This brain drain threatens to seriously disrupt the colony's economy, and with it United States interests in Hong Kong.

H.R. 4300 contains three provisions specifically designed to alleviate the unstable situation in Hong Kong.

The bill raises the per country ceiling for Hong Kong from 5,000—the allocation for colonies—to 20,000, the present allocation for countries. While we don't want people to leave, if they must leave, frankly we want these job-creating entrepreneurs to come here and help make our economy as vibrant and strong as they have made Hong Kong's.

In addition, H.R. 4300 waives the usual 4-month requirement and permits Hong Kong residents holding United States visas to exercise their visas at any time until 2001. This safety net is extremely important. The goal is not to drain the talented people from Hong Kong, but to give them confidence in the future. The purpose of this provision is to allow visa holders to remain in Hong Kong under Chinese control for several years after 1997. Hopefully, the Chinese under more enlightened leadership will adhere to their promises and many visa holders will choose not to exercise their visas and to stay after 2001.

In the last year, American firms in Hong Kong lost 24 percent of their key employees to emigration from Hong Kong and to transfer to non-American companies—managers, executives, and highly skilled employees who were offered immigration benefits as part of their employment package. The bill responds to this problem by providing an additional 15,000 visas for residents of Hong Kong who are employed in Hong Kong by a United States business and can be similarly employed in the United States.

I commend the committee for its measured and timely response to the problems facing Hong Kong. The provisions in this bill relating to Hong Kong will go far to reassure the people of Hong Kong and make the transition of 1997 tolerable.

□ 1350

Mr. SAWYER. Mr. Chairman, could the Chair clarify the amount of time remaining?

The CHAIRMAN. The gentleman from Ohio [Mr. SAWYER] has 11 minutes remaining; the gentleman from Texas [Mr. BROOKS] has 18 minutes remaining; the gentleman from Texas [Mr. SMITH] has 8 minutes remaining; and the gentleman from Pennsylvania [Mr. GOODLING] has 12 minutes remaining.

Mr. SAWYER. Mr. Chairman, I am pleased to yield 4 minutes to the distinguished gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Chairman, I rise in support of this very important piece of legislation.

Most of my colleagues probably remember that a few years ago I strongly opposed the so-called Simpson-Mazzoli bill. I opposed it at that time because it seemed to me that the presenters of the bill purposely ignored the unification of families, an important provision not included in that bill.

I also remember that that bill had a quota system that ignored the needs of people in this hemisphere, increasing quotas for Europe, but not Latin America; nor Canada.

The recommendations that are made in this bill were recommendations that I made to that bill at that particular time, and therefore, now, a few years later I am pleased that they are included in this piece of legislation before us. I agree that this is a good bill, that it is a real step forward, and of long-term benefit to this country.

I am pleased to see that H.R. 4300 increases the number of visas available to the most backlogged family preference category. It revises the current labor certification process which is designed to ensure that immigrant workers do not take jobs away from qualified Americans, and also establishes a new diversity program to permit increased immigration from countries that have received relatively few visas over the past several decades. These provisions are most important and must be included in this piece of legislation.

My colleagues probably also remember that just a few months ago we passed legislation right here in this House that made possible the immigration of people from Ireland with practically no restrictions whatsoever. I think that that was also good because they too add to the economic welfare of this Nation. But most importantly I see the fact that this piece of legislation establishes a more equitable visa category for spouses and children of permanent residents that would permit more rapid family reunification as they provide 115,000 more slots for permanent residents's spouses and minor children.

It provides also a backlog reduction in visas for second and fifth preference, which is most important. This is something that I proposed, several years ago, but it just seems that no one listened. I am glad that they are included in this piece of legislation.

This bill when passed would also prevent the deportation of spouses and children of legalized permanent residents who arrived in the United States before January 1 of 1990, and this indeed makes this bill a family unification proposal. We passed legislation and we gave amnesty to thousands upon thousands of individuals, but said to them that they can stay in the U.S., work on our farms, work in our restaurants, and our hotels, work wherever there is employment that Americans do not want, but you cannot be reunited with your families. Your children and your wife, we said if they are here will be subject to deportation, if they are elsewhere, they can not enter until they qualify under an unfair quota system, no matter how many years it will take.

What that piece of legislation did at that particular time was encourage the violation of immigration laws, as wives and children did in fact join a spouse or parent in the United States. It was a mistake then to have done what we did, but now this bill will rectify that mistake.

My colleagues, it is most important for the welfare of this Nation that we pass this legislation. The bill does improve immigration policy not only for people in this hemisphere, but improves immigration policy for people coming from all over the world.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. MILLER].

At the completion of his message, I yield the balance of my time to the gentleman from Texas [Mr. SMITH].

The CHAIRMAN. Without objection, after completion of the statement by the gentleman from Ohio, the remaining time of the gentleman from Pennsylvania [Mr. GOODLING] will be controlled by the gentleman from Texas [Mr. SMITH].

There was no objection.

Mr. MILLER of Ohio. Mr. Chairman, I appreciate the effort that my colleagues have put forth in order to bring this bill to the House floor, but Mr. Chairman, I must rise in opposition to H.R. 4300.

Though well intentioned, the Family Unity and Employment Opportunity Immigration Act of 1990 in my judgment would create more problems for American families and American workers than it would resolve.

Essentially, this legislation is another amnesty program for those who have been in the United States illegally from 1982 until January 1, 1990. Many of us have constituents, who have come to the United States legally, who have used legal channels to bring their family members to the United States, who have patiently waited for visa numbers to become available, because they wanted to obey the laws of our country. Now, we have again decided to give amnesty to illegal aliens, to people who have circumvented our laws, not honored them. We have already legalized nearly 3.1 million illegal aliens who were residing in this country prior to 1982. Is it fair for those immigrants who have chosen the legal route to come to this country to see us once again swing the door of citizenship open to those who have scorned our laws?

While we have added to the number of visas available to the second—spouses and children of permanent residents—and fifth preference—unmarried brothers and sisters of U.S. citizens—catagories to help eliminate the huge backlogs of individuals waiting to legally come to the United States, this is only a stopgap provision, which will end after 5 years. What is to eliminate another huge backlog of applicants in the future?

The majority of the costs of this program are being thrust upon the State and local governments. No provisions have been made for the Federal Government to share in the costs associated with enlarging the number of immigrants allowed to enter this country, estimates have shown that in the first year after implementation alone, State and local governments will spend approximately $3.8 billion in public welfare programs, food subsidies, housing, and education costs. With the country's current budgetary problems can our States and local governments afford the costs of H.R. 4300?

I agree that our current system of immigration needs to be improved, but, in my judgment H.R. 4300 is not a reform of the current immigration system, but simply an expansion of the current laws which allow for an increase in immigration by further extending amnesty to those who have come to the United States illegally. I feel this is not the way to go and that we have a long way to go if we want to make this legislation fair and equitable for all concerned. In its present form, I feel this is a bad bill and I urge my colleagues to vote against it.

□ 1400

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BRYANT], a distinguished member of the subcommittee and the committee.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, I rise to oppose H.R. 4300 unless we are able to radically amend it today. The bottom line is simply this: Today the United States of America admits 530,000 people every year, new immigrants, into the United States, which is more than all the countries of the world combined presently admit into their borders.

This bill before the House today would increase that number by over 300,000. I would suggest to the Members that it would take the whole figure up to as high as 900,000 new legal immigrants into the United States every year.

I think the fair question for us to ask is: Why? Why, with all the problems we have in this country, are we taking up a bill that is going to increase the number of people that come into the country every year by such a huge number? We cannot pay our bills. We are in the midst of an enormous debate at the present time about how to finance $200 billion to $250 billion a year in budget deficits. We have a crime rate that is unrivaled anywhere in the Western world. We have an education system that is creaking under the burden that it now has which it is not able to maintain. It is not educating our people adequately. We have street people by the thousands on the streets of every major American city. We have recession in progress. We have unemployment going up to as high as 6 percent projected by the end of the year.

The fact of the matter is we cannot take care of the people we have now. Why in the world are we taking up a bill at the present time that is going to increase the number of new Americans that will come into the country every year beyond the very generous figure of 530,000 that already exists?

There are three good reasons for immigration policy. One is to promote family unity, and if that is all this bill did, I would be standing here speaking for it. I am going to offer an amendment before the day is over that will restrict this bill's purposes to family unity, but this bill goes far beyond that.

Another legitimate purpose would be to take care of refugees and persecuted persons, which has been part of the American tradition, but beyond that legislation with regard to immigration ought to be crafted in such a way that it suits the national interest, not every group of special-interest-pleading organizations that come before the Congress asking that their particular concern be met in this, a patchwork piece of legislation which is designed not to pursue a coherent national purpose but which is designed to satisfy the demands of legions of special-interest groups that have come to this Congress.

They say that we need to increase diversity. We are already the most diverse country in the world. I would ask: How can it be that a bill which extends more visas and the right to enter to more Europeans than we are allowing to enter now which are already the majority group, white Europeans are already the majority group in America, how can that advance the cause of diversity, as though it need to be advanced in a country as diverse as ours already? How can bringing in so many people of the same race as the majority race encourage diversity?

They say we have a labor shortage. We have a job shortage.

Further, to me, we have a job shortage in America. We have an unemployment rate of 5½ percent that our economists tell us is headed up to 6 percent. What about the Americans who are already here who do not have jobs? Our obligation should be to train them to make them ready for the jobs that are available, not bring in a new competing group that is going to make it even more difficult for them ever to be able to work.

Family unity is a legitimate goal of immigration policy, and there are pro-

visions in this bill which would advance family unity, but we can do that without opening up the floodgates to so many other groups who do not fall under that category.

I will offer an amendment toward the end of the day, and in fact it is a substitute, which concentrates on family unity only and strikes the portions of the bill which open up our immigration laws to so many other persons who are not part of a family in the United States, and maintains those portions of the bill which would promote family unity. It maintains the section that prohibits the deportation of spouses and children of aliens who are legalized under the Immigration Reform Act of 1986, the family-fairness provisions. My amendment would hold that in the bill.

My amendment would also maintain the portion of the bill which grants 115,000 visas each year for immediate relatives, spouses and children, that is to say, for the spouses and children of permanent residents who are already in the United States. It would not include brothers and sisters, but it would include spouses and children.

Finally, it would also maintain the provisions of the bill allowing 10,250 visas a year for unmarried adult sons and daughters of persons who are legally present in the United States at the present time.

But that surely is enough. To go beyond that is to pursue a totally different purpose, and in fact, it is to pursue a purpose, which I submit to you, is not a coherent one, but one that results from a simple patching together of demands from special interest groups from across the United States who have come here and said, "We want to be allowed to bring in more and more and more people."

Mr. Chairman, I urge the Members of the House to turn down H.R. 4300 unless we can amend it by limiting its purpose to family unity which I submit to the Members is the only legitimate purpose that would meet the needs of the American people today.

Mr. SMITH of Texas. Mr. Chairman, I yield 4 minutes to my colleague, the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I find there are a number of good things in this bill, but, frankly, the number of bad things well overshadow the number of good.

One of the good things that is in the bill is some changes in the Marriage Fraud Act that several of us worked on a couple of years ago that will make things a whole lot better, I think, from the standpoint of hardships unintentionally created there.

But the problem with the bill basically is the thrust is wrong.

A lot of us believe in the appropriate immigration reform. We think there needs to be an opportunity for seed immigrants to come to this country.

I have been on the Immigration Subcommittee a number of years and fought through the major immigration battle that resulted in the bill in 1986. I think that is probably the one most glaring point that needed to be made, but this bill does not address that problem, in my opinion, correctly.

Instead of simply saying, OK, because of the fifth preference where you have enormous numbers of immigrants being consumed and brought into this country to have family unification with extended brothers and sisters becasue they eat up so many of these numbers, instead of saying, OK, we recognize that fact so we are going to add "X" number of new legal immigrants in a new category or carve out a category for skilled workers, seed immigrants, this bill goes about completely changing the preference, changing the whole system that we operate under in a way, that I think, is detrimental to the system and to the orderly progress, in terms of getting the kind of mix in this country of legal immigration that we need.

As the gentleman from Texas [Mr. BRYANT] also pointed out, it adds too many new numbers. I do not think we need to be bringing in that many.

Perhaps, first of all, it has two amnesty provisions in it. If we recall back in 1986, we legalized a lot of folks and brought them into this Nation. I happened to oppose that. I do not think that is a good idea because of the magnet effect. Sure enough, it has brought a lot more illegals into this country since then.

The fact of the matter is that we would, under this bill, be legalizing all of the children and the spouses of those who came forward and were granted legalization without their having to stand in line in the normal process that children and spouses of those who have been legalized in the past would do, and I do not think that is right.

□ 1410

I do not think that is right. That is a wrong, wrong approach from a standpoint of what is moral.

There are thousands, yea millions of people waiting in line to get into the United States legally, in countries throughout the world. Those should be given the priorities. Those should be given the opportunity to come in here first, not the people who come here illegally.

In my judgment, when we get all said and done with this, we do not address one of the most critical problems facing this Nation today in immigration. We do not address the problem of what we are going to do with all the criminals that are in our jails that are illegal aliens that are here. We need to have a process to expedite the deportation of those who are illegally here, and that process has not been granted, either through the committee structure, or through the Committee on Rules through an amendment I suggested might be offered on the floor. That is urgently needed.

What we see is, over the past 3 years, only about 22,000 have been deported from this Nation altogether, whether criminals or otherwise, out of the potential of 1 to 2 million. We do not know exactly how many are here in that category, but we definitely know we are only deporting about 1 or 2 percent of those available for deportation, and a large bulk of those who should be deported are in our jails, criminals flooding our jails in the States around this country. I think that that is the most important single thing that is missing from this legislation.

We need to reform the process for adjudication. We need to speed up the process of getting the criminal element who are here illegally, out of this country, instead of having them fill our jails. We also, at the same time, need to give new resources to the Immigration Service. They do not have enough investigators to go out and handle deportation cases. When we visit local immigration offices, what we notice more than anything else, they say, "Gosh, the case is made over in one division by some folks who know that there are illegals here that ought to be deported, but we do not have the personnel to follow up, so there are a bunch of people out there that ought to be deported that we are never looking into."

The bill takes a wrong thrust. It was a good idea. We need to reform it, definitely need to reform priorities, and we should add a few more in the category system, but we should not go in and screw it all around, changing the third and the fifth preferences, having amnesty and doing lots of other things I think are wrong, so I am opposed to this bill in the present form. I doubt seriously we will adopt amendments that will allow me to support it, but I urge my colleagues to look at the amendment, because there will be good ones offered, and hopefully there will be changes made.

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

Ms. SLAUGHTER of New York. Mr. Chairman, before we vote on the Family Unity and Employment Opportunity Immigration Act of 1990, we are likely to hear a lot about immigration numbers and the effects of the bill on the labor market. What should not go unsaid or unnoticed, however, is that the bill we have before us contains a small but significant provision which will literally free thousands of immi-

grant women from a nightmare of brutal physical abuse and mental cruelty.

Immigrant women are some of the most vulnerable to domestic violence, yet their plight is not well enough known to effect real change. Not long ago, I heard the heart wrenching story of an immigrant woman living in Rochester with her abusive American spouse. She was regularly beaten by her husband and subjected to unspeakable cruelties. She lived with two paralyzing fears—that of her husband's rage and that of being forced back to her native Haiti. The 1986 Marriage Fraud Act leaves this woman trapped in the abusive relationship for at least 2 years or face deportation to a country which is no longer her home.

Responding to this woman's circumstances and those of thousands of alien spouses nationwide, I introduced legislation to amend the Marriage Fraud Act and provide immigrant spouses in a bona fide marriage, an escape from the beatings, the insults and the fear. I thank Chairman MORRISON for including my legislation in the Family Unit and Employment Opportunity Act and expanding the battered spouse waiver provisions to protect children as well.

The Immigration Marriage Fraud Amendments Act of 1986 [IMFA] mandates a 2-year period of conditional permanent residency for foreigners who marry American citizens or permanent residents. At the end of this 2-year period, the American spouse with the foreign spouse must file a joint petition to gain full permanent residency for the foreign spouse. Due to a lack of clarity in the IMFA, a battered foreign spouse may be forced to choose between remaining in an abusive relationship or facing possible deportation to a country that is no longer his or her home.

Under the IMFA, if the resident spouse refuses to sign the joint petition, deportation proceedings can be initiated by the Immigration and Naturalization Service. The joint petition requirement may be waived if the foreign spouse can demonstrate: First, that his or her deportation would result in extreme hardship; or second, that she or he entered the marriage in good faith and sought termination of the marriage for good cause—good cause/good faith waiver. These waivers, which require the filing of INS form I-752, allow the foreign spouse to petition independently for permanent residency.

Potentially, an I-752 waiver based on the good cause termination of a good faith marriage can be requested in cases of spouse abuse. However, the likelihood of obtaining an I-752 waiver in States that have no fault divorce laws is unclear. A resident spouse, learning of his or her spouse's intent to file for divorce, need only file for divorce first to obtain the advantage in situations where the waiver of the joint petition requirement is being sought.

Because the law is new—final regulations appeared in the Federal Register on August 10, 1988—and the basis for obtaining a good cause/good faith marriage is vague, it is not always clear to victims of abuse how the IMFA will be applied to them. The lack of clarity in the law has acted as a deterrent to battered foreign spouses who want to leave their spouses but fear deportation if they do so. A further deterrent is the fact that the divorce proceedings bring the foreign spouse back into the physical proximity of the abuser with potentially serious consequences. While the regulations are just over 2-years old, there is no reason to allow more women and men to become victims of domestic violence.

Section 301 of H.R. 4300 would add a third provision to the IMFA that permits the joint petition requirement to be waived. Where a foreign spouse could demonstrate that he or she entered into a marriage with a resident spouse in good faith and could establish through credible evidence that he or she was battered by the American spouse, the foreign spouse would be allowed to waive the joint petition requirement and file independently to have the conditionality of his or her permanent residence removed. This waiver would not force the foreign spouse to seek a divorce and would thus avoid the question of good cause which must be considered in the good cause/good faith waiver and it would make it clear to abused spouses that there was an escape from their situations. In addition, section 301 stipulates that the exact address of the battered spouse would remain confidential during any INS proceeding.

While this additional waiver would not alter the spirit of the IMFA and the conditional permanent residence system established in 1986, it would be beneficial to a large number of persons trapped in abusive relationships. INS reports 3,747 filings of the I-752 form in the first half of fiscal 1989. While I-752 filings do not reflect the exact extent of the problem, they do offer some indication of the scope. The INS has approved many of these petitions, but anecdotal evidence would indicate that these numbers merely represent the tip of the iceberg. Those in this situation are often advised to remain with the abuser until the 2 years of conditional permanent residence have ended because of the lack of clarity in the law. Abused spouses should be sent a clearer signal that there is an escape from their dilemma and that the abusing spouse does not have complete control over their lives.

Section 301 intends to address two situations: the first in which a conditional resident spouse is subjected to battering or extreme mental cruelty by the citizen or resident spouse; the second in which a child or stepchild is subject to battering or extreme cruelty by the citizen or resident parent. By approving H.R. 4300, the House intends that when the citizen or resident spouse engages in battering or cruelty against a spouse or child, neither the spouse nor child should be entrapped in the abusive relationship by the threat of losing their legal resident status. It is the legislative's intent that the Attorney General will grant the waiver when battering of or cruelty to spouse or child is demonstrated. The House intends that the discretion given to the Attorney General to decide to deny waiver requests under this provision be limited to rare and exceptional circumstances such as when the alien poses a clear and significant detriment to the national interest.

As the original author of section 301 of H.R. 4300, I am also concerned with the situation in which the citizen or resident spouse abuses a child or alien child. It is the intent of the legislation, then, that the conditional resident spouse be able to protect the child without fearing that the citizen or resident spouse will refuse to cooperate in the joint petition, joint interview requirements for the alien spouse. In such a situation, the good faith or extreme hardship waiver will be granted to the alien spouse. The existence of a child of the marriage is evidence that the marriage was entered into in good faith. Both a child and the child's alien parent would suffer extreme hardship if the child were denied the protection and support of the alien spouse when the citizen or resident spouse abuses the child.

The group that would be targeted by the clarifications I have proposed is one of the most vulnerable in American society today. The vast majority of abused foreign spouses are women. Most are new to American society and many do not speak English as a first language. This group is in particular need of statutory language that clearly protects them from abusive spouses taking advantage of the necessity of filing a joint petition at the end of the 2 year period.

A "yes" vote on H.R. 4300 says "no" to the domestic violence which terrorizes thousands of immigrant spouses and their children. I urge all of my colleagues to support the bill, giving hope to battered spouses and children that they, too, might soon realize the American dream of living in freedom and safety.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the distinguished

gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding me this time. I want to salute my colleagues on the Subcommittee on Immigration for the wonderful work they have done on this bill.

Today the House is faced with a challenge, and that is to defy myths, misperceptions, and misplaced fears, and act with intelligence, insight, and reason, by enacting immigration reform. This legislation is the culmination of years of debate and wrangling, and enjoys the broad-based support of ethnic, religious, and civil rights groups, certain business concerns, and organized labor. Getting all those groups together was no small feat.

The bill rightfully recognizes the industry and valuable contributions that immigrants have made throughout the history of our Nation. It is based on the fundamental premise that immigrants are good for America, and despite the fact that immigrants are such an integral and evolving part of our identity as a Nation, our immigration policies have stagnated for the last 25 years. Meanwhile, the world turns.

Clearly, the world of nations has taken a giant leap since 1965 when we last overhauled our laws. Since then an increasingly interdependent and global economy has shown Members that the United States cannot afford to lose sight of one of its most valuable resources. The Einsteins, the Iacoccas, the immigrants from all corners of the world, the Wangs, who choose to live here and enrich citizens immeasurably by their contributions. Not every immigrant is an Einstein. No, many are just courageous, hardworking individuals. The doorman who works at one door 8 to 4, goes across the street and works at another door 4 to 12, to build America. The nurse who works 9 to 5 at a hospital, caring for patients, goes home, takes care of her children, and then goes out on a night job to earn a little more money so that her children might be better provided for.

Every story of an immigrant is the story of an American dream. My colleague from Texas [Mr. BRYANT] had mentioned, why do we need more people when we have so many problems already? That is the reason we need more people. Immigrants do not cause problems. They help solve problems. Immigrants built this country. They bring citizens new vigor and new ideas. They contribute far more than the considerable benefits they get from becoming American citizens. They do not steal jobs. They do not live off the public dole. They are productive members of society who add richness through their ethnic and cultural diversity.

The bill before Members today addresses many inequities in the law. Families divided, who might not be back without this bill, companies that are desperate for a certain kind of engineer, and yet cannot get it because of the immigration laws, people from countries in Europe and Africa who would love to come here but cannot because our laws are locked into the history of the past. The bill will permit families to reunite, will allow employers easier access to works where they can demonstrate they lack workers in the United States and permit greater diversity among the flow of immigrants. Those are three goals. We should not let this opportunity for meaningful reform pass Members by.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, throughout the incumbency which I had been so honored to serve, I have received as many other Members have received, a deluge of letters and calls and expressions of opinion on a thousand different issues. I can say to Members, and I can vouch for a substantial majority of the House of Representatives, that we have not received such deluges on the need, as people would see it, to increase immigration at this time in our history.

We have just undergone, very recently, an immigration act in the form of the amnesty that we granted to illegal aliens, that could have resulted in estimates between 10 and 20 million people becoming eligible for citizenship all in one fell swoop. We just did that in a recent session of the Congress of the United States. A substantial majority of the people of my district and of your district, and if interpolated into the public opinion polls nationwide, would show 75 percent or more of our people do not think it is an American societal need to increase immigration quotas.

□ 1420

Likewise, almost the same number, perhaps fewer than that, opened to those who collect these opinions that immigration quotas ought to be reduced.

Now, I am not here to advocate reduction of the immigration quotas. I am the son of immigrants who benefited from the quota that existed at that time that permitted them to come to this country. It would be unfair to their successors in line on the established system that we had to open up other kinds of capabilities of immigration that would deny the right to X or Y or Z elsewhere in the world waiting with anxiety as my parents did to come to the United States.

Mr. Chairman, I cannot support this bill in its present form. I can help and cast my vote and support any measure that will foster unification of families, but that will not require, notwithstanding the nods and glances of my fellow Members, that will not require opening the floodgates of immigration. We can do it ad hoc case by case and with sophisticated methodology that we can put into the immigration laws as they now exist.

I have had many occasions, as you have had, to be able to solve a family reunification situation out of the prestige of one's own office working with the State Department in many, many instances; so the law is not that much lacking today that would permit us to work on family reunification without opening, as I said, those floodgates.

We will debate this issue. Let us listen to the amendments. I oppose the bill as it now is constituted. If it is improved, I may still vote against it.

Mr. SAWYER. Mr. Chairman, I am pleased to yield 2 minutes to my friend and colleague, and neighbor, the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I rise in support of H.R. 4300, the Family Unity and Employment Opportunity Act of 1990.

We are a Nation of immigrants, and each immigrant has brought to this country something very, very important. Our country is really a gaint mosaic of cultures, and that is really part of the American dream.

I am proud that I grew up in a culturally diversified neighborhood consisting of people who trace their ancestry from all parts of the world. That is what makes our country the greatest country in the world, that we are able to embrace a variety of cultures.

Unfortunately, in my judgment, there is a cyclical discrimination in our immigration policy. It is nearly impossible just to obtain a visa under the current system from some areas of the world. People who want to visit our country, such as those from Poland, Ireland, the Ukraine, Czechs, Slovaks, Serbians, Hungarians, et cetera, are not able to do so under the current policy.

The bill before us gives people from these underrepresented regions of the world a chance.

Our Nation is a great nation because it is culturally diversified. We are stronger because of it. Let us go forward and be fair.

Mr. Chairman, I am delighted that there is a section in the bill that would reunify families of U.S. citizens and residents to relieve the tremendous backlog of applicants.

Mr. Chairman, today we have the opportunity to rectify the unfairness in our immigration policy. Let us not be afraid of cultural diversity. It is the strength of our Nation.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the distinguished

gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I want to start out by paying great tribute to the commitment of the chairman of our Judiciary Committee and the chairman of the subcommittee for all the work they have done to bring this bill to the floor.

Mr. Chairman, I rise in strong support of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990. The immigration bill I first introduced 2 years ago contained more generous provisions; others made their own suggestions during our Judiciary Committee proceedings which have been incorporated in the chairman's bill to various degrees. I am convinced that the bill brought before us for our consideration today is the sound and judicious result of the efforts of many concerned members.

Reform of our legal immigration system is urgently needed to update laws that were last revised in 1965. What is more, legal immigration reform is directly related to our efforts to control illegal immigration. As the Select Commission on Immigration and Refugee Policy noted in its final report in 1981, we cannot expect to control illegal immigration until we also reform our system of legal immigration.

I believe strongly that family reunification must remain the cornerstone of our legal immigration system. But as long as spouses and parents and children have to wait over 10 years to be reunited under our present system, illegal immigration is the inevitable result. We can only keep immediate families apart for so long. Frustrating the ability of Americans to be with their close family members betrays our core American values.

That is why H.R. 4300 makes several critically needed changes in family-based immigration: First, allowing American permanent residents to immediately petition to be reunited with their spouses and minor children each year, just as citizens can, but capping the number of visas provided for this purpose at 115,000 per year; second, providing a total of 50,000 backlog reduction visas a year for 5 years in the two most backlogged family categories (second and fifth preferences); and third, barring the deportation of the spouses and minor children of aliens legalized under the Immigration Reform and Control Act of 1986, provided that the legalized alien has attained permanent resident status and has filed a declaration of intent to become a citizen when eligible to do so.

I want to make special mention of how important this legislation is to our fellow Americans of Asian descent. For almost a century, United States law barred the immigration of most Asians. It was not until 1965 that Congress created the present nationality-neutral family preference categories. Only one generation of Asians has been able to enter the United States under the 1965 law and to seek the reunification of their immediate families, which is why most of the countries with the longest waiting lists are Asian. It is also why Asian-Americans will bear so much of the brunt of amendments which will be offered today to eliminate some or all of the relief the bill affords to families attempting to be reunited.

At the same time, H.R. 4300 contains important provisions regarding employer-sponsored immigration which carefully balance the needs of American employers and workers, and provides transition visas to enhance the diversity of immigration to the United States. It is essential that we restore to our immigration system the chance—which for all intents and purposes does not now exist—for people from around the world to immigrate to the United States. Not solely because it is in their interest, but because it is in ours.

To be frank, you may hear this bill castigated as special interest legislation because it is strongly supported by Asian-Americans, Hispanics, Irish-Americans, East European-Americans, the U.S. Catholic Conference, the American Jewish Committee, and others. But these are not special interests; these are the American people, and I am delighted that the bill before us is fair to all of the many communities that comprise our national fabric.

I am delighted to join colleagues from around the country and on both sides of the aisle who have worked hard to bring this legislation before the House today. I urge opposition to amendments to restrict its provisions, and urge its passage.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

I would like to respond to a couple of points made by my colleague, the gentleman from California. He said that H.R. 4300 controlled illegal immigration. Well, yes, it does, but it does so by allowing people who are illegal immigrants to stay in this country indefinitely.

The gentleman made the statement that individuals from a number of countries have to wait 10 years, 12 years, any number of years in order to be admitted under current law.

Well, that is true, too, as far as it goes, but it leaves out a major truth, and that is that individuals who are in this country who are now permanent residents, depending on how long they have been in this country, can wait anywhere from 1 day to 5 years to become an American citizen, and at that point they can have automatically admitted every immediate member of their family.

Mr. BERMAN. Mr. Chairman, will the gentleman yield on that point?

Mr. SMITH of Texas. I am happy to yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, would the gentleman not agree that this bill provides backlog numbers for people in the second and fifth preference who have been on the waiting list in some cases as far back as 1978 seeking to come to this country in legal proper order?

Mr. SMITH of Texas. Reclaiming my time, Mr. Chairman, this bill does provide for backlog reduction, but what I was responding to was the point made by the gentleman from California that individuals were going to have to wait these exorbitant amounts of time. That is not necessarily the case. If they have immediate family in this country who are permanent residents, those individuals who are permanent residents can become citizens in less than 5 years, or 5 years, depending on how long they have been in this country.

□ 1430

At that point automatically the immediate members of their family come to the United States.

Mr. BERMAN. Mr. Chairman, will the gentleman yield just on that point?

Mr. SMITH of Texas. I yield to the gentleman.

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, I agree with the gentleman. A permanent resident alien who becomes a U.S. citizen after a 5-year waiting period can petition for the immediate family members under present law. But why would we want to promote a policy that separates spouses and children from parents for 5 years of time?

Mr. SMITH of Texas. Let me reclaim my time to make these points:

These individuals who have come to this country and have received amnesty themselves left their family at one time to come to this country. Now that they are here, their families come over here legally. And now they want all those individuals who are here as recently as January 1 of this year to be able to stay here. My point is: If those individuals who received amnesty, who are now permanent residents, went through the process of becoming a citizen—it might be 1 day and it might be as long as 5 years, depending upon how long they are here—they would automatically be able to admit the rest of the members of their immediate families.

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

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, the reason this bill is important is because it is good for American business, it is good for American global competition.

I could proceed and talk about the melting pot and how our country is strengthened culturally. That is important. But I think, once again, all you have to do is read Business Week, Forbes magazine, the Wall Street Journal; this legislation is good for our competitiveness.

That is what we have to ask ourselves in an era of increasing global competition where America must compete for its share of international markets: Are we going to allow outdated assumptions and nativism to hinder our progress and our growth?

There are a lot of myths and misperceptions surrounding this issue. First, immigrants do not cause unemployment. The overwhelming conclusion from economic studies on this issue is that immigration does not cause unemployment. In fact, immigrants create jobs by expanding markets and purchasing power.

Furthermore, immigrants have a higher rate of entrepreneurship than the nonimmigrant population. By starting businesses, immigrants create jobs. They do not drain public assistance programs.

Immigrants typically arrive when they are young and in their prime working years. Elderly immigrants are not eligible for Social Security.

Furthermore, studies have shown immigrant families pay $2,500 into public coffers every year.

Once again, immigrants provide the United States with a skilled and educated work force. Immigrants are more likely to have postgraduate degrees than the nonimmigrant U.S. population.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. I thank the gentleman for yielding.

Mr. Chairman, I missed the source of the quote the gentleman was reading from. What study is that or what book is he reading from?

Mr. RICHARDSON. These are from Julian Simon, an immigration specialist.

Mr. SMITH of Texas. I thank my colleague.

Mr. RICHARDSON. Mr. Chairman, it is critical that we base our immigration policy and position on H.R. 4300 on the full understanding of the benefits stemming from healthy immigration.

A fundamental question we all must ask is: In an era of increasing global competition, where America must compete for its share of international markets, are we going to allow outdated assumptions and nativism to hinder our progress—our growth?

The myths and misconceptions surrounding this issue must be addressed and corrected.

Immigrants do not cause unemployment. The overwhelming conclusion of economic studies on this issue is that immigration does not cause unemployment. In fact, immigrants create jobs by expanding markets and purchasing power.

Furthermore, immigrants have a higher rate of entrepreneurship than the nonimmigrant population. By starting businesses, immigrants create jobs.

Immigrants do not drain public assistance programs. Immigrants typically arrive when they are young and in their prime working years. Elderly immigrants are not eligible for Social Security. Further studies have shown immigrant families pay $2,500 into public coffers every year.

Immigrants provide the United States with a skilled and educated work force. Immigrants are more likely to have postgraduate degrees than the nonimmigrant U.S. population.

Finally, it is critical to consider the family reunification provisions of this legislation. Under present law, children and spouses of new legalized immigrants are subject to deportation. This was never the intent of Congress and it should be corrected.

This bill also addresses the issue of backlog for those separated families awaiting visas. The present backlog presents a 10-year waiting period for permanent residents from Mexico and other nations. This legislation would reduce the backlog and assure fairness in the processing of these visas.

[From the Washington Post, Sept. 1, 1990]

IMMIGRATION FOR A STRONGER AMERICA

(By Julian L. Simon)

High on Congress's agenda in September is immigration. The Morrison bill in the House could do more to advance all the goals of the United States during the next decade or two than any other pending legislation. Yet the Bush administration and organized labor—an unlikely couple—seek to gut the bill because of economic ignorance and nativism.

Worldwide, barriers to freedom have been collapsing. Messages and ideas now penetrate everywhere electronically, cheaply. And financial capital speeds from country to country and, like Mercury, eludes governmental control.

Mobility of goods and people has increased from a walker's pace to jet speed. And political barriers to trade have diminished, despite newspaper stories about trade hassles. All these changes mean more liberty.

Yet there remain barriers to the movement of the most important of "goods"—human beings. Against the economic and cultural welfare of individual nations, and against the interests of all civilization, countries still prevent people from going where they want to go. True, people are no longer penned up in the country in which they are born, except for in the Soviet Union, China, Albania, Vietnam and a few other countries. But without the freedom to enter where they want to go, freedom to leave is of diminished value. We still tell almost all people of talent and energy who wish to join our society, "You may not enter unless you have relatives in the United States."

What foolishness. An unassailable body of recent economic research proves that we are made richer by allowing people to enter freely. We also know from a body of indubitable historical and sociological research that migrants carry valuable ideas with them and create new ideas as a result of having lived in two cultures.

What cheats us of these benefits? Age-old "common sense," economic misunderstanding cum racism (or "nativism," in polite lingo). But sometimes there is an opportunity to drive back the forces of darkness. Now, Rep. Bruce Morrison's (D-Conn.) immigration bill, just voted out of the House Judiciary Committee, promises a bright morning for human liberty.

The main thrust of the Morrison bill is an increase in the number of persons who will be allowed to enter the United States. Keep your eyes focused upon the crucial overall number, and the attempt of the anti-immigration lobby and Sen. Alan Simpson (R-Wyo.) to put a "cap" on immigration. The total matters more than how the overall number will be divided among family reconstitution, skill-based immigration, a point system, this country or that one, etc.

Here are the key demographic and economic facts:

Immigrants do not cause native unemployment, even among low-paid and minority groups. Recent studies all agree that the bogey of "displacement" of natives does not exist. New entrants not only take jobs, they make jobs with their purchasing power and with the new businesses they start.

Immigrants do not rip off natives by overusing welfare services. Immigrants typically arrive when they are young and healthy. Hence new immigrant families use less welfare services than do native families, because immigrants do not receive expensive Social Security and other aid to the aged. And immigrant families pay more taxes than do native families. Therefore, an average immigrant family puts about $2,500 into the public coffers every year—enabling a native breadwinner to retire two years earlier than otherwise.

Immigrants bring high-tech skills that the economy needs badly. Immigrants are not "huddled masses." The proportion of new arrivals with post-graduate education is far higher than the average of the native labor force.

Immigration is low rather than high relative to historical rates of immigration in the peak years at the turn of the century. Immigration as a proportion of population is less than a fourth of what it was earlier. Even in absolute numbers, total immigration is nowhere near its volume a century ago.

The foreign-born population is only about 6 percent now—less than the proportion in such countries as Great Britain, France and Germany, vastly lower than in Australia and Canada and less than half of what it used to be here.

Natural resources and the environment are not at risk from immigration. The long-term trends reveal that our air and water

are getting cleaner rather than dirtier, and our supplies of natural resources are becoming more available rather than exhausted, contrary to common belief. Immigration increases the technical knowledge that speeds these benign trends.

Immigration reduces the social costs of the elderly, which can't be cut. More and more of the U.S. population is retired, with a smaller proportion of adults in the labor force. New immigrants typically are just entering the prime of their work lives and taxpaying years. Immigration is the only feasible way to lighten the Social Security burden of the aging U.S. population. It also reduces the federal deficit, which would not exist if people still lived the short lives and had the large numbers of children that they did early in this century.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. TORRES].

Mr. SAWYER. Mr. Chairman, I yield 1 additional minute to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I rise today to discuss the needed reform of our Nation's legal immigration policy. There was once little factual information on the effects of immigration. Instinctive popular wisdom arguments were accorded respect. But the body of research on immigration contradicts popular wisdom.

It now permits us to make sound and enlightened national choices. H.R. 4300 is a bill which reforms our Nation's system of legal immigration in a manner that safeguards the American worker promotes national economic interests, and is consistent with our most basic value, the unity of families.

H.R. 4300 is a bill which is supported by a bipartisan, multiethnic, liberal, and conservative coalition. It strikes the delicate balance among the interests of the American worker, his labor representatives, and parties seeking to promote diversity in immigration, while also protecting the integrity of the family unit.

And yet the bill allows our Nation to reap the economic prosperity, that social scientists tell us, have historically resulted from increased levels of immigration.

At the turn of the century immigrants made up 2 percent of our labor force. Today they constitute 10 times less that percentage.

This bill provides critically needed immigration reform to ensure that family reunification remains a cornerstone of our immigration law.

The rhetoric in this Chamber on the issue of criminality is just so much bugaboo.

In considering this bill I urge you to remember its important labor safeguards requiring recruitment of American workers, and its payment of prevailing wages. Remember also its provisions to strenghten the diversity of our flow of immigration.

Finally, I ask you to remember its protection of the basic building block of our society, the family.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. MRAZAK].

Mr. MRAZEK. Mr. Chairman, I wish to express my admiration for the leadership of the gentleman from Texas [Mr. BROOKS], which he has demonstrated on this very important legislation, and also I congratulate the chairman of the subcommittee with whom I hope to have a colloquy in just a moment, the gentleman from Connecticut [Mr. MORRISON].

Mr. Chairman, I would like to ask for clarification on the issue of student visas.

I had intended to offer an amendment that would set aside 5,000 1-year visas for students from Czechoslovakia, Poland, and Hungary, that would also permit them to work part time while studying here.

However, it was called to my attention that under current law foreign students can come here without numerical limitation, and that there is a new provision in the bill before us that would allow foreign students to work to support themselves while enrolled in American colleges, again with no numerical limitations.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. MRAZEK. I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. I thank the gentleman for yielding.

That is correct. There is no numerical limitation; 5,000 or an even greater number of East European students could come to the United States, and would be eligible for work authorization, providing they meet the requirements set forth.

Mr. MRAZEK. I am very pleased to hear that. From my visit to Czechoslovakia earlier this year, and from numerous discussions with Czechoslovak officials and others, it is clear that there is a great desire for the young people from the emerging democracies of central and Eastern Europe to have at least a brief learning experience in the United States.

I am convinced that no other immigration program could do as much good as a low-cost "learn in America" experience. It would cultivate a firm belief in and support of democratic ideals among the next critical generation of East Europeans.

I appreciate the provisions that are in the bill, but I still think that it may be desirable to create a new program aimed specifically at bringing central and East European students here under favorable circumstances so that they can study and work. I hope that this is something that your subcommittee and other relevant committees will consider in the near future.

Mr. MORRISON of Connecticut. We certainly would be very pleased and happy to work with the gentleman from New York and other Members on such a program. But in the consideration of this bill, I hope that the gentleman will support the bill. As well, I would hope he will oppose the amendment of the gentleman from Texas [Mr. SMITH], which would restrict the program the gentleman is referring to.

Mr. MRAZEK. Mr. Chairman, I certainly urge my colleagues to support the gentleman's position.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, I would like to respond to my colleague from New Mexico when he quoted from Julian Simon and the recent book that he wrote.

First of all, Mr. Chairman, I think it should be pointed out that the data that Mr. Simon used to promulgate massive increases in immigration is data from 1975 or before, and that data has been superseded by George Borjas's volume.

Second of all, I want to read once again a quote from Mr. Simon himself so that we do not have the false impression of this rosy picture of unlimited numbers of immigrants. This is from Mr. Simon's book:

There is no doubt that workers in some industries suffer immediate injury from the addition of worker immigrants in the same category.

Mr. Simon suggested that immigrants be chosen more for their economic characteristics and less on the basis of family connection.

Mr. Chairman, I favor increased numbers of immigrants; the administration favors increased numbers of immigrants; I think most of our colleagues probably support increased immigration as well. But not in the way that H.R. 4300 dictates.

The simple truth is that America cannot accommodate every single individual who wants to come into our country, as much as we would like to. The question is, What are going to be our priorities?

I think our priorities should be immediate family members, getting them into our country and give priority to immediate family over extended family; give priority to mothers, fathers, children over married brothers, sisters, aunts, uncles, and cousins.

□ 1440

I think that we ought to give priority to skilled workers. 4300 allows only 10 percent specifically of its members for employment based on skilled workers.

Mr. Chairman, the need, from every study that we have seen, is for more

skilled workers so that we can compete better in the international marketplace. That is the priority that should be given, which unfortunately, 4300 does not stop.

Furthermore, 4300 has these fatal flaws: There is no reimbursement for State and local governments for the costs that they would incur for educating, for providing health care and government services to hundreds of thousands of additional immigrants. Mr. Chairman, of course those burdens are going to fall directly on taxpayers. It has two major amnesty provisions. It rewards the lawbreaker, in effect penalizing the law abider, and Mr. Chairman, the amnesty provisions are such that many illegal aliens, who are here as recently as January 1 of this year, will be allowed to stay in this country. There is no attempt in 4300 to count illegal aliens in the total number of immigrants. There is a cap for the first time ever on the number of temporary skilled workers allowed to come to this country; 4300 bows to the pressure of special interest, and it singles out certain countries for special treatment.

Finally, Mr. Chairman, we have family fairness today. It is called citizenship, and those permanent residents can become citizens and can automatically have their immediate families come into this country.

Mr. Chairman, in conclusion we need to give priority to immediate family members, and we need to give priority to skilled workers. So, more immigration, yes. H.R. 4300, no.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Chairman, I rise in support of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act.

Some of the debate surrounding this issue and some of the lobbying which has been undertaken by anti-immigration groups leads me to believe that Americans collectively, seem to have a limited memory regarding the principles upon which this country was founded.

All Americans owe their citizenship to immigration. Immigration built this Nation into the greatest country in the world. And, it should be noted that in proportion to our total population our current immigration levels are five times lower than they were at the peak immigration rates at the turn of the century. Our current immigration rate of three immigrants per thousand residents places the United States, the great melting pot, a mere seventh place internationally.

If this country is to continue to advance economically, politically, and culturally, we must not fear the talents and intelligence of those who want to come to this country and contribute their skills. Moreover, if we as a nation wish to hold our place as a beacon of democracy, we must refine our immigration laws to restore justice and compassion to our system of preferences.

The legislation before us today will advance those goals. It promotes values which are distinctly American—family values, economic growth, employment opportunities, and, most of all, fairness.

Nowhere is fairness more needed in our immigration policy than the priority to which we currently place on family reunification. Right now, there are U.S. citizens who will wait for more than 10 years to be reunited with their family members if we do not change current law.

H.R. 4300 will provide relief for these backlogs through a limited backlog reduction program just as was done in the late 1950's and early 1960's to accommodate European immigrants. The bill would also further distance ourselves from discriminatory policies of the past. For Asians in particular, current backlogs, which could grow to 20 or more years, are a painful reminder of the decades of immigration exclusion based on race, beginning with the Chinese Exclusion Act of 1882.

Mr. Chairman, this legislation will reaffirm the greatest of all American traditions—unifying families from around the world under the umbrella of American democracy. Bringing families together is the foundation of this legislation and of compassionate immigration policy in general. H.R. 4300 is a much-needed refinement of that cornerstone of immigration policy, and I urge my colleagues to support the bill.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman from Texas [Mr. BROOKS] for yielding, and I certainly want to commend him for what he has done in this bill, and I rise in support and commend the gentleman from Connecticut [Mr. MORRISON] for his leadership.

Mr. Chairman, as the chairman of the Judiciary Committee knows, south Florida is home to many cruise ships. The owners of these ships fear that section 311 of H.R. 4300 in some way will be interpreted as applying to passenger vessels. I do not believe that this is the case and wonder if you would clarify your interpretation of this provision.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentleman from Texas.

Mr. BROOKS. As the author of H.R. 2138, which became section 311 of H.R. 4300, I recognize that the amendment made to subsection 4(d) of section 274a(h) of the Immigration and Nationality Act defines longshore work as any activity relating or incident to the loading or unloading of cargo in the United States. I would like to clarify that this section will not expand longshore duties that are currently performed on passenger vessels engaged in foreign commerce. Where longshore labor is currently employed to load ship stores or load or discharge baggage, it is not intended that the duties performed by these workers will be expanded to include on-board loading or unloading activities that have not in the past been performed by longshore workers.

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

Mr. BRENNAN. Mr. Chairman, I rise today in support of H.R. 4300, legislation which will benefit the U.S. economy while underscoring the most deeply-held American values.

It has long been observed by leading economists and historians that periods of high rates of immigration to the United States correspond with periods of economic growth. Research demonstrates that immigrants work hard, work more, save more of what they earn, start more new businesses, are more commonly self-employed, and use fewer social services than native-born Americans. In fact, immigrants pay more in taxes than they take in Government assistance funds. Immigrants do not steal jobs—they create jobs and meet labor shortages.

The current level of immigration is roughly half of what it was during peak immigration periods in our history, and our legal immigration policy has not been updated in 25 years. H.R. 4300 raises visa numbers by about 260,000 to allow for needed increased family-based and employer-sponsored immigration. It will also relieve the huge backlog in visa applications and attempt to correct inequities created by the 1965 immigration legislation, allowing for increased diversity within the immigrant population.

Important provisions of H.R. 4300 address the situation of natives of countries adversely affected by the 1965 legislation who are now living in the United States. The transition program included in this bill will allow a number of these people to apply for permanent residency if they can demonstrate an employment commitment for at least a year. Irish families living crowded together in Manhattan, Boston, and my home city of Portland are an example of those who stand to benefit from this portion of the bill.

Family reunification, one of the bill's highest priorities, reflects the strongest of American values. Americans should not have to wait years to be reunited with their spouses and children. Separations of this kind hinder the potential success of immigrants whose dream is to make better lives for themselves and their families. By not subjecting immediate family members of permanent residents to per-country limits, by reducing the backlog of family members waiting to reunite with American relatives, and by allowing the immediate family members of recently legalized aliens to

remain, H.R. 4300 demonstrates a real commitment to family unification.

For these reasons I urge my colleagues to support H.R. 4300.

Mr. SERRANO. Mr. Chairman, I rise today to urge my colleagues to join me in supporting the Family Unity and Employment Opportunity Immigration Act of 1990, H.R. 3000. This legislation is desperately needed to revise family sponsored immigration, and to expand employment-based admittance to the United States.

Mr. Chairman, thousands of legal residents of the United States who were granted amnesty under the Immigration Reform and Control Act of 1986, are parents of small children that are excluded from this policy. I am appalled that the Immigration and Naturalization Service regularly deports these children, many as young as 3 years, who do not have adequate documentation, separating them from their parents and families. Often, there is no family waiting to care for them; in essence these children become orphans. If their parents leave the United States to assume their responsibilities, they will lose their legal permanent resident status, and thus yield the right to petition for citizenship. What a dilemma we have created for these parents!

I would like to draw to my colleagues' attention the fact that more than 2 million legal permanent residents of the United States are eligible to sponsor their spouses and minor children for legal entrance to our Nation. Mr. Chairman, at this moment there are approximately 400,000 relatives waiting to be reunited with their families. In some cases, such in the cases of Mexico and the Philippines, immigrants are forced to wait 10 to 15 years to be legally reunited with their spouse or child.

Mr. Chairman, does this facet of our current legal immigration policy not directly encourage the illegal immigration of these family members? As a result of this incompassionate policy that violates the basic human need to live with loved ones, especially children, millions of temporary and permanent residents and U.S. citizens are suffering pain and frustration.

Mr. Chairman, let us never forget that this country was built on the stability and strength of the family. The support from the family has been crucial in the adjustment and success of new Americans throughout the history of our Nation. Is it inconsistent with our country's principles and ideals to promote or enforce so prolonged a separation of spouses from each other and from their families? We must remedy the heartless deportation of infants, and eliminate the tremendous backlog of families waiting to be reunited.

Opponents of this bill would argue that by increasing employer-based immigration, we would encourage new immigrants to take jobs away from American workers. But, a 1989 Department of Labor study shows that immigrants actually increase both aggregate employment and the wages and mobility opportunities for many groups of U.S. workers. These studies show that immigrants contribute to our economy and are easily absorbed by our labor market. I am aware of the concern that an increased number of immigrants would drive down American wages, that they would strain the Nation's natural resources and infrastructure, and that they would abuse our welfare system. However, the Department of Labor has shown that immigrants do not take jobs, instead they create jobs through consumption, and through entrepreneurship. Studies show that periods of heavy immigration have been followed by rates of low unemployment and high economic growth.

Another myth to dispel is that immigrants drain Federal public assistance programs. But the rate of those foreign-born collecting unemployment compensation, food stamps, and other programs is lower than those native born. Tax and welfare data together indicate that, on balance, immigrants contribute to public coffers an average of $1,300 or more per year. Thus, most immigrants pay more in taxes during their lifetime than they receive in Government benefits.

Mr. Chairman, immigrants entering the United States under H.R. 4300 employer-based provisions would be well-educated and highly skilled individuals, earning an estimated average salary of $30,000 a year. Why, in this time of our increasing dependence on the global market, are we depriving ourselves of valuable labor resources? I hope my colleagues would agree that based upon these statistics, immigrants are valuable assets, and not liabilities, to our Nation.

Mr. Chairman, the last significant immigrantion reform was the passage by Congress of the Immigration Act of 1965. This system clearly no longer adequately serves America today in either meeting our economic or social policy objectives. The time has arrived for us to scrutinize our laws and ask ourselves if our Nation's policies are consistent with our Nation's values. H.R. 4300 is urgently needed to reaffirm and sustain our country's commitment to family reunification, long the cornerstone of U.S. legal immigration policy. I strongly urge my colleagues to join me in reforming our immigration policy to reflect the profamily, pro-growth attitude that has been the backbone of our Nation.

Mr. RAHALL. Mr. Chairman, I rise today in strong support of H.R. 4300, a measure of extreme importance to the Lebanese-American community. This bill has received widespread support as a vehicle for unification of families split by the quest for a promising future. While the crisis in the Persian Gulf rages on, we cannot forget about the continuing strife in Lebanon. Many Lebanese currently in America came here to escape the turmoil and bloodshed that marks daily life there, and passage of H.R. 4300 will promise that more Lebanese will have the opportunity to join their families in safety here in the United States.

Provisions in this bill allow for the setting aside of 1,000 visas for unsettled Lebanese in fiscal years 1991 through 1995. These visas would cover both spouses and unmarried sons and daughters or permanent U.S. residents, and brothers and sisters of U.S. citizens. While the Nation celebrates the renewal of Ellis Island and our proud immigrant heritage, let us send a message that America is still the light at the end of the tunnel for millions of people worldwide.

The family has always been the building block of American society, and we must show these new Americans that this has not changed. Just as our Irish, German, Italian, Jewish, and Japanese immigrants celebrate their forefathers' journeys across the Atlantic and Pacific, we must not close the door on new Americans. I urge to pass H.R. 4300 and look forward to the day when families—Lebanese-American, Mexican-American, Vietnamese-American and others—celebrate the stories of their families' arrival in the land of hope.

Mr. GILMAN. Mr. Chairman, I am pleased to rise today in support of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990. I would first like to take this opportunity to commend the gentleman from Connecticut [Mr. MORRISON] for his outstanding work in this measure.

I would also like to commend members of the Judiciary Committee for their perseverance in crafting a piece of immigration reform legislation with which we can work and vote upon. In particular, the committee's compromise on the allocation of additional visa numbers is laudable. This legislation would revise our Nation's immigration system to allow the admission of aliens on the basis of family reunification and to meet identified labor shortages. The bill improves our current immigration law and covers many facets of immigration, reworking the reforms enacted in 1986.

In particular, the marriage fraud provisions, required our review and modification. The battered spouse or child waiver of the conditional residence requirement portion would allow the Attorney General to bestow permanent resident status if an alien can demonstrate that, while the marriage was entered into in good faith, evidence has shown that the spouse was battered by, or was the subject of extreme mental cruelty perpetrated by, his or her spouse or parent.

This provision would, in effect, create an avenue of relief for a spouse or child caught in a detrimental relationship. Under current law a damaging situation must be endured in order to maintain legal status in the United States. It would seem unconscionable that any human being should be required by our laws to remain in a situation in which they are abused in order to remain in legal status.

Also of particular note is the provision to make available additional visa numbers for displaced aliens native to Eastern Europe. While we are all pleased with the changes taking place in Eastern Europe, with the turmoil still facing many Eastern Europeans, the availability of these additional visas may be the only hope these good people may have of seeking decent jobs and a quality life.

Mr. Chairman, pursuing immigration reform should be considered an essential facet of our achievements to be listed as a major accomplishment of the 101st Congress. I hope that my colleagues will agree that H.R. 4300 is the appropriate vehicle toward that end and I urge their support for this bill.

Mr. ENGEL. Mr. Chairman, today we have an historic opportunity to take a giant step toward a fairer immigration system. H.R. 4300, the Family Unity and Employment Immigration Act of 1990, is a fair balance between the rights families have to remain united and the need to diversify the sources of immigration. In 1965, our immigration system was overhauled to allow, for the first time, significant

numbers into the United States from non-European nations. That goal was accomplished, but over the years the system has progressively tilted in favor of 13 nations who now receive over 65 percent of the visas allocated each year. It is time to rectify these inequities and attempt to set up a system that is balanced and which will remain balanced for years to come.

To achieve this goal, H.R. 4300 contains a crucial regional diversity provision. This provision divides the world into high admission regions and low admission regions. These regions are then given the inverse proportion of diversity visas relative to the percentage of immigrants sent to the United States in previous years. Not only will this provision diversify immigration sources, it is self-correcting. Once a particular region is no longer underepresented, its share of diversity visas will drop. The Family Unity and Employment Opportunity Act contains two other provisions that will diversify the immigration patterns of this country. The first is the preference given to citizens of the 36 countries adversely affected by the 1965 immigration laws when applying for employment-based visas. From fiscal years 1992 through 1996, 20,800, of a total of 65,000, employment based visas will be made specifically available to citizens of the countries that were hit the hardest by the 1965 law.

Second, section 201 of the bill would provide 25,000 transitional visas per year for natives of adversely affected countries who have entered the United States before 1990 and who have an employment commitment for one year or more. This is also a very important step towards bringing greater diversity to the system and, in addition, meets important needs of American employers.

I want to emphasize that while this bill is crucial to diversifying our immigration system, it also protects family unity, the principle that undergirds our entire immigration system. Waiting times for many relatives of permanent residents and citizens is measured in years and decades. These are spouses and children who are waiting, not second cousins and great grand aunts. This bill provides important relief for those on the waiting lists of the second and fifth preferences. Second preference includes spouses and unmarried sons and daughters of permanent residents and the fifth preference includes brothers and sisters of U.S. citizens. Under the provisions of H.R. 4300, 50,000 visas will be allocated each year for 5 years to address the problem of backlogs in these two preferences.

The Family Unity and Employment Opportunity Act is a compromise bill. It reflects the concerns and interests of the entire range of opinion on immigration matters. It has been carefully scrutinized at both the subcommittee and committee level and has been the subject of extensive hearings. It is not as comprehensive as I had hoped, but I believe it is a fair bill that we can all support. I urge my colleagues to oppose amendments that will upset the delicate balance contained in this bill and to support it on final passage.

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to H.R. 4300, the bill before the House that would totally restructure U.S. immigration law. While I believe that legal immigration reform is long overdue—the immigration system does need fixing in a serious way—this legislation as reported to the floor is not the answer. With its enactment, I fear we would be moving from bad to worse. This is not real reform and rather than railroad through a poorly crafted, flawed bill during these last few days of Congress and kidding ourselves that it's immigration reform, I recommend that we defeat this measure and, instead, work toward crafting a more reasonable and responsible reform program to be fully considered at the beginning of the 102d Congress.

There are portions of H.R. 4300 that need not be scrapped and could be incorporated into a new immigration reform bill. For example, improved geographical distribution in immigration would increase the diversity of America's newest citizens and makes the immigration process more equal. I also concur with the objective of facilitating the unification of families. Current labor certification procedures are far from perfect and need to be improved. However, while I agree with some of these objectives of H.R. 4300, I have strong reservations about the way this legislation seeks to achieve such results.

Basically, I am opposed to H.R. 4300 for the following reasons:

My No. 1 objection to this bill is its provision for conditional permanent resident status to aliens from so-called adversely affected foreign states. In other words, a new amnesty for illegal aliens who entered the United States prior to January 1, 1990. While I have seen no firm figures, it is estimated that 2 million illegal aliens could receive amnesty. I am strongly opposed to any new amnesties—whether direct or indirect.

The Immigration Reform and Control Act of 1986 granted a one-time-only amnesty for illegal aliens, that, unlike provisions in H.R. 4300, was clearly tied to new controls on illegal immigration. Passing H.R. 4300 only signals that the one-time amnesty was a farce. We're saying, "go ahead, break American law, cross our borders and reside here illegally, disregard those who have and continue to patiently wait for their turn to immigrate. You have nothing to lose because every couple of years Congress will come along and provide you with amnesty, legalizing your illegal actions." Is that the message we want to send? We already have a serious illegal immigration problem. Such a signal would make it 10 times worse.

Second, by granting the immediate relatives of lawful permanent residents the same immigration privileges as those of U.S. citizens, H.R. 4300 would eliminate an incentive for lawful permanent residents to seek naturalized citizenship, impending the full integration into the United States of certain immigrants.

Third, H.R. 4300 drastically increases the numbers of immigrants without compensating in any way the heavy financial impact on State and local governments. California is especially hard hit. Already local schools, hospitals, social agencies, water resources, and housing have been overburdened by illegal immigration. I have seen reports that California is estimated to receive 36.5 percent of the new, additional immigrants entering via H.R. 4300. With each immigrant adding approximately $2,600 in new responsibilities than in revenue for local and State governments, that means California will have to come up with an estimated $310 million annually extra. Neither the House Judiciary Committee nor its product, H.R. 4300, satisfactorily address this pressing issue.

Fourth, H.R. 4300 appears to respond to the demands of every organized special interest group over the interests of the American people and immigration policy in general by expanding the number of visas for legal immigration from 500,000 to a minimum of 840,000—again without considering or trying to accommodate the economic and social impact of increased immigration.

Fifth, H.R. 4300 fails to include the estimated 200,000 illegal aliens in overall immigration flow and legal levels despite their significant economic impact. In other words, H.R. 4300 seems to pretend that there isn't an illegal immigration problem and that illegal aliens do affect local services or economies. With illegal immigration out of control, we should not be doubling legal immigration without seriously addressing the illegal problem first.

Sixth, H.R. 4300 significantly impairs employers from a reasonable use of foreign workers even when the need is well-documented and demonstrated. For example, the bill assesses a fee on domestic employers of foreigner workers to pay for the training and education of American workers. This provision penalizes domestic employers who, in order to hire foreign workers in the first place under existing law, must attest that they have tried and have been unsuccessful in recruiting U.S. workers. The proposed changes in the labor certification procedures are very intrusive and provide third parties, like labor unions, with exceptional veto power where it is not needed or warranted.

Furthermore, H.R. 4300 places a new, arbitrary ceiling on certain nonimmigrant foreign professional experts or prominent individuals. These numerical restrictions would undoubtedly result in the type of horrendous backlogs the United States is currently experiencing with permanent immigrants. This would defeat the very purpose of employing these H-1 specialists in the United States. These foreign specialists have been helpful in creating new jobs and business opportunities. Such actions do not reflect business reality. All in all, they hurt U.S. competitiveness at a time when we need to reduce our trade imbalance and improve our competitiveness.

Another concern I have is that while new classes of employment-based immigration are designated in H.R. 4300, a distinction needs to be made within the permanent immigrant category between highly skilled and less skilled workers, as exists under current law. I understand that both types of workers are needed. However, without subdividing the two categories, one type of worker could easily dominate the immigrant visas at the expense of the other and the U.S. economy.

There is much opposition to H.R. 4300, due to the reasons I have outlined as well as others, some of which are described in the attached letters I've received that I am submitting for the RECORD and my colleagues' review. The U.S. Attorney General and the Secretaries of Transportation and Labor would

recommend a Presidential veto of this bill. The U.S. Chamber of Commerce is opposed to this bill. Hundreds of my constituents who have contacted me are strongly opposed to H.R. 4300. H.R. 4300 is a very flawed and unreasonable measure that should be defeated if it cannot be radically amended. We do need real immigration reform and we do need it now. Unfortunately, H.R. 4300 will do more damage than good and is not real immigration reform.

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC., September 25, 1990.

Hon. HAMILTON FISH,
Ranking Minority Leader, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR CONGRESSMAN FISH: The purpose of this letter is to express the opposition of the Administration to H.R. 4300, the legal immigration reform bill reported by the House Judiciary Committee on September 19, 1990. I understand that this bill is presently under consideration for House floor action. Should H.R. 4300 as reported be presented to the President for signature, the Secretaries of Labor, Transportation, and I would recommend that he disapprove the bill.

Although the bill as passed by the Judiciary Committee lowers somewhat the overall level of immigration from levels proposed in earlier versions of the bill, it fails to ensure that a sufficient number of employment-related immigrant visas would be utilized by skilled workers that we believe the U.S. economy needs. The bill also fails to provide for an appropriate balance of family-connected immigration as supported by the Administration and provided for in S. 358, the Senate-passed bill.

Aside from numerical concerns, the Administration remains opposed to H.R. 4300 because it retains the conceptual framework and modifications of current law to which we expressed opposition in letters to the Judiciary Committee of June 6 and July 30, 1990. Our principal conceptual objections are that the bill would (1) expand the term "immediate relatives" to include immediate relatives of permanent resident aliens; (2) inappropriately and prematurely revise the current employment-related nonimmigrant classifications; (3) assess a fee on employers of foreign workers; and, (4) effectively create an amnesty for aliens from so-called "adversely affected foreign states."

The essence of the Administration's first concern is that treating immediate relatives of legal permanent residents as equivalent to immediate relatives of United States citizens would trivialize the significance of United States citizenship. Furthermore, it would remove an incentive for "green card" holders to naturalize. The consequence of removing this could be a potentially permanent subclass of immigrants. While revisions of immigrant categories may be necessary, we believe that retention of the current distinction between the petitioning rights of legal permanent residents and those of U.S. citizens must not be erased.

Of equal concern to the Administration is the bill's sweeping revisions of the temporary, "nonimmigrant" categories. While we see the need to revise certain aspects of these categories, a legal immigration reform bill such as this is not the appropriate vehicle. Furthermore, many of the problems associated with nonimmigrant classification are due to the need for change in the immigrant classifications. Until reform has been accomplished in this area and its consequences are studied, reform of nonimmigrant classifications is premature.

Third, the Administration is especially concerned with provisions of the bill that assess a fee on domestic employees of foreign workers to pay for the training and education of American workers. This provision would penalize domestic employers who, in order to hire foreign workers in the first place, must attest that they have attempted unsucesssfully to recuit U.S. workers.

The final principal concern of the Administration involves the provision of H.R. 4300 which provide conditional permanent resident status to aliens from so-called adversely affected foreign states. This section of the bill affectively creates amnesty for illegal aliens who entered the U.S. prior to January 1, 1990, and who have maintained continous residence since that date. The Administration stongly objects to the creation of amnesties for illegal aliens subsequent to the 1986 Immigration Reform and Control Act. The 1986 amnesty constituted a one-time only legislation program that, unlike provisions in H.R. 4300, was clearly tied to new controls on illegal immigration.

A number of other provisions, added in the Judiciary Committee's markup of the bill, cause the Administration further concern. For example, the bill now directs immigration emergency funds to states and locatities on the basis of the number of asylum applicants in a particular INS district. This provision not only directs such funds arbitrarily, but it also removes my discretion to target appropriately those funds to true immigration emergencies. Another provision of the bill imposes employer sanctions on foreign vessels not otherwise subject to such sanctions. We have previously expressed our opposition to this provision as embodied in H.R. 2138, independent legislation that passed the House last session.

The Office of Management and Budget has advised this Department that enactment of this legislation would be in accord with the program of the President.

Sincerely,

DICK THORNBURGH,
Attorney General.

STATEMENT OF ADMINISTRATION POLICY

If H.R. 4300 were presented to the President in its current form, the Attorney General and the Secretaries of Labor and Transportation would recommend a veto. The Administration's principal concerns are that H.R. 4300 would:

Grant the immediate relatives of lawful permanent residents the same immigration privileges as those of U.S. citizens. H.R. 4300 would eliminate an incentive for lawful permanent residents to seek naturalized citizenship, impeding the full integration into U.S. society of certain immigrants.

Fail to ensure that a sufficient number of employment-related immigration visas would be utilized by skilled workers.

Fail to provide for an appropriate balance between levels of employment-related and family-connected immigration, as provided for in S. 358 as passed by the Senate.

Rewrite the law relating to "temporary" immigrants, i.e., non-immigrants. Revision to the admissions system for non-immigrants would be premature until the effect of changes to permanent immigration classifications on the demand for non-immigrant visas is ascertained.

As reported by the Judiciary Committee, assess a fee against employers who petition for the admission of foreign workers, even when the employers have attested that they have attempted unsuccessfully to recruit U.S. workers.

Increase FY 1991 outlays by $296 million by expanding the scope of the State Legalization Impact Assistance Grant (SLIAG) mandatory program.

Impose longshore employer sanctions requirements on owners of foreign vessels that would be unnecessary, inappropriate, and extremely burdensome.

Among the Administration's other concerns with H.R. 4300 are that it would:

Provide conditional permanent resident status to aliens from so-called "adversely-affected" foreign states. This would effectively create an amnesty for certain illegal aliens who entered the U.S. prior to January 1, 1990. The Administration opposes any expansion of the amnesty granted by the Immigration Reform and Control Act of 1986.

Remove the Attorney General's discretion to determine which immigration emergencies warrant the disbursement of "immigration emergency funds."

Establish a math and science scholarship program. The Administration urges, instead, enactment of the President's proposed National Science Scholars program.

Create an administrative burden which could not be borne under current budget constraints. The increased numbers of immigrants would require corresponsing increases in consular officers in embassies throughout the world.

Eliminate an essential element in the examination of applications for non-immigrant visas (i.e., whether the applicant had sought an immigrant visa or other permanent status). This provision could result in issuance of non-immigrant visas to all applicants, even those who clearly intend to remain indefinitely in the U.S.

Remove the requirement for exhaustion of administrative remedies and abandon current law regarding the limits of judicial remedies in immigration disputes.

Introduce an "attestation" process for permanent immigrants to replace the current labor certification process for foreign workers. This provision could weaken protections for U.S. workers and would be more costly and difficult to administer than the current process. As one example, it could result in fraudulent "employer" schemes for illegal immigration.

The Administration supports legal immigration reform that would enhance skill-based immigration while facilitating the unification of families Its also supports an increase in immigration levels above those in current law.

Mr. MARKEY. Mr. Chairman, I would like to commend the work of the House Committees on Judiciary and Ways and Means for expediting the consideration of the bill before us today, H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990.

This bill is a much needed and comprehensive remedy to legislation enacted by Congress in 1965 which modified the formula for determining the number of people allowed to immigrate into the United States from particular countries. This 1965 legislation adversely affected the number of visas available for immigrants, and especially from certain European countries, including Ireland.

There has been an effort over the last few years to address this problem and help equalize the visa distribution process. In 1986, Congress passed the Immigration Reform Act

which established a framework to increase the number of visas authorized to the countries that the State Department had designated as adversely affected by the 1965 legislation. In 1988 Congress also authorized the State Department to make available 15,000 additional NP-5 visas to these countries in each of fiscal years 1989 and 1990. Although this NP-5 program has been enormously successful in allowing legal entry for thousands of Irish immigrants, much more needs to be done to aid the estimated 200,000 Irish now residing illegally in the United States. H.R. 4300 is certainly a step in that direction.

H.R. 4300 addresses the regional labor shortages by facilitating immigration and unites family members with immigrants now residing in the United States. The bill authorizes the allocation of 25,000 visas per year for 3 years to undocumented aliens of the 35 adversely affected countries. This includes the undocumented Irish and it has been endorsed by the Irish Immigration Reform Movement.

As we celebrate the renovation of Ellis Island, it is important to remember that this is a nation of immigrants. Our country was built by people who left their native lands to seek greater opportunities in America. The majority who land on our shores continue to be hard-working, self-sufficient members of society, taxpaying contributors to State, local, and Federal Governments, and the source of new ambition and ideas necessary to a healthy free market economy. I urge support for H.R. 4300.

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on the Judiciary, as modified by the amendments printed in part 1 of House Report 101-786 shall be considered as an original bill for the purpose of amendment and is considered as read.

The text of the amendment in the nature of a substitute as modified, is as follows:

H.R. 4300

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family Unity and Employment Opportunity Immigration Act of 1990".

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

Sec. 1. Short title; table of contents.

TITLE I—FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRATION

Subtitle A—Admission and Status

Sec. 101. Separate levels for family-sponsored and employment-based immigration.
Sec. 102. Preference system for admission of immigrants.
Sec. 103. Labor attestation process.
Sec. 104. Nonimmigrant classifications.
Sec. 105. Admission of aliens in religious occupations.
Sec. 106. Denial of crewmember status in the case of certain labor disputes.
Sec. 107. Effective dates; transition.

Subtitle B—Education and Training of American Workers

Sec. 112. Educational assistance and training.
Sec. 113. Higher education scholarship program for mathematics and sciences.

TITLE II—OTHER PROVISIONS REGARDING IMMIGRANT VISAS

Sec. 201. Transition for aliens who are natives of certain adversely affected foreign states.
Sec. 202. Transition for certain displaced aliens.
Sec. 203. Transition for African immigrants.
Sec. 204. Backlog visa numbers for second and fifth preferences.
Sec. 205. Transition for third and sixth preference.
Sec. 206. Transition for employees of certain United States businesses operating in Hong Kong.
Sec. 207. Treatment of Hong Kong as separate foreign state for numerical limitation purposes.
Sec. 208. Permitting extension of period of validity of immigrant visas for certain residents of Hong Kong.

TITLE III—OTHER IMMIGRATION PROVISIONS

Subtitle A—Provisions Relating to Marriage Fraud

Sec. 301. Battered spouse or child waiver of the conditional residence requirement.
Sec. 302. Bona fide marriage exception to foreign residence requirement for marriages entered into during certain immigration proceedings.

Subtitle B—Provisions Relating to Immigration Reform and Control Act of 1986

Sec. 311. Application of employer sanctions to longshore work.
Sec. 312. Elimination of paperwork requirement for recruiters and referrers.
Sec. 313. Permitting court-ordered remedies in certain circumstances.
Sec. 314. Prohibition of deportation of spouses and children of legalized aliens.
Sec. 315. Treatment of certain legalization applicants.
Sec. 316. Reimbursement through Immigration Emergency Fund of localities impacted by increases in aliens applying for asylum.
Sec. 317. Clarification of authorization of appropriations for the Immigration Emergency Fund.

Subtitle C—Miscellaneous

Sec. 321. Special immigrant status for certain aliens declared dependent on a juvenile court.
Sec. 322. Statistical information system.
Sec. 323. Revision of health grounds for exclusion.
Sec. 324. Temporary Protected Status for Nationals of El Salvador, Lebanon, Liberia, and Kuwait, and other designated foreign states.
Sec. 325. Waiver of English language requirement for naturalization.
Sec. 326. Treatment of service in armed forces of a foreign country.

TITLE I—FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRATION

Subtitle A—Admission and Status

SEC. 101. SEPARATE LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRATION.

(a) IN GENERAL.—Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended to read as follows:

"WORLDWIDE LEVEL OF IMMIGRATION

"SEC. 201. (a) IN GENERAL.—Exclusive of aliens described in subsection (b), aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(1) family-sponsored immigrants described in section 203(a) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(a)) in a number not to exceed in any fiscal year 185,000 and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under this paragraph for all of such fiscal year;

"(2) employment-based immigrants described in section 203(b) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b)), in a number not to exceed 65,000 in each of fiscal years 1992 through 1996, and not to exceed 75,000 in each fiscal year thereafter and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under this paragraph for all of such fiscal year; and

"(3) for fiscal years beginning with fiscal year 1994, diversity immigrants described in section 203(c) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(c)) in a number not to exceed 55,000 in each fiscal year and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under this paragraph for all of such fiscal year.

"(b) ALIENS NOT SUBJECT TO NUMERICAL LIMITATIONS.—The following aliens are not subject to the worldwide levels or numerical limitations of subsection (a):

"(1)(A) Special immigrants described in section 101(a)(27).

"(B) Aliens who are admitted under section 207 or whose status is adjusted under section 209.

"(C) Aliens whose status is adjusted to permanent residence under section 210, 210A, or 245A.

"(D) Aliens provided permanent resident status under section 249.

"(2)(A)(i) Immediate relatives. For purposes of this clause, the term 'immediate relative' means a child or spouse of a citizen of the United States and a parent of a citizen of the United States who is at least 21 years of age, and includes, subject to subsection (c) and beginning with fiscal year 1991, a child or spouse of an alien lawfully admitted for permanent residence. In the case of an alien who was the spouse of a citizen of the United States for at least 2 years at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, the alien shall be considered, for purposes of this clause, to remain an immediate relative after the date of the citizen's death but only if the spouse files a petition under section 204(a)(1)(A) within 2

years after such date and only until the date the spouse remarries.

"(ii) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative.

"(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.

"(3) An alien who is provided immigrant status under section 203(d) as the spouse or child of an immigrant under section 203(b).

"(c) TREATMENT OF IMMEDIATE RELATIVES OF PERMANENT RESIDENT ALIENS.—In the case of aliens who are immediate relatives (as defined in subsection (b)(2)(A)(i)) as the spouse or child of an alien lawfully admitted for permanent residence, until otherwise provided by law, the number of such aliens who shall be treated as such immediate relatives in any fiscal year may not exceed 115,000. Visas shall be made available to such immediate relatives in the order in which a petition in behalf of each such alien is filed with the Attorney General as provided in section 204.".

(b) PER COUNTRY IMMIGRATION LEVELS.—Section 202 of such Act (8 U.S.C. 1152) is amended—

(1) in subsection (a), by striking "paragraphs (1) through (7) of section 203(a)" and inserting "subsections (a) and (b) of section 203";

(2) in subsection (c), by striking "a special immigrant" and all that follows through "201(b)" and inserting "an alien described in section 201(b)", and

(3) by amending subsection (e) to read as follows:

"(e) Where it is determined that the maximum number of immigrant visas will be made available under this section to natives of any single foreign state or dependent area in any fiscal year, in determining whether to provide for immigrant visa numbers to natives under section 203(a) or under section 203(b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section and section 203) in a manner so that—

"(1) the ratio of the visa numbers made available under section 203(a) to the visa numbers made available under section 203(b) is equal to 3 to 1; and

"(2) the proportion of the visa numbers made available under each of paragraphs (1) through (4) of section 203(a) is equal to the proportion of the total number of visas made available under the respective paragraph to the total number of visas made available under such section.

Nothing in this subsection shall be construed as limiting the number of visas which may be issued to natives of a state or dependent area under section 203(a) or 203(b) if there is insufficient demand for visas for such natives under section 203(b) or 203(a), respectively.".

(c) REMOVAL OF LIMITATION ON ASYLUM ADJUSTMENTS UNDER REFUGEE NUMERICAL LIMITATION.—Section 209(b) of such Act (8 U.S.C. 1159(b)) is amended by striking "Not more than five thousand of the refugee admissions" and inserting "Refugee admissions".

(d) CLERICAL AMENDMENT.—The item in the table of contents of the Immigration and Nationality Act relating to section 201 is amended to read as follows:

"Sec. 201. Worldwide level of immigration.".

SEC. 102. PREFERENCE SYSTEM FOR ADMISSION OF IMMIGRANTS.

(a) IN GENERAL.—Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively;

(2) by striking subsection (a) and inserting the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(a)(1) for family-sponsored immigrants shall be allotted visas as follows:

"(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a number not to exceed 30 percent of such worldwide level.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence shall be allocated visas in a number not to exceed 19 percent of such worldwide level, plus any visas not required for the class specified in paragraph (1).

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed 16 percent of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) and (2).

"(4) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, shall be allocated visas in a number not to exceed 35 percent of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) through (3).

"(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(a)(2) for employment-based immigrants in a fiscal year shall be allotted visas as follows:

"(1) PRIORITY WORKERS.—Visas shall first be made available to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (D), except that not more than 2,000 such visa numbers may be made available in any fiscal year to aliens under subparagraph (D):

"(A) ALIENS WITH EXTRAORDINARY ABILITY.—An alien is described in this subparagraph if—

"(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

"(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

"(iii) the alien's entry into the United States will substantially benefit prospectively the United States.

"(B) OUTSTANDING PROFESSORS AND RESEARCHERS.—An alien is described in this subparagraph if—

"(i) the alien is recognized internationally as outstanding in a specific academic area,

"(ii) the alien has at least 3 years of experience in teaching or research in the academic area, and

"(iii) the alien seeks to enter the United States—

"(I) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area,

"(II) for a comparable position with a university or institution of higher education to conduct research in the area, or

"(III) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

"(C) CERTAIN MULTINATIONAL EXECUTIVES AND MANAGERS.—An alien is described in this subparagraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

"(D) ALIENS WITH BUSINESS EXPERTISE.—An alien is described in this subparagraph if the alien is coming to the United States to perform services not of a temporary nature in business requiring special expertise and has an advanced degree in a field relating to that special expertise.

"(2) OTHER EMPLOYMENT-BASED ALIENS.—

"(A) IN GENERAL.—Visas made available under section 201(a)(2) for a fiscal year not otherwise made available under paragraph (1) shall be made available to qualified immigrants who are capable of performing specified labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States.

"(B) LABOR CERTIFICATION REQUIRED.—No immigrant visa shall be issued to an immigrant under this paragraph before the date the consular officer receives a certification made by the Secretary of Labor under section 212(a)(14).

"(C) PRIORITY FOR NATIVES OF ADVERSELY AFFECTED FOREIGN STATES.—

"(i) APPLICATION IN FISCAL YEARS 1992 THROUGH 1996.—Immigrant visas made available under this paragraph for any quarter in fiscal year 1992, 1993, 1994, 1995, or 1996, shall first be issued, in a number not to exceed 5,200 in any quarter, to eligible immigrants who are natives of an adversely affected foreign state (as defined in clause (iii)) in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204. Any remaining visas made available under this paragraph for such a quarter shall be issued to all eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204.

"(ii) SUBSEQUENT FISCAL YEARS.—Visas made available under this paragraph for any quarter in a fiscal year after fiscal year 1996 shall be issued to eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204.

"(iii) ADVERSELY AFFECTED FOREIGN STATE DEFINED.—In this subparagraph, the term 'adversely affected foreign state' means a foreign state that is not contiguous to the United States and that was identified as an adversely affected foreign state for purposes

of section 314 of the Immigration Reform and Control Act of 1986.

"(c) DIVERSITY IMMIGRANTS.—

"(1) IN GENERAL.—Visas made available under section 201(a)(3) for a fiscal year shall be made available in each fiscal year to qualified immigrants who are natives of foreign states in a region as follows:

"(A) DETERMINATION OF PREFERENCE IMMIGRATION.—The Attorney General shall determine for the most recent previous 5-fiscal-year period for which data are available, the total number of aliens who are natives of each foreign state and who (i) were admitted or otherwise provided lawful permanent resident status (other than under this subsection) and (ii) were subject to the numerical limitations of section 201(a) (other than paragraph (3) thereof) or who were admitted or otherwise provided lawful permanent resident status as an immediate relative or other alien described in section 201(b)(2) or 201(b)(3).

"(B) IDENTIFICATION OF HIGH-ADMISSION AND LOW-ADMISSION REGIONS AND HIGH-ADMISSION AND LOW-ADMISSION STATES.—The Attorney General—

"(i) shall identify—

"(I) each region (each in this paragraph referred to as a 'high-admission region') for which the total of the numbers determined under subparagraph (A) for states in the region is greater than ⅙ of the total of all such numbers, and

"(II) each other region (each in this paragraph referred to as a 'low-admission region'); and

"(ii) shall identify—

"(I) each foreign state for which the number determined under subparagraph (A) is greater than 50,000 (each such state in this paragraph referred to as a 'high-admission state'), and

"(II) each other foreign state (each such state in this paragraph referred to as a 'low-admission state').

"(C) DETERMINATION OF PERCENTAGE OF WORLDWIDE IMMIGRATION ATTRIBUTABLE TO HIGH-ADMISSION REGIONS.—The Attorney General shall determine the percentage of the total of the numbers determined under subparagraph (A) that are numbers for foreign states in high-admission regions.

"(D) DETERMINATION OF REGIONAL POPULATIONS EXCLUDING HIGH-ADMISSION STATES AND RATIOS OF POPULATIONS OF REGIONS WITHIN LOW-ADMISSION REGIONS AND HIGH-ADMISSION REGIONS.—The Attorney General shall determine—

"(i) based on available estimates for each region, the total population of each region not including the population of any high-admission state;

"(ii) for each low-admission region, the ratio of the population of the region determined under clause (i) to the total of the populations determined under such clause for all the low-admission regions; and

"(iii) for each high-admission region, the ratio of the population of the region determined under clause (i) to the total of the populations determined under such clause for all the high-admission regions.

"(E) DISTRIBUTION OF VISAS.—

"(i) NO VISAS FOR NATIVES OF HIGH-ADMISSION STATES.—The percentage of visas made available under this paragraph to natives of a high-admission state is 0.

"(ii) FOR LOW-ADMISSION STATES IN LOW-ADMISSION REGIONS.—Subject to clauses (iv) and (v), the percentage of visas made available under this paragraph to natives (other than natives of a high-admission state) in a low-admission region is the product of—

"(I) the percentage determined under subparagraph (C), and

"(II) the population ratio for that region determined under subparagraph (D)(ii).

"(iii) FOR LOW-ADMISSION STATES IN HIGH-ADMISSION REGIONS.—Subject to clauses (iv) and (v), the percentage of visas made available under this paragraph to natives (other than natives of a high-admission state) in a high-admission region is the product of—

"(I) 100 percent minus the percentage determined under subparagraph (C), and

"(II) the population ratio for that region determined under subparagraph (D)(iii).

"(iv) REDISTRIBUTION OF UNUSED VISA NUMBERS.—If the Secretary of State estimates that the number of immigrant visas to be issued to natives in any region for a fiscal year under this paragraph is less than the number of immigrant visas made available to such natives under this paragraph for the fiscal year, subject to clause (v), the excess visa numbers shall be made available to natives (other than natives of a high-admission state) of the other regions in proportion to the percentages otherwise specified in clauses (ii) and (iii).

"(v) LIMITATION ON VISAS FOR NATIVES OF A SINGLE FOREIGN STATE.—The percentage of visas made available under this paragraph to natives of any foreign state for any fiscal year shall not exceed 7 percent.

"(2) REGION DEFINED.—Only for purposes of administering the diversity program under this subsection, Northern Ireland shall be treated as a separate foreign state, each colony or other component or dependent area of a foreign state overseas from the foreign state shall be treated as part of the foreign state, and each of the following shall be considered to be a separate region:

"(A) Africa.

"(B) Asia.

"(C) Europe.

"(D) North America (other than Mexico).

"(E) Oceania.

"(F) South America, Mexico, Central America, and the Caribbean.

"(d) TREATMENT OF FAMILY MEMBERS.—A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a), (b), or (c) be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.";

(3) in subsection (e) (as so redesignated)—

(A) by inserting "PRIORITY WITHIN PREFERENCE CLASS.—" before "In considering",

(B) by inserting "or (b)" after "under subsection (a)", and

(C) by inserting "or (b), respectively" after "in subsection (a)";

(4) in subsection (f) (as so redesignated)—

(A) by striking "Immigrant visas" and inserting "PRIORITY OF VISA ISSUANCE.—(1) Except as provided in subsection (b)(2)(C), immigrant visas",

(B) by striking "paragraphs (1) through (6) of subsection (a)" and inserting "subsection (a) or (b)", and

(C) by adding at the end the following:

"(2) Immigrant visa numbers made available under section 201(a)(3) in a fiscal year for natives of low-admission states shall be made available to qualified immigrants who have filed petitions under section 204(a)(1)(F) strictly in a random order established by the Secretary of State for the fiscal year involved.

"(3) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.";

(5) in subsection (g) (as so redesignated)—

(A) by striking the first sentence and inserting "REQUIREMENT FOR PETITION APPROVAL.—", and

(B) by striking "to be an immediate relative" and all that follows through "subsection (a)," and inserting "to be entitled to a status for which a petition is required under section 204(a)(1),"; and

(6) in subsection (h) (as so redesignated)—

(A) by inserting "USE OF ESTIMATES AND TERMINATION OF REGISTRATION.—" before "For the purposes", and

(B) by striking "of subsection (a)" and inserting "under subsections (a), (b), and (c)".

(b) CHANGES IN PETITIONING PROCEDURE.—Section 204 of such Act (8 U.S.C. 1154) is amended—

(1) in subsection (a)(1), by striking "(a)(1)" and all that follows through the end and inserting the following:

"(a)(1)(A) Any citizen of the United States claiming that an alien is entitled to classification by reason of a relationship described in paragraph (1), (3), or (4) of section 203(a) or to an immediate relative status under section 201(b)(2)(A)(i) may file a petition with the Attorney General for such classification. An alien desiring to be classified as an immediate relative under the second sentence of section 201(b)(2)(A)(i) may file a petition with the Attorney General for such classification.

"(B) Any alien lawfully admitted for permanent residence claiming that an alien is entitled to an immediate relative status under section 201(b)(2)(A)(i) or a classification by reason of the relationship described in section 203(a)(2) may file a petition with the Attorney General for such classification.

"(C) Any alien desiring to be classified under section 203(b)(1)(A) (or any person on behalf of such an alien) (relating to aliens with extraordinary ability) may file a petition with the Attorney General for such classification.

"(D) Any employer (or representative of one or more employers) desiring and intending to employ within the United States an alien entitled to classification under section 203(b)(1)(B), 203(b)(1)(C), 203(b)(1)(D), or 203(b)(2) (relating to outstanding professors and researchers, certain multinational executives and managers, aliens with business expertise, and other employment-based aliens) may file a petition with the Attorney General for such classification.

"(E)(i) Any alien desiring to be provided an immigrant visa under section 203(c) (relating to diversity immigrants) with respect to a petitioning period may file a petition at the place and time determined by the Secretary of State for that period. The Secretary of State shall designate a period for the filing of petitions under this subparagraph with respect to one or two fiscal years. Only one such petition may be filed by an alien with respect to any petitioning period, and, if more than one petition is submitted, all such petitions submitted for the period by the alien shall be void. Petitions submitted for consideration with respect to any petitioning period shall be valid only with respect to such period and not with respect to subsequent periods.

"(ii) The Secretary of State shall establish a fee for the filing of such petitions in an amount sufficient to cover the costs of processing petitions under this subparagraph. The Secretary of State shall deposit payments received under this clause in a separate account and amounts in such account

shall be available, without fiscal year limitation, to cover administrative and other expenses incurred in connection with the review of applications filed under this paragraph.";

(2) in paragraph (2)(A)—

(A) by striking "spousal second preference petition" each place it appears and inserting "spousal alien immediate relative petition", and

(B) by striking "preference status under section 203(a)(2)" and inserting "immediate relative status under section 201(b)(2)(A)(i)";

(3) in subsection (b)—

(A) by striking "After an investigation" and inserting "Except in the case of a petition under subsection (a)(1)(E), after an investigation",

(B) by striking ", and after consultation" and all that follows through "203(a) (3) or (6),",

(C) by inserting "or 203(b)" after "203(a)", and

(D) by inserting after the first sentence the following: "In making determinations under section 203(b)(1)(A)(i) (relating to demonstration of extraordinary ability) the Attorney General shall consult with peer groups in the area of the alien's ability, and in making determinations under section 203(b)(1)(B)(i) (relating to international recognition as outstanding in a specific academic area), the Attorney General shall consult with peer groups in the academic area of the alien's recognized ability.";

(4) in subsection (e), by inserting "or 203(b)" after "203(a)";

(5) by striking subsection (f);

(6) in subsection (g)(1)—

(A) by striking "201(b)" and inserting "201(b)(2)(A)(i)", and

(B) by striking "203(a)(4)" and inserting "203(a)(3)"; and

(7) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(c) PROCESSING FEE.—Section 204(b) of such Act (8 U.S.C. 1154(b)) is amended by inserting "(1)" after "(b)" and by adding at the end the following new paragraph:

"(2) The Attorney General shall require by regulation, as a condition for the acceptance and approval of a petition under this section with respect to immigrants described in section 203(b), the payment of a fee to recover the reasonable costs of processing such a petition with respect to immigrants described in such section.".

(d) DEFINITIONS OF MANAGERIAL CAPACITY AND EXECUTIVE CAPACITY.—Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

"(44)(A) The term 'managerial capacity' means an assignment within an organization in which the employee primarily—

"(i) manages the organization, or a department, subdivision, function, or component of the organization;

"(ii) supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;

"(iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization) or, if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and

"(iv) exercises discretion over the day-to-day operations of the activity or function for which the employee has authority.

A first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional.

"(B) The term 'executive capacity' means an assignment within an organization in which the employee primarily—

"(i) directs the management of the organization or a major component or function of the organization;

"(ii) establishes the goals and policies of the organization, component, or function;

"(iii) exercises wide latitude in discretionary decision-making; and

"(iv) receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.

"(C) If staffing levels are used as a factor in determining whether an individual is acting in a managerial or executive capacity, the Attorney General shall take into account the reasonable needs of the organization, component, or function in light of the overall purpose and stage of development of the organization, component, or function. An individual shall not be considered to be acting in a managerial or executive capacity (as previously defined) merely on the basis of the number of employees that the individual supervises or has supervised or directs or has directed.".

(e) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)) is amended—

(A) by striking "or" at the end of subparagraph (H),

(B) by striking the period at the end of subparagraph (I) and inserting "; or", and

(C) by adding at the end the following new subparagraph:

"(J) an alien whose deportation was cancelled under section 244.".

(2) Section 212(a)(32) of such Act (8 U.S.C. 1182(a)(32)) is amended by striking "preference immigrant aliens described in section 203(a) (3) and (6) and to nonpreference immigrant aliens described in section 203(a)(7)" and inserting "preference immigrant aliens described in section 203(b)(2)".

(3) Section 245(b) of such Act (8 U.S.C. 1255(b)) is amended—

(A) by striking "or nonpreference",

(B) by striking "202(e) or 203(a)" and inserting "201(a)", and

(C) by striking "for the fiscal year then current" and inserting "for the succeeding fiscal year".

(4) Section 3304(a)(14)(A) of the Internal Revenue Code of 1986 is amended by striking "section 203(a)(7) or".

(5) Section 1614(a)(1)(B)(i) of the Social Security Act is amended by striking "section 203(a)(7) or".

(f) TECHNICAL CORRECTIONS TO IMMIGRATION NURSING RELIEF ACT OF 1989.—

(1) Section 2 of the Immigration Nursing Relief Act of 1989 (Public Law 101-238) is amended—

(A) in subsection (a)—

(i) by striking ", and the immigrant's accompanying spouse and children", and

(ii) by inserting after the first sentence the following:

"Such numerical limitations also shall not apply to the adjustment of status of, or issuance of an immigrant visa to, the immigrant's spouse and children if accompanying or following to join the immigrant."; and

(B) in subsection (b)—

(i) by striking "December 31, 1989" and inserting "September 1, 1989",

(ii) by striking "in the lawful status" and inserting "in the status",

(iii) by inserting "unauthorized employment performed before the date of the enactment of the Family Unity and Employment Opportunity Immigration Act of 1990 shall not be taken into account in applying section 245(c)(2) of the Immigration and Nationality Act and" after "spouse or child of such an alien,", and

(iv) by striking "lawful status as such a nonimmigrant" and all that follows through "subsection (a)" and inserting "lawful status throughout his or her stay in the United States as a nonimmigrant until the end of the 120-day period beginning on the date the Attorney General promulgates regulations carrying out the amendments made by section 102(f)(1)(A) of the Family Unity and Employment Opportunity Immigration Act of 1990".

(2) The amendments made by paragraph (1) shall apply as though included in the enactment of the Immigration Nursing Relief Act of 1989.

SEC. 103. LABOR ATTESTATION PROCESS.

(a) IN GENERAL.—Section 212(a)(14) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(14)) is amended to read as follows:

"(14) Aliens seeking admission or status as an immigrant under section 203(b)(2) or as a nonimmigrant under section 101(a)(15)(H)(i)(b) or 101(a)(15)(H)(ii)(b) unless with respect to the aliens the Secretary of Labor certifies to the Secretary of State and the Attorney General that an attestation is on file and in effect under section 212(n) for the employer and occupational classification for which the alien will perform services;".

(b) USE OF ATTESTATIONS.—Section 212 of such Act, as amended by section 3(b) of Public Law 101-238, is amended by adding at the end the following new subsection:

"(n)(1) The attestation referred to in subsection (a)(14), with respect to an alien who is coming to the United States to be employed by an employer in an occupational classification, is an attestation as to the following:

"(A) Subject to paragraph (3), the employer—

"(i)(I) has made and is making positive recruitment efforts, in the recruitment area identified under paragraph (2)(A), reasonably designed to locate and employ able, willing, and qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts) workers, and

"(II) recites the specific actions the employer has taken with respect to such recruitment; and

"(ii) has been unable to find such workers who are available at the time and place of need.

"(B) The employer is offering and will offer (in the case of an nonimmigrant under section 101(a)(15)(H)(i)(b) or 101(a)(15)(H)(ii)(b), during the period of authorized employment or, in the case of an immigrant under section 203(b)(2), during the first year of employment of the alien by the employer) to aliens and to other individuals employed in the occupational classification and in the recruitment area (identified under paragraph (2)(A)) wages that are no less than the base prevailing wage level (determined under paragraph (6)) and work-

ing conditions that are not less than the prevailing working conditions for the occupational classification in the recruitment area.

"(C) There is not a strike or lockout in the course of a labor dispute.

"(D) The employer, at the time of execution of the attestation, has provided notice of the intention to file the attestation under this paragraph to the bargaining representative (if any) of the employer's employees in the occupational classification and recruitment area for which aliens are sought, or, if there is no such bargaining representative, to such State or local governmental entity as the Secretary of Labor designates (after consultation with appropriate labor and management organizations) for the recruitment area for purposes of this subparagraph.

The obligation to engage in positive recruitment under subparagraph (A) shall not apply to nonimmigrants under section 101(a)(15)(H)(i)(b) and shall terminate on the date that the alien is provided immigrant or nonimmigrant status in response to the attestation.

"(2)(A) With respect to occupational classifications for which attestations may be filed, the Secretary of Labor (in this subsection referred to as the 'Secretary') shall identify recruitment areas which are the areas of traditional or expected labor supply.

"(B) The Secretary shall make available for public examination, within 2 working days after the date on which an attestation under paragraph (1) is filed, in Washington, D.C., a copy of each attestation (and accompanying documentation) filed under paragraph (1). The Secretary shall compile, on a current basis, a list (by employer and by occupational classification) of the attestations filed or in effect under paragraph (1).

"(3)(A) If 10 or more attestations meeting the requirements of paragraph (1) (including paragraph (1)(A)) within a region (as defined by the Secretary) (or 5 attestations within a rural region) have been filed within a 1-year period and are in effect with respect to employees in the same occupational classification, any succeeding attestation filed during the succeeding 2-year period for workers in that occupational classification and region may substitute, for the attestation as to the matters described in paragraph (1)(A), an attestation that the employer has not been able to find, after posting of the job offer and advertising to recruit for hire, workers for the occupational classification at the time and place needed.

"(B) In subparagraph (A), the term 'rural region' means a contiguous area of counties (no county of which is an urbanized area) which is identified by the Secretary as representing a labor market with respect to an occupational classification which is separate and distinct from those for adjoining urbanized areas.

"(4)(A) If a bargaining representative described in paragraph (1)(D) or employee representative, within 30 days after the date the employer files an attestation under paragraph (1), submits to the Secretary a written request for a hearing respecting the matters required to be attested to in paragraph (1) and includes with such request a written statement of particular facts contradicting such attestation, the attestation shall not become effective until the date the Secretary has made a determination, after such a hearing, that the facts attested to are true. No attestation shall be effective under this subsection before the end of such 30-day period.

"(B) Within 7 days after the date of submission of a written request under subparagraph (A), the Secretary shall provide for a determination as to whether or not a written statement of particular facts contradicting the attestation has been included. If it has, the Secretary shall provide for a notice of such determination to the interested parties and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, with respect to the attestation within 30 days of the date of the determination. After such a hearing, the Secretary shall make a determination with respect to whether the attestation meets the requirements of paragraph (1) by not later 30 days after the date of the hearing. In the hearing, the burden of proof on the truth of the facts attested to shall be on the employer.

"(C)(i) An attestation duly filed under paragraph (1) shall be deemed to have been certified by the Secretary and in effect under this subsection at the end of the 30-day period beginning on the date of its filing unless the Secretary otherwise notifies the employer and the Attorney General under clause (ii).

"(ii) If a written request for a hearing has been submitted on a timely basis under this paragraph, the Secretary shall notify the Attorney General and the employer in writing that an attestation, which would otherwise become effective under clause (i), shall not become effective.

"(D) The preceding provisions of this paragraph shall not apply to an attestation under paragraph (1) with respect to nonimmigrants described in section 101(a)(15)(H)(i)(b).

"(E) The Secretary may not refuse to accept for filing a completed attestation filed under this subsection or review in any way such an attestation with respect to which a complaint has not been filed under this subsection.

"(F) Subject to termination under paragraph (5), an attestation shall be effective only for petitions filed during the 1-year period beginning on the effective date of the attestation.

"(5)(A) The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to include an element of the attestation required under paragraph (1), failure to meet a condition attested to, or misrepresentation of material facts in an attestation that is in effect under this subsection. Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, respectively, or to the extent that the complaint alleges a failure or misrepresentation for which there has been a determination on that issue in a hearing under paragraph (4)(B). The Secretary shall conduct an investigation under this paragraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

"(B) Under such process, the Secretary shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a basis exists to make a finding described in subparagraph (C). If the Secretary determines that such a basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary shall make a finding concerning the matter by not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same petitioner, the Secretary may consolidate the hearings under this subparagraph on such complaints.

"(C) If the Secretary finds, after notice and opportunity for a hearing, an employer failure or that there was a misrepresentation of material fact in the attestation—

"(i) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per violation) as the Secretary determines to be appropriate, and

"(ii) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 1 year for aliens to be employed by the employer.

"(D) In addition to the sanctions provided under subparagraph (C), if the Secretary finds, after notice and opportunity for a hearing, that an employer has violated a condition of an attestation relating to the payment of wages at a specified wage level, the Secretary shall order the employer to provide for payment of such amounts of back pay as may be required to comply with such condition.

"(6)(A) For purposes of this subsection and section 214(f), the term 'base prevailing wage level', with respect to an occupational classification in an area for which a petition or attestation is filed for purposes of the respective provision of law, means—

"(i) the actual wage level for the occupational classification at the place of employment, or

"(ii) the prevailing wage level for the occupational classification and area determined under subparagraph (B),

whichever is greater, determined as of the time of filing the respective petition or attestation.

"(B)(i) The Bureau of Labor Statistics in the Department of Labor shall periodically determine, for purposes of this subsection and section 214(f), the prevailing wage level for occupational classifications and areas for which determinations of prevailing wage levels are required under this subsection. In the case of a specific occupational classification for which a determination of prevailing wage level is not generally or readily available, the Bureau shall determine such a wage level within 30 days.

"(ii)(I) If the Bureau has not determined a prevailing wage level within 30 days of the date of filing of an attestation, subject to subclause (II), the application of clause (ii) of subparagraph (A) shall be suspended until the date such a determination is made.

"(II) When the Bureau makes such a determination, the employer shall provide, within 30 days of the date of the determination, for such adjustment of wages (including back pay) as provides for the application of such prevailing wage level under subparagraph (A) as though such level had been determined on a timely basis under subparagraph (B).".

(c) REPORT.—The Secretary of Labor shall conduct a study of the feasibility of determining, for purposes of section 212(n) of the Immigration and Nationality Act, national or regional labor shortages in particular occupational classifications, taking into consideration—

(1) the intensity and duration of each labor shortage;

(2) the supply and demand of workers in occupations affected by the shortage;

(3) industrial and geographic concentration of the shortage;

(4) wages for occupations affected by the shortage and how a 20 percent increase in the prevailing wage in the occupation affects the shortage;

(5) entry requirements for occupations affected by the shortage; and

(6) the need for continuous positive national recruitment.

The Secretary shall report to Congress on the results of the study by not later than 2 years after the date of the enactment of this Act. The Secretary shall include in the report such legislative recommendations as may be necessary to permit the use of national or regional labor shortages in the process of attestations under section 212(n) of the Immigration and Nationality Act.

SEC. 104. NONIMMIGRANT CLASSIFICATIONS.

(a) TREATY TRADERS.—

(1) Section 101(a)(15)(E)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)(i)) is amended by inserting ", including trade in services or trade in technology" after "substantial trade".

(2) The largest foreign state in each region (as defined in section 203(c)(2) of the Immigration and Nationality Act) which has 1 or more dependent areas (as determined for purposes of section 202 of such Act) and which does not have a treaty of commerce and navigation with the United States shall be considered for purposes of section 101(a)(15)(E) of such Act to be a foreign state described in such section if the foreign state extends reciprocal nonimmigrant treatment to nationals of the United States.

(3) Section 101(a) of the Immigration and Nationality Act, as amended by section 102(d) of this Act, is amended by adding at the end the following new paragraph:

"(45) The term 'substantial' means, for purposes of paragraph (15)(E) with reference to trade or capital, such an amount of trade or capital as is established by the Secretary of State, after consultation with appropriate agencies of Government.".

(b) STUDENTS.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(f) With respect to work authorization for aliens admitted as nonimmigrant students described in subparagraph (F) of section 101(a)(15), the Attorney General shall grant such an alien work authorization to be employed in a position unrelated to the alien's field of study and off-campus if—

"(1) the alien has completed 1 year as such a nonimmigrant and is maintaining good academic standing at the educational institution,

"(2) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer (A) has recruited for at least 60 days for the position and (B) will provide for payment to the alien and to other similarly situated workers at a rate equal to not less than the base prevailing wage level (determined under section 212(n)(6)), and

"(3) the alien will not be employed more than 20 hours each week during the academic term (but may be employed on a full-time basis during vacation periods and between academic terms).

If the Secretary of Labor determines that an employer has provided an attestation under paragraph (2) that is materially false or has failed to pay wages in accordance with the attestation, after notice and opportunity for a hearing, the employer shall be disqualified from employing an alien student under this subsection for a period of 3 years.".

(c) H NONIMMIGRANTS.—

(1) LIMITATION ON NUMBERS.—Section 214 of such Act (8 U.S.C. 1184), as amended by subsection (b), is further amended by adding at the end the following new subsection:

"(g)(1) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year (beginning with fiscal year 1992)—

"(A) under section 101(a)(15)(H)(i)(b) may not exceed 25,000,

"(B) under section 101(a)(15)(H)(ii)(b), may not exceed 66,000, or

"(C) under section 101(a)(15)(P)(i) or section 101(a)(15)(P)(iii) may not exceed 9,000.

"(2) The numerical limitations under paragraph (1) shall only apply to principal aliens and not to the spouses or children of such aliens.

"(3) Aliens who are subject to the numerical limitations of paragraph (1) shall be issued visas (or otherwise provided nonimmigrant status) in the order in which petitions are filed for such visas or status.

"(4) In the case of a nonimmigrant described in section 101(a)(15)(H)(i)(b), the period of authorized admission as such a nonimmigrant may not exceed 6 years.".

(2) CONSTRUCTION RESPECTING INTENT WITH RESPECT TO ABANDONMENT OF FOREIGN RESIDENCE.—Section 214 of such Act, as amended by subsection (b) and by paragraph (1), is further amended—

(A) in subsection (b), by inserting "(other than a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15))" after "Every alien", and

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

"(h) The fact that an alien is the beneficiary of an application for a preference status filed under section 204 or has otherwise sought permanent residence in the United States shall not constitute evidence of an intention to abandon a foreign residence for purposes of obtaining a visa as a nonimmigrant or otherwise obtaining or maintaining the status of a nonimmigrant.".

(3) REVISION OF H-1B CATEGORY.—Subclause (b) of section 101(a)(15)(H)(i) of such Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking "who is of distinguished" and all that follows through "such institution or agency" and inserting the following: "who is coming temporarily to the United States to perform services (other than services described in subclause (a) during the period in which such subclause applies and other than services described in subclause (ii)(a) or in subparagraph (O) or (P)) in a specialty occupation described in section 214(i)(1) and who meets the requirements for the occupation specified in section 214(i)(2)".

(4) SPECIALTY OCCUPATION DEFINED.—Section 214 of such Act, as amended by subsection (b) and by paragraphs (1) and (2), is further amended by adding at the end the following new subsection:

"(i)(1) For purposes of section 101(a)(15)(H)(i)(b) and paragraph (2), the term 'specialty occupation' means an occupation that requires—

"(A) theoretical and practical application of a body of highly specialized knowledge, and

"(B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

"(2) For purposes of section 101(a)(15)(H)(i)(b), the requirements of this paragraph, with respect to a specialty occupation, are—

"(A) full state licensure to practice in the occupation, if such licensure is required to practice in the occupation;

"(B) completion of the degree described in paragraph (1)(B) for the occupation; or

"(C)(i) experience in the specialty equivalent to the completion of such degree, and (ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.".

(5) LIMITATION ON TRAINEES.—Section 101(a)(15)(H)(iii) of such Act (8 U.S.C. 1101(a)(15)(H)(iii)) is amended by inserting before the semicolon at the end the following: ", in a training program not available in the country of nationality of the alien".

(6) TECHNICAL AMENDMENT CONCERNING FOREIGN RESIDENCE.—Section 101(a)(15)(H) of such Act (8 U.S.C. 1101(a)(15)(H)) is amended—

(A) by striking "having a residence in a foreign country which he has no intention of abandoning";

(B) in clause (ii), by striking "who is coming temporarily to the United States (a)" and inserting "(a) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States";

(C) in clause (ii)(b), by inserting "having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States" immediately after "(b)"; and

(D) in clause (iii), by inserting "having a residence in a foreign country which he has no intention of abandoning" after "(iii)".

(d) ESTABLISHMENT OF SPECIAL EDUCATION EXCHANGE VISITOR PROGRAM.—

(1) IN GENERAL.—Section 101(a)(15)(J) of such Act (8 U.S.C. 1101(a)(15)(J)) is amended—

(A) by inserting "(i)" after "abandoning", and

(B) by inserting after "212(j)," the following: "or (ii) who is coming temporarily to the United States (for a period not to exceed 18 months) as a participant in an special education training program described in section 214(j)(1),".

(2) PROGRAM REQUIREMENTS.—Section 214 of such Act (8 U.S.C. 1184), as amended by subsections (b), (c)(1), (c)(2), and (c)(4), is further amended by adding at the end the following new subsection:

"(j)(1) An alien may not be admitted as (or otherwise be provided the status of) a nonimmigrant described in section 101(a)(15)(J)(ii) unless the alien is entering under a program which provides for practical training and experience in the education of children with physical, mental, or emotional disabilities.

"(2) The number of aliens who may be admitted as (or otherwise be provided the status of) a nonimmigrant described in section 101(a)(15)(J)(ii) in any fiscal year may not exceed 50.".

(e) AU PAIR CULTURAL EXCHANGE PROGRAM.—

(1) IN GENERAL.—Section 101(a)(15)(J) of such Act (8 U.S.C. 1101(a)(15)(J)), as amended by subsection (d)(1), is further amended—

(A) by striking "or" before "(ii)", and

(B) by inserting after "214(j)(1)," the following: "or (iii) who is coming temporarily to the United States (for a period not to exceed 14 months) as a participant in an au pair program under section 214(k)(1),".

(2) REQUIREMENTS.—Section 214 of such Act (8 U.S.C. 1184), as amended by subsections (b), (c)(1), (c)(2), (c)(4), and (d)(2), is further amended by adding at the end the following new subsection:

"(k)(1) An alien may not be admitted as (or otherwise be provided the status of) a nonimmigrant described in section 101(a)(15)(J)(iii) unless—

"(A) the alien is entering to participate in a program, which participation and program the Secretary of Labor determines meets the requirements of paragraph (2) and will provide the alien a uniquely American cultural experience and additional education; and

"(B) the alien is entering to be placed with a family which has entered into an agreement described in paragraph (3) and which has not been found by the Secretary of Labor to have violated previously the terms of such an agreement.

If the Secretary determines that a sponsoring program no longer meets the requirements described in subparagraph (A), the Secretary shall disqualify the program under this subsection for a period of at least 3 years.

"(2) The requirements of this paragraph with respect to an alien participating in a program are as follows:

"(A) The alien participant must reside with a family that has entered into an agreement described in paragraph (3).

"(B) The alien participant must be enrolled on an on-going basis in a course of study at an educational institution or program approved by the Attorney General under section 101(a)(15)(F).

"(C) The alien participant must be provided, not less often than quarterly, a cultural experience (such as travel to national monuments, landmarks, or institutions) unique or specific to the United States.

"(D) If the alien participant provides child care or related services in connection with participation in the program—

"(i) the alien must be paid wages (as defined in section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) not less than the minimum wage applicable under section 6(a) of such Act (29 U.S.C. 206(a)), and

"(ii) the alien may not provide such care or services for more than 40 hours each week.

"(E) The program must provide a suitable bond or other undertaking, in an amount specified by the Attorney General (not to exceed $5,000 with respect to any alien participant) to assure that the alien departs from the United States at the time of expiration of the authorized period of stay under the program.

"(3) The agreement described in this paragraph between a family and an alien participant shall obligate the family to provide for meeting the requirements specified in subparagraphs (B) through (D) of paragraph (2). Such agreement shall be in a form approved by the Secretary of Labor and may be enforced by the alien.".

(f) AMENDMENTS RELATING TO "L" NONIMMIGRANTS.—

(1) CLARIFICATION OF TREATMENT OF CERTAIN INTERNATIONAL ACCOUNTING FIRMS.—In applying sections 101(a)(15)(L) and 203(b)(1)(C) of the Immigration and Nationality Act, in the case of a partnership that is organized in the United States to provide accounting services and that markets its accounting services under an internationally recognized name under an agreement with a worldwide coordinating organization that is owned and controlled by the member accounting firms, a partnership (or similar organization) that is organized outside the United States to provide accounting services shall be considered to be an affiliate of the United States partnership if it markets its accounting services under the same internationally recognized name under the agreement with the worldwide coordinating organization of which the United States partnership is also a member.

(2) USE OF BLANKET PETITIONS; DEADLINES FOR PROCESSING; PERIODS OF AUTHORIZED STAY; CONSTRUCTION.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended—

(A) by inserting "(1)" after "(c)", and

(B) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall provide for a procedure under which an importing employer which meets requirements established by the Attorney General may file a blanket petition to import aliens as nonimmigrants under section 101(a)(15)(L) instead of filing individuals petitions under paragraph (1) to import such aliens. Such procedure shall permit the expedited processing of visas for entry of aliens covered under such a petition.

"(B) For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

"(C) The Attorney General shall provide a process for reviewing and acting upon petitions under this subsection with respect to nonimmigrants described in section 101(a)(15)(L) within 30 days after the date a completed petition has been filed.

"(D) The period of authorized admission for—

"(i) a nonimmigrant admitted to render services in a managerial or executive capacity under section 101(a)(15)(L) shall not exceed 7 years, or

"(ii) a nonimmigrant admitted to render services in a capacity that involved specialized knowledge under section 101(a)(15)(L) shall not exceed 5 years.".

(3) PERIOD OF PRIOR EMPLOYMENT WITH COMPANY.—Section 101(a)(15)(L) of such Act (8 U.S.C. 1101(a)(15)(L)) is amended by striking "immediately preceding" and inserting "within 3 years preceding".

(g) NEW CLASSIFICATION FOR ALIENS WITH EXTRAORDINARY ABILITY, ACCOMPANYING ALIENS, AND ATHLETES AND ENTERTAINERS.—

(1) IN GENERAL.—Section 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)) is amended—

(A) by striking "or" at the end of subparagraph (M),

(B) by striking the period at the end of subparagraph (N) and inserting a semicolon, and

(C) by adding at the end the following new subparagraphs:

"(O) an alien who—

"(i) has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim or, with regard to motion picture and television productions a demonstrated record of extraordinary achievement, and whose achievements have been recognized in the field through extensive documentation, and seeks to enter the United States to continue work in the area of extraordinary ability, but only if the Attorney General determines that the alien's entry into the United States will substantially benefit prospectively the United States; or

"(ii)(I) seeks to enter the United States temporarily and solely for the purpose of accompanying and assisting in the artistic or athletic performance by an alien who is admitted under clause (i) for a specific event or events,

"(II) is an integral part of such actual performance,

"(III)(a) has critical skills and experience with such alien which are not of a general nature and which cannot be performed by other individuals, or (b) in the case of a motion picture or television production, has skills and experience with such alien which are not of a general nature and which are critical either based on a pre-existing long-standing working relationship or, with respect to the specific production, because significant principal photography will take place both inside and outside the United States and the continuing participation of the alien is essential to the successful completion of the production, and

"(IV) has a foreign residence which the alien has no intention of abandoning; or

"(iii) is the alien spouse or child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien; or

"(P) an alien having a foreign residence which the alien has no intention of abandoning who—

"(i)(I) performs as an athlete, individually or as part of an group or team, at an internationally recognized level of performance, or performs as part of an entertainment group that has been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time and has had a sustained and substantial relationship with that group over a period of at least 1 year and provides functions integral to the performance of the group, and

"(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete or entertainer with respect to a specific athletic competition or performance;

"(ii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

"(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an artist or entertainer or with such a group under a reciprocal exchange program which is between an organization or organizations in the United States and an organization in one or more foreign states and which provides for the temporary exchange of artists and entertainers, or groups of artists and entertainers, between the United States and the foreign states involved;

"(iii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

"(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an artist or entertainer or with such a group under a program that is culturally unique; or

"(iv) is the spouse or child of an alien described in clause (i), (ii), or (iii) and is accompanying, or following to join, the alien.".

(2) PERIODS OF ADMISSION, ETC.—Section 214 of such Act (8 U.S.C. 1184) is amended—

(A) in subsection (a), by inserting "(1)" after "(a)" and by adding at the end the following new paragraph:

"(2)(A) The period of authorized status as a nonimmigrant under section 101(a)(15)(O) shall be for such period as the Attorney General may specify in order to provide for the event for which the nonimmigrant is admitted.

"(B)(i) The period of authorized status as a nonimmigrant under section 101(a)(15)(P) shall be for such period as the Attorney General may specify in order to provide for the competition, event, or performance for which the nonimmigrant is admitted. In the case of nonimmigrants admitted as individual athletes under section 101(a)(15)(P), the period of authorized status may be for an initial period (not to exceed 5 years) during which the nonimmigrant will perform as an athlete and such period may be extended by the Attorney General for an additional period of up to 5 years.

"(ii) An alien who is admitted as a nonimmigrant under clause (ii) or (iii) of section 101(a)(15)(P) may not be readmitted as such a nonimmigrant unless the alien has remained outside the United States for at least 3 months after the date of the most recent admission."; and

(B) in subsection (c), as amended by subsection (f)(2)—

(i) in paragraph (1), by striking "or (L)" and inserting ", (L), (O), or (P)(i)", and

(ii) by adding at the end the following new paragraphs:

"(3) The Attorney General shall approve a petition—

"(A) with respect to a nonimmigrant described in section 101(a)(15)(O)(i) only after consultation with peer groups in the area of the alien's ability or, with respect to aliens seeking entry for a motion picture or television production, after consultation with the appropriate union representing the alien's occupational peers and a management organization in the area of the alien's ability, or

"(B) with respect to a nonimmigrant described in section 101(a)(15)(O)(ii) after consultation with labor organizations with expertise in the skill area involved.

In the case of an alien seeking entry for a motion picture or television production, (i) any opinion under the previous sentence shall only be advisory, (ii) any such opinion that recommends denial must be in writing, (iii) in making the decision the Attorney General shall consider the exigencies and scheduling of the production, and (iv) the Attorney General shall append to the decision any such opinion.

"(4)(A) A person may petition the Attorney General for classification of an alien as a nonimmigrant under clause (ii) of section 101(a)(15)(P).

"(B) The Attorney General shall approve petitions under this subsection with respect to nonimmigrants described in clause (i) or (iii) of section 101(a)(15)(P) only after consultation with labor organizations with expertise in the specific field of athletics or entertainment involved.

"(C) The Attorney General shall approve petitions under this subsection for nonimmigrants described in section 101(a)(15)(P)(ii) only after consultation with labor organizations representing artists and entertainers in the United States, in order to assure reciprocity in fact with foreign states.

"(5)(A) In the case of an alien admitted as a nonimmigrant and who is authorized to be employed in an occupation, if nonimmigrants constitute a majority of the members of the bargaining unit in the occupation, during the period of any strike or lockout in the occupation with the employer the alien—

"(i) continues to be authorized to be employed in the occupation for that employer, and

"(ii) is authorized to be employed in any occupation for any other employer so long as there is no strike or lockout with respect to that occupation and employer.

"(B) In the case of an alien admitted as a nonimmigrant and who is authorized to be employed in an occupation, if nonimmigrants do not constitute a majority of the members of the bargaining unit in the occupation, during the period of any strike or lockout in the occupation with the employer the alien—

"(i) is not authorized to be employed in the occupation for that employer, and

"(ii) is authorized to be employed in any occupation for any other employer so long as there is no strike or lockout with respect to that occupation and employer.

"(C) With respect to a nonimmigrant described in subparagraph (A) or (B) for whom such a strike or lockout occurs and who does not perform employment not authorized, any limit on the period of authorized stay shall be extended by the period of the strike or lockout.

"(D) In the case of an alien who is provided nonimmigrant status under section 101(a)(15)(H) (other than section 101(a)(15)(H)(ii)(a)) or section 101(a)(15)(P) and who is dismissed from employment by the employer before the end of the period of authorized admission, the employer shall be liable for the reasonable costs of return transportation of the alien abroad.

"(6) If a petition is filed and denied under this subsection, the Attorney General shall notify the petitioner of the determination and the reasons for the denial and of the process by which the petitioner may appeal the determination.

"(7) The Attorney General shall require by regulation, as a condition for the acceptance and approval of a petition under this section with respect to nonimmigrants under section 101(a)(15) (H), (L), (O), or (P)(i), the payment of a fee to recover the reasonable costs of processing a petition under this subsection with respect to such class of nonimmigrants.".

(h) NEW CLASSIFICATION FOR INTERNATIONAL CULTURAL EXCHANGE PROGRAMS.—Section 101(a)(15) of such Act, as amended by subsection (g), is further amended—

(1) by striking "or" at the end of subparagraph (O),

(2) by striking the period at the end of subparagraph (P) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(Q) an alien having a residence in a foreign country which he has no intention of abandoning who is coming temporarily (for a period not to exceed 15 months) to the United States as a participant in an international cultural exchange program designated by the Attorney General for the purpose of providing practical training, employment, and the sharing of the history, culture, and traditions of the country of the alien's nationality and who will be employed under the same wages and working conditions as domestic workers.".

SEC. 105. ADMISSION OF ALIENS IN RELIGIOUS OCCUPATIONS.

(a) AS SPECIAL IMMIGRANTS.—Subparagraph (C) of section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended to read as follows:

"(C) an immigrant, and his spouse and children if accompanying or following to join the immigrant, who—

"(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

"(ii) seeks to enter the United States—

"(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

"(II) in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

"(III) in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and

"(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i);".

(b) AS NONIMMIGRANTS.—Section 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)), as amended by sections 104(g)(1) and 104(h)(3) of this Act, is amended—

(1) by striking "or" at the end of subparagraph (P),

(2) by striking the period at the end of subparagraph (Q) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(R) an alien, and the spouse and children of the alien if accompanying or following to join the alien, who—

"(i) for the 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States; and

"(ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(C)(ii).".

SEC. 106. DENIAL OF CREWMEMBER STATUS IN THE CASE OF CERTAIN LABOR DISPUTES.

(a) IN GENERAL.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184), as amended by section 104, is further amended by adding at the end the following new subsection:

"(l)(1) No alien shall be entitled to nonimmigrant status under section 101(a)(15)(D) if the alien intends to land for the purpose of performing service on board a vessel of the United States (as defined in section 2101(46) of title 46, United States Code) or on an aircraft of an air carrier (as defined in section 101(3) of the Federal Aviation Act of 1958) during a labor dispute where there is a strike or lockout in the bargaining unit of the employer in which the alien intends to perform such service.

"(2) An alien described in paragraph (1)—

"(A) may not be paroled into the United States pursuant to section 212(d)(5) unless the Attorney General determines that the parole of such alien is necessary to protect the national security of the United States; and

"(B) shall be considered not to be a bona fide crewman for purposes of section 252(b).".

(b) CONFORMING AMENDMENT.—Section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)) is amended by inserting "or

in section 214(l)" after "except as provided in subparagraph (B)".

(c) CONFORMING REPEAL.—Section 315(d) of the Immigration Reform and Control Act of 1986 (100 Stat. 3440) is hereby repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to admissions occurring on or after the date of the enactment of this Act.

SEC. 107. EFFECTIVE DATES; TRANSITION.

(a) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this subtitle (other than by sections 102(f)(1) and 106) shall take effect on October 1, 1991, and shall not apply with respect to visas issued before such date.

(b) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—

(1) EFFECTIVE DATE.—The provisions of sections 201(b)(2)(A), 201(c) and 204(a)(2) of the Immigration and Nationality Act (insofar as they relate to treatment of spouses and children of aliens lawfully admitted for permanent residence as immediate relatives), as amended by sections 101 and 102 of this subtitle, shall be effective beginning with fiscal year 1991.

(2) TRANSITION.—In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1990, for preference status under section 203(a)(2) of such Act (as in effect before such date) as a spouse or child of an alien lawfully admitted for permanent residence, such petition shall be deemed as of October 1, 1990, to be a petition for immediate relative status described in section 201(b)(2)(A)(i) of such Act (as amended by this subtitle).

(c) TRANSITION FOR FOURTH AND FIFTH PREFERENCE.—In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1991, for preference status under section 203(a)(4) or 203(a)(5) of such Act (as in effect before such date), such petition shall be deemed as of October 1, 1991, to be a petition for preference status under section 203(a)(3) or 203(a)(4), respectively, of such Act.

Subtitle B—Education and Training of American Workers

SEC. 112. EDUCATIONAL ASSISTANCE AND TRAINING.

(a) USE OF FUND.—From the fees deposited each year in the account established under section 286(q)(5) of the Immigration and Nationality Act which are not used for scholarships under section 113, the Secretary of Labor shall provide for grants to States to provide educational assistance and training for United States workers. The Secretary shall consult with the Secretary of Education in making grants under this section.

(b) ALLOCATION OF FUNDS.—Within the purposes described in subsection (a), funds in the account used under this section shall be allocated among the States based on a formula, established jointly by the Secretaries of Labor and Education, that takes into consideration—

(1) the location of foreign workers admitted into the United States,

(2) the location of individuals in the United States requiring and desiring the educational assistance and training for which the funds can be applied, and

(3) the location of unemployed and underemployed United States workers.

(c) DISBURSEMENT TO STATES.—

(1) Within the purposes and allocations established under this section, disbursements shall be made to the States, in accordance with grant applications submitted to and approved jointly by the Secretaries of Labor and Education, to be applied in a manner consistent with the guidelines established by such Secretaries in consultation with the States. In applying such grants, the States shall consider providing funding to joint labor-management trust funds and other such non-profit organizations which have demonstrated capability and experience in directly training and educating workers.

(2) Not more than 5 percent of the funds disbursed to any State under this section may be used for administrative expenses.

(d) LIMITATION ON FEDERAL OVERHEAD.—The Secretaries shall provide that not more than 2 percent of the amount of funds disbursed to States under this section may be used by the Federal Government in the administration of this section.

(e) ANNUAL REPORT.—The Secretary of Labor shall report annually to the Congress on the grants to States provided under this section.

(f) STATE DEFINED.—In this section, the term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

SEC. 113. HIGHER EDUCATION SCHOLARSHIP PROGRAM FOR MATHEMATICS AND SCIENCES.

Ten percent of the fees deposited each year in the account established under section 286(q)(5) of the Immigration and Nationality Act shall be available to the Secretary of Education for the awarding (in a manner and amount specified by the Secretary) of scholarships to assist in the cost of postsecondary education of needy individuals who—

(1) are enrolled as full-time students in an accredited postsecondary institution,

(2) pursuing a course of study leading to a degree in mathematics or one or more of the sciences, and

(3) maintain satisfactory progress, as determined by the postsecondary institution the recipient is attending.

The Secretary shall enter into agreements with States to provide for the actual awarding of such scholarships by the States.

TITLE II—OTHER PROVISIONS REGARDING IMMIGRANT VISAS

SEC. 201. TRANSITION FOR ALIENS WHO ARE NATIVES OF CERTAIN ADVERSELY AFFECTED FOREIGN STATES.

(a) IN GENERAL.—Subject to the numerical limitations established under subsection (b), the Attorney General shall provide for the adjustment of status to that of an alien lawfully admitted for permanent residence on a conditional basis of an alien who is a native of an adversely affected foreign state (described in section 203(b)(2)(C)(iii) of the Immigration and Nationality Act, as amended by this Act) if the alien—

(1) applies to the Attorney General (beginning on such date as the Attorney General may specify) for such adjustment, and

(2) establishes in the application that the alien—

(A) is a native of such an adversely affected foreign state,

(B) entered the United States before January 1, 1990, and any period of authorized stay as a nonimmigrant expired before such date through the passage of time (and has not been subsequently extended),

(C) has been continuously resident in the United States since before January 1, 1990,

(D) has a firm commitment for employment in the United States for a period of at least 1 year (beginning on the date of adjustment of status under this section), and

(E) except as provided in subsection (d)(1), is admissible as an immigrant.

If the Attorney General receives more than 250,000 applications for adjustment of status under this subsection, the Attorney General may stop accepting applications under paragraph (1) until such date (if any) as the Attorney General determines to be appropriate.

(b) NUMERICAL LIMITATIONS.—

(1) The number of aliens whose status may be adjusted under subsection (a) in each of fiscal years 1991, 1992, and 1993 may not exceed 25,000.

(2) An alien's status may not be adjusted for any fiscal year not specified in paragraph (1).

(3) If the number of aliens eligible for adjustment under this section in any fiscal year exceeds the numerical limitation specified in paragraph (1), consideration shall be given in the order in which the aliens applied for such adjustment.

(c) REMOVAL OF CONDITIONAL STATUS.—

(1) In order for the conditional basis of permanent resident status provided under subsection (a) to be removed, an alien must submit, in a time and a manner specified by the Attorney General, written documentation that the alien has been substantially employed on a full-time basis during the 1-year period beginning on the date the alien was provided such status.

(2)(A) In the case of an alien with permanent resident status on a conditional basis under subsection (a), if the alien fails to submit written documentation required under paragraph (1) by the deadline specified by the Attorney General under such paragraph, the Attorney General shall terminate the permanent resident status as of such date as the Attorney General may specify.

(B) In any deportation proceeding with respect to an alien whose permanent resident status is terminated under subparagraph (A), the burden of proof shall be on the alien to establish compliance with the conditions described in paragraph (1).

(3) The Attorney General, in the Attorney General's discretion, may remove the conditional basis of the permanent resident status for an alien who fails to meet the requirements of paragraph (1) only if the alien demonstrates that extreme hardship would result if the alien is deported.

(4) Section 216(e) of the Immigration and Nationality Act shall apply to conditional permanent resident status under this section in the same manner as it applies to conditional permanent resident status under section 216 of such Act.

(d) MISCELLANEOUS PROVISIONS.—

(1) Aliens shall not be denied adjustment of status under this section on the grounds specified in paragraphs (20), (21), (25), or (32) of section 212(a) of the Immigration and Nationality Act, and the Attorney General may, in his discretion, waive the ground for exclusion specified in paragraph (19) of such section.

(2) Applications under subsection (a) shall be subject to paragraphs (5) and (6) of section 245A(c) of the Immigration and Nationality Act (relating to confidentiality and penalties for false statements) in the same manner as such paragraphs apply to applications under section 245A of such Act.

(3) In the case of a family, a single application for members of the family may be made under subsection (a).

SEC. 202. TRANSITION FOR CERTAIN DISPLACED ALIENS.

(a) AUTHORIZATION OF ADDITIONAL VISAS.—Notwithstanding the numerical limitations

in sections 201 and 202 of the Immigration and Nationality Act, there shall be made available to qualified displaced aliens described in subsection (b) not to exceed 15,000 immigrant visa numbers in each of fiscal years 1991, 1992, and 1993, of which not to exceed 1,000 of the total number of immigrant visas in all of such fiscal years shall only be available for qualified displaced aliens described in subsection (b)(1)(B) (or described in subsection (b)(2) as the spouse or child of such an alien).

(b) ELIGIBLE DISPLACED ALIENS.—

(1) An alien is eligible for a visa under this section if the alien—

(A)(i) is a native of a foreign state in Eastern Europe, and

(ii) since before October 1, 1989, has been continuously residing in another foreign state (other than the United States), but is not firmly resettled in that foreign state; or

(B)(i) is a native of Tibet, and

(ii) since before date of the enactment of this Act, has been continuously residing in India or Nepal.

For purposes of subparagraph (B)(i), an alien shall be considered to be a native of Tibet if the alien was born in Tibet or is the son, daughter, grandson, or granddaughter of an individual born in Tibet.

(2) A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) of an alien described in paragraph (1) shall, if not otherwise entitled to immigrant status and the immediate issuance of a visa under this section, be entitled to the same status, and the same order of consideration, provided under subsection (c), if accompanying or following to join his spouse or parent.

(c) DISTRIBUTION OF VISA NUMBERS.—The Secretary of State shall provide for making visa numbers provided under subsection (a) available—

(1) to displaced aliens described in subsection (b)(1)(A) (or described in subsection (b)(2) as the spouse or child of such an alien) in the same manner as visa numbers are otherwise available to qualified immigrants under section 203(a)(7) of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act), except that—

(A) preference shall be given to aliens who, before October 1, 1989, filed an application for refugee status with the Immigration and Naturalization Service or otherwise sought such status by registering with a voluntary agency (which is recognized by such Service and provides services to refugees in the Europe) for admission to the United States as a refugee, and

(B) subject to subparagraph (A), visa numbers shall be made available strictly in the chronological order in which the immigrants qualify after the date of the enactment of this Act; and

(2) to displaced aliens described in subsection (b)(1)(B) (or described in subsection (b)(2) as the spouse or child of such an alien) in an equitable manner, giving preference to those aliens who are not firmly resettled in India or Nepal or who are most likely to be resettled successfully in the United States.

SEC. 203. TRANSITION FOR AFRICAN IMMIGRANTS.

(a) AUTHORIZATION OF ADDITIONAL VISAS.—Notwithstanding the numerical limitations in section 201(a) of the Immigration and Nationality Act, but subject to the numerical limitations in section 202 of such Act, there shall be made available to qualified immigrants who are natives of a foreign state or dependent area in Africa not to exceed 15,000 immigrant visa numbers in each of fiscal years 1991, 1992, and 1993.

(b) DISTRIBUTION OF VISA NUMBERS.—

(1) The Secretary of State shall first provide for making visa numbers provided under subsection (a) available to qualified immigrants who have classification petitions approved, as of the date of the enactment of this Act, for a preference status described in paragraph (1), (2), (3), (4), (5), or (6) of section 203(a) of the Immigration and Nationality Act. Subject to paragraph (3), visa numbers shall be made available to qualified individuals under, and in the order of, the respective paragraphs without regard to any percentage limitations specified under any such paragraph.

(2) The Secretary of State shall provide for making any remaining visa numbers available to qualified immigrants strictly in the order in which they apply after the date of the enactment of this Act.

(3) Not more than 3,000 visa numbers may be made available in any fiscal year under this section to natives of any single foreign state or dependent area.

(c) DERIVATIVE STATUS.—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) of a qualified immigrant under this section shall, if not otherwise entitled to immigrant status and the immediate issuance of a visa under this section, be entitled to the same status, and the same order of consideration, provided under subsection (b), if accompanying or following to join his spouse or parent.

SEC. 204. BACKLOG VISA NUMBERS FOR SECOND AND FIFTH PREFERENCES.

(a) IN GENERAL.—In addition to the number of immigrant visas otherwise made available in each of fiscal years 1991, 1992, 1993, 1994, and 1995 and without regard to the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act, there shall be made available—

(1) to second preference immigrants (as defined in subsection (b)) 10,000 immigrant visa numbers, and

(2) to fifth preference immigrants (as defined in subsection (c)) 40,000 immigrant visa numbers.

Not more than 27 percent of each such worldwide level for a fiscal year shall be made available in any of the first 3 quarters of the fiscal year. In addition to such visa numbers and without regard to the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act, there shall be made available in each of fiscal years 1991, 1992, 1993, 1994, and 1995, 250 immigrant visa numbers to second preference immigrants who are natives of Lebanon and are not firmly resettled in any foreign country outside Lebanon and 750 immigrant visa numbers to fifth preference immigrants who are natives of Lebanon and are not firmly resettled in any foreign country outside Lebanon.

(b) 2ND PREFERENCE IMMIGRANT DEFINED.—In subsection (a)(1), the term "second preference immigrant" means—

(1) an alien who is the beneficiary of a petition approved to accord status under section 203(a)(2) of the Immigration and Nationality Act, if the petition was filed before the date of the enactment of this Act, or

(2) the child of such an alien if accompanying or following to join the alien.

(c) 5TH PREFERENCE IMMIGRANT DEFINED.—In subsection (a)(2), the term "fifth preference immigrant" means—

(1) an alien who is the beneficiary of a petition approved to accord status under section 203(a)(5) of the Immigration and Nationality Act, if the petition was filed before the date of the enactment of this Act, or

(2) the spouse or child of such an alien if accompanying or following to join the alien.

(d) ORDER OF CONSIDERATION.—Immigrant visas shall be made available under this section in the order in which a petition in behalf of each such alien has been filed with the Attorney General under section 204 of the Immigration and Nationality Act.

SEC. 205. TRANSITION FOR THIRD AND SIXTH PREFERENCE.

(a) IN GENERAL.—In the case of any alien with respect to whom a classification petition has been filed under section 204(a) of the Immigration and Nationality Act for a classification described in paragraph (3) or (6) of section 203(a) of such Act (as in effect before the date of the enactment of this Act) before October 1, 1991, there shall be made available, in addition to the immigrant visas otherwise available in each of fiscal years 1991, 1992, 1993, 1994, and 1995, up to 25,000 additional immigrant visas which shall be made available to those aliens (and qualified relatives described in section 203(a)(8) of such Act, as in effect on the date of the enactment of this Act) without regard to section 202(a) of such Act.

(b) ALLOCATION.—Of the visa numbers made available each fiscal year under subsection (a)—

(1) visa numbers shall first be made available, in a number not to exceed 50 percent of the total number available, to qualified immigrants with respect to whom a classification petition was filed under section 203(a)(3) of the Immigration and Nationality Act, and

(2) visa numbers shall be made available in the same priority order in which such numbers were otherwise made available under section 203(a) of such Act.

(c) TRANSITION.—In the case of an alien—

(1) who, as of the date of the enactment of this Act, is in lawful status as a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15) of the Immigration and Nationality Act, and

(2) for whom an application for labor certification under section 212(a)(14) of such Act has been filed as of such date,

the alien shall be considered to be a qualified alien described in section 203(b)(2) of such Act (as amended by this Act) and to have met the requirements of section 212(a)(14) of such Act if the labor certification is approved. In applying such section 203(b)(2) with respect to such an alien, the priority date shall be the date the application for labor certification was filed.

SEC. 206. TRANSITION FOR EMPLOYEES OF CERTAIN UNITED STATES BUSINESSES OPERATING IN HONG KONG.

(a) ADDITIONAL VISA NUMBERS.—

(1) TREATMENT OF PRINCIPALS.—In the case of any alien described in paragraph (3) with respect to whom a classification petition has been filed and approved under subsection (b), there shall be made available, in addition to the immigrant visas otherwise available in all of fiscal years 1992 through 1994 and without regard to section 202(a) of the Immigration and Nationality Act, up to 15,000 additional immigrant visas, of which not more than 7,500 may be made available in each of fiscal years 1992 and 1993.

(2) DERIVATIVE RELATIVES.—In the case of any alien who is the spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) of an alien entitled to immediate issu-

ance of a visa under paragraph (1), visas shall be made available without regard to any numerical limitation under such Act or this section if accompanying, or following to join, the alien's spouse or parent.

(3) EMPLOYEES OF CERTAIN UNITED STATES BUSINESSES OPERATING IN HONG KONG.—An alien is described in this paragraph if the alien—

(A) is a resident of Hong Kong and is employed in Hong Kong (and has been so employed during the 12 previous consecutive months) as an officer or supervisor or in a capacity that is managerial, executive, or involves specialized knowledge, by a business entity which (i) is owned and organized in the United States (or is the subsidiary or affiliate of a business owned and organized in the United States), (ii) employs at least 100 employees in the United States and at least 50 employees outside the United States, and (iii) has a gross annual income of at least $50,000,000, and

(B) has an offer of employment from such business entity in the United States as an officer or supervisor or in a capacity that is managerial, executive, or involves specialized knowledge, which offer (i) is effective from the time of filing the petition for classification under this section through and including the time of entry into the United States and (ii) provides for salary and benefits comparable to the salary and benefits provided to others with similar responsibilities and experience within the same company.

(b) PETITIONS.—Any employer desiring and intending to employ within the United States an alien described in subsection (a)(3) may file a petition with the Attorney General for such classification. No visa may be issued under subsection (a)(1) until such a petition has been approved.

(c) ALLOCATION.—Visa numbers made available under subsection (a) shall be made available in the order which petitions under subsection (b) are filed with the Attorney General.

(d) FEES.—The provisions of section 286(q) of the Immigration and Nationality Act (relating to fees for admission of certain employment-based aliens), as added by section 111 of this Act, shall apply to the aliens provided lawful permanent resident status under subsection (a)(1) in the same manner as they apply to aliens provided lawful permanent resident status under section 203(b)(2) of the Immigration and Nationality Act.

(e) DEFINITIONS.—In this section:

(1) EXECUTIVE CAPACITY.—The term "executive capacity" has the meaning given such term in section 101(a)(44)(B) of the Immigration and Nationality Act, as amended by section 102(d) of this Act.

(2) MANAGERIAL CAPACITY.—The term "managerial capacity" has the meaning given such term in section 101(a)(44)(A) of the Immigration and Nationality Act, as amended by section 102(d) of this Act.

(3) OFFICER.—The term "officer" means, with respect to a business entity, the chairman or vice-chairman of the board of directors of the entity, the chairman or vice-chairman of the executive committee of the board of directors, the president, any vice-president, any assistant vice-president, any senior trust officer, the secretary, any assistance secretary, the treasurer, any assistant treasurer, any trust officer or associate trust officer, the controller, any assistant controller, or any other officer of the entity customarily performing functions similar to those performed by any of the above officers.

(4) SPECIALIZED KNOWLEDGE.—The term "specialized knowledge" has the meaning given such term in section 214(c)(2)(B) of the Immigration and Nationality Act, as amended by section 104(f)(2) of this Act.

(5) SUPERVISOR.—The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing the exercise of such authority is not merely of a routine or clerical nature, but requires the use of independent judgment.

SEC. 207. TREATMENT OF HONG KONG AS SEPARATE FOREIGN STATE FOR NUMERICAL LIMITATION PURPOSES.

In applying section 202 of the Immigration and Nationality Act for fiscal years beginning with fiscal year 1991, Hong Kong shall be treated as a separate foreign state, and not as a colony or other component or dependent area of a foreign state.

SEC. 208. PERMITTING EXTENSION OF PERIOD OF VALIDITY OF IMMIGRANT VISAS FOR CERTAIN RESIDENTS OF HONG KONG.

(a) EXTENDING PERIOD OF VALIDITY.—

(1) IN GENERAL.—Subject to paragraph (2), the limitation on the period of validity of an immigrant visa under section 221(c) of the Immigration and Nationality Act shall not apply in the case of an immigrant visa issued, on or after the date of the enactment of this Act and before September 1, 2001, to an alien described in subsection (b), but only if—

(A) the alien elects, within the period of validity of the immigrant visa under such section, to have this section apply, and

(B) before the date the alien seeks to be admitted to the United States for lawful permanent residence, the alien notifies the appropriate consular officer of the alien's intention to seek such admission and provides such officer with such information as the officer determines to be necessary to verify that the alien remains eligible for admission to the United States as an immigrant.

(2) LIMITATION ON EXTENSION.—In no case shall the period of validity of a visa be extended under paragraph (1) beyond January 1, 2002.

(3) TREATMENT UNDER NUMERICAL LIMITATIONS.—In applying the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act in the case of aliens for whose visas the period of validity is extended under this section, such limitations shall only apply at the time of original issuance of the visas and not at the time of admission of such aliens.

(b) ALIENS COVERED.—An alien is described in this subsection if the alien is chargeable under section 202 of the Immigration and Nationality Act to Hong Kong (or is issued an immigrant visa under section 206(a) of this Act) and—

(1)(A) is residing in Hong Kong as of the date of the enactment of this Act and is issued an immigrant visa under paragraph (1), (2), (4), or (5) of section 203(a) the Immigration and Nationality Act (as in effect on the date of the enactment of this Act) or under section 203(a) or 203(b)(1) of such Act (as in effect on and after October 1, 1991), or

(B) is the spouse or child (as defined in subsection (d)) of an alien described in subparagraph (A), if accompanying or following to join the alien in coming to the United States; or

(2) is issued a visa under section 206(a) of this Act.

(c) TREATMENT OF CERTAIN EMPLOYEES IN HONG KONG.—

(1) IN GENERAL.—In applying the proviso of section 7 of the Central Intelligence Agency Act of 1949, in the case of an alien described in paragraph (2), the Director may charge the entry of the alien against the numerical limitation for any fiscal year (beginning with fiscal year 1991 and ending with fiscal year 1996) notwithstanding that the alien's entry is not made to the United States in that fiscal year so long as such entry is made before the end of fiscal year 1997.

(2) ALIENS COVERED.—An alien is described in this paragraph if the alien—

(A) is an employee of the Foreign Broadcast Information Service in Hong Kong, or

(B) is the spouse or child (as defined in subsection (d)) of an alien described in paragraph (1), if accompanying or following to join the alien in coming to the United States.

(d) TREATMENT OF CHILDREN.—In this section, the term "child" has the meaning given such term in section 101(b)(1) of the Immigration and Nationality Act and also includes (for purposes of this section and the Immigration and Nationality Act) an alien who was the child (as so defined) of the alien as of the date of the issuance of an immigrant visa to the alien described in subsection (b)(1) or, in the case described in subsection (c), as of the date of charging of the entry of the alien under the proviso under section 7 of the Central Intelligence Agency Act of 1949.

TITLE III—OTHER IMMIGRATION PROVISIONS

Subtitle A—Provisions Relating to Marriage Fraud

SEC. 301. BATTERED SPOUSE OR CHILD WAIVER OF THE CONDITIONAL RESIDENCE REQUIREMENT.

(a) IN GENERAL.—Section 216(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1186a(c)(4)) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) in subparagraph (B), by striking "by the alien spouse for good cause";

(3) in subparagraph (B), by striking the period at the end and inserting ", or";

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) the qualifying marriage was entered into in good faith by the alien spouse and after the marriage the alien spouse or child was battered by or was the subject of extreme cruelty perpetrated by his or her spouse or citizen or permanent resident parent and the alien was not at fault in failing to meet the requirements of paragraph (1)."; and

(5) by adding at the end the following: "The Attorney General shall, by regulation, establish measures to protect the confidentiality of information concerning any abused alien spouse or child, including information regarding the whereabouts of such spouse or child.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to marriages entered into before, on, or after the date of the enactment of this Act.

SEC. 302. BONA FIDE MARRIAGE EXCEPTION TO FOREIGN RESIDENCE REQUIREMENT FOR MARRIAGES ENTERED INTO DURING CERTAIN IMMIGRATION PROCEEDINGS.

(a) IN GENERAL.—Section 245(e) of the Immigration and Nationality Act (8 U.S.C. 1255(e)) is amended—

(1) in paragraph (1), by striking "An alien" and inserting "Except as provided in paragraph (3), an alien", and

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

"(3) Paragraph (1) and section 204(h) shall not apply with respect to a marriage if the alien establishes to the satisfaction of the Attorney General that the marriage was entered into in good faith and in accordance with the laws of the place where the marriage took place and the marriage was not entered into for the purpose of procuring the alien's entry as an immigrant and no fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a) or 214(d) with respect to the alien spouse or alien son or daughter.".

(b) CONFORMING AMENDMENT.—Section 204(h) of such Act (8 U.S.C. 1154(h)) is amended by inserting "except as provided in section 245(e)(3)," after "Notwithstanding subsection (a),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to marriages entered into before, on, or after the date of the enactment of this Act.

Subtitle B—Provisions Relating to Immigration Reform and Control Act of 1986

SEC. 311. APPLICATION OF EMPLOYER SANCTIONS TO LONGSHORE WORK.

(a) IN GENERAL.—Section 274A(h) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES RESPECTING LONGSHORE WORK.—

"(A) TREATMENT OF CERTAIN LONGSHORE WORK.—For purposes of this section, any person or other entity, including but not limited to ships agents, brokers, charterers, and procurers of labor, acting independently or on behalf of any other such person or entity, who brings into the United States (or coastal waters thereof) an individual who performs longshore work (as defined in subparagraph (D)), shall be considered to have hired such individual for employment in the United States within the meaning of subsection (a) as of the first date that the individual first performs such work.

"(B) PAPERWORK REQUIREMENT FOR LONGSHORE WORK.—In applying the requirements of paragraph (3) of subsection (b) (relating to retention of verification forms) to employment described in subparagraph (A), the person or entity shall designate, in writing to the Attorney General, a person or entity located at a port in the United States in the vicinity of the location of the longshore work involved who agrees to be responsible for the retention and making available for inspection of such forms under such paragraph.

"(C) NO AUTHORIZATION MERELY THROUGH CLASSIFICATION AS ALIEN CREWMEN.—The mere classification of an alien as a nonimmigrant under section 101(a)(15)(D) (without the document or documents described in subsection (b)(1)(E)(i) with respect to the alien) shall not be considered to authorize, for purposes of this section and section 274B, the performance of longshore work by that alien.

"(D) LONGSHORE WORK DEFINED.—In this paragraph and subsection (b)(1), the term 'longshore work' includes activities relating or incident to the loading or unloading of cargo, including the operation of cargo-related equipment, whether or not integral to the vessel, and the securing of the vessel, in the United States or the coastal waters thereof; except that, for purposes of subsection (b)(1)(E)(ii), such term includes such activities with respect to vessels in (or in the coastal waters of) the reciprocal foreign state.".

(b) EMPLOYMENT VERIFICATION SYSTEM.—Section 274A(b)(1) of such Act (8 U.S.C. 1324a(b)(1)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking "or";

(B) in clause (ii), by striking the period and inserting ", or"; and

(C) by inserting after clause (ii) the following new clause:

"(iii) with respect to longshore work, the document or documents described in subparagraph (E)(i).."; and

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

"(E) DOCUMENTS ESTABLISHING RECIPROCITY OF LONGSHORE WORK.—

"(i) IN GENERAL.—The document or documents described in this clause with respect to an individual's performance of longshore work are such a document or documents, in a form acceptable to the Attorney General, that establish that—

"(I) the individual is a national of a reciprocal foreign state (described in clause (ii)), and

"(II) the individual will perform such work in connection with a vessel that is documented and enrolled with a reciprocal foreign state.

"(ii) RECIPROCAL FOREIGN STATE DEFINED.—In clause (i), the term 'reciprocal foreign state' means a foreign state which the Attorney General has determined, in accordance with section 553 of title 5, United States Code—

"(I) has in effect immigration laws and regulations which authorize, on a nationwide basis, the performance of longshore work by United States nationals who are crewmembers of vessels which are documented and enrolled in the United States; and

"(II) in the territory or coastal waters of which United States nationals described in subclause (I) have performed such work during the six months preceding the application of clause (i) with respect to a national of the state or vessel documented and enrolled with the state.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed on or after the date of the enactment of this Act.

SEC. 312. ELIMINATION OF PAPERWORK REQUIREMENT FOR RECRUITERS AND REFERRERS.

(a) IN GENERAL.—Section 274A(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(1)) is amended—

(1) by striking "to hire, or to recruit or refer for a fee, for employment in the United States",

(2) in subparagraph (A), by inserting after "(A)" the following: "to hire, or to recruit or refer for a fee, for employment in the United States", and

(3) in subparagraph (B), by inserting after "(B)" the following: "(i) to hire for employment in the United States an individual without complying with the requirements of subsection (b) or (ii) if the person or entity is an agricultural association, agricultural employer, or farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act), to hire, or to recruit or refer for a fee, for employment in the United States".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to recruiting and referring occurring on or after the date of the enactment of this Act.

SEC. 313. PERMITTING COURT-ORDERED REMEDIES IN CERTAIN CIRCUMSTANCES.

(a) IN GENERAL.—Nothing in the provisions of the Immigration Reform and Control Act of 1986, including the provisions inserted or amended by such Act, (all such provisions referred to collectively in this section as "IRCA") shall be construed—

(1) as preventing judicial review under chapter 7 of title 5, United States Code, under section 1331 of title 28, United States Code, or under section 279 of the Immigration and Nationality Act, of regulations, policies, and practices governing the adjustment of status under IRCA, or

(2) as preventing such a court from ordering, as a remedy in an action brought (before, on, or after the date of the enactment of this Act) challenging such regulations, policies, or practices, the Attorney General—

(A) to accept applications for adjustment of status under IRCA without regard to any application periods established under IRCA for a reasonable period (of not longer than 6 months with respect to any class, except as may be extended as a result of an appeal taken by the Government) specified by the court;

(B) to reopen and readjudicate applications for adjustment of status under IRCA that have been denied; and

(C) to grant temporary stays of deportation and temporary employment authorization for applicants whose applications for adjustment of status under IRCA are reopened or who are permitted to file such applications pursuant to a court-mandated remedy.

(b) EFFECTIVE DATE.—Subsection (a) shall apply as of the date of the enactment of the Immigration Reform and Control Act of 1986.

(c) CONSTRUCTION.—Subsection (a) shall not be construed—

(1) as permitting the Attorney General to appeal any court determination invalidating any rule, regulation, or policy governing the adjustment of status under IRCA if the Attorney General had an opportunity to appeal such a determination but failed to do so in a timely manner, or

(2) as applying to an applicant for adjustment to lawful temporary residence (or from lawful temporary resident status to lawful permanent resident status) who seeks to challenge a denial of an individual application for such adjustment based upon factual determinations made by the Immigration and Naturalization Service regarding the individual applicant's eligibility for such adjustment.

SEC. 314. PROHIBITION OF DEPORTATION OF SPOUSES AND CHILDREN OF LEGALIZED ALIENS.

(a) TEMPORARY STAY OF DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN ELIGIBLE IMMIGRANTS.—

(1) IN GENERAL.—The Attorney General shall provide that in the case of an alien who is an eligible immigrant (as defined in subsection (b)(1)) as of January 1, 1990, who has entered the United States before such date, who resides in the United States on such date, and who is not lawfully admitted for permanent residence, subject to paragraph (2), the alien—

(A) may not be deported or otherwise required to depart from the United States, and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

(2) EFFECTIVE DATE OF APPLICABILITY.—For purposes of paragraph (1), in the case of an eligible immigrant who is the spouse or child of a legalized alien, paragraph (1) shall only apply on and after the date the legalized alien—

(A) has been granted permanent resident status,

(B) has completed a declaration of intention to become a citizen, and

(C) has submitted a classification petition under under section 204 of the Immigration and Nationality Act to classify the eligible immigrant as a preference immigrant described in section 203(a)(2) of such Act or as an immediate relative described in section 201(b) of such Act.

(3) TERMINATION OF APPLICABILITY.—

(A)(i) Paragraph (1) shall not apply 6 months after the date the Immigration and Naturalization Service has provided the legalized alien with written notice (described in clause (ii)) unless the alien has applied for such naturalization.

(ii) The written notice referred to in clause (i) is a written notice (by certified mail, return receipt requested, in the alien's native language) stating that—

(I) the alien has become (before the date the notice is provided) eligible (by virtue of period of lawful permanent residence) to apply for naturalization, and

(II) application for naturalization must be made within 6 months to continue the benefits of this subsection.

(B) Paragraph (1) shall not apply 2 years after the date of filing a timely application for naturalization unless the alien has been naturalized as a citizen or establishes that the alien has actively pursued naturalization. Time consumed in the Service's processing the application shall not be counted toward the 2-year period.

(b) ELIGIBLE IMMIGRANT AND LEGALIZED ALIEN DEFINED.—In this section:

(1)(A) The term "eligible immigrant" means a qualified immigrant who is the spouse or child of a legalized alien and who, except as otherwise provided under subparagraph (B), is admissible as an immigrant and is not described in subparagraph (C).

(B) In the determination of an alien's admissibility as an immigrant for purposes of subparagraph (A)—

(i) the provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply;

(ii) except as provided in clause (iii), the Attorney General may waive any other provision of such section in the case of individual aliens when it is in the public interest; but

(iii) the Attorney General may not waive—

(I) paragraphs (9) and (10) (relating to criminals) of such section;

(II) paragraph (23) (relating to drug offenses) of such section, except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana;

(III) paragraphs (27) and (29) (relating to national security) of such section; or

(IV) paragraph (33) (relating to those who assisted in the Nazi persecution) of such section.

(C) An alien shall not be eligible for the benefits of this section if the Attorney General finds that—

(i) the alien has been convicted of a felony or 2 or more misdemeanors in the United States, or

(ii) the alien is described in section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)).

(2) The term "legalized alien" means an alien lawfully admitted for temporary or permanent residence who was provided—

(A) temporary or permanent residence status under section 245A of the Immigration and Nationality Act,

(B) temporary or permanent residence status under section 210 of the Immigration and Nationality Act, or

(C) permanent residence status under section 202 of the Immigration Reform and Control Act of 1986.

(c) APPLICATION OF DEFINITIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section.

(d) TEMPORARY DISQUALIFICATION FROM CERTAIN PUBLIC WELFARE ASSISTANCE.—Aliens provided the benefits of this section by virtue of their relation to a legalized alien described in subsection (b)(2)(A) or (b)(2)(B) shall be ineligible for public welfare assistance in the same manner and for the same period as the legalized alien is ineligible for such assistance under section 245A(h) or 210(f), respectively, of the Immigration and Nationality Act.

(e) APPLICATION OF SLIAG PROGRAM.—For purposes of section 204 of the Immigration Reform and Control Act of 1986, an alien who is the spouse or child of a legalized alien and whose deportation is suspended under this section shall be treated as an eligible legalized alien for the same period as such legalized alien is.

(f) CONSTRUCTION.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to obtain benefits under this section.

SEC. 315. TREATMENT OF CERTAIN LEGALIZATION APPLICANTS.

(a) IN GENERAL.—Section 204(c)(1) of the Immigration Reform and Control Act of 1986 is amended by adding at the end the following: "For purposes of subparagraphs (A) and (C), the term 'eligible legalized alien' includes an alien who applies on a timely basis to become an eligible legalized alien beginning on the date that the alien applies for lawful temporary status under section 210, 210A, or 245A of the Immigration and Nationality Act and ending on the date that there has been a final determination with respect to such application.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Immigration Reform and Control Act of 1986.

SEC. 316. REIMBURSEMENT THROUGH IMMIGRATION EMERGENCY FUND OF LOCALITIES IMPACTED BY INCREASES IN ALIENS APPLYING FOR ASYLUM.

(a) IN GENERAL.—Section 404(b) of the Immigration and Nationality Act (8 U.S.C. 1101 note), as added by section 113 of the Immigration Reform and Control Act of 1986, is amended—

(1) by inserting "to carry out paragraph (2) and" after "to be used",

(2) by inserting "(1)" after "(b)", and

(3) by adding at the end the following new paragraph:

"(2)(A) Whenever a district director of the Service certifies to the Commissioner that the number of asylum applications filed in the respective district during a calendar quarter exceeds by at least 1,000 the number of such applications filed in that district during the preceding calendar quarter, subject to subparagraph (B), funds in the immigration emergency fund provided for under paragraph (1) shall be available for reimbursement of localities that have provided assistance to aliens in that district who have asylum applications pending.

"(B) Not more than $20,000,000 shall be made available for all localities under this paragraph.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to increases in the number of asylum applications filed in a calendar quarter beginning on or after January 1, 1989.

SEC. 317. CLARIFICATION OF AUTHORIZATION OF APPROPRIATIONS FOR THE IMMIGRATION EMERGENCY FUND.

(a) IN GENERAL.—Section 404(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101 note), as amended by section 316(a) of this Act, is amended—

(1) by inserting "(for fiscal year 1991 and any subsequent fiscal year)" after "appropriated", and

(2) by striking "$35,000,000" and inserting "an amount sufficient to provide for a balance of $35,000,000 in such fund".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the enactment of the Immigration Reform and Control Act of 1986.

Subtitle C—Miscellaneous

SEC. 321. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS DECLARED DEPENDENT ON A JUVENILE COURT.

(a) IN GENERAL.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)), as amended by section 102(e)(1) of this Act, is amended—

(1) by striking "or" at the end of subparagraph (I),

(2) by striking the period at the end of subparagraph (J) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(K) an immigrant who (i) who has been declared dependent on a juvenile court located in the United States and has been deemed eligible by that court for long-term foster care, and (ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence.".

(b) WAIVER OF GROUNDS FOR DEPORTATION.—Section 241 of such Act (8 U.S.C. 1251) is amended by adding at the end the following new subsection:

"(h) Paragraphs (1), (2), (5), (9), or (12) of subsection 241 (other than so much of subsection (a)(1) as relates to a ground of exclusion described in paragraph (9), (10), (23), (27), (29), or (33) of section 212(a)) shall not apply to a special immigrant described in section 101(a)(27)(K) based upon circumstances that exist before the date the alien was provided such special immigrant status.".

SEC. 322. STATISTICAL INFORMATION SYSTEM.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

"(c) The Commissioner, in consultation with interested academicians, government agencies, and other parties, shall provide for a system for collection and dissemination, to Congress and the public, of information (not in individually identifiable form) useful in evaluating the social, economic, environmental, and demographic impact of immigration laws. Such information shall include information on the alien population in the United States, on the rates of naturalization and emigration of resident aliens,

on aliens who have been admitted, paroled, or granted asylum, on nonimmigrants in the United States (by occupation, basis for admission, and duration of stay), and on aliens who have been excluded or deported from the United States. Such system shall provide for the collection and dissemination of such information not less often than annually.".

SEC. 323. REVISION OF HEALTH GROUNDS FOR EXCLUSION.

(a) IN GENERAL.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) Any alien who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services)—

"(A) to have a physical or mental disorder, and exhibits a current behavior or has a history of behavior (associated with the disorder) that (i) poses or has posed a threat to property or the safety or welfare of the alien or others and (ii) as to a history of behavior, has occurred so recently (taking into account the nature1 of the disorder) as to suggest the likelihood of its recurrence or the occurrence of other harmful behavior, or

"(B) to be a drug abuser or addict;";

(2) by striking paragraphs (2) through (5) and (11) of subsection (a); and

(3) in subsection (g)—

(A) by striking "who is excludable from the United States under paragraph (1) of subsection (a) of this section, or any alien", and

(B) by striking the second sentence and inserting the following: "The Attorney General may waive the application of subsection (a)(1)(A) in the case of any immigrant, in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in his discretion after consultation with the Secretary of Health and Human Services, may by regulation prescribe.".

(b) CONFORMING AMENDMENTS.—

(1) Section 234 of such Act (8 U.S.C. 1224) is amended by striking "paragraphs (1), (2), (3), (4), or (5)" and inserting "paragraph (1)" each place it appears.

(2) Section 236(d) of such Act (8 U.S.C. 1226(d)) is amended by striking "paragraphs (1), (2), (3), (4), or (5) of section 212(a)" and inserting "section 212(a)(1)".

(3) Section 272(a) of such Act (8 U.S.C. 1322(a)) is amended—

(A) by striking "(1) mentally retarded" and all that follows through "(6) a narcotic drug addict" and inserting "excludable under section 212(a) (1) or (6)", and

(B) by striking "such disease or disability" and inserting "the excluding condition".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals entering the United States on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 324. TEMPORARY PROTECTED STATUS FOR NATIONALS OF EL SALVADOR, LEBANON, LIBERIA, AND KUWAIT, AND OTHER DESIGNATED FOREIGN STATES.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 244 the following new section:

"TEMPORARY PROTECTED STATUS

"SEC. 244A. (a) GRANTING OF STATUS.—

"(1) IN GENERAL.—In the case of an alien who is a national of a foreign state designated under subsection (b) and who meets the requirements of subsection (c), the Attorney General, in accordance with this section—

"(A) shall grant the alien temporary protected status in the United States and shall not deport the alien from the United States during the period in which such status is in effect, and

"(B) shall authorize the alien to engage in employment in the United States and provide the alien with an 'employment authorized' endorsement or other appropriate work permit.

"(2) DURATION OF WORK AUTHORIZATION.—Work authorization provided under this section shall be effective throughout the period the alien is in temporary protected status under this section.

"(3) NOTICE OF RIGHTS.—

"(A) Upon the granting of temporary protected status under this section, the Attorney General shall notify the alien of the alien's rights and responsibilities under this section.

"(B) If, at the time of initiation of a deportation proceeding against an alien, the foreign state (of which the alien is a national) is designated under subsection (b), the Attorney General shall promptly notify the alien of the alien's potential rights and responsibilities under this section.

"(C) If, at the time of designation of a foreign state under subsection (b), an alien (who is a national of such state) is in a deportation proceeding under this title, the Attorney General shall promptly notify the alien of the alien's potential rights and responsibilities under this section.

"(D) Notices under this paragraph shall be provided in a form and language that the alien can understand.

"(4) TEMPORARY RIGHTS FOR ELIGIBLE ALIENS.—

"(A) In the case of an alien who can establish a prima facie case of eligibility for rights under paragraph (1), but for the fact that the period of registration under subsection (c)(1)(A)(iv) has not begun, until the alien has had a reasonable opportunity to register during the first 30 days of such period, the Attorney General shall provide for the rights described in paragraph (1).

"(B) In the case of an alien who establishes a prima facie case of eligibility for rights under paragraph (1), until a final determination with respect to the alien's eligibility for rights under paragraph (1) has been made, the alien shall be provided such rights.

"(5) CLARIFICATION.—Nothing in this section shall be construed as authorizing the Attorney General to deny temporary protected status to an alien based on the alien's immigration status or to require any alien, as a condition of being granted such status, either to relinquish nonimmigrant or other status the alien may have or to execute any waiver of other rights under this Act. The granting of temporary protected status under this section shall not be considered to be inconsistent with the granting of nonimmigrant status under this Act.

"(b) DESIGNATIONS OF EL SALVADOR, LEBANON, LIBERIA, AND KUWAIT AND FOREIGN STATES IN GENERAL.—

"(1) DESIGNATION OF EL SALVADOR, LEBANON, LIBERIA, AND KUWAIT.—El Salvador, Lebanon, Liberia, and Kuwait are hereby designated under this subsection.

"(2) DESIGNATION OF FOREIGN STATES IN GENERAL.—The Attorney General, after consultation with appropriate agencies of the Government, shall designate any foreign state (or, in the case of a finding under subparagraph (B), all or any part of such foreign state) under this subsection only if—

"(A) the Attorney General finds that there is an ongoing armed conflict within the state and, due to such conflict, requiring the return of aliens who are nationals of that state to that state would pose a substantial threat to their personal safety;

"(B) the Attorney General finds that—

"(i) there has been an earthquake, flood, drought, epidemic, or other environmental disaster in the state resulting in a substantial, but temporary, disruption of living conditions in the area affected,

"(ii) the foreign state is unable, temporarily, to handle adequately the return to the state of aliens who are nationals of the state, and

"(iii) the foreign state officially has requested designation under this subparagraph; or

"(C) the Attorney General finds that there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, unless the Attorney General finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.

A designation of a foreign state (or, in the case of a determination under subparagraph (B), all or any part of such foreign state) under this paragraph shall not become effective unless notice of the designation (including a statement of the findings under this paragraph and the effective date of the designation) is published in the Federal Register. In such notice, the Attorney General shall also state an estimate of the number of nationals of the foreign state designated who are (or within the effective period of the designation are likely to become) eligible for temporary protected status under this section and their immigration status in the United States.

"(3) EFFECTIVE PERIOD OF DESIGNATION FOR EL SALVADOR, LEBANON, LIBERIA, AND KUWAIT.—The designation of El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1) shall take effect upon the date of the enactment of this section and shall remain in effect until the effective date of the termination of the respective designation under paragraph (5)(B). For purposes of applying the succeeding provisions of this section, each of such states shall be considered to have been designated based upon findings described in subparagraphs (A) and (C) of paragraph (2). For purposes of this section, the initial period of designation for El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1) is 3 years.

"(4) EFFECTIVE PERIOD OF DESIGNATION FOR OTHER FOREIGN STATES.—The designation of a foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) under paragraph (2) shall—

"(A) take effect upon the date of publication of the designation under such paragraph, or such later date as the Attorney General may specify in the notice published under such paragraph, and

"(B) shall remain in effect until the effective date of the termination of the designation under paragraph (5)(B).

For purposes of this section, the initial period of designation of a foreign state (or part thereof) under paragraph (2) is the period, specified by Attorney General, of not less than 6 months and not more than 18 months.

"(5) PERIODIC REVIEW, TERMINATIONS, AND EXTENSIONS OF DESIGNATIONS.—

"(A) PERIODIC REVIEW.—At least 60 days before end of the initial period of designa-

tion, and any extended period of designation, of a foreign state (or part thereof) under this section the Attorney General, after consultation with appropriate agencies of the Government, shall review the conditions in the foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) for which a designation is in effect under this subsection and shall determine whether the conditions for such designation under this subsection continue to be met. The Attorney General shall provide on a timely basis for the publication of notice of each such determination (including the basis for the determination, and, in the case of an affirmative determination, the period of extension of designation under subparagraph (C)) in the Federal Register.

"(B) TERMINATION OF DESIGNATION.—If the Attorney General determines under subparagraph (A) that a foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) no longer continues to meet the conditions for designation under paragraph (2), the Attorney General shall terminate the designation by publishing notice in the Federal Register of the determination under the subparagraph (including the basis for the determination). Such termination is effective in accordance with subsection (d)(3), but shall not be effective earlier than 60 days after the date the notice is published or, if later, the expiration of the most recent previous extension under subparagraph (C) and, with respect to the designation of El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1), shall not be effective before the end of the 3-year period beginning on the date of the enactment of this section.

"(C) EXTENSION OF DESIGNATION.—If the Attorney General does not determine under subparagraph (A) that foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) no longer meets the conditions for designation under paragraph (2), the period of designation of the foreign state is extended for an additional period of 6 months (or, in the discretion of the Attorney General, a period of 12 or 18 months).

"(6) INFORMATION CONCERNING PROTECTED STATUS AT TIME OF DESIGNATIONS.—Within the amounts otherwise appropriated to carry out this Act, at the time of a designation of a foreign state under this subsection (including the designation of El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1)), the Attorney General shall make available information respecting the temporary protected status made available to aliens who are nationals of such designated foreign state.

"(7) REVIEW.—

"(A) DESIGNATIONS.—There is no judicial review of any determination of the Attorney General with respect to the designation, or termination or extension of a designation, of a foreign state under this subsection.

"(B) APPLICATION TO INDIVIDUALS.—The Attorney General shall establish an administrative procedure for the review of the denial of rights to aliens under this subsection; except that such procedure shall not prevent an alien from asserting rights under this section in deportation proceedings.

"(c) ALIENS ELIGIBLE FOR TEMPORARY PROTECTED STATUS.—

"(1) IN GENERAL.—

"(A) SALVADORAN, LEBANESE, LIBERIAN, AND KUWAITI NATIONALS.—Subjects to paragraph (3), an alien who is a national of El Salvador, Lebanon, Liberia, or Kuwait (for the period such respective state is designated under subsection (b)(1)) meets the requirements of this paragraph only if—

"(i) the alien has been continuously physically present in the United States since the date of the enactment of this section;

"(ii) the alien has continuously resided in the United States since September 19, 1990;

"(iii) the alien is admissible as an immigrant, except as otherwise provided under paragraph (2)(A), and is not ineligible for temporary protected status under paragraph (2)(B); and

"(iv) the alien registers under this section within the 270-day registration period (established by the Attorney General) beginning not later than 60 days after the date of the enactment of this section.

"(B) NATIONALS OF DESIGNATED FOREIGN STATES IN GENERAL.—Subject to paragraph (3), an alien, who is a national of a state designated under subsection (b)(2), meets the requirements of this paragraph only if—

"(i) the alien has been continuously physically present in the United States since the effective date of the most recent designation of that state;

"(ii) the alien has continuously resided in the United States since such date as the Attorney General may designate;

"(iii) the alien is admissible as an immigrant, except as otherwise provided under paragraph (2)(A), and is not ineligible for temporary protected status under paragraph (2)(B); and

"(iv) to the extent and in a manner which the Attorney General establishes, the alien registers for the temporary protected status under this section during a registration period of not less than 180 days.

"(C) REGISTRATION FEE.—The Attorney General may require payment of a reasonable fee as a condition of registering an alien under subparagraph (A)(iv) or (B)(iv) (including providing an alien with an 'employment authorized' endorsement or other appropriate work permit under this section). The amount of any such fee shall not exceed $50.

"(2) ELIGIBLITY STANDARDS.—

"(A) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—In the determination of an alien's admissibility for purposes of subparagraphs (A)(iii) and (B)(iii) of paragraph (1)—

"(i) the provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) shall not apply;

"(ii) except as provided in clause (iii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest; but

"(iii) the Attorney General may not waive—

"(I) paragraphs (9) and (10) (relating to criminals) of such section;

"(II) paragraph (23) of such section (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana;

"(III) paragraph (27) and (29) of such section (relating to national security); or

"(IV) paragraph (33) of such section (relating to those who assisted in the Nazi persecution).

"(B) ALIENS INELIGIBLE.—An alien shall not be eligible for temporary protected status under this section if the Attorney General finds that—

"(i) the alien has been convicted of any felony or 2 or more misdemeanors committed in the United States; or

"(ii) the alien is described in section 243(h)(2).

"(3) WITHDRAWAL OF TEMPORARY PROTECTED STATUS.—The Attorney General shall withdraw temporary protected status granted to an alien under this section if—

"(A) the Attorney General finds that the alien was not in fact eligible for such status under this section,

"(B) except as provided in paragraph (4) and permitted in subsection (f)(4), the alien has not remained continuously physically present in the United States from the date the alien first was granted temporary protected status under this section, or

"(C) the alien fails, without good cause, to register with the Attorney General annually, at the end of each 12-month period after the granting of such status, in a form and manner specified by the Attorney General.

"(4) TREATMENT OF BRIEF, CASUAL, AND INNOCENT DEPARTURES AND CERTAIN OTHER ABSENCES.—

"(A) For purposes of paragraphs (1)(A)(i), (1)(B)(i), and (3)(B), an alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences from the United States, without regard as to whether such absences were authorized by the Attorney General.

"(B) for purposes of paragraphs (1)(A)(ii) and (1)(B)(ii), an alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence described in subparagraph (A) or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

"(5) CONSTRUCTION.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for temporary protected status under this section.

"(6) RESTRICTION ON DISCLOSURE OF INFORMATION.—The provisions of section 245A(c)(5) shall apply to information furnished by an alien in order to be granted temporary protected status under this section in the same manner as such provisions apply with respect to information furnished pursuant to an application section 245a.

"(d) DOCUMENTATION.—

"(1) INITIAL ISSUANCE.—Upon the granting of temporary protected status to an alien under this section, the Attorney General shall provide for the issuance of such temporary documentation and authorization as may be necessary to carry out the purposes of this section.

"(2) PERIOD OF VALIDITY.—Subject to paragraph (3), such documentation shall be valid during the initial period of designation of the foreign state (or part thereof) involved and any extension of such period. The Attorney General may stagger the periods of validity of the documentation and authorization in order to provide for an orderly renewal of such documentation and authorization and for an orderly transition (under paragraph (3)) upon the termination of a designation of a foreign state (or, in the case of a determination under subsection (b)(2)(B), all or any part of such foreign state).

"(3) EFFECTIVE DATE OF TERMINATIONS.—If the Attorney General terminates the designation of a foreign state (or, in the case of a determination under subsection (b)(2)(B), all or any part of such foreign state) under subsection (b)(4)(B), such termination shall only apply to documentation and authoriza-

tion issued or renewed after the effective date of the publication of notice of the determination under that subsection (or, at the Attorney General's option, after such period after the effective date of the determination as the Attorney General determines to be appropriate in order to provide for an orderly transition).

"(4) DETENTION OF THE ALIEN.—Nothing in this section shall be construed to authorize the detention of any alien who is eligible for temporary protected status under this section. An alien provided temporary protected status under this section shall not be detained by the Attorney General on the basis of the alien's immigration status in the United States.

"(e) RELATION OF PERIOD OF TEMPORARY PROTECTED STATUS TO SUSPENSION OF DEPORTATION.—With respect to an alien granted temporary protected status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 244(a), unless the Attorney General determines that extreme hardship exists. Such period shall not cause a break in the continuity of residence of the period before and after such period for purposes of such section.

"(f) BENEFITS AND STATUS DURING PERIOD OF TEMPORARY PROTECTED STATUS.—During a period in which an alien is granted temporary protected status under this section—

"(1) the alien shall not be considered to be permanently residing in the United States under color of law;

"(2) the alien shall not be eligible for any program of cash assistance (furnished directly or through reimbursement) under Federal law, except for treatment for an emergency medical condition as described in section 1903(v) of the Social Security Act;

"(3) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance;

"(4) the alien may travel abroad with the prior consent of the Attorney General; and

"(5) for purposes of adjustment of status under section 245 and change of status under section 248, the alien shall be considered as being in, and maintaining, lawful status as a nonimmigrant.

"(g) EXCLUSIVE REMEDY.—Except as otherwise specifically provided, this section shall constitute the exclusive authority of the Attorney General under law to permit aliens who are or may become otherwise deportable or have been paroled into the United States to remain in the United States temporarily because of their particular nationality or region of foreign state of nationality.

"(h) ANNUAL REPORT.—Not later than March 1 of each year (beginning with 1991), the Attorney General, after consultation with the appropraite agencies of the Government, shall submit a report to the Congress on the operation of this section during the previous year. Each report shall include—

"(1) a listing of the foreign state or parts thereof designated under this section,

"(2) the number of nationals of each such state who have been granted temporary protected status under this section and their immigration status before being granted such status, and

"(3) an explanation of the reasons why foreign states or parts thereof were designated under subsection (b)(2) and, with respect to foreign states or parts thereof previously designated, why the designation was terminated or extended under such subsection.

"(i) CONGRESSIONAL REVIEW OF REPORT.—

"(1) REFERRAL OF REPORT.—Each report, when submitted under subsection (h), shall be referred, in accordance with the rules of the respective House of Congress, to the standing committee or committees having jurisdiction over the subjects of the report, and the report shall be printed as a document of the House of Representatives.

"(2) COMMITTEE HEARINGS.—No later than 90 days after the date of the referral of a report to a committee, in accordance with the rules of the respective House, the committee shall initiate hearings, insofar as such committee has legislative or oversight jurisdiction, to consider—

"(A) the findings of the report,

"(B) the designations of foreign states under subsection (b), and

"(C) whether it is appropriate to change the designations of foreign states under subsection (b) or otherwise to change the protections afforded under this section.

"(3) COMMITTEE REPORT.—No later than 180 days after the date of the referral of such a report to a committee, in accordance with the rules of the respective House, the committee shall report to its respective House its oversight findings and any legislation it deems appropriate.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 244 the following new item:

"Sec. 244A. Temporary protected status."

(c) NO AFFECT ON EXECUTIVE ORDER 12711.—Notwithstanding subsection (g) of section 244A of the Immigration and Nationality Act (inserted by the amendment made by subsection (a)), such section shall not supercede or affect Executive Order 12711 (April 11, 1990, relating to policy implementation with respect to nationals of the Peopls's Republic of China).

SEC. 325. WAIVER OF ENGLISH LANGUAGE REQUIREMENT FOR NATURALIZATION.

Section 312(1) of the Immigration and Nationality Act (8 U.S.C. 1423(1)) is amended by striking "is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence" and inserting "either (A) is over 50 years of age and has been living in the United States for periods totaling at least 20 years subsequent to a lawful admission for permanent residence, or (B) is over 55 years of age and and has been living in the United States for periods totaling at least 15 years subsequent to a lawful admission for permanent residence".

SEC. 326. TREATMENT OF SERVICE IN ARMED FORCES OF A FOREIGN COUNTRY.

(a) IN GENERAL.—Section 315 of the Immigration and Nationality Act (8 U.S.C. 1425) is amended—

(1) in subsection (a), by inserting "but subject to subsection (c)" after "section 405(b)", and

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

"(c) An alien shall not be ineligible for citizenship under this section or otherwise because of an exemption from training or service in the Armed Forces of the United States pursuant to the exercise of rights under a treaty, if before the time of the exercise of such rights the alien served in the Armed Forces of a foreign country of which the alien was a national.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to exemptions from training or service obtained before, on, or after such date.

The CHAIRMAN. Only amendments printed in part 2 of House Report 101-786 are in order to the substitute as modified. Such amendments shall be considered in the order and manner specified in House Report 101-786, shall be considered as having been read, shall not be subject to amendment, and shall be indivisible. Debate time specified in the report shall be equally divided and controlled by the proponent and a Member opposed.

It is now in order to consider amendment No. 1 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Texas: Page 4, line 9, insert after "185,000" the following: "(reduced by the fraction described in subsection (d)(1))".

Page 4, line 17, insert after "65,000" the following: "(reduced by the fraction described in subsection (d)(1))".

Page 4, line 18, insert after "75,000" the following: "(reduced by the fraction described in subsection (d)(1))".

Page 5, line 3, insert after "55,000" the following: "(reduced by the fraction described in subsection (d)(1))".

Page 7, line 3, strike all that follows the first period.

Page 7, line 3, insert the following new subsection:

"(d) WORLDWIDE LEVELS OF IMMIGRATION.—

"(1) IN GENERAL.—The worldwide level of immigration described in this subsection for a fiscal year is equal to—

"(A) 630,000, minus

"(B) the number of certain aliens not subject to direct numerical limitations (as computed under paragraph (2)).

If, for any fiscal year, the sum of the numerical limitations for the fiscal year otherwise provided under subsection (a) (without regard to this subsection) is greater than the worldwide level of immigration described in the previous sentence, each of the numerical limitations specified for the fiscal year under paragraphs (1) through (3) of subsection (a) shall be multiplied by a fraction which is the ratio of such worldwide limitation to the sum of such numerical limitations.

"(2) REDUCTION FOR EXEMPT ALIENS.—The number computed under this paragraph for a fiscal year is the sum of—

"(A) the number of aliens described in subparagraph (A) or (B) of subsection (b)(2) who were provided lawful permanent resident status in the previous fiscal year, and

"(B) the number of aliens described in subsection (b)(3) who were provided lawful permanent resident status in the previous fiscal year.

The CHAIRMAN. Under this rule, the gentleman from Texas [Mr. SMITH] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Will the gentleman from Texas [Mr. BROOKS] seek recognition in opposition to the amendment?

Mr. BROOKS. Yes, Mr. Chairman.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me explain this amendment. What it does is to set the legal immigration level at 630,000 permanent immigrants per year compared to the 500,000 under the current law and compared to about 800,000 proposed under H.R. 4300. The reason for this 630,000 figure is that that is the same amount of immigration that was approved by the Senate earlier. So, the 630,000 figure is somewhere between the current level of 500,000 and that proposed in H.R. 4300 of 800,000.

Other than that, Mr. Chairman, the amendment does not change any definitions. It does not change transition programs.

The 630,000 immigrant level is allocated in this way: 430,000 to family based immigration, 150,000 to employment based immigrants, and 50,000 to diversity immigrants.

Mr. Chairman, once again this amendment focuses on priorities. I think we need to increase, even if it is slightly, the number of visas that go to immediate family members, and we need to increase, even if it is slightly, the percentage of employment based or skilled immigrants. That is the reason for this amendment. There are a number of considerations, Mr. Chairman, when it comes to this particular amendment.

□ 1450

The premise is that we either have to limit immigration or we have to open our borders, and if we are going to limit immigration, surely that means we cannot accommodate everyone who wants to come into this country, and once again some selectivity is absolutely mandatory. That is the core issue.

So my question is, Why not give preference to immediate family members, Why not give preference to employment-based, skilled immigrants?

The needs of this country are clearly demonstrated by a number of studies. I referred to them before, and it is important that we not forget them. That is that every study that has been taken that projects the employment needs of this country going into the future calls for more skilled immigrants and more educated immigrants. We are simply going to have to do that to remain competitive on an international level.

I might point out, Mr. Chairman, that there are two other countries—in fact, they rank second and third after the United States as far as the number of immigrants they admit—who have dramatically changed their immigration policies. I am referring to the countries of Canada and Australia. Just a few years ago those two countries had a very liberal immigration policy. They had an immigration policy that we might say followed along the lines of H.R. 4300. They have changed their immigration policy and are now much more restrictive in the sense that they emphasize skill, they emphasize education, and they regrettably are having to deemphasize the family-based immigration that applies especially to extended members of the family.

Mr. Chairman, these are the types of countries that we have to compete with. These are the countries that have immigration policies far different from ours. I mentioned Australia and Canada. I think it is also of interest that probably our main rival on the international scene, Japan, has virtually no migration. I am not suggesting that the United States have no immigration. In fact, as I said earlier, I favor increased immigration, but what I am pointing to is that the United States is competing with other countries that do emphasize skilled workers, that do emphasize education and skilled immigrants, and as a result those countries are getting from their pool of immigrants in the world many of those same types of individuals.

As George Borjas, the professor who wrote a book and has the most current data on this subject, said recently, we are basically losing the competition for the skilled and educated immigrants of the world, and that is because we have an immigration policy that H.R. 4300 hopes to expand, a policy of not giving enough emphasis to the skilled and educated immigrants who might come here.

Mr. Chairman, when we allow individuals to come into this country in great numbers who do not have the requisite skills and education, those individuals are going to compete directly with Americans who do not have the skills and education that they should have, and my question is this: If we are going to need to train individuals, if we are going to need to provide certain individuals with more education, and if we have limited resources with which to do that, why should we not train and educate American citizens first?

We simply cannot afford to train and educate hundreds of thousands of additional immigrants who are unskilled and do not have the education that is required by our own work force.

Mr. Chairman, there is a real cost associated with any increase in the number of people, whether it be immigrants or others, and this goes for people who might come to the United States, people of any kind from anywhere, and we simply cannot close our eyes to the impact they would have. I would love to be wonderfully idealistic. I would love for us to talk theory, but unfortunately we need to talk to mayors and members of city councils, and to Governors and to other individuals who bear the brunt of so many immigrants coming into their communities. They are the ones who are going to have to foot the bill for educational costs, health care costs, and government services.

It is often said, Mr. Chairman, that immigrants who are allowed to come into this country do so under the provision that they are not going to become a public charge for 5 years. I know individuals will use that as an argument that these immigrants are not going to use government services. But in point of fact, Mr. Chairman, that regulation that immigrants should not be a public charge for 5 years is absolutely meaningless. In 1989 only one immigrant was deported for being a public charge, despite the hundreds of thousands of immigrants who were in fact receiving welfare payments. So, Mr. Chairman, that is simply not an issue.

Mr. Chairman, here is another point: Most immigrants are law-abiding, upstanding individuals who contribute greatly to society. But some are not, and in fact one-third of the inmates in our Federal prisons today are not citizens. The individuals who are not citizens in our prisons today are there at four times their proportion to the population as a whole, and the cost to the criminal justice system is in the billions of dollars. Also, the type of immigrants who are coming into this country is changing. Mr. Borjas points out that years ago they had more skills to offer. Today the immigrants who are coming into this country are, comparatively speaking, less skilled and less educated than those immigrants who have gone before.

Mr. Chairman, this amendment sets priorities, and it sets priorities because we have to be selective in some way. We need to give priorities to immediate families and to skilled workers.

One final point, Mr. Chairman, is that this amendment increases the number of immigrants coming into this country. More than currently, this puts it at about 630,000 which is the same as that in the Senate bill.

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

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from Texas. It would severely limit legal immigration and would cut back on the number of employment-based and diversity immigrants to be admitted to the United States. The effect of this amendment, if adopted, would be to increase the waiting periods for relatives of immigrants who already are

in the United States. Some of these waiting periods are already in excess of 5 years.

Mr. Chairman, the immigration numbers that are authorized in H.R. 4300 are the result of a rigorous process of examination and compromise that has gone on throughout this issue's consideration in the Judiciary Committee. These numbers will provide for the reunification of families and for an adequate number of skilled laborers into the United States. Therefore, I would urge rejection of this amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I rise in opposition to the amendment, and joining me in that opposition, I think it is important to point out, is a very interesting coalition of people.

The AFL-CIO is opposed to this amendment, the U.S. Chamber of Commerce is opposed to this amendment, the U.S. Catholic Conference is opposed to the amendment, and so is the National Association of Manufacturers, the Irish Immigration Reform movement, the National Council of LaRaza, and many, many others.

Why are they opposed to this amendment? Because for the first time ever this amendment would impose a cap on immigrants that counts within the numbers the spouses and the minor children of U.S. citizens, thereby impacting on every other form of immigration based on the number of spouses and minor children of U.S. citizens.

This is not rolling back something that was done in this bill. This is not some targeted effort to try to deal with something the gentleman thinks is not appropriate in this bill. This is an effort to set a precedent-shattering cap covering U.S. citizens for the first time that can wipe out employer-sponsored immigration, diversity immigration, and increase dramatically the backlog of family preference immigration.

The gentleman has spent a great deal of time talking about the importance of skill-based immigration and testifying to his belief in that. Nothing could be more destructive of the effort we are trying to make in this bill or even in existing law in permitting these kinds of very limited amendments than placing this kind of a cap on the bill. All sides and all parties involved in this legislation feel very strongly that this amendment is a terribly destructive one.

It is strictly a killer amendment, and I urge a no vote.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I rise in opposition to the amendment, and I wish to join in the absolutely on-target comments both of the chairman of the committee and the gentleman from California [Mr. BERMAN]. I rise to underscore the inconsistency of this amendment with what the gentleman from Texas [Mr. SMITH] has been saying ought to be a priority in our immigration system.

The gentleman has said that he wants to see skilled workers brought into the country, and that the legislation needs to focus on that as a priority. This amendment would reduce and could even eliminate entirely the number of visas set aside in the legislation for employment-based immigration.

□ 1500

The amendment is at war with the statement of the gentleman about what his priorities are, and for that reason, as well as the reason that imposing this artificial cap does nothing for the other principles of our immigration system, preserving diversity and unifying families, means that this amendment is really internally inconsistent with the stated goals of the person who is proposing it.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Chairman, I do support this bill. It is a good bill. I urge Members to support it.

Mr. Chairman, I rise in support of this bill, the Family Unity and Employment Opportunity Immigration Act, H.R. 4300.

I commend the members of the Judiciary Committee, who have spent many long hours on putting together this bill, which will result in improving our Nation's immigration policy.

I support the bill's provisions which are designed to ensure family unity.

Our country's current immigration policy is simply not adequate to meet the needs of the many individuals who are legitimately seeking to abide by our Nation's laws and are having to endure waiting periods of as long as 15 years to reunite with close family members.

This bill also seeks to increase ethnic diversity in our country by increasing the number of immigrant visas to individuals from European countries while maintaining the the current immigration policy based on family relationship.

I believe this bill is successful in achieving that goal.

I urge my colleagues to support this bill.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first I would like to respond to what the gentleman from Connecticut [Mr. MORRISON] just said. I know the gentleman felt like he was making a statement of fact, but I want to set the record straight, and that is that in this amendment there are provisions for 150,000 employment-based immigrants, and that figure will not go down. That will remain constant.

Mr. Chairman, some opponents to the amendment say that a firm limit of 630,000 immigrants is somehow contrary to what I said before, is somehow antiimmigrant. But I want to point out again what this amendment does is raise current legal immigration by about 25 percent.

The level of 630,000 immigrants per year set by my amendment was supported in the U.S. Senate by a vote last summer of 81 to 17. Is this an unreasonable level?

The concept of a firm level of immigration was supported by the U.S. Senate in the 100th Congress by a vote of 88 to 4. This is not unreasonable.

Mr. Chairman, my amendment takes the immigration policy, that is more generous than the rest of the world combined, the current U.S. law, and increases it by about 25 percent. So I do not understand why all the criticism.

The critics of this amendment have fallen prey to a basic illogical fallacy: If you do not support all my increases, you must be supporting a decrease. Well, that is simply not true. This is a 25-percent increase in current levels. If that increase is kept firm and constant, we are going to be better for it. I do not support the 65-percent increase that H.R. 4300 proposes.

There is only one reason why critics of this amendment do not support a firm amendment. The 65-percent increase in immigration levels is apparently not enough, and they have built a system that automatically grows without congressional action. Most Americans do not want those kinds of automatic increases. They want Congress to vote on any significant increases. My amendment would require Congress to vote on such an increase, and limit it to 630,000 immigrants per year.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. SMITH].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SMITH of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 143, noes 266, not voting 24, as follows:

[Roll No. 399]

AYES—143

Alexander	Barnard	Broomfield
Andrews	Beilenson	Browder
Applegate	Bentley	Brown (CO)
Archer	Bereuter	Bryant
Baker	Bevill	Buechner
Ballenger	Bliley	Bunning

Burton
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Crane
Dannemeyer
DeLay
Dickinson
Dorgan (ND)
Douglas
Duncan
Dyson
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Flippo
Frenzel
Gallegly
Gallo
Gekas
Goodling
Goss
Grandy
Hall (TX)
Hancock
Hansen
Harris
Hayes (LA)
Hefley
Henry
Herger
Hiler
Hoagland
Holloway
Hopkins
Houghton
Hubbard
Huckaby
Hunter
Inhofe
James
Jenkins
Johnson (SD)
Kasich
Kyl
Lagomarsino
Lancaster
Leath (TX)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lukens, Donald
Marlenee
Martin (NY)
McCandless
McCollum
McCurdy
McMillan (NC)
Meyers
Miller (OH)
Montgomery
Moorhead
Nielson
Packard
Parris
Payne (VA)
Perkins
Petri
Quillen
Ravenel
Ray
Regula
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roukema
Rowland (GA)
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tallon
Taylor
Thomas (GA)
Thomas (WY)
Traxler
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weldon
Whittaker
Wilson
Wolf
Wylie
Young (AK)
Young (FL)

NOES—266

Ackerman
Anderson
Annunzio
Anthony
Armey
Aspin
Atkins
AuCoin
Bartlett
Barton
Bateman
Bates
Bennett
Berman
Bilbray
Bilirakis
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Clarke
Clay
Clement
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Courter
Cox
Coyne
Craig
Crockett
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hatcher
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Horton
Hoyer
Hughes
Hutto
Hyde
Ireland
Jacobs
Johnson (CT)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lantos
Laughlin
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pashayan
Patterson
Paxon
Payne (NJ)
Pease
Pelosi
Penny
Pickett
Pickle
Porter
Poshard
Price
Rahall
Rangel
Richardson
Roe
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roybal
Russo
Sabo
Sangmeister
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Serrano
Sharp
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (VT)
Snowe
Solarz
Spratt
Staggers
Stallings
Stangeland
Stark
Stokes
Studds
Swift
Synar
Tanner
Tauke
Tauzin
Torres
Torricelli
Traficant
Udall
Unsoeld
Upton
Valentine
Vento
Visclosky
Walgren
Walsh
Washington
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—24

Boggs
Callahan
Engel
Ford (TN)
Gillmor
Hastert
Hawkins
Martin (IL)
Mavroules
McCrery
McDade
Michel
Miller (CA)
Myers
Owens (NY)
Pursell
Rhodes
Rowland (CT)
Saiki
Schiff
Schuette
Slaughter (VA)
Thomas (CA)
Towns

□ 1528

The Clerk announced the following pair:

On this vote:

Mr. Callahan for, with Mrs. Saiki against.

Messrs. TRAFICANT, DINGELL, ROTH, PAXON and Mrs. BYRON changed their vote from "aye" to "no."

Messrs. QUILLEN, RAY, HALL of Texas, BEILENSON, HAYES of Louisiana, and BEVILL changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. SLAUGHTER of Virginia. Mr. Chairman, I was unavoidably detained at the White House in a meeting with the President concerning the budget proposal. Had I been present for rollcall vote No. 399, I would have voted in the affirmative.

□ 1530

The CHAIRMAN. It is now in order to consider amendment No. 2, printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Texas: Page 4, line 9, strike "185,000" and insert "216,000".

Page 5, line 22, strike ", and includes" and all that follows through line 24.

Page 6, line 17, insert closing quotation marks after the period.

Page 6, strike line 18 and all that follows through page 7, line 3.

Page 9, beginning on line 10, strike "30 percent" and insert "25 percent".

Page 9, line 12, strike "UNMARRIED" and insert "SPOUSES AND UNMARRIED".

Page 9, line 14, insert "spouses or" after "who are the".

Page 9, line 16, insert after "lawfully admitted for permanent residence" the following: "and who are under 26 years of age or had a petition approved for classification under this paragraph as of the date of the enactment of the Family Unity and Employment Opportunity Immigration Act of 1990".

Page 9, line 17, strike "19 percent" and insert "32.5 percent".

Page 9, line 24, strike "16 percent" and insert "12.5 percent".

Page 10, line 7, strike "35 percent" and insert "30 percent".

Page 66, strike line 15 and all that follows through page 67, line 10, and redesignate the succeeding subsection accordingly.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. SMITH] will be recognized for 10 minutes, and the gentleman from Texas [Mr. BROOKS] the Member opposed, will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, H.R. 4300 places most of the second preference—spouses and children of permanent resident aliens—into the numerically unlimited immediate relative category, and places a 115,000 visa cap on these numbers. This change will increase overall immigration numbers.

Contributing to the increase in the unlimited category will be the numbers of aliens who have or will receive permanent resident status under the IRCA amnesty and SAW programs, and who may then bring in their families.

The number of persons receiving permanent residence through amnesty could reach 3 million, and the number of persons that amnesty might want to petition for under the second preference is not clear. We need to be able to numerically control this new flow, if the amnesty class petitions are at rates at all similar to traditional legal immigrants.

While this bill limits to 115,000 the additional visas for the second preference, once this change is made, it will be easy to remove the so-called cap and make this category unlimited. With so many amnestied immigrants in the pipeline to bring in their families, this change could bring millions

more into the country. The multiplier effect could be staggering.

Mr. Chairman, not only does this change in the second preference dramatically increase numbers, it would also further dilute the already blurred distinction between U.S. citizenship and permanent resident status. The only remaining distinctions are: First, the right to vote; and, second, the right to bring in close family immediately, and more distant family within certain numerical limits. Further, I believe we remove one of the few incentives left for permanent residents to become U.S. citizens, the incentive to bring in family.

Michael Teitelbaum, a well-respected demographer and expert in international migration and frequent witness before the Subcommittee on Immigration, Refugees, and International Law characterized this bill's change in the second preference as a "breathtakingly bad idea" because it creates another visa to which aliens are entitled. As we all know, Mr. Chairman, from our Gramm-Rudman experiences, entitlements are fine when the Government has lots of money, but they are a real problem when tight budgets are the rule.

The analogy applies here: As long as the country is able to sustain our current record high levels of immigration, H.R. 4300 may not raise too many eyebrows. However, what if our economy goes into a severe recession, or if other factors occur which make it clear we must reduce immigration levels? We should maintain control of the second preference numbers and simply be flexible in their allocation.

Finally, Mr. Chairman, it should be made clear that current law already does reunify existing families. If a person is the beneficiary of a preference visa, he or she may bring in accompanying spouses and dependent children. However, if the person is the beneficiary of amnesty, he or she may be joined by any person who also entered with him or her when the illegal entry was made. Any alien has the right to bring independent family members when that principal alien emigrates.

As my friend Senator ALAN SIMPSON stated in the CONGRESSIONAL RECORD on May 17, the change in the second preference goes beyond the unification of existing families. It rewards less compelling cases of family-connected immigration. That is, an alien who starts a family outside the United States after having emigrated to the United States. In this instance, an alien enters without immediate family, then marries someone from the home country, and petitions for their entry before the principal alien becomes a citizen. I do not find this instance compelling enough to create a whole new immigration entitlement.

Mr. Chairman, the second preference change in H.R. 4300 is also strongly opposed by the administration. My amendment keeps the family preference definitions as they are in current law and keeps the overall numbers the same as in current law. My amendment does, however, adjust current law, and that the percentages ascribed to each preference category are changed to give greater emphasis to nuclear family immigration, and thus a second preference will receive additional visas. My amendment also adopts the definition of the second preference in Senate 358, which enables the spouse and unmarried sons and daughters who are under 26 years of age of permanent resident aliens to obtain permanent residency. I believe that unmarried sons and daughters who are 26 years of age or older should not be considered part of the nuclear family of the permanent resident alien.

If we did not face a situation where there are fewer visas available than demand exists for them, then this amendment would not be necessary. However, we must face reality. We must choose to whom we should give priority. In my book, minor children and spouses should enter before children over 26 years of age are given visas.

Let me emphasize that the adult children over 26 are not completely cut out by the amendment. When their parents become citizens, these adult sons and daughters may be admitted under either the first preference, unmarried sons and daughters of U.S. citizens, or the fourth preference, married sons and daughters of U.S. citizens and their family.

Therefore, any rhetoric about this breaking up of families is simply that, rhetoric. There is no substance to such a charge.

Mr. Chairman, I urge my colleagues to vote for this amendment.

I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, this is the second gutting amendment of this legislation. It cuts the heart out of the pro-family provision of this bill. This legislation allows the immediate families, the spouses and minor children of permanent residents, people who have come to the United States to be here and to be Americans and to be here permanently, their immediate nuclear family would be delayed substantially in coming to reunite the family, if this amendment were adopted.

This amendment reduces the immediate family admissions below what the Senate adopted in its bill, S. 358. This amendment is an antifamily amendment, and it ought to be rejected.

□ 1540

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BUSTAMANTE].

Mr. BUSTAMANTE. Mr. Chairman, I rise before the Members today in support of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act. This is an important bill needed to bring our immigration laws up to date. Today, you have heard many arguments in favor of this legislation and many arguments against it. Of the many amendments to be considered, there are some which address real concerns about H.R. 4300.

However, the attempt to portray this bill as an open-door immigration policy—one which will undercut our labor force, increase our budget deficit by millions of dollars a year, and increase illegal immigration—is a smoke screen which smacks of subtle and sometimes not-so-subtle racism.

The truth is that this bill enjoys broad support and is the result of a concerted effort by dedicated Members from both sides of the aisle, as well as interest groups, both liberal and conservative. The bill is criticized as being antibusiness. Well, just this week, the Wall Street Journal, hardly known for its antibusiness views, came out in support of H.R. 4300. The bill would supposedly displace thousands of American workers. Well, the AFL-CIO supports H.R. 4300.

In addition, this bill contains important family unit provisions, which are cticized by some as opening the flood gates. This is not true.

Family unity is a principle which must be returned to our immigration policy. It reflects and reinforces our own basic social values.

And do we really want to just shut the gates of this country to immigrants? Immigrants built the United States of America. Immigrants are constantly revitalizing the United States of America. If we deny new immigrants, we deny ourselves the benefits of their contributions. My friends, I urge you to support H.R. 4300. It is a good bill which calls for reasonable controls and humaneness in our immigration policy. Please do not support any amendments that will gut the full intent of this bill and destroy the momentum we have built for humanitarian reform of our legal immigration system.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I rise in support of the second amendment of the gentleman from Texas [Mr. SMITH] to this bill. I do so having not supported his first amendment.

I am one who believes in a more libertarian view of immigration, that we ought to have increased immigration; but to the extent that we place limitations on immigration, I believe that the law that we have now is flawed in that we do not put enough emphasis on what is absolutely vital for American competitiveness and for American productivity. We need to put more emphasis on employment-based reasons for immigration.

Now, the amendment that we have before us and the bill that we have before us will permit increased immigration, not perhaps as much as I would like, certainly not as much as some people would suggest we should have, but it does allow for increased immigration.

More importantly, it does allow, it does retain the reunification of the immediate family, that concept of family unity.

Now, the gentleman from Connecticut earlier said that the immediate nuclear family would be excluded. I think those were the words that he used. I think that is an incorrect statement to make, if you look at this amendment.

The fact of the matter is there is a backlog of people with families who are trying to get into this country. There is no way we can accomodate everybody. If we are going to establish some kind of criteria, it makes sense to me that the first ones in line ought to be the younger children. Those ought to be the nuclear families, the members of nuclear families that we give the first priority to.

I would say finally, to come to my original point of the overall reason why I believe this legislation is important, or this amendment is important, and that is that it restores or gives more balance in this legislation than we have today to employment-based reasons.

There is no question, Mr. Chairman, that the United States suffers today from a lack of productivity. It suffers from a lack of our ability to compete with other countries in other parts of the world.

I believe this legislation needs to emphasize more competitiveness.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I am happy to yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. Mr. Chairman, I have no problem with the gentleman's statement. I am just a little surprised that it is being made in support of this amendment, because the specific change that this amendment makes in the bill is to go after just those numbers that the gentleman brought, in addition to the employment numbers, those numbers set aside for spouses and minor children. That is what is reduced. Other things are not reduced here. That is what reduced in this amendment.

Mr. KOLBE. Reclaiming my time, Mr. Chairman, what is increased is from 24,000 to 75,000, the number of those that would be based on employment-based immigration, and I think that is a vital factor to this amendment and is the reason I rise in support of this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. STUMP].

Mr. STUMP. Mr. Chairman, I rise in strong opposition to H.R. 4300, the Family Unity and Employment Act of 1990, which will increase immigration.

An overall 60-percent increase of immigration from the current level of about 500,000 is among the reasons why I am opposed to this bill. Moreover, the bill does not account for the financial impact on State and local governments and does not account for the number of illegal aliens entering into this country annually. Additionally, H.R. 4300 penalizes business for legitimate use of foreign workers and rewards illegal immigration through amnesty programs. Finally, H.R. 4300 is country specific, unfairly allowing additional visas to only specified countries.

About 500,000 people immigrate to the United States every year. If H.R. 4300 were to become law, the number of immigrants would increase at least 60 percent to an estimated 840,000 annually. We need to recognize the fact that it is the individual States that must foot the bill for the additional costs incurred when Congress mandates an increase in immigration. Health care and education are among such costs that must be incurred by the individual States.

In 1986, the Congress passed the Immigration Reform and Control Act which promised a one-time amnesty for aliens who had entered and been residing in this country illegally. H.R. 4300 violates our understanding of that one-time amnesty by granting amnesty to aliens who entered this country illegally after 1986. I am adamantly opposed to any proposal which would provide amnesty for illegal aliens already in this country. Such a measure is unfair to those who entered this country legally, it would condone law-breaking, and encourage an increased flow of illegal immigration.

A national poll recently conducted by the Roper organization found that an overwhelming majority of Americans oppose legislation doubling the number of legal immigrants admitted to the United States each year. Unfortunately, we do not have the domestic resources to accommodate everyone who would like to immigrate to this country. We can not afford at this time to put an additional strain on our already overstretched domestic resources.

Mr. Chairman, I would encourage my colleagues to join me in voting against H.R. 4300.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. SMITH].

The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. MORRISON OF CONNECTICUT

Mr. MORRISON of Connecticut. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORRISON of Connecticut: Page 3, strike line 4 and conform the table of contents accordingly.

Page 26, line 16, strike all that follows the first period.

Page 26, after line 16, insert the following new paragraph:

"(3)(A) Except as provided in subparagraph (C), no immigrant visa number may be issued, on or after October 1, 1991, to an alien under subparagraph (A), (B), (C), or (D) of section 203(b)(1) or under section 203(b)(2), and no certification may be issued under section 212(a)(14)(A) unless the alien's employer attests, as part of the attestation under section 212(n), or establishes, as a condition of obtaining the certification under section 212(a)(14)(A), with respect to each such alien, that the employer has entered into an enforceable agreement to do either of the following:

"(i) To provide, through a local school board, for the tutoring of students in mathematics, sciences, or computer skills in a primary or secondary public school for at least the number of hours specified in subparagraph (B) during the 1-year period beginning not later than the date of admission of the alien involved.

"(ii) To provide, in a manner determined to be satisfactory to the Secretary of Labor and for at least the number of hours specified in subparagraph (B) during the 1-year period beginning not later than the date of admission of the alien involved, for training of at least 3 employees of the employer in employment-related skills.

"(B)(i) Except as provided in clauses (ii) and (iii), the minimum number of hours specified under this subparagraph is 100 hours.

"(ii) In the case of a petitioner that—

"(I) has more than 49, but fewer than 200, employees, or

"(II) has 200 or more employees and is a nonprofit, charitable agency or governmental agency,

the minimum number of hours specified under this subparagraph is 50 hours.

"(iii) In the case of a petitioner for a nonimmigrant described in section 101(a)(15)(H)(i)(b) or 101(a)(15)(H)(ii)(b), if the petition seeks the admission of the nonimmigrant for a period of less than 10 months, the number of hours specified under this subparagraph shall equal the number of hours otherwise specified multiplied by the ratio of the number of months of admission being sought to 10 months; except that the minimum number of hours under this clause may in no case be less than 20 hours.

"(C) The requirements of this paragraph shall not apply to—

"(i) the issuance of a visa to the spouse or children of the principal immigrant or nonimmigrant, and

"(ii) an employer which has fewer than 50 employees as of the date of filing the classification petition.".

Page 44, line 16, strike all that follows the first period.

Page 44, after line 16, insert the following new paragraph:

"(5) The provisions of section 204(b)(3) shall apply to the issuance, on or after October 1, 1991, of a nonimmigrant visa to a nonimmigrant described in section 101(a)(15)(H)(i)(b) or 101(a)(15)(H)(ii)(b) in the same manner as such provisions apply to the issuance of an immigrant visa to an alien under section 203(b)(2).".

Page 67, strike line 19 and all that follows through page 72, line 6, and conform the table of contents accordingly.

The CHAIRMAN. Under the rule, the gentleman from Connecticut [Mr. MORRISON] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this legislation seeks to make sure that employers in the United States are able to bring into the country workers who are not available to them in the domestic work force. That goal is a very important one for our competitiveness and it is a very important one for American workers, because in the absence of the key employees who are not available, American employers are less competitive, go out of business and move overseas.

□ 1550

All three of those results cost American workers jobs and cost the American economy growth.

That is why it is critically important to see to it that we have an employment-based immigration system that works and one that is driven by employer choice, because we know in this country that we believe in a market economy, one where the judgments about what skills and personnel are needed are made by those people who have to compete in the marketplace, not made by bureaucrats and their theories.

Now, in order to be credible on the issue of bringing in workers from overseas for jobs where Americans are not available, we need to make a commitment to bring Americans into the labor force in those areas that are not now being filled by Americans. Many people have a hard time understanding how in a country of 250 million people it could possibly be true that there would be jobs for which we do not have workers with the necessary skills and that in a country where the unemployment rate is over 5 percent there would be jobs that are not being filled and yet there are workers who do not have jobs.

But the truth is there are mismatches in the skills of the workers to the jobs that are going begging. So the fact is that we must do two things in this legislation. No. 1, we must see to it that the jobs that we need to fill are filled, for the good of the American economy and the American worker.

We also have to see to it that we improve our employment and training commitment.

Now, what this amendment does—and it replaces a provision that was stricken by the Committee on Ways and Means which was based on a tax—what this amendment does is to require those large employers which bring individuals in under the employment-sponsored provisions of the law, requires them to make a commitment to basic training for basic skills for the American work force. It is a fair bargain. In fact, it is a necessary bargain to connect the readiness of Americans to fill our jobs with the short-term lack of Americans to fill particular positions at this time.

If we are to have fairness in our immigration law, we must always strike this balance: See to it that jobs that need to be filled now are filled, see to it that American workers are not prejudiced nor disadvantaged by those rules.

This amendment will make this legislation better with respect to that balance.

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

The CHAIRMAN. Is there a Member in opposition to the amendment?

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would create a new obstacle for U.S. employers to clear before being allowed to use foreign workers.

Mr. Chairman, under this amendment, a U.S. employer would have to attest to the Department of Labor that he or she is either: First, providing employment-related training to his own work force, or second, providing, through local school boards, for the tutoring of schoolchildren in math and the sciences.

If this attestation is not made, no foreign workers may be employed by that business—even if qualified U.S. workers are nowhere to be found.

I do agree that some U.S. workers need more training, and that our schoolchildren could use more assistance in the math and science area. But that is not the question. This goal will not be achieved by requiring another piece of paper to be filed with another Government bureaucracy. And that is exactly what this amendment requires.

U.S. employers who have demonstrated that no U.S. workers are available to fill critical jobs in their companies must nonetheless attest to the Department of Labor that they are providing tutoring to schoolchildren or providing training to their own workers before being able to receive the foreign workers.

Mr. Chairman, this is simply not an efficient way to run a company, nor is it a way to improve our Nation's education system.

For example, what if a French restaurant needs a new chef, and it cannot find a qualified United States chef to prepare French foods? I am not constructing an obscure hypothetical, this is a real example.

What are we going to require here—that the French restaurant tutor children in math and science? I doubt that will be very helpful.

Are we going to require that the restaurant retrain its own workers? About the only thing it could do is train an assistant chef to be the head chef. However, if the restaurant were capable of this, then it wouldn't have sought a foreign worker to be chef in the first place.

Mr. Chairman, this amendment is a classical example of something that sounds good but is actually impractical and will not work. The amendment will result in paperwork, bureaucracy, delays, and redtape for employers, with very few benefits for those Americans needing training or math and science education.

Mr. Chairman, this amendment should be rejected.

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

Mr. MORRISON of Connecticut. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. SAWYER], the chairman of the Task Force on Immigration of the Committee on Education and Labor.

Mr. SAWYER. I thank the Chairman of the subcommittee, the sponsor of the amendment, for yielding and for this opportunity to speak in support of the amendment.

Mr. Chairman, I rise in strong support of Mr. MORRISON's training and education amendment. As I indicated in my opening statement, I believe strongly that as a nation our first responsibility is to hire domestic workers and resort to the importation of foreign workers only when there are not domestic workers available after positive recruitment. It is my view that when this occurs we have a responsibility to educate and train our people for the jobs where shortages now exist or are projected to occur in the future.

This responsibility rests not only with Federal, State, and local units of government but with those who bene-

fit directly from this trained and available pool of workers—U.S. business. Mr. MORRISON's amendment makes this a clear responsibility for those businesses which benefit from the use of foreign workers, without being administratively or financially burdensome.

Mr. MORRISON's amendment provides businesses with a flexible system by allowing them to either arrange for student tutoring or employee training. The training requirements for businesses also vary according to the size of the company, recognizing the need to protect small businesses. This amendment successfully balances the responsibility that U.S. business has to continually educate and train U.S. workers in fields where there are current or projected labor shortages with their immediate needs for skilled labor and financial flexibility.

Mr. SMITH of Texas. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. MORRISON of Connecticut. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. Chairman. The question is on the amendment offered by the gentleman from Connecticut [Mr. MORRISON].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MORRISON of Connecticut. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 194, noes 229, not voting 10, as follows:

[Roll No. 400]

AYES—194

Ackerman
Anderson
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Bilbray
Bonior
Borski
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Carper
Chapman
Clay
Clement
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gilman
Glickman
Gonzalez
Gordon
Gray
Hall (OH)
Hayes (IL)
Hertel
Hoagland
Hochbrueckner
Hoyer
Hutto
Jacobs
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Manton
Markey
Matsui
Mavroules
McCloskey
McDade
McDermott
McGrath
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Natcher
Neal (MA)
Nelson
Nowak
Oakar
Oberstar
Obey
Ortiz
Pallone
Panetta
Payne (NJ)
Pease
Pelosi
Perkins
Pickett
Poshard
Rahall
Rangel
Richardson
Rostenkowski
Roybal
Russo
Sabo
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Skaggs
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Staggers
Stark
Stokes
Studds
Swift
Synar
Taylor
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Vento
Visclosky
Walgren
Washington
Waxman
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOES—229

Alexander
Andrews
Anthony
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boehlert
Bosco
Broomfield
Browder
Brown (CO)
Buechner
Bunning
Burton
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carr
Chandler
Clarke
Clinger
Coble
Coleman (MO)
Combest
Condit
Coughlin
Courter
Cox
Craig
Crane
Dannemeyer
Davis
DeLay
Derrick
DeWine
Dickinson
Dornan (CA)
Douglas
Dreier
Edwards (OK)
Emerson
English
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Geren
Gibbons
Gillmor
Gingrich
Goss
Gradison
Grandy
Grant
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Kasich
Kastenmeier
Kolbe
Kyl
Lagomarsino
Lancaster
Laughlin
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lukens, Donald
Machtley
Madigan
Marlenee
Martin (NY)
Martinez
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McEwen
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison (WA)
Myers
Nagle
Neal (NC)
Nielson
Olin
Owens (UT)
Oxley
Packard
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Penny
Petri
Pickle
Porter
Price
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland (GA)
Sarpalius
Saxton
Schaefer
Schiff
Schneider
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Stallings
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Watkins
Weber
Weldon
Whittaker
Williams
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—10

Boggs
Engel
Goodling
Hawkins
Martin (IL)
Owens (NY)
Pursell
Rowland (CT)
Saiki
Schuette

□ 1615

Messrs. PARKER, GUARINI, BOEHLERT, SHAW, VOLKMER, MARLENEE, and SHAYS, and Mrs. PATTERSON changed their vote from "aye" to "no."

Messrs. THOMAS A. LUKEN, POSHARD, GLICKMAN, HUTTO, and MOLLOHAN, Ms. SLAUGHTER of New York, and Mrs. BYRON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1620

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. MORRISON OF CONNECTICUT

Mr. MORRISON of Connecticut. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORRISON of Connecticut: Page 31, amend line 12 to read as follows:

SEC. 103. ALTERNATIVE LABOR ATTESTATION PROCESS.

Page 31, line 18, insert after "unless" the following:

"(A) the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that (i) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts), and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, (ii) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly situated, and (iii) the employer meets the requirement of section 204(b)(3) with respect to such aliens, or (B)".

Page 32, line 4, strike "(a)(14)" and insert "(a)(14)(B)".

The CHAIRMAN. Under the rules, the gentleman from Connecticut [Mr. MORRISON] will be recognized for 7½

minutes, and a Member opposed will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, unlike the immediately previous amendment, this is not a controversial amendment. The legislation as reported from the Judiciary Committee provides a new system for employers petitioning to bring workers into the country. That system is known as an attestation system.

The attestation system under the bill would replace the current labor certification system. It was designed and intended to be more efficient for employers than the current system.

The business community has raised a question about whether in fact it will turn out to be more efficient and more expeditious than the current system. For that reason, this amendment makes that attestation system an option rather than a requirement for immigrants being petitioned for by businesses. The business can choose either the new attestation system or the existing certification system.

People who prefer the new attestation system should be in favor of this amendment. People who oppose the attestation system and prefer the certification system should be for this amendment. No one really should be against this amendment. The only objection to it by some was that it does not go far enough, but it certainly goes in the direction of those who want to change from what the bill has in it.

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

The CHAIRMAN. Is there a Member opposed to the amendment?

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] is recognized for 7½ minutes.

Mr. SMITH of Texas. Mr. Chairman, pending the answer to one question that I want to ask the subcommittee chairman, I will not oppose the amendment, even though there are some flaws with it that I would like to describe.

As reported by the Judiciary Committee, H.R. 4300 would have scrapped the existing system called labor certification now used to determine whether qualified U.S. workers are available before foreign workers are imported to fill the positions.

H.R. 4300 replaced the current labor certification system in current law with a labor attestation system. That system was fraught with difficulties for U.S. employers who had a demonstrated need for workers. It was also fraught with opportunities for unions to object to requests for foreign workers and to delay a final resolution of an employer's need for foreign workers by the Department of Labor.

The business community's concerns have been heard by my colleagues from Connecticut, and I believe he is now proposing to let an employer choose whether the certification or the attestation process will be used. I would like to ask my colleague from Connecticut a question.

Does an employer have a clear, unfettered right to choose to use current law's labor certification system over the labor attestation process? Is there no limit to the employer's choice of systems?

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. Mr. Chairman, with respect to immigrants, the employer has a clear, unfettered choice of either the existing law, certification, or the new attestation procedure. With respect to nonimmigrants there is no existing certification system, and therefore the attestation program which comes after the nonimmigrant has arrived in the country, not before, still applies in the same manner as the rules applying to foreign nurses that was adopted by the Congress last year.

Mr. SMITH of Texas. I thank the gentleman.

Mr. Chairman, the amendment is better than the version of labor attestation in the Judiciary Committee bill, and I will not object to it.

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

Mr. MORRISON of Connecticut. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. MORRISON].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Texas: Page 42, strike line 15 and all that follows through page 43, line 17.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. SMITH] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would strike a provision in H.R. 4300 which allows foreign students on the F visa to work regardless of whether that student has an economic need to work or not.

H.R. 4300 changes the existing foreign student visa regulations which now allow a foreign student to work only after showing that changed economic circumstances which were unforeseen at the time of his entry into the United States make it necessary for him to work now. I believe this portion of H.R. 4300 sends an inappropriate signal to foreign students. It says it is OK to come here and work, even though you may use the ruse of being a student to do so.

I do not doubt that many foreign students come here only to study and would not abuse this provision. However, I am also confident that large number of aliens, perhaps some who today would not enter as students, would use this provision as a loophole to enter the United States and work. I believed that student visas are for studying and work visas are for working. The two should not be confused.

The administration has specifically recommended that we avoid dealing with nonimmigrant visa changes in this legislation, and my amendment heeds that advise.

Mr. Chairman, let us not turn the F visa program into a back door work program. Let us delete this section and retain current law, and also, and as importantly as anything else, make sure American students do not lose their jobs to foreign students who do not need those jobs.

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

□ 1630

Mr. MORRISON of Connecticut. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment should not be adopted. The gentleman from Texas is incorrect about his interpretation of current law, at least if the Immigration and Naturalization Service is to be believed.

The INS has been in the process of proposing regulations that would have gone far beyond this provision in allowing foreign students to work in the United States, and it was because of that proposed regulatory change by the INS that this amendment was placed in the bill, that this provision was placed in the bill in order to see to it that any extension which would still require the regulations by the INS, but that any extension of the right of foreign students to work in the United States would be carefully tailored and narrow.

The bill requires the following: The students have to be students in good standing. So their cannot be phony

students who came here to work, They have to be students in good standing.

No. 2, they can only work 20 hours a week, and it is not easy to support yourself in this country on 20 hours a week, so I doubt we will have people flooding in to work 20 hours a week.

No. 3, the employers have to demonstrate that they have been unable to hire American workers including American students to do these jobs.

No. 4, they must pay comparable wages to the wages paid to American workers.

So what this provision in the bill actually does is strengthen the protection against abuse which could occur under current law as interpreted by the INS, and this is a benefit to American workers while legitimately allowing foreign students who have economic need to work in this country.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me respond very quickly to one point made by my colleague from Connecticut.

The program that he describes earlier in his remarks I do not think has been implemented or authorized. More importantly than that, my concern has nothing to do with whether these foreign students are working 20 hours or 30 hours or 10 hours. My concern there is that we are opening up to foreign students the opportunity to work that they have not had before, and this opportunity to work could well be at the expense of American students who need jobs.

If we allow foreign students to come to the United States, previously they had to show economic need before they would be allowed to work, and under this provision by my colleague from Connecticut, that is in 4300, they no longer would have to show that economic necessity and, therefore, are going to be competing with American students for those limited number of jobs.

Mr. Chairman, this is a clear amendment that basically says let us put American students first. If there is a job to be had out there, let us give it to an American student first before we give it to a foreign student who may not need it.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, just to be doubly certain that everyone understands, American students get these jobs first. There must be a demonstration that there are no Americans available to do these jobs before these individuals would be permitted to work.

Mr. SMITH of Texas. Mr. Chairman, I thank my colleague, the gentleman from Connecticut, for his comments.

That still does not allow for the instance, for instance, where wages may rise and attract more American students to those particular jobs. The point is we are opening up a loophole to allow foreign students to work in the United States without any proof of economic necessity to do so. That is a broadening, a liberalization, of current law, and it is sooner or later going to put American students at a disadvantage.

Mr. MORRISON of Connecticut. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I have no further requests for time, and yield back the balance of my time.

Mr. FAWELL. Mr. Chairman, I rise today in opposition to the amendment offered by Congressman SMITH to alter provision of the bill relative to the foreign student worker provisions having to show economic need.

This provision establishes an innovative worker program that benefits both business and labor. In fact, the provision has the support of normally adversarial actors, business and labor, Republicans and Democrats.

It carefully balances the needs of employers who are finding it difficult to find employees in certain geographic areas with protections for both United States and alien workers.

Make no mistakes about it, U.S. workers will not be displaced. The provision stipulates that the employer must actively recruit U.S. labor for at least 60 days before hiring a foreign student. The Department of Labor will set forth the regulations employers must follow in their recruitment efforts.

The provisions also protect U.S. workers from having their wages undercut by mandating that the wages paid to these students be the prevailing wage of the area.

The bill retains the ban on any off-campus work for a 1-year period and limits work to 20 hours a week during the academic year to assure that students emphasize their education over their work.

I urge Members to vote against this amendment and ensure that businesses across the country can find the employees they need without displacing American workers.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. SMITH].

The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. MORRISON OF CONNECTICUT

Mr. MORRISON of Connecticut. Mr. Chairman, I offer amendment No. 6 as printed in the report of the Committee on Rules.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORRISON of Connecticut: Page 45, beginning on line 7, strike "as a nonimmigrant or otherwise obtaining or maintaining the status of nonimmigrant" and insert "as a nonimmigrant described in subparagraph (h)(i)(b) or (L) of section 101(a)(15) or otherwise obtaining or maintaining the status of a nonimmigrant described in such subparagraph".

The CHAIRMAN. Under the rule, the gentleman from Connecticut [Mr. MORRISON] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a perfecting amendment of a provision in the bill. I would expect it not to be controversial.

What it does is to make clear that the only individuals who may come to the United States temporarily while also pursuing permanent admission to the country without making a special showing that they do not intend to come permanently are those who come on temporary employment visas for professional jobs or as transfers within multinational organizations.

The bill, as written, takes a much broader view of this question and presents certain problems, so this is in the nature of a narrowing amendment to see to it that there is no abuse but that those individuals who routinely would come first as temporary workers and then become permanent workers for multinational organizations or as professionals would be permitted to do so.

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

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to this amendment.

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Texas. Mr. Chairman, I rise in strong opposition to the amendment offered by my colleague, the gentleman from Connecticut.

H.R. 4300 purports to solve a problem for those business-based immigrants who also have a permanent visa application outstanding. However, it, instead, would create a real problem for our consular bureau.

This amendment, while narrowing somewhat the scope of aliens covered, would still deny our consular officers the ability to refuse a visa to an alien who is clearly intending to stay in the United States permanently.

In pure and simple terms, this amendment will encourage an avalanche of visa fraud.

Mr. Chairman, I have a cable from the State Department that proves my point. It notes that 80 percent of all H-1 visa applications in India are now being denied. It describes how often those applying for the temporary visas described by this amendment are, in fact, attempting to immigrate permanently to the United States.

As the telegram notes:

It is extremely difficult for an applicant to convince us that he would voluntarily give up a lucrative position in the United States in order to return to India where he would earn only a small fraction of his U.S.

salary. A large portion of that 80 percent presently being denied would be allowed to immigrate under this amendment. I do not think that the executive branch or the American public would kindly look on this amendment's endorsement of fraudulent visa applications.

Mr. Chairman, if these people want to immigrate permanently, then let them apply for permanent visas. Let us not let permanent immigrants masquerade as temporary immigrants.

Unfortunately, H.R. 4300, even as amended by this Morrison amendment, would still let that masquerade go on. It would forbid U.S. consular officers from denying a temporary visa to an H or L visa applicant when it is clear to that officer that the alien really wants to stay permanently in the United States.

Vote against encouraging visa fraud and vote against this amendment.

Mr. MORRISON of Connecticut. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. MORRISON].

The amendment was agreed to.

□ 1640

The CHAIRMAN. It is now in order to consider amendment No. 7, printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Texas: Page 44, strike line 17 and all that follows through page 45, line 9.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. SMITH] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, this amendment seeks to delete one of the more mischievous provisions of H.R. 4300. H.R. 4300 overrides a rule in the Immigration and Naturalization Act that is now applied by consular officers who issue visas overseas.

If a person is applying for a nonimmigrant visa, that person must prove that his or her intention is truly for a temporary stay in the United States, not for a permanent stay. If that nonimmigrant visa applicant has a permanent visa on file, there is a presumption that this person has permanent intentions to come to the United States. That is common sense, Mr. Chairman.

The provision in H.R. 4300 says in effect, despite the fact that they have a permanent visa application on file, we will overlook it. It forces the consular officers to choose to close their eyes to what would otherwise be strong evidence of an alien's intention to come to the United States on a permanent basis.

What would be the effect of this amendment? Well, perhaps we could have the entire fifth preference backlog applying for nonimmigrant visas. Do we really want that effect? Do we really want people coming to the United States as visitors, when their true intention is to live here permanently? Ultimately, that is the effect that this provision could have because it forces the consular officer to disregard the outstanding permanent visa application in making a determination on the intentions of a nonimmigrant visa application. I urge my colleagues to support this amendment so that current law is preserved, and so that we do not force consular officers to close their eyes to evidence that otherwise indicates that visa fraud is about to be committed.

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

The CHAIRMAN. Is the gentleman from Connecticut [Mr. MORRISON] opposed to this amendment?

Mr. MORRISON. I am, Mr. Chairman.

The CHAIRMAN. The gentleman from Connecticut [Mr. MORRISON] is recognized for 5 minutes.

Mr. MORRISON of Connecticut. Mr. Chairman, the gentleman's amendment relates to the section that was just perfected by the amendment that I offered and was adopted immediately prior to the gentleman offering his amendment. The bottom line here is that we have narrowed the category of people who may pursue jointly a temporary residence in the United States for employment and permanent residence in the United States to two narrow categories: Professional employees of American employers brought in temporarily, and individuals who are employed by multinational organizations who are transferred within the company, but coming into the United States. These are just the individuals that the business community has told Members are constantly put in a difficult problem by this particular provision in existing law.

This provision was put in H.R. 4300 to facilitate the activities of large employers in moving people around. Frankly, I do not think we are talking about a category about which visa fraud is an issue at all. Without the narrowing amendment that the House adopted immediately before the offering of this amendment, the gentleman would probably be correct. With the narrowing amendment, I think the gentleman is incorrect, and the amendment should be defeated.

Mr. SMITH of Texas. Mr. Chairman, first of all, I want to make the point that this amendment obviously goes beyond the amendment by the gentleman from Connecticut that was just passed. I believe there was reference to this doing the same thing, but in point of fact, he would not be opposed if it did the same thing.

The point of this amendment, even though as the gentleman from Connecticut [Mr. MORRISON] said, the number of categories of individuals that would be affected is narrowed. That does not erase the fact that individuals are basically going to be able to, on one hand, say they are only coming to the United States temporarily, and on the other side, they are going to be able to apply for a permanent visa as well.

Obviously, those intentions, the sworn testimony conflict, and it is an open invitation for voter fraud. If an individual has applied for permanent status, and also applies for temporary status, we can guess his real motives. Once again, we need to eliminate the opportunity of voter fraud in H.R. 4300. This amendment should be supported.

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

Mr. MORRISON of Connecticut. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question in on the amendment offered by the gentleman from Texas [Mr. SMITH].

The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 8, printed in part 2 of the House Report 101-786.

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McCOLLUM: Page 45, line 22, insert after "214(i)(2)" the following: "or who is coming temporarily to the United States to perform services as a physical therapist".

Page 45, line 23, insert "AND PHYSICAL THERAPIST" after "SPECIALTY OCCUPATION".

Page 46, line 23, strike all that follows the first period.

Page 46, after line 23, insert the following new paragraph:

"(3) For purposes of section 101(a)(15)(H)(i)(b), the term 'physical therapist' means an individual who applies the art and science of physical therapy to the treatment of patients with disabilities, disorders, and injuries to relieve pain, develop or restore function, and maintain performance, using physical means such as exercise, massage, heat, water, light, and electricity.".

Page 83, line 5, insert before the period at the end the following: ", except that priori-

ty shall be given to qualified immigrants who are seeking admission to the United States to perform professional services as a physical therapist (as defined in section 214(i)(3) of the Immigration and Nationality Act)".

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. McCOLLUM] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

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

Mr. McCOLLUM. Mr. Chairman, this amendment concerns physical therapists, and a special concern over whether or not the things that we are doing in this bill would exclude the process by which foreign physical therapists are able to come into this country with a severe labor shortage in that area, much like there is one for nurses. Foreign-trained physical therapists presently work in the United States under the existing H-1 Program. To qualify for H-1 status, a foreign-trained physical therapist must have his or her educational experience certified by a private educational credentialed review agency as at least the equivalent of domestic physical therapy programs. In addition, one must pass a State examination and practice under State licensure.

The bill as written can be interpreted as excluding physical therapists as a profession for inclusion into the H-1B Program. This can occur because a small minority of foreign-trained physical therapists, coming into the United States, graduate from programs with less than a bachelor's degree.

The nationwide shortage of physical therapists requires that the ability to employ foreign-trained physical therapists must not be impeded. The severity of the shortage is reflected in the fact that physical therapists and professional nurses are the only two health care professions that are on the Department of Labor's schedule A, the listing of those professions which are certified as having a labor shortage pursuant to 8 U.S.C. 1182(a)(14).

In 1989, Congress responded to the similar crisis in nursing by enacting the Immigration Nursing Relief Act of 1989.

My amendment would do the same thing with physical therapists, but in reviewing this with staff for both sides, and the gentleman from Connecticut [Mr. MORRISON] the chairman of the subcommittee, I believe a colloquy can resolve this matter. I would like to engage in a colloquy with the gentleman now, and perhaps I could clarify that and avoid this section 104(c)(3) establishes a new H-1B category, to be comprised of specialty occupations. For a profession to be designated as a specialty occupation it must require at least the attainment of a bachelor's degree or its equivalent in the specific specialty as a minimum for entry into the occupation, and State licensure is applicable. Graduation from a physical therapy program, which generally carries a bachelor's degree, is required for licensure as a physical therapist. However, a small minority of foreign-trained physical therapists from several countries graduate from programs which are equivalent to U.S. programs in the professional physical therapy education. They are presently permitted to enter United States under the H-1 Program and take State licensure examinations to practice as physical therapists. This is similar to the admissions standards for foreign-trained nurses who take State board examinations.

I would like to ask the gentleman if I am correct in my understanding that it is the intention of the author, the gentleman from Connecticut [Mr. MORRISON] of this particular language, that the current process of permitting physical therapists from such programs to enter the country and take State licensure examination would be allowed to continue under the H-1B Program, and not on the grounds of excluding physical therapists from specialty occupation status?

Mr. MORRISON of Connecticut. Will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. The gentleman's interpretation is the correct interpretation of this provision as I intended it in offering the provision, and consistently my intention as to how the H-1B provision should be administered.

Mr. McCOLLUM. With that in mind, I ask unanimous consent to withdraw my amendment, and let this colloquy stand as an interpretation of the law rather than cluttering up the bill with another amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

It is now in order to consider amendment No. 9, printed in part 2 of House Report 107-768.

AMENDMENT OFFERED BY MR. MORRISON OF CONNECTICUT

Mr. MORRISON of Connecticut. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORRISON of Connecticut: Page 47, after line 23, insert the following new paragraph:

(7) REPEAL OF PREVIOUS DEFINITION.—Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by striking paragraph (32).

Page 36, strike lines 21 through 23.

Page 36, line 24, strike "(E)" and insert "(D)".

Page 37, after line 2, insert the following new subparagraph:

"(E)(i) The preceding provisions of this paragraph shall not apply to an attestation under paragraph (1) with respect to nonimmigrants described in section 101(a)(15)(H)(i)(b).

"(ii) An attestation duly filed under paragraph (1) with respect to a nonimmigrant described in section 101(a)(15)(H)(i)(b) shall be deemed to have been certified by the Secretary and in effect under this subsection on the date of its filing with the Secretary.

"(iii) The Secretary may not refuse to accept for filing a completed attestation filed under this subsection with respect to a nonimmigrant described in section 101(a)(15)(H)(i)(b) or review in any way (other than under paragraph (5)) such an attestation with respect to which a complaint has not been filed under paragraph (5).

The CHAIRMAN. Under the rule, the gentleman from Connecticut [Mr. MORRISON] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, this is a highly technical amendment. It makes a change is current law to conform it to the provisions of this bill with respect to the definition of a professional, and it makes a correction in the attestation process to ensure that there is no misunderstanding of the requirements in the way in which the attestation procedures will work. I would expect there should not be any objection to this amendment.

The CHAIRMAN. The Chair recognize the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, there have been times in the past where I have rightly wanted to be aware of the technical amendments of the gentleman from Connecticut [Mr. MORRISON], but this is not one of those times. I have no objection to the amendment.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. MORRISON].

The amendment was agreed to.

□ 1650

The CHAIRMAN. It is now in order to consider amendment No. 10 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. DONNELLY

Mr. DONNELLY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DONNELLY: Page 91, after line 12, insert the following new section (and conform the table of contents accordingly):

SEC. 209. TRANSITION FOR ALIENS WHO HAVE BEEN NOTIFIED OF AVAILABILITY OF NP-5 VISAS.

Notwithstanding the numerical limitations in sections 201(a) and 202 of the Immigration and Nationality Act, there shall be made available in fiscal year 1991 immigrant visa numbers for qualified immigrants who—

(1) were notified by the Secretary of State before May 1, 1990, of their selection for issuance of a visa under section 314 of the Immigration and Control Act of 1986, and

(2) are qualified for the issuance of such a visa but for (A) numerical and fiscal year limitations on the issuance of such visas, (B) section 212(e) of the Immigration and Nationality Act, or (C) the fact that the immigrant was a national, but not a native, of a foreign state described in section 314 of the Immigration Reform and Control Act of 1986.

Visas shall be made available under this section to spouses and children of qualified immigrants in the same manner as such visas were made available to such spouses and children under section 314 of the Immigration and Nationality Act of 1986. The Attorney General may waive section 212(a)(19) of the Immigration and Nationality Act in the case of qualified immigrants described in the first sentence of this section.

The CHAIRMAN. Under the rule, the gentleman from Massachusetts [Mr. DONNELLY] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. DONNELLY].

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

Mr. DONNELLY. Mr. Chairman, this amendment is an amendment which reflects the termination of the so-called NP-5 Program. I will not take much time to explain my amendment, and I urge its adoption by the House.

Mr. Chairman, in 1986, Congress created the NP-5 Program as part of the Immigration Reform and Control Act. The purpose of this temporary program was to enhance immigration from nations which were adversely affected by the 1965 Immigration Act. The Immigration and Naturalization Service identified 36 adversely affected countries.

The NP-5 Program authorized a total of 40,000 visas during its 4-year existence. It was an important and worthwhile program and greatly enhanced immigration from these adversely affected countries, and expired this past Sunday, the end of the fiscal year.

H.R. 4300 does not extend the NP-5 Program. The problem is this: Several applicants for NP-5 visas were notified that they were eligible for a visa under the program. However, before these individuals could respond, the State Department announced that all of the eligible and available visas had been allocated.

Consequently, there are probably on the order of 1,000 individuals in these 36 adversely affected countries who were promised a visa—only to have their hopes dashed by this bureaucratic snafu. My amendment merely authorizes the State Department to award visas to these individuals who were so notified. It is a humane and, I might add, fair response to these people who had such high hopes of coming to America.

As I said, Mr. Chairman, this is a very technical amendment to reflect the termination of the NP-5 Program and I urge its adoption by the House.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. DONNELLY. I am happy to yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut, Mr. Chairman, I thank the gentleman for yielding to me, and I want to commend the gentleman on his amendment.

I also want to commend the gentleman for his work leading this Congress early on in 1986 to adopt the NP-5 Program and to recognize the adverse effect on certain countries with respect to the admission policy.

I would say to the gentleman that his initial work has borne great fruit in H.R. 4300 in the use of his adversely affected definition for a transition program and in the adoption of a permanent diversity requirement in our immigration law going forward. Without the gentleman's leadership, I doubt we would be at this point in the process of being fair to people from all over the world.

Mr. DONNELLY. Mr. Chairman, I thank the gentleman very much for his very kind words, and I also thank the gentleman for his leadership and the work of all the members of the committee addressing the problems of those 36 adversely affected countries.

Mr. McGRATH. Mr. Chairman, will the gentleman yield?

Mr. DONNELLY. I yield to the gentleman from New York.

Mr. McGRATH. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I rise in support of the gentleman's amendment and congratulate him on the work he has done on this amendment.

Mr. DONNELLY. Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to this amendment.

The CHAIRMAN. The gentleman from Texas is recognized for 5 minutes.

Mr. SMITH of Texas. Mr. Chairman, I would like to ask my colleague, the gentleman from Massachusetts, for several clarifications in regard to his amendment.

First of all, how long will this program last?

Mr. DONNELLY. Mr. Chairman, if the gentleman will yield, as the gentleman knows, the program was terminated on August 1. These individuals who would be covered by this amendment have already been notified by our embassies in the 36 countries that they will be eligible for one of these visas.

The paperwork process could begin immediately on enactment of this legislation and would last, I suspect, no more than 30 to 60 days after enactment of this legislation.

Mr. SMITH of Texas. Mr. Chairman, let me reclaim my time. What I am talking about is how long would this be in effect? For how long will we give entry to these individuals who would be encompassed by this amendment?

Mr. DONNELLY. Only as long as it takes.

Mr. SMITH of Texas. How long is that?

Mr. DONNELLY. Only as long as it takes for the State Department to call those individuals in, those 1,000 individuals that they have already notified and have on the computer to fill out the requisite necessary forms.

Mr. SMITH of Texas. Mr. Chairman, let me reclaim my time, because I think that answers my next question, which is, is there any limit to the number of individuals who might be given entry to the United States under this amendment?

Mr. DONNELLY. Mr. Chairman, if the gentleman will yield further, I have been notified by the people at the State Department who have administered this program that it is in the vicinity of only 1,000 individuals from 36 countries who have already been notified, they have received a visa, they have won the lottery. These were given out by lottery, a fair lottery system, so only those individuals would be eligible and the timeframe would only take a long as is necessary to complete the proper paperwork.

Mr. SMITH of Texas. Mr. Chairman, let me ask the gentleman if he is saying that there is a cap of 1,000 individuals who would be given entry to the United States under this amendment?

Mr. DONNELLY. I have been told that it is in the ballpark of 1,000 from the State Department, but all those individuals who were notified would be eligible.

Mr. SMITH of Texas. It may well be more than a 1,000 individuals?

Mr. DONNELLY. It could be more, but only in the vicinity of 100 or 200 additional, from the information I have received from the State Department.

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman for his clarification.

Mr. Chairman, I would say that even though we are not talking about an exceptionally large number of individuals who would come in under this program that would be proposed by this amendment, nevertheless we already have three special interest provisions in H.R. 4300 that go to immigrants from adversely affected countries. It seems to me we do not need more special interest legislation or amendments as a part of H.R. 4300.

Mr. Chairman, it has always been my understanding that the best immigration policy would be a policy that is fair and that applies equally to every country. Clearly, this amendment does not go toward that, nor does H.R. 4300.

In 1965, the last year that we passed a legal immigration bill, the whole point of that immigration bill was to make up for past discrimination and come up with a legal immigration bill that would be fair and equal to all countries, and here we are today debating a bill and now debating an amendment that once again is special interest legislation that gives special privileges only to individuals from certain countries. I think that violates the fairness and equity that we all should expect in our immigration laws.

Mr. DONNELLY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. BROOKS], the chairman of the Committee on the Judiciary.

Mr. BROOKS. Mr. Chairman, I would just like to say that I think the legislation is eminently reasonable at this point. It covers only people who are already on the list. If you are not on the list, you are not covered. How many people are on the list, it might be over a 1,000, as the gentleman has said, but it could not be very many, so I do not think it is going to endanger our immigration policy in the least. I think we ought to pass it. I think there is no problem about it, and we ought to do it now.

Mr. DONNELLY. Mr. Chairman, I thank the gentleman for his kind words and for his support.

Very quickly in conclusion, Mr. Chairman, this amendment only deals with a very small group of individuals who were notified that they had won a lottery, they were eligible to receive a visa to come to the United States of America. Because of a bureaucratic snafu, they were not allotted those visas. I do not think it is fair to dash their hopes because of a Departmental mistake. I think this rectifies it and it is a fair and equitable solution to the problem.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

Mr. DONNELLY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. DONNELLY].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 11, printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BROOKS: Page 95, line 24, insert "(i)" before "In".

Page 95, line 25, insert "except as provided in clause (ii)," after "subsection (b)(1)".

Page 96, line 9, strike all that follows the first period.

Page 96, after line 9, insert the following new clause:

"(ii) The term 'longshore work' does not include the loading or unloading of any cargo where the Secretary of Transportation has, under the authority contained in chapter 37 of title 46, United States Code (relating to carriage of liquid bulk dangerous cargoes), in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), or in section 4106 of the Oil Pollution Act of 1990, prescribed regulations which govern—

"(I) the handling or stowage of such cargo,

"(II) the manning of vessels and the duties, qualifications, and training of the officers and crew of vessels carrying such cargo, and

"(III) the reduction or elimination of discharge during ballasting, tank cleaning, and handling of such cargo.".

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, section 311 is intended to restrict the performance of traditional longshore work by nonimmigrant alien crewmen. This section contains a definition of longshore work as it is commonly understood in the domestic maritime industry. The amendment which I am offering today would deal with the specialized situation involved with liquid cargoes such as petroleum, chemicals, and natural gas, in which American longshoremen are not used. Liquid cargo systems are sophisticated and individualized to a particular tanker and its cargo, and the slightest error in operations can lead to equipment damage, cargo contamination, spillage, and possibly fire and explosion.

As presently drafted, section 311 would prohibit foreign crewmen from performing any cargo handling work on tankers. I, therefore, am offering this amendment to provide that if the Secretary of Transportation has issued regulations regarding tanker manning, qualification, training, or cargo handling and stowage, section 311 will not apply. My amendment will simply maintain the status quo where bona fide tanker crews operate their vessels' cargo equipment for the enhancement of safety and the protection of the tankers, their crews, and the environment.

□ 1700

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

The CHAIRMAN. Does any Member rise in opposition to the amendment?

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is an improvement on the language now in H.R. 4300 concerning longshore work, but it still contains very damaging provisions for the U.S. shipping industry and those who rely on it.

The amendment wisely provides an exemption from the "no alien crew may work" rule for oil tankers and other ships carrying hazardous cargo. It is important that specifically trained foreign crewmen be allowed to unload hazardous cargo, so that the danger of oilspills and chemical spills is minimized.

However, two serious problems remain: First, we should not require ships to use longshoremen to unload cargo that is connected to machinery that unloads the cargo automatically, and second, we should not discriminate against foreign ships whose countries allow U.S. crews to unload U.S.-flag ships when our ships are in the ports of that foreign country.

The Governments of Great Britain and Canada have registered formal protests against the longshore provisions of H.R. 4300, and this amendment does not remedy those concerns.

Let me emphasize that this is not an issue of foreign-country protectionism. If this bill is passed with the longshore amendment in it, the United States could fairly be accused of being protectionist in its own shipping and longshore laws.

The Rules Committee made a large error by not allowing Mr. DAVIS' amendment to be in order on this provision. It would have avoided much of the controversy that this provision has caused.

However, I will not oppose this amendment because it takes an awful committee provision and makes it merely bad, but I encourage the conferees to look seriously at deleting the provision entirely at conference.

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

Mr. BROOKS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BROOKS].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 12, printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment:

The text of the amendment is as follows:

Amendment offered by Mr. FISH: Page 109, after line 3, insert the following new section (and conform the table of contents accordingly):

SEC. 318. REVISION AND EXTENSION OF THE VISA WAIVER PILOT PROGRAM.

(a) IN GENERAL.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(1) in subsection (a)(2), by inserting ", and presents a passport issued by," after "is a national of";

(2) in subsection (a)(3)—

(A) by striking "ENTRY CONTROL AND WAIVER FORMS" and inserting "IMMIGRATION FORMS"; and

(B) by striking all that follows "such admission" and inserting "completes such immigration form as the Attorney General shall establish.";

(3) by striking paragraph (4) of subsection (a) and inserting the following:

"(4) ENTRY BY SEA OR AIR.—If arriving by sea or air, the alien arrives at the port of entry into the United States on a carrier which has entered into an agreement with the Service to guarantee transport of the alien out of the United States if the alien is found inadmissible or deportable by an immigration officer.";

(4) by adding at the end of subsection (a) the following new paragraph:

"(7) ROUND-TRIP TICKET.—The alien is in possession of a round-trip transportation ticket (unless this requirement is waived by the Attorney General under regulations.";

(5) in subsection (b)—

(A) by striking the heading and paragraphs (1) through (3), and

(B) by redesignating paragraph (4) (and subparagraphs (A) and (B) thereof) as subsection (b) (and paragraphs (1) and (2) thereof, respectively);

(6) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "UP TO 8 COUNTRIES" in the heading and inserting "IN GENERAL", and

(ii) by striking all that follows "may designate" and inserting "any country as a pilot program country if it meets the requirements of paragraph (2)";

(A) in paragraph (2)—

(i) by striking "INITIAL QUALIFICATIONS" in the heading and inserting "QUALIFICATIONS",

(ii) by striking "For the initial period described in paragraph (4), a country" and inserting "A country", and

(iii) by adding at the end the following new subparagraphs:

"(C) MACHINE READIBLE PASSPORT PROGRAM.—The government of the country certifies that it has or is in the process of developing a program to issue machine-readible passports to its citizens.

"(D) LAW ENFORCEMENT INTERESTS.—The Attorney General determines that the United States law enforcement interests would not be compromised by the designation of the country.";

(7) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (d) the following new subsection:

"(d) AUTHORITY.—Notwithstanding the other provision of this section, the Attorney General and the Secretary of State, acting jointly, may for any reason (including national security) refrain from waiving the visa requirement in respect to nationals of any country which may otherwise qualify for designation or may, at any time, rescind any waiver or designation previously granted under this section."; and

(8) in subsection (e)(1), as so redesignated—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end the following new subparagraph:

"(C) to be subject to the imposition of fines resulting from the transporting into the United States of a national of a designated country without a passport pursuant to regulations promulgated by the Attorney General."; and

(9) in subsection (f), as so redesignated, by striking all that follows "the period beginning" and inserting "on October 1, 1988, and ending on September 30, 1994.".

(b) PENALTY FOR TRANSPORT OF ALIENS WITHOUT VALID VISAS.—Section 273 of such Act (8 U.S.C. 1323) is amended—

(1) in subsection (a), by inserting "a valid passport and" before "an unexpired visa", and

(2) in subsection (c), by inserting "valid passport or" before "visa was required".

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

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. FISH] will be recognized for 5 minutes, and a Member opposed to the amendment will be recognized for 5 minutes.

The Chair recognzies the gentleman from New York [Mr. FISH].

Mr. FISH. I yield myself such time as I may consume.

Mr. Chairman, my amendment is designed to extend the visa waiver pilot program that now exists in current law.

This pilot program was created by IRCA in 1986. Its intention was to minimize the formal visa requirements for nationals of eight countries coming to the United States for a visit of 90 days or less. The eight countries to be picked were those with very low visa abuse, overstay, or refusal rates.

The benefits of the program were also only offered to those countries that offered U.S. visitors the reciprocal no-visa requirement. The report on the visa waiver pilot program this year by the Department of State reads:

Our experience with the visa waiver pilot program convinces us that the visa waiver program has successfully moved toward accomplishing both goals set by the Congress: To improve the use of United States Government resources and to encourage international travel. Through February 1990 more than 3.5 million visitors were admitted into the United States under the program, and 782 have been found ineligible for entry; 97 have been deported (a rate of less than .003 percent).

Importantly, the visa waiver program allows the Consular Bureau of the State Department to allocate its resources more efficiently. It allows the Department to reduce the number of officers that must process visas in countries where visa abuse rates are low, and enlarge the consular staff in countries where visa fraud and abuse is a much greater problem, or where drug trafficking and threats of terrorism require a more careful screening process.

The Department's report on the pilot program has this to say on the impact on consular operations:

The limited elimination of the visa requirement for some aliens has provided the Department of State with much-needed resources which have been reprogrammed to other areas. As of March 31, 1990 the Department has already transferred eleven Foreign Service officer and six Foreign Service national employee positions to posts in Eastern Europe in need of additional resources because of the historic changes taking place in that region.

Because the current visa waiver program will expire in 1 year, I am offering this amendment to extend and enlarge it.

This amendment would extend the visa waiver program for another 3 years, and it would drop the limitation of eight countries that may qualify. Under the amendment, any country with a sufficiently low visa abuse rate may be designated for visa waiver privileges by joint action of the Secretary of State and the Attorney General. That country must also grant reciprocal benefits to United States visitors.

The State and Justice Departments have also recommended other technical changes to ensure that the program is efficiently and effectively administered, and these changes are incorporated in the amendment.

In addition to our State Department a number of organizations promoting tourism support this amendment. President Bush expressed his interest in having this program extended in a recent meeting he had with European heads of state.

I encourage my colleagues to approve this noncontroversial amendment.

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

The CHAIRMAN. Is there a Member in opposition to the amendment?

Mr. BROOKS. Mr. Chairman, I have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. FISH].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 13, printed in part 2 of House Report No. 101-786.

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FISH: Page 109, after line 3, insert the following new section (and conform the table of contents accordingly):

SEC. 318. 1-YEAR EXTENSION IN DEADLINE FOR FILING APPLICATIONS FOR ADJUSTMENT FROM TEMPORARY TO PERMANENT RESIDENCE FOR LEGALIZED ALIENS.

Section 245A(b) of the Immigration and Nationality Act (8 U.S.C. 1255a(b)) is amended—

(1) in paragraph (1)(A), by striking "one-year period" and inserting "2-year period", and

(2) in paragraph (2)(C), by striking "thirty-first" and inserting "43rd".

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. FISH] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

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

Mr. FISH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this amendment on my behalf and on behalf of the gentlewoman from California [Ms. PELOSI].

Mr. Chairman, the Immigration Reform and Control Act of 1986 [IRCA] provided the opportunity of legalization for certain undocumented aliens who had lived in the United States since before January 1, 1982. IRCA established a two-stage process for legalization. In stage 1 of IRCA, persons who demonstrated that they fulfilled various IRCA requirements were given temporary resident status. The majority of applicants became temporary residents during 1987 and 1988, but some stage 1 petitions are still pending. During stage 1, the temporary residents must pursue basic citizenship skills, including a minimal understanding of English and knowledge of history and government. Continuous residence and qualifying as an admissible resident are also requirements.

Under stage 2 of IRCA, these qualified temporary residents are permitted to file for adjustment of status to permanent residence. Here lies the problem: Aliens are required to file for stage 2 permanent residence "during the 1-year period beginning with the 19th month that begins after the date that the alien was granted such temporary resident status," that is, within 31 months after stage 1 applications were approved.

Although IRCA basically requires applicants to make a stage 2 filing within 31 months of stage 1 approval, the law's imprecise statement of this requirement has caused much uncertainty and confusion on the part of not just aliens but the INS itself. The fact that the deadline for each individual applicant is different has made outreach programs very difficult. Due to this confusion, as many as 21,000 temporary residents may already have missed their stage 2 deadlines.

Almost 350,000 temporary residents have not yet filed for this second stage of legalization. They also could miss their deadlines due to this confusion. The result would be that qualified individual's revert to undocumented status.

H.R. 4300, as reported by the Subcommittee on Immigration to the full Judiciary Committee, contained a provision—section 321—that would have given temporary residents 2 years instead of 1 year to file for permanent residence. It was subsequently removed during full Judiciary Committee consideration. My amendment would simply reinstate the 2-year deadline for stage 2 legalization.

This allows the INS and voluntary agencies more time to develop and implement effective outreach programs so as to inform applicants of the importance of applying for stage 2.

Mr. Chairman, if no extension is granted, the legalization process adopted by Congress in 1986 would be undercut. Aliens who qualify for legalization will not be legalized. The undocumented population would swell with all the problems that entails.

Mr. Chairman, I urge the adoption of this amendment.

□ 1710

Ms. PELOSI. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Chairman, I thank the gentleman from New York [Mr. FISH] for yielding and for his hard work on this amendment. I have appreciated the opportunity to work with Mr. FISH on this very important change in H.R. 4300.

Before proceeding on the amendment, I wish to commend the chairman of the full committee, the gentleman from Texas [Mr. BROOKS], the chairman of the subcommittee, the gentleman from Connecticut [Mr. MORRISON], and the ranking member, the gentleman from New York [Mr. FISH] for their hard work on this Morrison bill, as well as the gentleman from Texas [Mr. SMITH], the ranking Republican on the subcommittee.

Mr. Chairman, this bill is legislation of great importance to my distict. In fact, it has been a unifying factor among the Asian-Americans, the Hispanic community and the Irish-American community, all of whom have problems on immigration which are redressed in this bill, so I am very grateful for the Morrison bill, and I thank the leaders of the Committee on the Judiciary for their hard work.

Mr. Chairman, I rise in strong support of the amendment of the gentleman from New York [Mr. FISH], which would prevent thousands of already legalized aliens from being returned to undocumented status. I will not go into the details of the amendment because the gentleman from New York [Mr. FISH] has already done so. I would just like Mr. Chairman, to proceed with two examples from my own district, cases of two individuals from the San Francisco Bay area which demonstrate the serious problems with the stage 2 application process.

A 35-year-old woman, who had already been approved for stage 1, went to an Immigration and Naturalization Service [INS] office on July 19 to find out when she needed to apply for stage 2. The woman is fluent in English and had been in the country for several years. She knew that the temporary resident card, the approval card for stage 1, did not specify the stage 2 deadline. The receptionist at the INS office looked at the woman's temporary resident card and informed her she had 2 months to complete the stage 2 application. When the applicant returned in 2 weeks, she was told that the deadline had been passed and that she missed her deadline.

A second applicant, a wife of a member of the U.S. Navy, tried to contact the INS about her stage 2 deadline. The applicant called an INS legalization hot line, but only encountered a recording. Her letters to the INS were never answered. When she went in person to the INS Office, she was informed that the deadline had passed for her stage 2 application.

These are only two of numerous examples reported by immigrant assistance organizations. It is clear that the immigrants are missing their deadlines because the stage 2 application process is unduly complicated, and the Immigration and Naturalization Service has not done an adequate job of informing applicants of their deadlines.

With all of their good intentions, with the hot line, and outreach, with correspondence, et cetera, the effort has not been good enough. Unlike stage 1, every applicant to stage 2 has a unique deadline. No document provided by the INS, either the stage 1 approval letter or the temporary resident card, identified that individual's deadline. The INS direct mail campaign to inform potential stage 2 applicants missed individuals who had moved or did not receive their mail. In the western region only, and 16 months after the legalization program began, the INS set up a hot line to deal with questions about the process. Numerous immigrant assistance orga-

nizations have found that the hot line frequently provided incorrect information. The hot line was eventually discontinued. The amendment of the gentleman from New York [Mr. FISH] would give the INS and private organizations an extra year to perform outreach and inform applicants of their stage 2 deadlines.

Mr. Chairman, 21,000 immigrants have already missed their stage 2 deadline, and an additional 46,000 immigrants may miss their deadlines by the end of the year.

I urge my colleagues to support the amendment of the gentleman from New York [Mr. FISH] and give already legalized immigrants an opportunity to become permanent residents of the United States

Again I thank the gentleman from Texas [Mr. BROOKS], the gentleman from Connecticut [Mr. MORRISON], and the gentleman from Texas [Mr. SMITH] for their hard work on this, and special thanks to the gentleman from California [Mr. BERMAN] for his hard work as well.

The CHAIRMAN. Is there any Member in opposition to the amendment offered by the gentleman from New York [Mr. FISH]?

Mr. BROOKS. Mr. Chairman, I have no opposition to the amendment, and I see no reason why we should not agree to it now.

Mr. FISH. Mr. Chairman, I want to thank the gentlewoman from California [Ms. PELOSI] for her comments on the Fish-Pelosi amendment, and the examples she gave from her district; I could have given many more across the country of people who are highly literate in the English language who simply got caught up in all the confusion on this, and I thank her for her comments.

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

Mr. HOYER. Mr. Chairman, I rise in support of the amendment offered by the distinguished minority member of the Judiciary Committee, Mr. FISH, which would extend the visa waiver pilot program for another 3 years.

The 1986 Immigration Reform and Control Act allowed for eight countries to be visa free for a 3-year trial period.

The program had two goals: To facilitate international travel; and to improve the use of scarce Government resources. Countries that were selected for this program offer reciprocal treatment—that is they do not require visas of Americans—and have nationals who cause few immigration problems for us.

The eight that were chosen by workload, that is, number of visas issued in 1986, to have the greatest savings for the U.S. Government. These countries included: Great Britian, West Germany, Italy, Holland, Japan, France, Switzerland, and Sweden.

If we adopt this amendment, Mr. Chairman, I plan to encourage the State Department to add Denmark to this list. Embassy officials indicate that they would be able to cut between two and four staff positions in the Embassy in Copenhagen alone and would facilitate greater tourist and business travel to the United States. It would eradicate a persistent public relations problem in the form of the eternal question, "why do Danes need a visa to visit America when Americans don't need one to come here?"

We issue 80,000 Danish visas a year, denying only 1 out of 600 applicants. We are thus wasting the Danes time and Government resources by continuing to subject them to the visa process.

Mr. Chairman, the visa waiver pilot program has worked very well since its inception in 1986. I encourage my colleagues to continue this program and again thank the gentleman from New York for his amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. FISH].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 14 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Texas: Page 109, after line 3, insert the following new section (and conform the table of contents accordingly:)

SEC. 318. EXTENSION OF STATE LEGALIZATION IMPACT ASSISTANCE GRANTS.

Section 204 of the Immigration Reform and Control Act of 1986, as amended by title II of Public Law 101-66 (Department of Health and Human Services Appropriations Act, 1990, is amended—

(1) in subsection (a)(1)(A), by striking "three" and inserting "seven", and

(2) in subsection (b)(4), by striking "1994" and inserting "1998".

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. SMITH] will be recognized for 5 minutes, and a Member opposed to the amendment will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, on that last amendment, which was passed without objection, we extended the deadlines for this SLIAG program, and, if we are going to do that, to be consistent we should also vote to extend the assistance given to the States for that very same program, and that is what my amendment does.

Mr. Chairman, this amendment would extend from 5 years to 8 the period of Federal financial reimbursement to States to offset their costs incurred due to the 1986 legalization program.

IRCA authorized 4 years worth of reimbursement to States for the public assistance, public health, and education costs that they might incur due to the participation of newly legalized aliens in these programs. This reimbursement provision was called "State legalization impact assistance grants," or "SLIAG."

Last year the 4 years of funding was extended to 5 because of the borrowing of $555 million of SLIAG funds by the Committee on Appropriations from the fiscal year 1990 SLIAG account. My amendment recognizes that illegal aliens will be granted a legal status through the broad family fairness amnesty that is contained in section 314 of H.R. 4300, so State and local governments will now have additional public assistance and education costs that must be reimbursed. This problem was recognized at the Immigration Subcommittee level, and an amendment was added which allowed SLIAG funds to be disbursed to States giving services to aliens receiving family fairness amnesty benefits. However it is not enough merely to use the existing pot of money for a greatly expanded class of aliens who will demand a greatly increased level of services.

Therefore, Mr. Chairman, my amendment would extend the annual appropriation for another 3 years because the family fairness aliens will almost certainly be demanding the services of our State and local governments in those same years.

There is a very simple policy here, Mr. Chairman. If we give immigration benefits to aliens, we have to pay for the State and local financial consequences. Congress recognized in 1986 that legalized aliens would cost the State and local governments money. SLIAG was created to offset those costs.

Mr. Chairman, we are giving benefits now to uncounted thousands of spouses and children of the aliens who received amnesty in 1986, so we should pay for them as well, and SLIAG is the appropriate vehicle.

Some might argue that the States have not used their entire SLIAG allotment so far and that giving them extra money right now is not necessary.

□ 1720

Mr. Chairman, I do not buy that argument. Congress understood that the States may not experience all of the costs immediately. The 4 years of initial SLIAG reimbursement was allowed to be spent over 7 years. My amendment continues that staggered time allowance and recognizes that while all costs might not be manifested immediately, there are certainly some substantial financial obligations for State and local governments looming in the near future.

Let us not grant a wealth of Federal immigration benefits to aliens, and then leave our State and local governments holding the fiscal bag. Mr. Chairman, I urge Members to support this amendment.

Mr. MORRISON of Connecticut. Mr. Chairman, I rise in opposition to this amendment, and yield myself such time as I may consume.

Mr. Chairman, I am frankly shocked at this amendment. This amendment costs $4 billion. Not $4 billion in authorized spending, but $4 billion in appropriated spending. Not in an appropriations bill, not in an authorization bill, but in a regulatory measure that governs our legal immigration system.

Mr. Chairman, in a very unusual procedure, as part of the Immigration Reform and Control Act in 1986, a special fund of money of $4 billion was set aside for special expenses incurred by State and local governments with respect to the legalization program. This amendment seeks to bootstrap onto that program, to avoid the appropriation process in the fiscal years 1992, 1993, 1994, and 1995, in order to spend without further review $4 billion of taxpayer money.

This really is quite something. I wonder whether this $4 billion has been included in the budget summit that has just been concluded, where there was stressing and straining to find a way to save billions upon billions of dollars.

Were this money to be proposed to be spent in these years, the gentleman from Texas [Mr. SMITH] would have to find $1 billion per year in new taxes in order to pay for it. He seeks to avoid that discipline by this type of approach at this time.

Mr. Chairman, this is an irresponsible amendment. We do not have the money. The costs the gentleman is talking about in fact are not being created by anything in this bill.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding. I rise in opposition to the amendment. The gentleman from Connecticut [Mr. MORRISION] has pointed out the very unusual nature of what the gentleman is proposing, a piece of legislation that would appropriate by its own terms $4 billion.

In addition to the unusual nature of the amendment is the unjustified nature of the amendment. The gentleman from Texas [Mr. SMITH] was incorrect in talking about last year we extended SLIAG for 1 year. In 1986 we appropriated $1 billion a year for 4 years to be spent over a period of 7 years through 1994. That is still in place.

Our problem is not getting an addition $4 billion appropriated, it is to get the Committee on Appropriations, and particularly the Senate Committee on Appropriations, to keep faith with what we have in 1986, and to appropriate and not take away the funds we appropriated at that time.

Mr. Chairman, we have large amounts of sums in that original appropriation that not only have not been spent, but are being held back from the States.

Second, the whole logic of the SLIAG program was to cover the education and health benefits of the people in the legalization program. The massive part of this bill deals with legal immigration. We must stop sliding from the costs that many people believe come with illegal immigration, and applying that to the legal immigration system. Study after study shows that those are not people who go on welfare, they are not people who rely on county and public hospitals. They are people with family support, job support. They work. They produce taxes.

The small number of people that will be affected by the family fairness program are people who are here, who are being given a work authorization in the stay of deportation. They are not required to study the English language like the people in the legalization program. The various provisions that required SLIAG funding and justified it back in 1986 do not apply in this situation.

Mr. Chairman, I urge Members to reject the $4 billion appropriation request made in this amendment. It is not right, it is not needed, and it misapplies the term of what we are trying to do in this legislation.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say first of all that I am absolutely delighted to hear the concern about spending that has been expressed by the gentleman from Connecticut [Mr. MORRISON], and the gentleman from California [Mr. BERMAN]. I can only assume that that represents a change in their political thinking, and I welcome it.

Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I thank the gentleman for yielding.

This week is a bad week to talk about $4 billion of new money. However, I also remember how many Californians persuaded us in 1986 to stick it in the bill just the way it was so we did have an appropriation in an authorization bill.

But the gentleman from Texas [Mr. SMITH] is raising an important point here, that the chairman of the full committee has raised himself at other times, and that is someone is going to have to pay for this.

This may not be precisely the vehicle, but I am concerned, because the Senate has no counterpart. So I don't know how we would resolve this in conference. But there will be charges that will be borne, not only for the family fairness part of this bill, but for other parts, by States and localities, if some provision is not made in this legislation.

Mr. Chairman, this will be a heavy burden on States. We know the States that normally will be impacted from a measure like this. So I think the gentleman from Texas [Mr. SMITH] has served a great purpose here in bringing this matter to our attention. We should be aware that what we are doing is we are laying a burden on States and localities.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield myself such time as I may consume, just to underscore what the gentleman from California [Mr. BERMAN] said, that, in fact, the costs which were present in the 1986 law, that gave rise to the special appropriation, are not present in this legislation. Trying to bootstrap on that precedent is a very bad idea, and it is a very bad day to be talking about $4 billion in extra spending.

Mr. Chairman, I hope Members will reject the amendment.

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

Mr. SMITH of Texas. Mr. Chairman, a minute ago the gentleman from California [Mr. BERMAN] said that the SLIAG program was unjustifed. Yet that very same program was approved by Congress in 1986.

The main point here is what is fair is fair. If we are going to shoulder States with the additional expense of taking care of those individuals who received amnesty, we ought to help them pay for it.

If the States are going to have the additional responsibility to incur the additional costs that all come with those hundreds of thousands of amnestied aliens, then we ought to do our fair share as well.

Mr. Chairman, I think this is an issue that should be clear to anybody, because it is absolutely essential that the local governments get some help in shouldering the burden of paying for the illegal aliens who received amnesty.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas. [Mr. SMITH].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SMITH of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 53, noes 368, not voting 12, as follows:

[Roll No. 401]

AYES—53

Ballenger	Campbell (CA)	Fascell
Bartlett	Combest	Fields
Barton	Dannemeyer	Gallegly
Bennett	Davis	Gekas
Bentley	DeFazio	Goodling
Bryant	DeLay	Goss

Gradison
Grant
Hall (TX)
Hancock
Hansen
Herger
Hunter
Hutto
Hyde
James
Johnston
Kolbe
Lagomarsino
Leath (TX)
Lehman (FL)
Lowery (CA)
Lukens, Donald
McCollum
Moorhead
Morrison (WA)
Nelson
Packard
Quillen
Ros-Lehtinen
Sarpalius
Schiff
Shaw
Shumway
Skeen
Smith (FL)
Smith (TX)
Smith, Denny (OR)
Stearns
Stenholm
Young (FL)

NOES—368

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Barnard
Bateman
Bates
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Crockett
Darden
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank
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Young (AK)

NOT VOTING—12

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Engel
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Ford (TN)
Frenzel
Hawkins
Martin (IL)
Owens (NY)
Parris
Rowland (CT)
Saiki
Schuette

□ 1750

Messrs. McCANDLESS, BROWDER, SKAGGS, ARCHER, TOWNS, HOLLOWAY, RINALDO, and ROHRABACHER changed their vote from "aye" to "no."

Messrs. LOWERY of California, KOLBE, NELSON of Florida, LEHMAN of Florida, and FASCELL, changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PARRIS. Mr. Chairman, I was inadvertently delayed and missed the vote on the Smith of Texas amendment to reimburse the States. Had I been present I would have voted no.

The CHAIRMAN. It is now in order to consider amendment No. 15 printed in part 2 of House Report No. 101-786.

AMENDMENT OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DORGAN of North Dakota; Page 113, after line 8, insert the following new section (and redesignate the succeeding sections, and conform the table of contents, accordingly):

SEC. 324. LIMITATION ON DETENTION OF CERTAIN ALIENS WITH DEPENDENT CHILDREN.

(a) IN GENERAL.—Section 242(c) of the Immigration and Nationality Act (8 U.S.C. 1252(c)) is amended—

(1) by striking "When" and inserting "(1) Except as provided in paragraph (2), when"; and

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

"(2)(A) The Attorney General shall not detain any alien described in subparagraph (B) who is deportable under section 241, except in connection with the immediate departure of such alien. The period of such detention shall not exceed a reasonable amount of time (not to exceed 24 hours) based upon the particular circumstances of the alien and the alien's dependent children.

"(B) An alien described in this paragraph is an alien—

"(i) who is not deportable under paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19) of section 241(a); and

"(ii) who is the mother of any child in the United States if the child is not older than 2 years of age and is dependent upon the alien for basic parental care."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any alien subject to a final deportation order on or after the date of enactment of this Act.

The CHAIRMAN. Under the rule, the gentleman from North Dakota [Mr. DORGAN] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

The Chair recognizes the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, the amendment that I have offered today deals with the question of parent and child under immigration procedure.

Let me just tell Members a brief story. It is an anecdote. A woman named Maria Ventura was taken from her children and thrown into jail in Prince George's County for close to 6 days. Maria has three children. One was age 6, another 2½, and another 6 weeks old. A 6-week-old breast-feeding infant who had a viral infection, and the mother was received by the Immigration Service and thrown in jail. A story in the local newspaper pictures the children and describes the plight of the mother in Prince George's County Jail. A young woman who was not a threat to this community or this society was snatched in the jaws of the immigration system and thrown into jail for nearly 6 days.

Apparently, the Immigration Service says, "We don't care about the children. We don't care about a 6-week-old baby that is breast-feeding." We throw the mother in jail, and that should not happen in this country.

Mr. Chairman, my legislation prevents detention, except for 24 hours under deportation order, of a mother with children under 2 years of age. This legislation does not include protection for those involved in criminal

activities, violent crime. It does not include detention for those involved in drug activities, but it does say that those illegal aliens that are guilty of infractions, the kinds of infractions such as illegal entry or staying too long, should not be separated from 3-, 5-, and 6-week-old infants who are breast-feeding, and be thrown in jail as common criminals. That is inhumane treatment in this country. My legislation would provide protection for those kinds of people and would prevent the Immigration Service from detaining them for more than 24 hours.

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

The CHAIRMAN. Is there a Member in the Chamber in opposition to the amendment?

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Texas. Mr. Chairman, I would like to ask my colleague, the gentleman from North Dakota [Mr. DORGAN], for clarification in regard to his amendment. I very much appreciate and sympathize with the heart-warming story that my colleague just related a moment ago. I also appreciate the humanitarian instinct that has impelled him to offer this amendment.

If we could limit the amendment to the one circumstance that he has described, I would certainly support it. However, as a clarification of this amendment, I would like to ask my colleague several questions with the idea that it might well be an amendment that sweeps too broad.

Let me ask my colleague, first of all, does this amendment mean that if your situation was that a woman who was a single parent who had a child under 2 years old was accused of committing terrorist acts or first-degree murder, would that individual be unable to be detained for 24 hours because of having a child less than 2 years old?

Mr. DORGAN of North Dakota. Will the gentleman yield?

Mr. SMITH of Texas. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. The answer to that is no. First of all, this amendment does not attempt to intercept or impede in any way the jurisdictional process at the State or national level. State and local authorities can charge and detain at will, in the event that accusations are made against any citizen residing in this country.

Second, in the amendment I have described certain exceptions to this policy. Those exceptions include, as I indicated, those persons who are felons, those persons who are involved in drug activity and more.

Mr. SMITH of Texas. I thank the gentleman for that clarification. Let me ask a further question. If we were dealing with individuals who, say, had been detained in south Texas because of their pending adjudication of a solemn claim, and we had a situation where there is a single parent with children under 2 years old, would those individuals have to be released because under your amendment there could be no detention for beyond 24 hours?

Mr. DORGAN of North Dakota. If the gentleman will continue to yield, it would certainly depend upon the conditions under which they were detained.

There are, I think, nearly nine exceptions under my description of alien in this description. I might say, with respect other than these exceptions, my intention with this legislation would be to release those who are detained who have young infant children under the age of 2.

I find it completely unforgivable to have a policy in which the Immigration Service throws in jail a young woman who is breast-feeding a 6-week-old infant, who poses no danger to the society whatsoever.

Mr. SMITH of Texas. I already stated that I agree completely, and I sympathize with the case he has described. I am talking about what I am concerned about is the broadness of his amendment, and the gentleman has assured me on one point. However, I am still concerned it may be too broad.

□ 1800

Mr. DORGAN of North Dakota. Mr. Chairman, would the gentleman go over that again?

Mr. SMITH of Texas. Mr. Chairman, because we are not certain how broad the amendment is, I am going to still urge its rejection, but certainly would work with the gentleman between now and the conference committee to try to work out the situation that he described.

Mr. DORGAN of North Dakota. Mr. Chairman, let me in just 30 seconds say that I have heard objections from the Immigration Service as they insisted on their right to jail someone who had a 6-week-old nursing infant. It is wrong in this country to do that. This legislation is protective of society against those who commit heinous crimes, those involved in drug traffic and more.

I urge that the House adopt this policy by adopting this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Dakota [Mr. DORGAN].

The amendment was agreed to.

Mr. DAVIS. Mr. Chairman, I ask unanimous consent to engage the gentleman from Texas [Mr. BROOKS], the chairman of the full committee, in a colloquy.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The gentleman from Michigan [Mr. DAVIS] is recognized.

Mr. DAVIS. Mr. Chairman, may I say to the gentleman from Texas [Mr. BROOKS] this involves section 311, the amendment that was adopted some time ago concerning the handling of cargo on tank vessels. I was not here when we brought that amendment up.

Mr. Chairman, I rise in strong support of the amendment offered by Mr. BROOKS on the loading and unloading of cargo on oil tankers and hazardous chemical carriers. This amendment recognizes the significant safety and environmental problems relating to cargo handling on these types of vessels and will continue to recognize the critical role of the crew in these loading and unloading evolutions. This amendment represents a significant improvement to this section of H.R. 4300; however, it does not address an issue of significant concern to vessels transiting the Great Lakes. Although our respective staffs have been working over the last 4 days to deal with this complicated issue, we simply ran out of time. I know the gentleman is well aware of the concerns which relate specifically to the transportation and loading of raw materials such as iron ore and limestone. Is it the gentleman's intention to address these issues in the conference report?

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I am pleased to yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, may I say to my friend, the gentleman from Michigan [Mr. DAVIS], I want to thank the gentleman for his comments.

To answer the gentleman's specific question, it is in fact my intention to consider the concerns that arise with respect to the so-called self-unloaders which transit the Great Lakes, and I will continue to work toward that end. I would hope that we could reach an acceptable solution.

Mr. DAVIS. Mr. Chairman, I want to thank the gentleman from Texas, the chairman of the full committee, for his assurances. I again urge support for this amendment.

The CHAIRMAN. It is now in order to consider amendment No. 16, printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McCollum: Strike section 324 (relating to temporary protected status for nationals of El Salvador, Lebanon, Liberia, and Kuwait, and other designated foreign States).

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. McCollum] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

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

Mr. McCOLLUM. Mr. Chairman, the amendment that I have proposed would strike a provision that has been put in this bill by the chairman of the Rules Committee, the gentleman from Massachusetts [Mr. Moakley] to provide for extended voluntary departure for several countries, that is the illegals that are here from several countries, that is El Salvador, Lebanon, Liberia, and Kuwait.

Mr. Chairman, let me repeat, the amendment would strike the provision that would grant extended voluntary departure to El Salvador, Lebanon, Liberia, and Kuwait illegals who are here for a period of 3 years, just a flat-out grant of that kind of privilege, which the Immigration Service and the Justice Department could do nothing about. It would grandfather in all these folks and say, "You can't deport any of them for any reason."

I think that is fundamentally unsound policy and it is fundamentally wrong to do that.

We have laws on the books to deal with people who may be in reasonable fear of political persecution or religious persecution if they return to their countries of origin. Those laws on the books have been used time and again by the Immigration Service to protect those who are indeed in fear and could be jeopardized or harmed if they went back home.

We would in this provision that has been put into this bill adopt a procedure that we have never adopted before and is certainly not one that I think is good law or makes good sense.

Last year we had a similar debate over this process, did not get it into law, but it was a bill that was out here to be debated that included in addition to El Salvador, China and Nicaragua.

Now, that was also for 3 years, and in the intervening time conditions have changed in both those countries. Most dramatically, we know they have changed in Nicaragua now. The Government has changed, and we would not want to have a 3-year amnesty for the illegals who are here from Nicaragua. That is why I submit they are not in this proposal today.

The same thing could be true for one of these countries in the next year.

I would submit that having a 3-year amnesty for all the illegals is not the way to go. We need to continue to let the Immigration Service use existing laws for political asylum to protect people who are here from those countries that are in trouble and make that work and not bind their hands behind their backs so that we have to keep everybody here.

With regard to El Salvador in particular, we do not have people down there, very many of them, that are in this country who are in fear of being persecuted at all when they go back. We have thousands of Salvadorans here today. I do not advocate that we kick them all out. They are not going to be kicked out under the present laws we have. We cannot even begin to get to them if we wanted to. We do not have the personnel to do it; but if they are in fear of persecution, and there are some of them claiming that, there is a process to go through that is orderly in law today that would allow our Justice Department and its Immigration Service to grant them the kind of extended stay here that is something that we would all want to see happen, and that is called political asylum. That is a process again that is in current law.

The Moakley provisions that my amendment would strike are not only unnecessary, but again that are bad policy. They keep lots of illegals here indiscriminately for extended periods of time.

The administration obviously is very opposed to this provision, and I would urge my colleagues to vote for the McCollum amendment. Strike out this provision that has been put in there for a special 3-year sweetheart deal for amnesty of illegals from these particular four countries and let us go on with procedures that are in law today, make them work. Let them work and not have some extraneous material like this in this bill to clutter it up.

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

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Florida, which would delete the provision to grant temporary protective status to certain nationals. Individuals who have fled from El Salvador, Liberia, Lebanon, and Kuwait should not be required to return to their war-torn homelands until the political situation in those countries is stabilized. This grant of temporary protective status is a compassionate and humanitarian action on the part of the United States and is in keeping with the finest of our national traditions. I would urge that this provision remain in H.R. 4300, and that the amendment be rejected.

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

Mr. McCOLLUM. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. Smith].

Mr. SMITH of Texas. Mr. Chairman, very briefly, I certainly rise in support of the amendment of the gentleman from Florida [Mr. McCollum].

What we are dealing with here is just another amnesty program for another specific country. We seem to be piling on more special interest legislation on top of more special interest legislation tonight.

Mr. Chairman, this is a situation where we have amnesty now provided for the third time just passed in H.R. 4300.

Amnesty is not the right way to determine our immigration policy. Amnesty is not the right way to be fair to those who have been law abiding, and we should not reward lawbreakers to the detriment of the law abiders.

Mr. Chairman, I support the amendment of my colleague, the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I would just like to urge my colleagues again to vote for this amendment. It is a very positive amendment. It strikes a provision out of this bill that has no business being in here, granting amnesty to a bunch of illegals who are here from four for five countries and picking them out for 3 years.

I am not telling you these are bad people, but I am telling you that if they are in fear and you want to protect them because they are in fear of getting persecuted if they go back to their native countries, that you are talking about laws already on the books designed to protect that.

□ 1810

Instead what you are going to do is lock the hands of the administration and say absolutely under no conditions for 3 years are you going to let these people go. As I said earlier, last year when this was out here on the floor for debate, China and Nicaragua were included. Conditions have changed in less than a year. They are not included this time.

Suppose things change in these countries in less than a year. This is not good public policy. This is bad public policy. We need to let the existing laws work.

They do work, and we have absolutely no business going forward with the kind of proposal that is in the bill today, to lock in 3 years of amnesty for four special countries for all the illegals who are here and not do that same thing for everybody. It is ridiculous. It is absurd.

I urge my colleagues to vote "yes" on the McCollum amendment and strike this out of the bill.

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

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished whip on the Democratic side, the gen-

tleman from Pennsylvania [Mr. GRAY].

Mr. GRAY. Mr. Chairman, I rise in opposition to the McCollum amendment. Should this amendment pass, some 14,000 nonimmigrant Liberians would face the threat of detention and deportation to a country where there is no water, there is no electricity, there is no government and practically no hope.

Mr. Chairman, some 5,000 Liberian civilians have lost their lives in recent months as a result of the anarchy that has descended upon their country. There is a three-sided civil war there.

In addition, tens of thousands have been displaced and hundreds of thousands have had to flee to neighboring countries. The promises of the Department of Immigration and Naturalization Services to provide safe haven to the 14,000 Liberians stranded in this country have not borne fruit.

As a result, there are now as many INS policy responses to Liberians as there are INS offices.

The promised safe-haven status provided by the July 27 INS policy memo has not been implemented. What is needed now is the force of law to protect these people. They need to be removed from the whim of procedural discretion and administration lethargy. This is a matter of human compassion.

Mr. Speaker and my colleagues, we are not asking that these people be given permanent resident status in this country. We are not asking that they be allowed to live indefinitely in this country. We are simply asking that they be spared detention and deportation until the war in their land subsides. No one knows how long that will be. But the Moakley amendment provides a 3-year grace period in this bill.

I urge that we support the language in the bill, the Moakley amendment in H.R. 4300, and reject the attempts of my distinguished colleague, the gentleman from Florida, to strike that section.

I urge my colleagues to defeat the amendment of the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I yield myself the balance of my time, and I would like to take some time to engage the gentleman from Pennsylvania [Mr. GRAY]. I would appreciate it.

I know the gentleman is sincere about that plea. I am as concerned as he is about nationals who are here from Liberia as I am about those from Kuwait, for example. But I am sure the gentleman is aware that there is a procedure in law that some of us helped craft called political asylum, where each case individually has a right to be heard through a very extended process that takes, in many cases, all too long, from my perspective, but years. Everyone who is here can go through that process if they are in fear of being persecuted when they go back or are sent back.

Mr. Chairman, is the gentleman aware of that being in law today, that they have the right to protect themselves and keep from being deported under present law?

Mr. GRAY. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Pennsylvania.

Mr. GRAY. I thank the gentleman for yielding.

Mr. Chairman, asylum is not always fairly administered. There have been numerous examples of how it has been unfairly administered to Salvadorans and others.

Second, not everyone who needs protection meets the strict standard of asylum which is "well-founded fear of persecution."

In the case of Liberians, we are not talking about a well-founded fear of persecution which is the direct text of the law; we are talking about going back to a country where there is a three-sided civil war. People are being butchered.

So therefore the asylum method that the gentleman talks about really does not apply to many of these people. This bill is designed to help those who may qualify for asylum but nonetheless need protection.

Mr. McCOLLUM. Reclaiming my time, I think the gentleman made my point for me. If there is no well-founded fear of persecution, then maybe they ought to go back. If they are having a three-sided civil war over there, there is a well-founded fear of persecution. I do not think our Immigration Service judges are going to let them go back and certainly our courts are not. That is what that whole appellate process is designed for. We had it structured in the old immigration law that has been around here a while, since I have been here.

I would submit that this is the process that we ought to be having work; that the gentleman's concerns are there maybe in some individual cases, but overall, the system works exceedingly well, and we ought to let it work.

Mr. GRAY. I point out to the gentleman that my response was not to make his point but to point out the strict nature of the asylum language. It is often left open to interpretation. It is not administered fairly, particularly in the case of certain groups of immigrants with regard to this country.

I have got to say to the gentleman that as I have looked at the INS policy, we have a twofold policy with regard to defining persecution; one for Europe, one for the Caribbean, and one for the African people.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I rise in opposition to the McCollum amendment. I thank Chairman MOAKLEY for including my bill regarding Lebanese nationals, H.R. 3267. An orderly, systematic procedure for providing temporary protected status for nationals of countries undergoing war, civil war, or other extreme tragedy is needed to replace the current ad hoc haphazard procedure.

The current procedure for extended voluntary departure is so arbitrary and discretionary that aliens are reluctant to come forward. In the case of the Lebanese, this fear is compounded by the fact that Lebanese nationals in many areas of the country are placed into deportation hearings once they apply for extended voluntary departure or deferred departure. These are the same Lebanese nationals whose cases are supposed to be viewed sympathetically by the Immigration and Naturalization Service because of an INS directive last October to that effect. I ask unanimous consent that the telex be entered into the RECORD.

U.S. IMMIGRATION AND NATURALIZATION,
Washington, DC, October 12, 1989.

While there is still no blanket policy to grant deferred departure to nationals of Lebanon in the United States who have overstayed, the civil strife in Lebanon continues. This is to reaffirm that officers should, on a case-by-case basis, view sympathetically requests for deferred departure where such requests are based upon compelling humanitarian need. This is a lesser standard than a fear of persecution based on race, religion, nationality, membership in a social group, or political opinion.

One-third of the population of Lebanon is displaced (one million people) and 15 percent have suffered casualties. The United States Government recently withdrew Embassy personnel from Lebanon, the first time an American presence has been absent since World War II. A travel ban for American passport holders has been in effect for three years. The cease-fire called on September 23, 1989, has already been breached. However, there are some places of relative safety within Lebanon. These circumstances should be kept in mind when assessing individual requests for deferred departure from Lebanese nationals.

GERALD L. COYLE,
Acting Commissioner.

The INS should not be placed into deportation proceedings, if they are supposed to be treated sympathetically. Orders to show cause should not be issued for any Lebanese national. By placing the Lebanese who are trying to obey the law in deportation proceedings, which are terrifying to them, we only cause more immigration lawyers to be hired in this country by frightened people who face a horrible fate if they are forced to return to their home.

Some immigration lawyers have told me that the Extended Voluntary De-

parture Program is administered so badly that their clients have applied for political asylum, because it seemed that it would be easier for them to receive political asylum than to receive extended voluntary departure. These applications for extended voluntary departure then for political asylum only creates more work for the INS.

Immigration attorneys have also told me about people at the INS, ranging from people in docketing to a regional INS Director, who had not heard of the October INS directive to treat Lebanese applications for extended voluntary departure sympathetically and who had no idea which department within the regional INS Office would handle such a request. This problem is not confined to one office. I have heard this complaint from attorneys from many different areas of the country.

As a result immigration lawyers are reluctant to advise Lebanese nationals to apply for extended voluntary departure, because they have no assurance that their clients will be treated sympathetically.

I and 12 other Members of Congress wrote to the President last year asking for a blanket grant of extended voluntary departure for all Lebanese who are currently in the United States for just 1 year. This was within months of the most violent fighting in Lebanon's civil war.

Five months later I received a response from the Justice Department denying that request. The Justice Department said that the Lebanese nationals would not return to Lebanon and that granting the Lebanese Extended Voluntary Departure would set a bad precedent for people from other strife-torn countries.

While some people in the INS have been sympathetic to the plight of the Lebanese and have worked with the Arab-American community, their efforts have been rebuffed by the Justice Department.

Because the Justice Department is opposed to helping these people, the only solution is legislative. The gentleman from Kansas and I offered a very reasonable bill, H.R. 3267, to address these concerns. I am grateful to Chairman MOAKLEY for including Lebanese nationals in his section of the bill.

Under the Moakley section of the bill, people from Lebanon, Kuwait, El Salvador, and Liberia would be allowed to stay in the United States for at least the next 3 years, until it is safe for them to return home.

These people would register with the INS and would be given a work authorization card so that they can support themselves.

They would not be eligible for any Federal benefits, and State and local governments would not be obligated to provide them with benefits. We are offering them a haven. They will not be a burden.

The program would not act as a magnet, because it is designed only for those people who are here now.

Our Nation should act humanely toward those who are stranded at our doorstep. We cannot, in good conscience, send these people home to face their death.

I urge Members to defeat the McCollum amendment.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I rise in opposition to this amendment. Mr. Chairman, I commend the gentleman from Massachusetts [Mr. MOAKLEY], for his aggressive pursuit of a better set of rules.

The gentleman from Florida suggests that we have rules to deal with these problems. We do not. We do not have a set of rules to deal with just what the gentleman from Pennsylvania said, not individualized persecution but warfare or famine or some other form of pestilence of violence in the country.

This provision not only specifies four countries to be protected but establishes a standard rule to be applied in future cases in other countries. It is just the kind of legal provision that we need. The gentleman from Massachusetts had been responsible for bringing it to the floor last year, and this House passed it, and the House should stand by its earlier decision and not strike it from the bill.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in strong opposition to the McCollum amendment to H.R. 4300, which would strike temporary protection provisions for nationals of Lebanon, Kuwait, Liberia, and El Salvador from the bill.

People who come to America from these countries are searching for some semblance of security in their lives. Unless one is completely oblivious to world events, it is common knowledge that all four of the nations at issue are experiencing civil strife. The United States has always been a leader in recognizing the rights of victims of inescapable violence, whether they are political prisoners or refugees of war, and we should continue to protect those who have no other choice than to leave their homelands. Who are we to argue that those who are willing to leave their lives behind are not worthy of special proteciton in the U.S. immigration system? It is a major adjustment for most Americans to relocate from one city to another, and it does not make sense to challenge the intentions of innocent victims of war who are merely looking for a safe home.

Mr. Chairman, my grandfathers came here from Lebanon. I cannot envison the impact that the McCollum amendment would have had on my family. People who have grown up with the daily hardships of life in wartorn countries covet the values of American freedom, for they do not know life without sudden losses and suffering. I urge my colleagues to extend our special consideration to these people, defeat the McCollum amendment, and maintain America's foremost position as a refuge for those with nowhere else to turn.

□ 1820

Mr. BROOKS. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], the patron saint from El Salvador, Liberia, Lebanon, and Kuwait and the chairman of the Committee on Rules.

Mr. MOAKLEY. Mr. Chairman, let me close with an appeal to both the conscience and wisdom of Members on both sides of the aisle.

Today, by retaining my provision, we have an opportunity to uphold our country's commitment to provide safe haven for the innocent victims of war. We also have an opportunity to act upon our deep moral obligation to protect innocent victims.

I think it is particularly appropriate that we take this action in the case of El Salvador. For 10 long years these brave people of El Salvador—men, women, and children—have suffered the agony of the destruction of their homeland, the violation of their human rights, and the arbitrary killing of their love ones.

Mr. Speaker, El Salvador is the size of my State of Massachusetts. Over 70,000 civilians have been killed in the last decade. It is only human that people who live in fear will flee, seeking safety for their children and families. How can we deny their human needs and our moral obligations?

Mr. Chairman, just last week, Salvadoran President Cristiani reiterated his strong support for this measure. He recognizes that the continuing war in his tiny nation has displaced literally hundreds of thousands of his fellow countrymen who now desperately seek temporary protection.

The reality is that these people are here, but without the protection of our laws. It is long past the time when we should acknowledge their presence and have our laws recognize and regulate this reality. Otherwise, we turn our backs on their humanitarian needs and on the importance that our immigration laws control this situation.

In the cases of Kuwait, Lebanon, and Liberia, I have had urgent requests from colleagues to provide similar temporary protection for similar

reasons. I agree that these people—perhaps no more than 15,000 in total—who are now here have an equal claim upon the conscience and good will of the American people. As we seek to restore human decency and peace in the Middle East—as well as in Central America—the last we can do is treat with respect and basic humanity nationals of these countries who now live among us.

The opponents of this measure argue like chicken little, that the sky is falling, and that if we enact this measure America will be overrun by people who somehow pose a threat to our well-being. This is ludicrous and inhumane.

By its specific terms, only people already here today are entitled to temporary protected status. And these are good people, decent people, law-abiding people who are committed to the safety of their families.

By its terms, this measure denies protection to anyone convicted of criminal activity, or who would be inadmissable to the United States under our immigration laws.

By its terms, this measure provides no Federal benefits to those it protects.

By its terms, this measure requires those who are covered to register with the proper authorities.

In addition, this measure establishes a statutory framework for future uses of safe haven protection. It ends the current ad hoc approach to dealing with people in need.

Mr. Chairman, these are good people we seek to protect. Somehow I think we owe it to them.

We also owe it to ourselves to enact this measure.

Mr. Chairman, America is the beacon of freedom and hope for the people of the world because of our values and respect for human life and dignity. This is what makes us great and unique in the community of nations.

We owe it to ourselves to practice what we preach.

We owe it to ourselves to uphold our country's traditions.

We owe it to our posterity to act today in a manner which will make our children proud.

Let it not be said that the America of 1990 does not have the heart and soul to provide this modest temporary protection to refugees from war.

Defeat the motion to strike—and help save some lives.

Mr. BROOKS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I would like to rise in opposition to the McCollum amendment. The provisions of the bill to suspend the detention and deportation of illegal immigrants from El Salvador, Lebanon, Liberia, and Kuwait are very important. This bill creates a systematic approach to providing temporary protected status for certain foreign nationals whose countries are in the midst of a war or natural disaster.

Mr. Chairman, as you know, I cosponsored a similar piece of legislation that would have offered this same type of remedy to the Lebanese immigrants who can not return to their homes because of the civil war raging there. I support extending this same status to these four groups of people from Lebanon, El Salvador, Liberia, and Kuwait. I must therefore oppose this amendment because it would continue a policy that is uncertain and arbitrary. Instead, I support the provisions contained in the bill H.R. 4300, because this arbitrary policy will be replaced with a systematic set of procedures that will end the confusion and uncertainty for everyone.

Mr. BONIOR. Mr. Chairman, few of us could ever imagine the struggles faced daily by the people of Lebanon.

We could never imagine the daily battle for survival waged by people who can no longer afford food, find housing, clothe their children. All this while they pray that their family won't be killed in the war fought around them.

And it's hard to imagine the fear of Lebanese nationals residing in this country living under the threat of deportation back to war, back to that daily battle.

It may be hard for us to imagine unless we've lived it. But today, with this bill we have a chance to help. We have an opportunity to assist people living in Lebanon to escape the war and join their families here.

Many of those who hope to join their families here, must wait up to 15 years from the time they apply. Even those who have had their visas approved have to wait up to 6 years because of the quota limitations.

Mr. Chairman, no family should have to wait that long to be reunited. And in the case of the Lebanese, it's not safe—their lives are endangered.

The bill before us would allow visas for an additional 1,000 Lebanese each year beyond the increased number of visas provided for under the expanded preference system. I would work to eliminate the backlog that is literally endangering the lives of Lebanese applicants for visas.

We also have a chance to eliminate the burden of fear for Lebanese nationals in the country. As a member of the Rules Committee, I am proud to have worked with Chairman MOAKLEY to include in this bill protection for the Lebanese living here temporarily.

Under the Moakley provisions, Lebanese citizens residing in this country would not be sent back to their war torn country. They would be provided extended voluntary department status for 3 more years.

As the fighting escalated in Lebanon last year, I wrote to the administration requesting that they act quickly to protect the lives of the people of Lebanon here in this country. But the administration refused. The legislation before us may be our only chance.

Mr. Chairman, I urge my colleagues to support the Moakley provisions and to vote "no" on the McCollum amendment that would remove the protection provided for the Lebanese under this bill.

The CHAIRMAN. All time for debate on the amendment of the gentleman from Florida [Mr. MCCOLLUM] has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded was ordered.

The vote was taken by electronic device, and there were—ayes 131, noes, 285, not voting 17, as follows:

[Roll No. 402]

AYES—131

Archer	Grandy	Pursell
Armey	Hall (TX)	Regula
Baker	Hammerschmidt	Rhodes
Ballenger	Hancock	Ritter
Barnard	Hastert	Roberts
Bartlett	Herger	Robinson
Barton	Hiler	Rogers
Beilenson	Holloway	Roth
Bereuter	Hopkins	Roukema
Bilirakis	Hutto	Schaefer
Bliley	Inhofe	Schulze
Broomfield	Ireland	Sensenbrenner
Brown (CO)	James	Shaw
Bunning	Johnson (CT)	Shumway
Burton	Johnston	Shuster
Callahan	Kolbe	Skeen
Chandler	Kyl	Slaughter (VA)
Chapman	Lagomarsino	Smith (NE)
Clinger	Laughlin	Smith (TX)
Coble	Lewis (CA)	Smith, Denny (OR)
Coleman (MO)	Lewis (FL)	Smith, Robert (NH)
Combest	Lightfoot	Smith, Robert (OR)
Coughlin	Livingston	Solomon
Courter	Lowery (CA)	Spence
Cox	Lukens, Donald	Stangeland
Craig	Madigan	Stearns
Crane	Marlenee	Stenholm
Dannemeyer	Martin (NY)	Stump
DeLay	McCandless	Sundquist
DeWine	McCollum	Tauke
Dickinson	McCrery	Thomas (CA)
Dornan (CA)	Meyers	Thomas (WY)
Douglas	Michel	Vucanovich
Dreier	Miller (OH)	Walker
Duncan	Montgomery	Weber
Fawell	Moorhead	Whittaker
Fields	Myers	Wolf
Frenzel	Nelson	Wylie
Gallegly	Nielson	Young (AK)
Gallo	Ortiz	Young (FL)
Gekas	Packard	
Geren	Parker	
Gillmor	Parris	
Gingrich	Paxon	
Goss	Porter	

NOES—285

Ackerman	Browder	Darden
Anderson	Brown (CA)	de la Garza
Andrews	Bruce	DeFazio
Annunzio	Bryant	Dellums
Anthony	Buechner	Derrick
Applegate	Bustamante	Dicks
Atkins	Byron	Dingell
AuCoin	Campbell (CA)	Dixon
Bateman	Campbell (CO)	Donnelly
Bates	Cardin	Dorgan (ND)
Bennett	Carper	Downey
Bentley	Carr	Durbin
Berman	Clarke	Dwyer
Bevill	Clay	Dymally
Bilbray	Clement	Dyson
Boehlert	Coleman (TX)	Early
Bonior	Collins	Eckart
Borski	Condit	Edwards (CA)
Bosco	Conte	Emerson
Boucher	Conyers	English
Boxer	Cooper	Erdreich
Brennan	Costello	Espy
Brooks	Coyne	Evans

Fascell	Lipinski	Rose
Fazio	Lloyd	Rostenkowski
Feighan	Long	Rowland (GA)
Fish	Lowey (NY)	Roybal
Flake	Luken, Thomas	Russo
Flippo	Machtley	Sabo
Foglietta	Manton	Sangmeister
Ford (MI)	Markey	Sarpalius
Ford (TN)	Martinez	Savage
Frank	Matsui	Sawyer
Frost	Mavroules	Saxton
Gaydos	Mazzoli	Scheuer
Gejdenson	McCloskey	Schiff
Gephardt	McCurdy	Schneider
Gibbons	McDade	Schroeder
Gilman	McDermott	Schumer
Glickman	McEwen	Serrano
Gonzalez	McGrath	Sharp
Goodling	McHugh	Shays
Gordon	McMillan (NC)	Sikorski
Gradison	McMillen (MD)	Sisisky
Grant	McNulty	Skaggs
Gray	Mfume	Skelton
Green	Miller (CA)	Slattery
Guarini	Miller (WA)	Slaughter (NY)
Gunderson	Mineta	Smith (FL)
Hall (OH)	Mink	Smith (IA)
Hamilton	Moakley	Smith (NJ)
Harris	Molinari	Smith (VT)
Hatcher	Mollohan	Snowe
Hayes (IL)	Moody	Solarz
Hayes (LA)	Morella	Spratt
Hefley	Morrison (CT)	Staggers
Hefner	Morrison (WA)	Stallings
Henry	Murphy	Stark
Hertel	Murtha	Stokes
Hoagland	Nagle	Studds
Hochbrueckner	Natcher	Swift
Horton	Neal (MA)	Synar
Hoyer	Neal (NC)	Tallon
Hubbard	Nowak	Tanner
Huckaby	Oakar	Tauzin
Hughes	Oberstar	Taylor
Hunter	Obey	Thomas (GA)
Hyde	Olin	Torres
Jacobs	Owens (UT)	Torricelli
Jenkins	Pallone	Towns
Johnson (SD)	Panetta	Traficant
Jones (GA)	Pashayan	Traxler
Jones (NC)	Patterson	Udall
Jontz	Payne (NJ)	Unsoeld
Kanjorski	Payne (VA)	Upton
Kaptur	Pease	Valentine
Kasich	Pelosi	Vento
Kastenmeier	Penny	Visclosky
Kennedy	Perkins	Volkmer
Kennelly	Petri	Walgren
Kildee	Pickett	Walsh
Kleczka	Pickle	Washington
Kolter	Poshard	Watkins
Kostmayer	Price	Waxman
LaFalce	Quillen	Weiss
Lancaster	Rahall	Weldon
Lantos	Rangel	Wheat
Leach (IA)	Ravenel	Whitten
Leath (TX)	Ray	Williams
Lehman (CA)	Richardson	Wilson
Lehman (FL)	Ridge	Wise
Lent	Rinaldo	Wolpe
Levin (MI)	Roe	Wyden
Levine (CA)	Rohrabacher	Yates
Lewis (GA)	Ros-Lehtinen	Yatron

NOT VOTING—17

Alexander	Engel	Owens (NY)
Aspin	Hansen	Oxley
Boggs	Hawkins	Rowland (CT)
Crockett	Houghton	Saiki
Davis	Martin (IL)	Schuette
Edwards (OK)	Mrazek	

□ 1844

Messrs. McCURDY, HOAGLAND, and WILLIAMS changed their vote from "aye" to "no."

Messrs. JOHNSTON of Florida, COLEMAN of Missouri, and DANNEMEYER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. COX. Mr. Chairman, on the McCollum amendment I entered my vote as "aye;" I intended to enter my vote as "no," and time had expired before I could change my vote.

The CHAIRMAN. It is now in order to consider amendment No. 17 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. LIPINSKI

Mr. LIPINSKI. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. LIPINSKI: After section 325, add the following new section (and conform the table of contents accordingly):

SEC. 326. OPPORTUNITY FOR ADJUSTMENT OF STATUS BEFORE TERMINATION OF ASYLUM STATUS.

(a) IN GENERAL.—Section 208(b) of the Immigration and Nationality Act (8 U.S.C. 1158(b)) is amended by adding at the end the following new sentence: "The Attorney General may not terminate such status on the basis that the alien is no longer a refugee unless the alien has been provided notice of such termination and the right to apply for adjustment of status under section 209(b) and an opportunity (of not less than 90 days beginning one-year after the date the alien is granted asylum) to file an application for adjustment of status under such section to that of an alien lawfully admitted for permanent residence.".

(b) CONFORMING AMENDMENT.—Section 209(b) of such Act (8 U.S.C. 1159(b)) is amended by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to termination of asylum status occurring before, on, or after the date of the enactment of this Act. The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

The CHAIRMAN. Under the rule, the gentleman from Illinois [Mr. LIPINSKI] will be recognized for 5 minutes, and a Member opposed to the amendment will be recognized for 5 minutes.

The Chair recognizes the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, I offer this amendment on behalf of the gentleman from Illinois [Mr. ROSTENKOWSKI] and myself.

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I am pleased to rise in strong support of the amendment offered by Mr. LIPINSKI. This amendment addresses the problem created by the current requirement that an asylee must prove that he or she still meets the definition of refugee in order to adjust his or her status to that of permanent resident.

As Members know, the cornerstone of the definition of refugee is that the person possesses a well-founded fear of persecution should he or she return to the homeland. The dramatic worldwide democratic movement of the past year has made the reproving of that hard-won finding an unfair burden.

It is incongruous that the otherwise welcome demise of a repressive regime in an asylee's home country should make it virtually impossible for the asylee to remain in the United States for failure to prove a continuing well-founded fear of persecution. Yet, under current law, this change in circumstances in the homeland permits the INS to deny adjustment to permanent resident status, to terminate asylee status, and to initiate deportation proceedings.

To make this general situation worse, the INS identified four specific emerging democracies this past July—Poland, Hungary, Panama, and Nicaragua—and strongly suggested that District Directors should henceforth deny adjustment to asyles from those countries. As a direct result, mass denials of status adjustment have begun. Under the INS guidance, termination of asylum status will inevitably follow.

The purpose of the Lipinski amendment is to bring this untoward treatment of Poles, Hungarians, Panamanians, and Nicaraguans to an end in the short run, and to approach the issue more reasonably in the long run. It does this by retaining all current requirements for adjustment to permanent resident status except the requirement that the asylee continue to satisfy the definition of refugee.

The Lipinski amendment also would install new procedural safeguards against summary termination of asylee status. Otherwise, summary termination would be available to the immigration authorities as a mechanism to short-circuit an asylee's attempt to adjust to permanent resident status under the new rules.

In offering this amendment, Mr. LIPINSKI asks us to recognize and acknowledge the very difficult position in which asylees from emerging democracies find themselves. When they left their homelands, they uprooted their lives, abandoned their means of earning a living, gave up their apartments or homes, and left family and personal property behind.

Now, in many cases, there is nothing to which to return. It is true that, in a vast majority of the cases, the fear of persecution has subsided or even disappeared, but the effect of the persecution lives on. The houses and apartments of the asylees have been confiscated, destroyed, or simply snapped up by others desperate for shelter and privacy. Their jobs have been eliminated or given away, while unemployment grows. The economies of these homelands are in shambles and are not likely to improve in the near term.

In the meanwhile, the asylees have begun to set down roots here in the United States. They have homes, and jobs. Their children are in our schools. They have joined American organizations, learned our language, and even taken an intense interest in our domestic and international affairs. Notably, they have also given us the benefit of their energy and their fresh outlook on our own dedication to democracy and freedom.

In short, they have proven themselves to be good, productive members of our society, reminding us of previous generations which have contributed so much to the growth of America.

I ask my colleagues to remember that these are the very people who did what we wanted them to do in their homelands under repressive regimes. They accosted tyranny, they fomented dissension, they worked in the underground, and they marched in the streets. For this they were persecuted or threatened with persecution. They came to fear for their safety, their lives, and their ability to support their families. So they came to America.

The safe haven we provided to them in their hour of fear and need should not now be taken away solely because their labors in the vineyard of freedom bore fruit.

Mr. Chairman, I thank Mr. LIPINSKI for his leadership in this important issue and I urge my colleagues to support the Lipinski amendment. It will give asylees from emerging democracies and elsewhere the protection they need and deserve.

Mr. LIPINSKI. Mr. Chairman, I yield myself such time as I may consume and I thank the gentleman from Illinois [Mr. ROSTENKOWSKI] for his statement. I would also like to thank his staff who worked very diligently and very long on this particular amendment.

Mr. Chairman, this amendment will permit those who were granted political asylum from Poland, Nicaragua, Hungary, and Panama to apply for permanent residency status without having to prove once again that they still meet the definition of refugees under United States immigration law.

□ 1850

These people would be permitted 15 months to apply for permanent residency status from the date on which they were originally granted asylum in the United States. We are talking here about 9,000 Nicaraguans, 1,000 Poles, 450 Hungarians, and approximately 350 Panamanians.

I ask the committee to support this amendment.

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

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment is well intended, but it would prohibit the Attorney General from exercising certain rights that he now has under the Immigration and Naturalization Act regarding persons who receive political asylum, but whose home countries are now safe enough for those persons to return.

Section 208(b) of the INA states:

Asylum grants may be terminated if the Attorney General determines that the alien is no longer a refugee owing to a change in circumstances in the alien's country of nationality.

The amendment offered by the gentleman from Illinois would not let the Attorney General terminate an alien's asylum grant despite a favorable change in that alien's home country until the alien has an opportunity to adjust to permanent residence.

I am very concerned about the policy behind this amendment. In effect, this amendment states that even though it is safe for an alien to return home now, we are not going to let the Attorney General return that alien.

Let me ask my colleague, the gentleman from Illinois, the following question: If these amendment inspired by the recent changes toward democracy in Eastern Europe whereby many Eastern Europeans in the United States could now safely return home? Would we not think that it would be a good idea for Eastern Europe's best and brightest to return home to help their countries make a smooth and position toward democracy?

If refugee visas were infinite in supply, I would not oppose this amendment. However, there are 15 million refugees worldwide today. The United States accepts 130,000 of them for resettlement each year. Our priorities should be those refugees who truly face persecution, not those who no longer do.

This amendment helps the latter group and unwittingly endangers our ability to help those who truly need refugee status.

Mr. Chairman, this amendment sets a dangerous precedent in refugee law. It removes important authority that the Attorney General now has to rescind refugee status grants when the threat of persecution no longer exists, and I oppose it.

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

Mr. LIPINSKI. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BROOKS], the chairman of the full committee.

Mr. BROOKS. Mr. Chairman, we support the amendment and hope we can pass it now.

Mr. LIPINSKI. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. LIPINSKI].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 18 printed in part 2 of House Report 101-786.

AMENDMENTS EN BLOC OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc are as follows:

Amendments en bloc offered by Mr. RICHARDSON: Page 114, after line 15, insert the following new section (and conform the table of contents accordingly):

SEC. 327. TIMING OF PAYMENT OF FEE FOR APPLICATIONS TO FILE PETITIONS FOR NATURALIZATION.

Any fee charged by the Immigration and Naturalization Service for the filing of an application to file a petition for naturalization shall be paid by the applicant at the time of the filing of the petition for naturalization and, if no such petition for naturalization is filed, no fee shall be charged for the filing of such application.

Page 114, after line 15, insert the following new section (and conform the table of contents accordingly):

SEC. 327. USE OF IMMIGRANT EXAMINATIONS FEE ACCOUNT FOR PROMOTION OF CITIZENSHIP.

(a) IN GENERAL.—Section 286(n) of the Immigration and Nationality Act (8 U.S.C. 1356(n)) is amended by adding at the end the following: "Not less than one percent of the funds deposited in the Account shall be expended by the Service to promote the opportunities and responsibilities of United States citizenship. The Attorney General shall submit to Congress annually a report on the promotional activities conducted by the Service under the preceding sentence.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to funds deposited in the Immigration Examinations Fee Account for fiscal years beginning with fiscal year 1991.

Page 114, after line 15, insert the following new section (and conform the table of contents accordingly):

SEC. 327. REPORT CONCERNING ADMINISTRATIVE DENIALS OF APPLICATIONS FOR NATURALIZATION.

The Commissioner of the Immigration and Naturalization Service shall submit to Congress annually a report on the number, and rate of denial administratively, of applications for naturalization. Each such report shall specify, for each district office of the Service and by national origin group—

(1) the number of applications classified as "returns" and the number classified as "non-files", and

(2) the number of applicants who reapply after an application for naturalization has been denied.

The CHAIRMAN. Under the rule, the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, increased naturalization benefits our Nation. Legal immigrants who naturalize demonstrate their commitment to this country, and when they partici-

pate in our civic life, our democracy is strengthened.

The legal resident community now stands at approximately 9 million individuals and growing. Congress and the INS should work to fully incorporate these individuals into citizenship, with all its rights and responsibilities.

My en bloc amendments aim to reduce barriers to naturalization and promote citizenship in the legal resident community.

AMENDMENT NO. 1

Since December 1989, applicants for U.S. citizenship pay $60 merely to initiate the naturalization process. This gateway fee, imposed by the INS bureaucracy, is the first such charge in the history of U.S. naturalization.

The new fee is charged whether or not the applicant completes the citizenship process and is in addition to an existing $50 fee for filing of a naturalization court petition.

In addition to these new filing fees, applicants frequently, incur substantial costs in obtaining photographs, fingerprints, and legal assistance. These costs are often prohibitive. Hispanic immigrants, for example, have a median annual household income of only $18,000.

My first amendment would ease the hardship resulting from the new fee by shifting its payment back to the moment applicants file the court petition—a time when they have satisfied the application review, and English and civics examinations—when they are on the verge of citizenship.

AMENDMENT NO. 2

The INS is authorized to promote U.S. citizenship in the legal resident community, but has limited its citizenship promotion activities to pamphlets. The legal resident population has been steadily growing over the past 10 years, signaling the need for more aggressive citizenship and naturalization promotion.

There are more than 9 million legal residents in the United States. The majority of them are eligible for naturalization, but delay their application because of lack of information and confusion regarding the application process.

This amendment would require the INS to expend no less than 1 percent of funds deposited into the immigration examinations fee account on promotion of responsibilities and opportunities for United States citizenship. This will result in more active INS efforts to promote citizenship.

Every year thousands of immigrants are denied naturalization administratively by the INS without benefit of judicial review. In 1988, for example, 24 percent of all applications processed by INS resulted in administrative denials.

A 1988 Senate report showed that administrative denial rates appear to be higher among immigrants from certain ethnic and racial backgrounds. These denial rates also vary dramatically between INS district offices. This raises serious questions as to the fairness of naturalization process.

This amendment requires the Commissioner of the INS to report annually to Congress on the numbers of applicants who are denied naturalization administratively. The report would specify rates of denial, return, nonfile, and reapplication for each district office and for each national origin group.

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

The CHAIRMAN. Is there a Member in the Chamber in opposition to the amendments en bloc?

Mr. SMITH of Texas. Mr. Chairman, I rise not in opposition but in support of the amendments.

The CHAIRMAN. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. SMITH of Texas. Mr. Chairman, this amendment would spend money to encourage citizenship, and that is a good thing, but it is too bad we need to spend money to encourage naturalization, when there are so many provisions in H.R. 4300 that reduce incentives to become citizens by eliminating differences between citizens and permanent residents.

Mr. Chairman, I will not oppose this amendment. I only wish its provision on naturalization were unnecessary.

Mr. Chairman, one final note, to my knowledge, this is the last amendment that I will be speaking on tonight, and I just wanted to express my personal appreciation to you for the fair way in which you presided today.

The CHAIRMAN. The Chair thanks the gentleman very much.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

Mr. RICHARDSON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from New Mexico [Mr. RICHARDSON].

The amendments en bloc were agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 19 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. MOORHEAD

Mr. MOORHEAD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MOORHEAD: Page 114, after line 15, insert the following new section (and conform the table of contents accordingly):

SEC. 327. INCREASE BY 1,000 IN BORDER PATROL PERSONNEL.

There are authorized to be appropriated for fiscal year 1991 such additional sums as may be necessary to provide for an increase of 1,000 in the authorized personnel level of the border patrol of the Immigration and Naturalization Service, above the authorized level of the patrol as of September 30, 1990.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. MOORHEAD] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Chairman, I yield myself 1¾ minutes.

Mr. Chairman, Mr. LOWERY, Mr. PACKARD, and I wish to offer an amendment to increase border patrol personnel by 1,000 in fiscal year 1991. As you know, the U.S. Border Patrol performs a nearly impossible task in policing our land borders with a relatively small group of dedicated personnel. Over the past several years, this task has grown even more difficult. Since mid-1989, there has been a dramatic increase in the number of illegal aliens crossing the U.S. border at vulnerable points in California and Texas. This has caused a disturbing outbreak of violent crime along the southwest border as drug smugglers and armed robbers take advantage of the large groups of aliens attempting to gain entry into the United States. In addition to their primary mission of stopping illegal crossings, the Border Patrol was involved in close to 5,000 narcotics seizures valued at over $1 billion in only the first 6 months of fiscal year 1989. This is greater than the amount seized in all of fiscal year 1988.

This amendment will bring the total border patrol force more in line with my original amendment to IRCA [Immigration Reform and Control Act] authorizing a 50-percent increase for the Border Patrol in fiscal years 1987 and 1988 above the fiscal year 1986 level. When IRCA went into effect, the Border Patrol consisted of approximately 3,600 agents, including support personnel—technicians, supervisors, and so forth. The authorized 50 percent increase should have brought the force up to 5,500 by the end of fiscal year 1988. Unfortunately, this did not happen.

Our Border Patrol force today stands at approximately 4,400 agents including support personnel and has actually decreased in size since December 1988. The lack of appropriations, a budget freeze, reprogramming, inflation and other uncontrollable factors have all been roadblocks to achieving the intended increase authorized by IRCA.

Earlier this year, the House Judiciary Committee approved unanimously by voice vote an amendment I offered to the DOJ authorization bill providing for $55 million in fiscal year 1991 to increase Border Patrol strength by

1,000. Both chairman BROOKS and Mr. MORRISON, the Immigration Subcommittee chairman, supported this amendment. Unfortunately, a DOJ authorization bill has not been brought to the House floor for a vote in the past decade, and it is not likely that we will have the opportunity to vote on it this year.

In a recent study, the center for immigration studies concluded that in spite of the 1986 Immigration and Control Act, illegal migration is rising because of three factors: First, rapid growth in the working age populations in Mexico, Central America and the Caribbean; second weakening of the 1986 law through use of false documents and other forms of subterfuge; and third, shrinking INS resources including fewer Border Patrol agents.

It is estimated that it will take two to three times the number of agents currently on board to become an effective deterrent to our illegal immigration problem. Illegal immigration along the southwest border has surged in recent months, reversing a 3-year downward trend that started after the enactment of IRCA. In today's climate, where the volume of drugs coming across the United States-Mexican border has exploded and the flood of illegal immigrants seems endless, it is eminently sensible that we increase the strength of our border patrol.

Mr. BROOKS. Mr. Chairman, I rise in support of the amendment and take the opposition's time.

The CHAIRMAN. Without objection, the gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

There was no objection.

Mr. BROOKS. Mr. Chairman, I rise in support of this amendment. It would provide for 1,000 additional Border Patrol personnel. The Border Patrol performs a vital mission in controlling the flow of illegal immigration across our borders and the need for additional personnel is clear. The amendment of the gentleman from California. [Mr. MOORHEAD], is consistent with a provision which was adopted by the Judiciary Committee when it acted on the Department of Justice Authorization Act for fiscal year 1991. I would urge its adoption.

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

Mr. MOORHEAD. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. LOWERY].

Mr. LOWERY of California. Mr. Chairman, I want to express my strong support for this amendment which would authorize 1,000 new Border Patrol agents for fiscal year 1991.

Mr. MOORHEAD, Mr. PACKARD, and I have offered this amendment to address the long acknowledged need for more Border Patrol agents. The amendment is based on H.R. 4499, which Mr. MOORHEAD and I introduced earlier this year. It is noncontroversial and was accepted by the Judiciary Committee as an amendment to the fiscal year 1991 Justice Department authorization bill which will probably not be considered by the House. It should be added to this legislation.

The purpose of H.R. 4300 is to improve and expand our current system of legal immigration. Its intent is to give more opportunities for individuals to legally enter the United States. Unfortunately, the present state of security on our southern border is so weak that individuals do not have to wait to enter the country legally because they can enter illegally.

Despite the enactment of the 1986 Immigration Act, it is still far too easy to enter the United States illegally. From October 1989 on July 31, 1990, the Border Patrol apprehended 846,000 undocumented aliens along our southern border—a 25-percent increase over the previous year. In addition, for every alien apprehended, three enter the United States illegally. And this is a conservative estimate. The Border Patrol cannot begin to address this influx with their existing resources.

Mr. Chairman, Congress has not provided the Border Patrol personnel we promised in the 1986 act. The San Diego sector, which witnessed roughly 50 percent of all illegal entries, currently has 785 agents on board, compared to 850 agents prior to 1986.

The 1,000 agents authorized by this amendment will not end illegal immigration, but they will help secure the border and that is a vital step toward insuring the credibility of our system of immigration. The changes and reforms contained in H.R. 4300 cannot succeed without an effective deterrent to illegal immigration. I urge my colleagues to approve the Moorhead-Lowery-Packard amendment.

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Mr. MOORHEAD. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Chairman, I rise in support of the Moorhead-Packard-Lowery border guard amendment to H.R. 4300. My district suffers as much from immigration as any other district in the country.

The Border Patrol catches almost 500,000 illegal aliens a year in the 12-mile San Diego border sector.

INS estimates for every one they catch, at least three get away.

These illegal aliens travel through my district to Los Angeles and the rest of the country.

Apprehensions of illegal aliens have increased 25 percent in the last year, and illegal immigration shows no signs of abating.

Mr. Chairman, the city officials and residents of the cities in my district have no answers to the social problems associated with illegal immigration. Local schools and hospitals, county health, housing, local police and law enforcement are overburdened.

One city, Encinitas, threw up its hands in frustration and declared a state of emergency. I don't know what this declaration means, but it indicates how desperate the officials in my district are for solutions.

Mr. Chairman, H.R. 4300 does not address the problem of illegal immigration. It is estimated that 200,000 illegal aliens permanently settle in the United States each year. This fact diminishes respect for immigration laws and inflames the residents of border States.

The Moorhead-Packard-Lowery border guard amendment will augment the Border Patrol by 1,000 agents. We feel this is a small first step toward controlling our borders. I can assure the House that these agents are sorely needed in California. This amendment would send a message in H.R. 4300 that illegal immigration must be controlled.

Mr. DREIER of California. Mr. Chairman, I rise today to cosponsor the MOORHEAD amendment which would assist the Border Patrol in containing the roughly 200,000 people who stream across our southern borders illegally. An amendment which I coauthored with Mr. Moorhead in 1986 expanded the border patrol funding by 50 percent. This amendment will further that effort.

Presently, our ability to protect our borders is ineffective. Four million illegal immigrants will arrive in the United States this year. At any one time, only 800 patrolmen stand duty along the 1,933-mile United States/Mexican border. Clearly, something has to be done in order to help these overextended officers enforce the law.

Mr. Chairman, we cannot underestimate the effects of illegal immigration on our country. Unfortunately, there is an undeniable connection between illegal immigrants and the war we are currently fighting against drug imports and drug-related crimes. As much as 50 percent of the cocaine entering the United States comes through Mexico. Last year, the Border Patrol confiscated cocaine and heroin valued at $1.2 billion. This year approximately 72,000 illegal aliens will be arrested for drug dealing. Los Angeles County reports that approximately 33 percent of the major crimes are committed by illegal immigrants. Nearly 20 percent of the inmates in Federal prisons are illegal aliens.

The Immigration Reform and Control Act of 1986 granted amnesty to 3.1 million illegal aliens across the country, an estimated 25 percent of these people were in the Los Angeles area. Between 1983 and 1989, Los Angeles spent $768.8 million in unreimbursed health care for illegal aliens alone. Together, with higher expenditures for education, housing, and other social services, Los Angeles can no longer bear the burden of illegal immigration alone.

Proponents of this immigration package feel that offering increased preferences for immediate family members will stem the tide of illegal immigrants. I hope that they are right, but I urge those same people to look at the effect of illegal immigration on the Southwestern States and vote for amendments, such as the Moorhead/Dreier amendment, to ensure that the brunt of reforms will not be isolated to a few areas of the country.

Though reform in legal immigration policies are needed, we also have a constitutional responsibility to defend our borders. The protection of the sovereignty of the United States by our Border Patrol sends a clear message to those who seek citizenship that they must obey our legal procedures.

Mr. SCHEUER. Mr. Chairman, I rise in support of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990.

Only 2 weeks ago we celebrated the opening of a museum at Ellis Island, the gateway to America for thousands of immigrants over the past century. Immigrants who came to America with dreams in their eyes and heats, immigrants who came to this country with a vision of a better life, immigrants who lived those dreams and built those visions—who helped drive the economic machinery that made this Nation a thriving, productive, economic giant.

Today Ellis Island is an immigration museum. Notwithstanding, immigration has not been relegated to the history books, rather immigration is an ongoing process, an integral part of our heritage.

Yet this Nation's immigration policy, which since 1965 has been based on family reunification, has inadvertently resulted in a narrowly focused influx of immigrants into the United States.

Over the past quarter century, the vast majority of immigrants have hailed from Latin America or from Asia. Immigration from Europe, Africa, and other regions of the world has been virtually shut ott, dwindling to a mere trickle under current immigration policy.

H.R. 4300 sets aside visas for countries like Ireland, Italy, and Poland which are designated as under-represented. The bill seeks to preserve the diversity of the American society that we have come to view as our most valuable asset. It seeks to preserve the United States as the marketplace of ideas.

Mr. Chairman, H.R. 4300 is a well crafted bill that is good for this country.

Mr. MANTON. Mr. Chairman, I rise in strong support of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act. I wish to offer my most sincere appreciation to the gentleman from Connecticut [Mr. MORRISON], the chairman of the Immigration Subcommittee, and the gentleman from Texas [Mr. BROOKS], the chairman of the full Judiciary Committee, for their tireless efforts in crafting this legislation and bringing it to the floor for consideration. They are to be commended for their fine work and dedication.

Mr. Chairman, H.R. 4300 represents a major reform of our Nation's antiquated and inadequate immigration policies. This much-needed and long-overdue piece revision of our Nation's immigration policies will ensure a more equitable legal immigration system, which will provide for family unification and greater diversity in immigration. The measure will also be helpful in facilitating greater immigration from historic sources, such as Ireland, the homeland of my parents.

Mr. Chairman, as so clearly stated by the Wall Street Journal in a recent editorial:

[t]he case of greater immigration is overwhelming on both economic and spiritual grounds. As a matter of spirit, immigrants—usually the best and most ambitious from other lands—enliven our society. We need more immigrants because we want to live in a dynamic, creative society * * * As for material benefits, no other issue unites economists from across the political spectrum. Eighty percent said immigrants have had a "very favorable impact" on U.S. economic growth in the 20th century. No one judged any negative effect.

Mr. Chairman, I urge my colleagues to support H.R. 4300. We must set aside unsubstantiated fears about immigration, and we must accept this very well thought out and urgently needed revision of our Nation's immigration polices.

Mr. DONNELLY. Mr. Chairman, I intend to vote in favor of H.R. 4300, but I do so with reservations. I want to take this opportunity to explain my reluctant support for this bill.

Mr. Chairman, much has been said about H.R. 4300, and its benefits for the Irish. The legislation has been embraced by Irish-American groups. The way I see it, there are really three provisions in this bill which will provide some benefit to the Irish: the Diversity Visa Program, the Transitional Visa Program authorized under section 201 of the legislation, and the employment-based visas of the bill. While all provisions have some merit, I am concerned that none go nearly far enough.

Let me address these provisions. The Diversity Visa Program establishes a complicated formula, dividing the world into low admission and high admission regions. Qualified imigrants can apply for a diversity visa on a lottery basis—one application per immigrant.

While I appreciate the underlying premise of the Diversity Visa Program, there are problems with it. First, the program does not begin until 1994—and the only existing immigration program remotely similar to the Diversity Visa Program in H.R. 4300 expires next year. Second, and more importantly, the fact that qualified immmigrants can apply for diversity visas only once blatantly discriminates against countries with low population.

For example, under the bill, Europe is a low admission region. By virtue of sheer numbers, Ireland will be disadvantaged. Ireland has a population of 3 million; Europe has a population of 500 million. Ireland is less than 1 percent of the total. It is not difficult to imagine that Ireland will qualify for very few of the 55,000 diversity visas made available under H.R. 4300.

The transition visas made available under the bill are only available for 3 years, and are targeted to adversely affected countries. This will provide some help to the Irish—but again, in competition with several other countries of the world. Moreover, this provision of the bill has provoked a threatened Presidential veto of H.R. 4300. If the bill is vetoed, Ireland will get nothing.

Finally, the employment-based visa provision of the bill contains some targeted visas to adversely affected countries, but really applies worldwide. there is no guarantee—none—that Ireland will get one of these visas. Again, I agree with the premise, but question the potential outcome.

Mr. Chairman, I am concerned about this bill because it has taken a quarter of a century for Congress to systemically reform America's immigration laws. Ireland was disadvantaged by the 1965 Immigration Act—badly disadvantaged. I do not want to be in a position in a few years of realizing that we did not do enough to address the systemic, long-term problems of America's current immigration structure. H.R. 4300 seems to represent a bottom-line approach to the many problems in our immigration laws—not an ambitious, far-sighted approach that I think is badly needed.

That being the case, I do not want to see a compromise in conference which undercuts the already weak provisions of H.R. 4300. If either the diversity, transition, or employment-based visa provisions are weakened in conference—and let me stress, they should be strengthened, not weakened—I will not be able to support the conference agreement.

I urge all interested parties to carefully consider their support for H.R. 4300. Consider the decades it has taken for Congress to pass legal immigration reform. Consider the limited benefits which H.R. 4300 provides for the Irish. I will support this bill, but with great reluctance.

Mr. Chairman, let us make sure that members of Irish ancestry don't make the same mistake in 1990 that was made in 1965. Then, members were assured that the law would not penalize Ireland—but it did for 25 years. We can't afford to make that mistake again.

Mr. MCMILLEN of Maryland. Mr. Chairman, we have before us an immigration reform bill which embodies two ideas of central concern for all Americans: the reinvigoration of our economy and the strengthening of the family unit. My brief remarks today address the issue of the U.S. economy.

Creative spirit and entrepreneurialism, essential ingredients for growth and prosperity, form the backbone of Representative MORRISON's bill, H.R. 4300.

American business needs to propel itself and this country into the 21st century. Demographic indicators clearly show that our present population will not be able to fill future labor needs. And, indeed, it cannot do so based on skills now. The provisions in H.R. 4300 which specify the amounts and types of individuals to be granted permanent and temporary nonimmigrant employment-based visas are exemplary. Not only will these provisions enable businesses to fill their labor needs, they will translate into higher productivity and economic growth.

While giving to business the human capital it requires to expand, H.R. 4300 also establishes a system which will prevent the hiring of foreign workers for jobs that can be filled by workers that are U.S. citizens.

It is rare when a bill directly affecting our economic needs, supported by everyone from John Kenneth Galbraith to Milton Friedman, comes before the committee of the House. Today we have such an occurrence. This unprecedented unity on the benefits of in-

creased immigration compels us to support the rationality of codifying the employment-related aspects of this bill. Without these measures, we will be inadvertently facilitating the stagnation of the American economy and egregiously renouncing our claim to be the "land of opportunity."

Mr. MOORHEAD. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MOORHEAD].

The amend was agreed to.

Mr. BROOKS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HOAGLAND) having assumed the chair, Mr. DARDEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4300) to amend the Immigration and Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. McNULTY. Mr. Speaker, I was unavoidably detained earlier today and missed rollcall vote 398, the rule for consideration of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act.

Had I been present, I would have voted in the affirmative.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HOAGLAND). The Chair desires to make an announcement. The vote that was postponed earlier today on S. 1511 will be taken tomorrow.

INTRODUCTION OF A NEW CONTINUATING RESOLUTION TO COMPLETE APPROPRIATIONS ACTION

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

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

Yesterday, Mr. Speaker, I introduced House Joint Resolution 660, a new continuing resolution restoring to the Committee on Appropriations 15 days of the 20 days provided in House Joint Resolution 655, the resolution adopted by our committee on September 25, to complete action on the appropriations for fiscal year 1991. Sunday, September 30, during consideration of House Joint Resolution 655, on request of the leadership, that was reduced to 5 days and House Joint Resolution 655 expires this Friday.

Our committee, on request, has delayed completing its necessary action and now we find ourselves in a real jam. We have completed action on 12 bills and have another coming before the committee next week.

The House has passed 10 bills and the Senate has passed only 6 bills. This means we must complete action on 3 bills in the House, have conference, and complete conference action on all 13 and have all bills signed by October 20.

I point out again, appropriations bills are not what caused the problem. Since 1945, the total of appropriations bills has been $173 billion below budget requests. Just since 1974, entitlements and binding contracts, which were to have been controlled, have increased five times.

Mr. Speaker, for the record, here is a copy of my letter to the Rules Committee asking for a rule permitting consideration of House Joint Resolution 660 on Thursday, October 4, which shows the serious situation the Nation faces.

House Joint Resolution 660 is a clean bill. For the orderly continuation of the Government, it is what passed the House by a 382 to 41 vote on Sunday, September 30, and merely extends the date to October 20.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, October 2, 1990.

Hon. JOHN JOSEPH MOAKLEY,
Chairman, Committee on Rules, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you know, Mr. Chairman, the first continuing resolution expires on October 5. This extension is essential in order to provide time for the Committee and the Congress to complete action on the thirteen appropriations bills. We must pass 3 more bills through the House, go to conference on all thirteen, and secure approval of thirteen conference agreements. We cannot do this if we are forced to spend time every few days extending the expiration date of the existing continuing resolution.

Yesteday, I introduced House Joint Resolution 660, making further continuing appropriations for fiscal year 1991 through October 20, 1990 and suspending sequestration for this period. This will continue the orderly operation of the Government until October 20.

House Joint Resolution 660 does what House Joint Resolution 655, the first continuing resolution, did, except that the expiration date is changed from October 5, 1990, to October 20, 1990. Sections 114, 115, and Titles II and III have been deleted. These provisions related to fiscal year 1990 supplemental funding or to other matters which do not expire on October 5, 1990. What is retained is a clean continuing resolution making restrictive funding available through October 20, 1990, and a suspension of sequestration through that date.

Sequestration must be suspended because it would reduce current operations, programs, and projects by an estimated 30 percent, and would be disastrous not only to the Nation's economy, but it would cause a breakdown of government—air safety meat inspection, law enforcement, war on drugs, education, health, housing, veterans, research, and revenue collection. It would have a dangerous impact on a weak economy. Its effect on the Department of Defense during Operation Desert Shield could not be tolerated.

Appropriations bills are not what cause the problem. Since 1945, the total of appropriations bills has been below budget requests by $173 billion. During that same period, entitlements and binding contracts, which are not discretionary, have increased by five times.

It is evident that there is no possible way to complete our regular bills and have them signed into law by October 5th. Thus, it becomes necessary that this resolution, including the suspension of sequestration, be considered before the first continuing resolution expires.

I ask for the cooperation of the Rules Committee to act to continue the orderly operation of the Government by reporting a rule enabling consideration of House Joint Resolution 660 on October 4, 1990, in the House.

Sincerely,

JAMIE WHITTEN,
Chairman.

I call attention again to the committee report to House Joint Resolution 655 in which we show that unless we suspend sequestration we will have the approximately 32-percent reduction in vital operations of the Government, and it would mean that the whole Government would come to a standstill.

WARNING TO POLITICAL ACTIVITIES

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

Mrs. BENTLEY. Mr. Speaker, this past weekend while I was in Yugoslavia representing the State of Maryland, I was asked by the State Department to aid them in effecting the release from prison of a 19-year-old young man from Illinois who had been arrested in a political demonstration on August 29.

Shaban Kastrati was charged with throwing rocks at the police and treated by the Government as a Yugoslav national. Although his father is Albanian and his mother Croatian, young Shaban was born in Illinois, and should have been recognized as an American.

Since I was in Belgrade, Ambassador Warren Zimmerman requested that I help—if possible—to free him. In a lengthy meeting with Sloboden Milosovic, the President of Yugoslavia Friday evening, I was able to have Shaban released. President Milosovic was most cooperative. Shaban's mother was in Yugoslavia at the time appealing his arrest and we were able to get them together on Sunday. Shaban rejected the offer made by the U.S. Embassy to return to America with me.

This incident should serve as a warning to any young American political activist. Demonstrations in foreign countries are not like demonstrations in the United States. The situation is so critical in Yugoslavia with fighting among the various ethnic minorities, that violent demonstrations could fuel a civil war.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 647, DISAPPROVING MOST-FAVORED-NATION TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-791) on the resolution (H. Res. 485) providing for the consideration of the joint resolution (H.J. Res. 647) disapproving the recommendation of the President to extend nondiscriminatory treatment—most-favored-nation treatment—to the products of the People's Republic of China, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 649, APPROVING EXTENSION OF MOST-FAVORED-NATION TREATMENT TO CZECHOSLOVAKIA

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-792) on the resolution (H. Res. 486) providing for the consideration of the joint resolution (H.J. Res. 649) approving the extension of nondiscriminatory treatment—most-favored-nation treatment—to the products of Czechoslovakia, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5422, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-793) on the resolution (H. Res. 487) providing for the consideration of the bill (H.R. 5422) to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 310, BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEARS 1991, 1992, 1993, 1994, AND 1995

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-794) on the resolution (H. Res. 488) providing for the consideration of the conference report on the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the U.S. Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN REQUIREMENTS FOR THE CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM THE COMMITTEE ON RULES

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-795) on the resolution (H. Res. 489) waiving the requirement of clause 4(b) of rule XI, against consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF THE H.R. 5269, COMPREHENSIVE CRIME CONTROL ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-796) on the resolution (H. Res. 490) providing for the consideration of the bill (H.R. 5269) to control crime, which was referred to the House Calendar and ordered to be printed.

DON'T VETO THE TEXTILE BILL, MR. PRESIDENT

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

Mr. RAY. Mr. Speaker, last Thursday the Hanes Hosiery Co. announced it was closing a plant in LaGrange, GA, in my district.

This action will put over 400 people out of work. This plant as recently as 2 years ago employed over 1,000 people. This plant closing will have a major impact on the local economy and certainly will cause a great deal of pain and uncertainty for the employees who will be forced to look for new jobs.

Unfortunately, Mr. Speaker, this is not an isolated case but is happening in cities around the Nation who are being unfairly impacted by foreign textile imports. However, at this very moment the President is poised with his pen ready to veto the textile bill which the House overwhelmingly passed just 2 weeks ago.

Mr. Speaker, this House should override this veto and protect American workers—not foreign workers.

[From the LaGrange (GA) Daily News, Sept. 27, 1990]

LOCAL HANES PLANT TO CLOSE: 425 WORKERS TO LOSE JOBS

The Hanes Hosiery plant in LaGrange will close on Nov. 30, leaving 425 people without jobs, according to Plant Manager Gene Williams.

The LaGrange plant, which had employed 1,050 people less than two years ago, is among 10 Hanes and L'eggs plants in the Sara Lee Hosiery Division.

"We told our employees this morning" about the closing, Williams said. "Quite a few cried. But there have been a lot of rumors and they're glad to know what the situation is. Now they know a date, so they can make better plans."

Because the LaGrange plant does not have knitting capabilities and is 400 miles from material sources, Sara Lee Hosiery began moving production to other facilities last May to become more efficient, company officials said.

"After further evaluation, the decision was made to phase out the LaGrange plant," according to a prepared statement today by Sara Lee Hoisery, headquartered in Winston-Salem, N.C.

"This decision was a difficult one for us to make because of the impact it will have on our employees and on the community," said Drew Mayse, vice president of operations for Hanes Hosiery." . . . Yet we are in an extremely competitive market and have to take the actions necessary to keep our operations efficient and costeffective. These steps are necessary for the long-term future of Sara Lee Hosiery and of our employees."

Employees will be offered help in finding jobs and receive severance pay of one week's salary for each year of service, according to a source.

Williams said Personnel Manager Roger Orange will assume the same duties at the company's Weeks plant in Winston-Salem. Wiliams, who has 25 years' service, said he expects the company to offer jobs to himself and the four department heads.

Last March, the LaGrange plant announced it was terminating 380 employees because of over-optimistic sales projections, cutting in half its production of 960,000 pair of pantyhose per week. The company had anticipated a growth of 20 percent or more and "it didn't happen," William said at the time.

The LaGrange plant receives pantyhose that has been knitted at other plants. The garment is sewed and dyed, heat set inspected and packaged.

Hanes began production here on May 7, 1979 at the site of what is now the Kroger store on Commerce Avenue. The plant moved to Cooley Industrial Way, its present location, on Feb. 15, 1980 with about 100 employees. By August 1986, the plant had 555 employees and was making 660,000 pair of pantyhose per week.

In March 1987, the plant started a third shift for the first time. Production reached a peak in late 1988 with 1,050 employees who were shipping 1.5 million pair per week.

The building, owned by Sara Lee, contains 100,000 square feet of manufactuing space, plus 10,000 square feet for offices and other uses.

A spokesman said the building apparently will be offered for sale.

□ 1910

IF YOU BELIEVE IT, YOU CAN ACHIEVE IT

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

Mr. ALEXANDER. Mr. Speaker, Archie Russom believes that if you conceive it, and believe it, you can achieve it.

Archie is a member of the Future Farmers of America Chapter in Delaplaine, a small town in the northeastern part of my district.

Along with the other members of the Delaplaine FFA chapter, Archie helped plan and build a fire truck to protect his community and surrounding area.

The project took on a special urgency and meaning for the residents of that community last January when flames swept through the Delaplaine fire station destroying all of the community's fire fighting equipment.

Immediately after that devastating fire, Archie and his fellow chapter members began working on their project 6 days a week.

Others pitched in to meet the emergency and when all of the planning, welding, grinding, painting and other work was done, Delaplaine had a fire truck.

Archie and his chapter have been recognized as one of the 50 State winners of the National FFA's Building Our American Communities Program.

He's here in Washington this week attending the 1990 FFA Conference on Community Development.

With the Nation facing so many problems, it is sometimes difficult to look to the future with any assurance.

But, when you meet Archie Russom, when you think what Archie and his schoolmates did for their community—the hours they devoted to make Delaplaine and surrounding area a better, safer place to live—your outlook on the future brightens considerably.

If you conceive it, and believe it, you can achieve it. Archie Russom and his fellow FAA chapter members in Delaplaine are living proof of this statement.

I congratulate them.

SUPPORT THE SUMMIT AGREEMENT

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

Mr. PORTER. Mr. Speaker, we face a crisis in America today: a national debt of $3.1 trillion and continuing annual deficits of $250 billion and up. This outrageous burden of debt not only saps our current economic strength and forces us to rely on foreign money, but it is also destroying our children's and grandchildren's future opportunities. This is unconscionable, and I believe the time is past due for the Congress to end business as usual and address this crisis.

The budget agreement to come before us satisfies no one completely, and that includes me. It contains elements with which I disagree. I have always said that if it were left up to me, I would solve the deficit problem on the spending side alone. For a number of years I submitted my own budgets freezing all Federal spending by Function. But we have seen a decade of ideological and political gridlock as as each side insists that its way is the only way, and that the budget must be balanced by taking from the other side's priorities.

I believe that on balance, this budget is a tough but reasonable package which will achieve real deficit reduction for the first time in a long time. This budget does not cut COLA's for seniors and contains no increase in income tax rates. Although it may need some fine tuning, in my judgment it provides a balanced and fair distribution of the burdens required to cut the deficit and reach a balanced budget.

We in the Congress have been very good at saying what we won't do to solve the deficit crisis, but for the sake of our country, we must instead say what we will do to address this serious problem. It is time for Members of Congress to find political courage, the courage to say that continuing deficits are destroying our economy and that we must advance a solution and be willing to include some of our priorities in the final package.

Every special interest group in America—and I use the term "special interest" in a descriptive, not a pejorative sense—has become very sophisticated at excluding its programs from being part of balancing the budget. And each group has valid and compelling arguments to defend its priorities. But at a time of crisis we must stop viewing ourselves only as farmers, teachers, students, government workers, seniors, businessmen and women and other discrete groups and see ourselves first as Americans.

To those who reject the summit agreement, I would ask what they suggest as an alternative: automatic, indiscriminate cuts under Gramm-Rudman which unfairly distribute the burden of deficit reduction and don't get the job done? Or continued political impasse and even bigger deficits?

We were not sent to Congress to serve only our area or only certain interests—we were also sent here to serve the country and be responsible for the bottom line. This budget asks us to assume that responsibility, and I believe we must do so.

Mr. Speaker, there is a predicate for my support, and that is enactment of the enforcement provisions of the agreement. These enforcement provisions must be in statute—signed into law before or simultaneously with the revenue provisions—and must provide for no back door entitlement expansions, no backdoor supplemental spending, binding and enforceable reconciliation, and outyear 302(a) appropriations ceilings. If these provisions are in the form of amendments to the Budget Act—waivable at the whim of the Speaker and his Rules Committee—I will not support the budget deal.

These enforcement provisions will make budgeting over the coming years painful. As a member of the Appropriations Committee, no one needs to tell me that this agreement won't carry with it a measure of pain. But we've gone through the 1980's ignoring reality, and as a recession now looms, we all must do our part to save the national economy. I believe that real deficit reduction will encourage positive movement on interest rates, and I believe that such movement is critical to our economic well-being.

I hope that all Members will swallow hard, dig deep for political courage and support this budget summit agreement.

PRINCE GEORGES COUNTY'S "MR. AGRICULTURE" DIES

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

Mr. HOYER. Mr. Speaker, the "Mr. Agriculture" of Prince Georges County, MD, died in a tragic accident on his farm last Tuesday, September 25. Roland Darcey, who was 63, was part of a vanishing breed, the Maryland farmer, a man born on the farm who lived and worked his whole life on the farm. He was a friend of mine and one of Prince Georges County's great citizens.

In these days of booming housing developments and shopping malls in our county, a life lived as Roland Darcey did his is truly unique.

Roland Darcey was born in Camp Springs, MD, and—despite an early flirtation with the law—followed in the path of his father and grandfather before him and continued the family tradition of farming. By this year, his 150-acre farm near Upper Marlboro—

and another 150 acres in St. Marys County in Congressman DYSON's district, had fruit, vegetables, and a plethora of chrystanthemums—and indeed he once tried raising hogs—but his real love and specialty was always tobacco.

Roland Darcey served for many years as president and vice president of the Prince Georges County Farm Bureau, and became a familiar and well-respected advocate for farming in our county and in our State. Just this year, he helped form the Southern Maryland Tobacco Board.

The Darceys lived in a 100-year-old farmhouse near Upper Marlboro, our county seat, and raised three sons and a daughter.

Roland Darcey watched as Prince Georges County grew from a primarily rural area to the backdoor of the Nation's Capital; he saw the construction of major facilities that are now taken for granted, such as Andrews Air Force Base, the Capital Centre and the University of Maryland. He once said that he did not want to sell out, or retire, and I am sure his family is proud now that he kept his word to the last of his days.

Roland Darcey was a very special person; one who reminded many of us in office that even though Prince Georges County was becoming more suburban, agriculture is still important to our county and our State.

Mr. Speaker, Roland Darcey will be missed by those of us who knew him. Our hearts go out to his wife Mildred and to his four children.

Prince Georges County is a lesser place for the loss of Roland Darcey.

□ 1920

LET US NOT FORGET OUR HOSTAGES IN BEIRUT AND THROUGHOUT THE MIDDLE EAST

The SPEAKER pro tempore. (Mr. HOAGLAND). Under a previous order of the House, the gentleman from California [Mr. DORNAN], is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, I had planned on doing a special order tonight on our hostages in Beirut, the forgotten people in all of the turmoil that is going on in the Middle East right now, with hundreds of Americans, some of them in a "missing" category. They have not been heard from since August 2 in either Kuwait or Iraq. We do not even know in which country they are, with thousands of other European hostages, British hostages, with Saddam Hussein dribbling out nine Frenchmen yesterday, with rumors now that all men over 55 years of age will be released. But there is no real substance yet on that. People forget that there are eight Americans and a dozen or so Europeans still hostage in Beirut. I was going to bring in the remarks of Brian Keenan, the Irishman, the Irish-English dual citizenship school teacher who had just been most recently released. I will probably do that tomorrow night. His words are the most poignant words I have ever seen about what calls the "crucifixion of the person who is held hostage."

Keep in mind the dates, Terry Anderson, who was the bureau chief for Associated Press in Beirut for all of that Middle Eastern area on the Levant of the coastline, he was taken prisoner March 16, 1985. Just a few months later, on June 9, Tom Sutherland, who was the newly assigned person to teach agriculture at American University/Beirut. He was taken on the airport road as he departed from the airport. He was not a free man but a few minutes before he was put into captivity.

He began his sixth year last June 9. These people, I hope everyone will pray for them.

TRIBUTE TO MAJ. GEN. MOON MULLINS, U.S. AIR FORCE, RETIRED

Mr. Speaker, I am going to cut my special order short to talk very briefly about a friend of many, many Members on both sides of the aisle in this House, who died in the crash of a World War II P-51 Mustang warbird up in Massachusetts in the Cape Cod area over the weekend.

Air Force retired Maj. Gen. Moon Mullins was known to many of us in this House over the last decade and a half because he served for years as the commander of the Air Force liaison office on the House side in the Rayburn Building and then was moved up to command both the Senate and the House liaison, stationed at the Pentagon but spending many of his days over here on the Hill. He was the commander of all liaison for the Air Force.

He was a fighter pilot assigned to MacDill Air Force Base, the 1st Air Force Wing, to get the Navy F-4, Phantom—so early that we called it the F-110, then all the numbered system combined into two services and they ended up as one of those integrating the F-4C Phantoms into the U.S. Air Force. He had thousands of hours of flying time. After he left active duty, he rose again quickly to the pinnacle of his chosen profession to be a lobbyist for the aerospace industry.

He served most recently as a vice president of governmental affairs as one of the Nation's two or three largest aerospace companies, General Dynamics.

I saw him just earlier last month at the 50th anniversary of the Battle of Britain in the Farmborough Exposition in London, England. He was full of life, tall, handsome, white-blond hair, Irish ruddy face, just looking for all the world like he was on top on everything.

I told him I had just had a ride in a Spitfire up in Duxford, the old British airfield where we are building a great American museum to complement the British Air Museum that has actually flying aircraft, similar to some of our museums around this country.

I told him that CHARLIE WILSON, one of our colleagues on the majority side, had flown the Spitfire right after me and to be sure to catch CHARLIE and hear about how much we had enjoyed this memorable old warbird, especially during the 50th anniversary of the Battle of Britain.

He said, "I envy you," as I am sure he envied the winner of a golf tournament in Cape Cod Saturday, because the winner had won a ride in the P-51 Mustang. And the man who had won turned to Moon Mullins, who finished second, and said, "Moon, you probably will enjoy this more than I would." To my knowledge, he had never even been in what many people think, arguably, is World War II's greater fighter airplane, the North America, now Rockwell, P-51 Mustang.

Moon took advantage. He did not have to be asked twice. He took advantage of the kind offer and went up in the Mustang. The details are still unclear, but it looks like the pilot whose flying skill Moon was totally captive, with his thousands of hours, I just have a funny feeling that it was a pilot with a few hundred hours in the Mustang. Moon, a big man, would have had trouble getting into the jumpseat of the Mustang. There is only enough room for one person, and they carved out a little area, taking out some older, larger radio equipment.

You get in behind the pilot, you are kind of hunched over. I can barely picture a man of John Wayne's size in that cockpit.

But I am sure he enjoyed the first part of that Mustang flight. For a fighter pilot who loved flying as Moon did—it is too corney to say that is the way he would have wanted to go. He had a lovely family. It is not what his wife planned.

He will be buried tomorrow at 3 o'clock at Arlington National Cemetery. I just pray for God that our schedule around here leaves a gap so that a large delegation from both sides of the House can go across the river to that beautiful cemetery on those bluffs that overlook Washington, DC, and see Moon's mortal remains off on his last great flight.

I know he is up there in the clouds where he spent a great deal of his life. He was a true friend and a great friend of those of us who believe, on both sides of the aisle, that it was a strong defense buildup over the last few years that enabled Germany to have that remarkable ceremony tonight that is still going on at this moment—it is about 1:30 a.m. in the morning in

Berlin—the fireworks have been going on for 3 hours. As of midnight, World War II is finally really ended and Germany is now a unified country.

It is because of people like Moon Mullins serving on active duty, through the ranks up to two stars on each shoulder, serving so effectively as a strong and powerful and articulate proponent for peace through strength and a strong defense buildup. He contributed significantly to the very defense bills that we have before us in the Senate and the House at this very moment.

He will truly, truly be missed. A man who lived a full life and rose to the top of every profession in which he served.

I hope any friends of his who do not know of this sad news from last Saturday, who are in the area, will proceed to the old chapel at Fort Myers up on top of the hill at Arlington Cemetery at 3 o'clock to pay respects to a great American aviator and a great civilian proponent of a strong defense, bringing us a lasting peace.

WE ARE ON A BUDGET TRAIN RIDE TO OBLIVION—CONTINUED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, today and this evening many of my colleagues have made statements both here in the Chamber and elsewhere saying that we should rise above partisan politics and for the benefit of America support President Bush and this bipartisan agreement on the budget.

□ 1930

Mr. Speaker, I would like to be able to do that, but, unfortunately, I think this is going to be very, very bad for America, and it could end up causing America to be in, not only a recession, but something maybe even a little bit worse.

We have been poised on the precipice of a recession for some time, which has been exacerbated by the problems in the Middle East and the cost of oil going to $40 a barrel. I think it is back down to about $35 a barrel now.

However, Mr. Speaker, because of the economic problems we are facing already, to increase taxes and pass this budget, as it is presently drafted, I think would be disastrous for America.

I would like to just take a few minutes to tell my colleagues exactly what is in this in the form of tax increases, and maybe anyone else who is interested.

This is going to increase the gas tax over the next 12 to 15 months by 10 cents a gallon, costing the American taxpayers $45 billion in purchasing power. That is $45 billion they will not be able to spend on other products such as houses, cars, clothes and so forth, because that will be coming out of their pockets in the form of tax increase, 10 cents a gallon, at a time when our energy costs are going up because of the crisis in the Middle East. There is going to be a doubling of the tax on beer and an increase in taxes on other alcohol. That is going to cost $13.6 billion taken out of the purchasing power of America. It is going to be 2 cents a gallon on imported oil for other energy needs, which is going to cost America dearly as far as providing heat for their homes, electricty, and so forth. As a matter of fact, it is estimated that each American household will have to spend an additional $140 a year to heat and keep electricity in their homes because of that energy tax, and the gas tax is going to cost each American household, on average, another $20 a year in expenditures because of the gas tax. This will be much more for those who live in rural areas. In fact, it has been estimated it would cost an additional $120 on top of the $120 average for those who live in rural areas. It is going to increase the cigarette tax by 8 cents per pack over the next 3 years. It is going to create, for the first time, a national sales tax of 10 percent. It starts out this year on high priced automobiles, furs, jewelry and boats, but, as the needs of this country for spending increase, as has been the case year in and year out over the past 20 to 30 years, they will lower the amount that the cost of the car will be down to from 30,000 down to, maybe, 10,000, maybe all the way down to zero, and every American family will be hit by the sales tax of 10 percent, which is starting this year.

Mr. Speaker, these problems, these taxes, are going to cause, in my opinion, a major, major economic downturn.

In addition to that, the economic assumptions on which this budget is based are in error in my opinion. These economic assumptions include oil being at $21.15 barrel this year and $24.15 barrel next year. Oil is already between $35 and $40 a barrel, so these economic assumptions are extremely low. They are basing this budget on an economic assumption that economic growth will be seven-tenths of 1 percent this year and 3.8 percent in the next 24 months, and I believe, because we are on the precipice of a recession, these economic figures are in error. They are basing the budget on the basis that we will have 5.2 percent inflation this year, and 4.6 percent inflation next year. I think that is an error in judgment as well because, if we increased these taxes, then the cost of goods and services around this country are going to go up dramatically because America moves on the back of trucks, and those trucks run on oil products, and the cost of gasoline is going up 10 cents a gallon.

So Mr. Speaker, I say to my colleagues, "Every shirt you buy, every refrigerator you buy, every car you buy is transported on the back of a truck and is going to go up in cost. It is going to be an inflationary pressure because of this 10-cent-a-gallon gas tax increase."

So, I think those economic assumptions of 5.2 percent inflation this year and 4.6 percent next year are very low.

Now some of the leading pundits, political pundits, if my colleagues will, have been trashing this budget, and I think with some justification. Pat Buchanan said recently that there is a term for what is happening to Republicans. It is called internalizing appeasement; that is, making a cold, calculated judgment as what can reasonably be done with a liberal dominated Congress, then accepting that, rather than defying the Hill, and fighting it out and forcing the people to choose between us.

Mr. Speaker, I agree with that statement.

Paul Craig Roberts, a leading economist, said that, as the United States sinks into recession, Mr. Bush, the Office of Management and Budget Director Richard Darman and Treasury Secretary Nicholas Brady, together with Republican congressional leader Senator BOB DOLE of Kansas and Representative ROBERT MICHEL of Illinois are engage in a bidding game with Democrats to see who can pile the most onerous new taxes on the voters. I have to take issue with my leaders, but I think that is probably what has happened.

Now many people say there is no alternative to the budget that has been proposed. I want to say to my colleagues that about 3 months ago Congressman DELAY of Texas and myself got together with some other leading Members of Congress. We got together with some leading think tanks, in addition to the U.S. Chamber of Commerce, to try to come up with a budget that we believe would meet the targets without a tax increase and would solve our economic problems, and we worked on that for some time. We came up with a budget. That budget was submitted to all 535 Members of Congress, plus the executive branch and the budget summiteers, but nobody paid much attention to it.

More recently, Mr. Speaker, the Heritage Foundation came up with what was called the 4-percent solution, and what it does basically is freeze spending at no more than 4-percent over last year's actual spending levels. It provides for a capital gains tax cut of lowering the rate to 15 percent, which would create 2½ million new jobs over the next 5 years, which is the only progrowth program that I have heard

of. And that program would get us to our targets without a tax increase.

As a matter of fact, by 1997, the projections are that this budget would lead us to a surplus of $11 billion. That budget proposal, likewise, has not even been considered by anyone.

Now, if we are successful this week, those of us who oppose this budget program, if we are successful in killing it, then I hope the leaders of this Congress, the budget summiteers and those who are going to be in on the ground floor and are coming up with another budget will at least look at the 4-percent solution because I think it is something that America will embrace. It most certainly will pinch some toes, but it will not cause overly undue harm to any one segment of our society.

What it says very simply is that we are going to stop spending like we have been, going hell-bent for leather to spend this country into oblivion. It stops spending at no more than 4 percent over last year's level, and I think that is a responsible approach. That, coupled with the progrowth aspects of the capital gains cut would create, I think, instead of a recession, economic growth for the next 4 or 5 years.

Mr. Speaker, I want to read into the RECORD something that I think is very, very important, and it will take me about 5 to 10 minutes, but I think it is something that every one of my colleagues should hear, and I hope it will become part of the CONGRESSIONAL RECORD. I am sure it will.

The Heritage Foundation put out a statement today that I think is very important, and the title of this statement is "The Budget Summit Agreement: Serious Damage to the Economy, Part 2," and this updates a statement that they made a couple of days ago, and what they say is this:

After 5 months of negotiations, congressional and administration budget negotiators produced an agreement which can be only described as deplorable. The package combines the largest first year tax increase in America's history, dubious economic assumptions, phony spending cuts, and inadequate enforcement provisions. At a time when annual economic growth has collapsed to less than 1 percent, enactment of the agreement surely would throw the Nation into recession. Among the most damaging provisions in the agreement are; No. 1 new taxes. Tax revenues are already projected to increase by almost 400 billion between 1990 and 1995.

□ 1940

I want to repeat that. Because of the economic growth created by the Reagan tax cuts of 1982 and the 21 million new jobs that were created, over the next 5 years we are going to see a growth in projected tax revenues coming into the Treasury, without a tax increase, of $397.8 billion, almost $400 billion, between 1990 and 1995. That is an average of $80 billion in new money each year, without a tax increase. $80 billion in new revenues each year, without a tax increase.

Apparently this flood of new tax revenues is not enough to quench Capitol Hill's thirst. Thus, Congress has demanded and obtained from the budget agreement $133.8 billion in explicit tax increases over the next 5 years.

So the $80 billion a year that we are getting right now in new tax revenues is not enough. They want to increase that by almost $134 billion in new taxes over the next 5 years.

Major provisions include a 12-cents-a-gallon increase in gasoline taxes, 2 cents of which will be levied at the wholesale level, raising more than $50 billion over 5 years. To make matters much worse, rather than using gas tax revenues for repair and construction of highways and bridges, the agreement undermines the integrity of the highway trust fund by using half of the money for general Government spending.

This, thus, opens the sluice gates for future gas tax hikes simply to fund general revenue outlays.

Not only is this bad economics, it raises the cost of travel for every American and undermines one of the Nation's most prized characteristics, the easy mobility of Americans.

In addition, there are higher taxes on aviation. I hope everybody gets this. The air passenger ticket will jump by 25 percent.

My colleagues and I fly back and forth to our districts on a frequent basis. You can imagine that is going to cost the Government more, because everyone who travels at Government expense is going to have to pay 25 percent more for those tickets, just as every American will. That is another drain on the taxpayer's pocket, and a drain on Federal revenues.

Domestic air cargo taxes and aviation fuel taxes also will increase by 25 percent. These taxes will take nearly $12 billion from the traveling public. That is in addition to the tax increase that is going to come out of America's pockets.

America is a large country with a highly mobile population. Increasing transportation costs has a particularly deterimental impact on the American economy. Because of the long distances goods are shipped, consumers will be particularly hard hit, making it more expensive to visit family members and making business trips.

The package also increases tobacco, beer, wine, and alcohol excise taxes, raising $10 billion over the next 5 years.

What is most alarming about the kinds of taxes being raised is that the agreement sets the precedent for a national sales tax by imposing a 10-percent tax on so-called luxury items, raising nearly $2 billion.

I think that is just the camel's nose under the tent, because it will be much more down the road.

Exactly what constitutes a luxury is defined by Congress. It is certain that Congress will add new items to the list over time.

The negotiators pulled a tried and true budget gimmick out of the hat. They claimed that through stricter enforcement, the Internal Revenue Service can collect $9.4 billion in new revenues.

I think they have already said that in the past, and it never seems to prove out. They never collect quite what they think they are going to. I think that is a phony figure as well.

In addition to a wide range of taxes on American businesses, the package also destroys the insurance nature of Medicare by raising the cap on income subject to the payroll tax from $51,300 to $73,000.

Furthermore, the agreement undermines the protections in the Tax Code for home ownership, State and local taxation, and charitable deductions, by restricting the use of itemized deductions.

The agreement contains more tax increases than meet the eye. In what surely must be a deliberate attempt by the White House and Congress to deceive the public, they are including several tax increases in the so-called spending cut portion of the package. The monthly tax that senior citizens pay to Medicare will be increased, but the revenues generated by that change are counted as a spending cut.

I think that is misleading.

Seventeen different fees are to be increased, generating an additonal $14.2 billion in revenue for the Government over the next 5 years. Yet this money is to be counted as a spending cut.

Revenue increases, tax increase is counted as spending cuts.

Nearly $5.4 billion of the supposed 5-year spending cuts are actually revenues being transferred to the general budget from the Postal Service, which is now off budget, resulting in no real savings.

That is just a bookkeeping entry.

Worse still, the agreement contains an automatic tax increase provision by requiring that any future tax cuts be offset by tax increases.

This is extremely important, because the tax cuts that came into being in 1982 led to economic recovery and 21 million new jobs. This says that any new tax cuts which might stimulate economic growth have to be accompanied by tax increases. So there would be no incentive to cut taxes to increase economic growth, because you are going to offset those by tax increases.

Had this been in effect, this provision would have prevented the enactment of Ronald Reagan's Economic Recovery and Tax Act in 1981. At the

very least, this provision effectively eliminates any opportunity to pass tax cut legislation to pull the economy out of the recession which this budget agreement will cause.

I believe that is absolutely right. It will cause a recession.

Dubious economic assumptions. White House and congressional negotiators agreed to cook the books to minimize the obvious negative effects of the agreement. While most economists agree that the package will reduce economic growth, the budget summiteers somehow make the assumption that enactment of the package will nearly double the rate of economic growth next year from 0.07 percent to 1.3 percent, and almost triple growth in 1992 from 1.3 percent to 3.8 percent.

Herbert Hoover thought tax increases would strengthen the economy in 1930. He was wrong. A recession became a depression.

More ominously, the budget agreement would push taxes to nearly 20 percent of the gross national product. The only two occasions in peacetime that taxes reached 20 percent of GNP, in 1969 and 1981, the economy fell into recession the following year.

So this is a recipe for a definite recession next year.

A recession is the biggest enemy of the budget deficit. The Congressional Budget Office estimates that the deficit would increase by $32 billion for each percentage point that the unemployment rate is higher than projected.

I have been told that figure is more like $40 billion for each 1 percent of unemployment caused by a recession. That is added to the problem we already have.

Negotiators have stated explicitly that they want the Federal Reserve Board to adopt an easy money policy in response to the agreement. Yet they ignore the inflationary impact of such a policy by assuming that the inflation rate as measured by the GNP deflator will fall to 2.8 percent by 1995.

Since Government spending is often tied to the price level, a more realistic inflation estimate would expose how much spending will actually increase compared to what is claimed in the agreement.

Perhaps the most unrealistic element of the package is the assumption that the interest rates will decline. More than $64 billion of the alleged savings hinges on the interest rate on a 3-month Treasury bill falling to 4.2 percent, and rate for 10-year Treasury notes dropping to 5.3 percent.

Since interest rates normally rise and fall with changes in the inflation rate, this assumption has no credibility.

I cannot remember when Treasury bills were down to 4.2 percent or the Treasury notes dropped to 5.3 percent. Since I think we are going to be forcing an inflationary trend, I think these interest rates have to be inaccurate or phony.

Phony spending cuts. The negotiators are trying to sell the agreement as one of shared pain. Other than the fact that the defense budget is projected to decline by $8 billion, from $300 billion this year to $292 billion in 1993, there are absolutely no cuts in spending. None.

Even excluding the cost of the deposit insurance bailout, total spending under the agreement will rise by more than $220 billion over the next 5 years.

Listen to that. Even excluding the cost of the S&L problem, total spending under this agreement will rise by more than $220 billion over the next 5 years. And that is what we have got to get at.

Spending increases. Instead of dealing with that, we are raising taxes by $134 billion, plus other increases that are going to be tacked on to Medicare and so forth.

□ 1950

Since Congress has violated the spending limits in every previous budget agreement, it is a sure bet that spending actually will climb considerably more than the $220 billion already projected. Once realistic interest rate and inflation rate projections are included, any hope of limiting spending increases to $220 billion disappears. Furthermore, if a recession occurs, as many economists predict, spending on welfare and unemployment programs automatically will rise beyond currently projected levels.

INADEQUATE ENFORCEMENT

If history serves as a guide, the meager budget process reforms included in the agreement will fail to break the chronic cycle of tax and spend. Major reforms were completely rejected.

That is one of the things we said and President Bush said had to be in package, budget process reform, and it is just not there. Major reforms are not there.

The package does not include a balanced budget amendment. The President was not granted a line-item veto. The current services budget, the feature that allows the negotiators to pretend they are cutting spending when outlays are actually rising, remains untouched. Minor revisions are made by the agreement to strengthen the Gramm-Rudman Deficit Reduction Act. Yet even with these changes, the law can still be waived by the Rules Committee in the House and by 60 votes in the Senate.

CONCLUSION

In 1982, the Tax Equity and Fiscal Responsibility Act [TEFRA] was enacted with the promise that every dollar of higher taxes would be accompanied by $3 of spending cuts.

That was in 1982. The higher taxes became law, but the spending actually increased. We never realized the $3 in spending cuts for every $1 in new taxes. What we did get was $1 in new taxes and more spending.

The higher taxes became law, but spending actually increased by more than $200 billion over the following 3 years. This week's proposed budget agreement makes TEFRA look good by comparison. That was a rotten move.

If enacted, the current agreement is almost certain to push the economy into a recession. What few savings exist on the spending side are almost wholly dependent on unrealistic economic assumptions. The budget agreement effectively repeals Reaganomics and will put an end to the economic prosperity that America has experienced during the 1980's.

We have seen 21 million jobs created in the last 8 years, and we could see 2½ million more new jobs created if we had the capital gains tax cut accompanied by the 4-percent solution, but we are not going to see that if this budget passes. What we are going to see is an economic recession, higher unemployment, more spending, and a bigger deficit instead of a smaller one, with more new taxes on the backs of the American people at a time when they cannot afford the taxes they are already paying. Americans are already paying for all taxes about 40 cents to 45 cents of every dollar they earn, and we are loading them up with more.

The thing that is most disheartening to me is that I have been a big supporter of President Bush since he ran for office, when he was Vice President, and now as President. I think he is doing an excellent job in the Middle East and in many other areas. But he said to the American people: "Read my lips; no new taxes," many times, and he said he was going to hold out for a pro-growth budget that would include capital gains tax cuts, which would create 2½ million new jobs over the next 5 years. And he said he was going to hang tough for budget process reform, and all of those things have been negotiated away.

The New York Times on the front page had a statement that the Democrats had won, and I submit that this budget is largely drawn up by the Democrat leadership in both the House and the Senate. They have done a very effective job.

But what is most onerous about this agreement, in my opinion, is it is going to look like it is President Bush's budget. It is a Democrat budget, but tonight the President goes on national television telling the American people that this is a solution to our economic woes, that the burden is going to be

spread across the spectrum so everybody feels it, but no one in an undue way or too much, and it is going to be perceived after tonight, after he goes on national television in 1 hour and 5 minutes that it is his budget. And when the recession follows, as it most certainly will, in my opinion, then the President of the United States is going to be saddled with that recession as his recession, and not the recession of both Houses of Congress, and both the Democrat and Republican Parties and the Democrat leadership being participants in it.

Mark my words: In 6 months or a year when the recession hits, the Democrat leadership and the Democrats in this House and the Senate will be saying to the American people it is Bush's recession, and if you want a better economy then elect Democrats to the White House in 1992. And they might well get their wish, because we have bought on to a bad deal.

Mr. President, I think we have made a mistake, and I wish we could reevaluate and go back. I am afraid it may be too late.

I would just like to say that Herbert Hoover in 1930, at a time we were facing recession, raised taxes, and we know what happened, the Great Depression. I just hope that the recession we face is not that bad.

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

THE BUDGET SUMMIT AGREEMENT

The SPEAKER pro tempore (Mr. HOAGLAND). Under a previous order of the House, the gentleman from Wisconsin [Mr. OBEY] is recognized for 60 minutes.

Mr. OBEY. Mr. Speaker, I am tempted to say that the last speaker took the words right out of my mouth, at least the last sentence or the last paragraph, but I will not say that.

Mr. Speaker, I hate special orders because they are almost always a waste of time. They are almost always a waste of time of the staff who have to stay here and listen to us talk, and they are almost always a waste of time for any member of the public looking in, and they most certainly are almost always a waste of time for the Members of Congress who have to deliver them, because in the interest of honest advertising I think it needs to be noted that there is nobody here, almost nobody. There almost always is never anybody here.

But once in a while, you simply have to use the device of a special order because you are angry enough about what is happening in this country and in this town to comment on it and to sound off. And I am going to sound off tonight about the budget summit, because I intend to vote no on that budget summit agreement, and I would urge every Member who believes that fairness ought to be a cornerstone of government policy to do the same.

I will take every possible step to try to obtain the right to offer an alternative which meets the test of fairness while spending less, taxing less, and borrowing less than the proposed summit agreement, embraced so heartily by President Bush.

The gentleman from North Dakota [Mr. DORGAN] and I testified before the Rules Committee tonight asking that an alternative be made in order which would do just that, and to provide and to restore a sense of fairness to this package.

I fundamentally oppose the package because first of all, based on sound economic assumptions, and on this statement I agree with the gentleman who just spoke, it will not reduce the deficit by nearly the amount promised. I would not be at all surprised to see over the next 5 years this deficit agreement miss the target by somewhere between $100 and $200 billion.

It will also not make our system more fair than it is today. In fact, it will make it more unfair. It continues the march begun in 1981 when the Reagan administration rammed through budget and tax changes which tripled America's deficit and dropped the word fairness from the vocabulary of Government.

Let us repeat a little history. In 1981 the Federal deficit stood at $57.9 billion the day that President Reagan took office. The defense budget was $160 billion. Tax rates at that time ranged from 14 percent in the lowest brackets up to 50 percent on income above $215,000.

The Reagan administration argued at that time that reducing Government involvement in the economy, cutting taxes primarily for high income people, would create a new era of generalized prosperity, and as a consequence, on May 7, 1981, the administration rammed through its Gramm-Latta budget by a vote of 253 to 176. Republicans voted for it 109 to 0, and Democrats opposed it by a vote of 176 to 63. But that was enough votes to pass.

□ 2000

The budget put us on the road to doubling the military budget over 5 years' time. Some 11 weeks later, the Reagan administration rammed through their tax package which reduced revenues by huge amounts.

I offered alternatives to both of those packages, both the budget package and the tax package. Our budget amendments in 1981 would have spent less and borrowed less and taxed less from middle-income people than the budget and tax packages which passed. We were beaten.

The President's package passed; the lion's share of those tax cuts went to the wealthy. Republicans voted for 190 to 1. Democrats voted against it 194 to 48. It passed 238 to 195.

Thus began the Republican experiment in supply-side economics which was described at the time by Senate Republican floor leader Howard Baker as being a riverboat gamble. Vice President Bush, who had described the Reagan supply-side experiment as voodoo economics, correctly so, when he campaigned against Mr. Reagan in New Hampshire, loyally supported the Reagan budget as Vice President.

The Reagan administration promised if their budget and tax package were passed we would create widespread prosperity and that income would rise enough to offset revenue losses, and that we would see the Federal budget balanced within 3 years.

On the passage of the Reagan tax bill, then Secretary of the Treasury Donald Regan said, "Our program is now in place." The results are now in. It is most certainly true that for some, the 1980's produced widespread prosperity, but the record shows that his antitrust litigation has been mothballed, public investment cut by 40 percent, and tax rates on the high-income people cut by more than 50 percent, the purchasing power of workers paid through wages has actually fallen.

Over the 1980's, families on the surface appeared to be keeping up, but only because more and more women went into the work force producing second earners for many American families.

In terms of income, the wealthiest 1 percent of people in our society have seen their incomes rise about 70 percent since the day Ronald Reagan passed his tax package, from slightly over $300,000 to well over $500,000 today. By contrast, the income for the 20 percent of families in the middle rose by a scant 3 percent, and income for the poorest 20 percent of American families has actually declined. The richest 1 million families saw their incomes grow, as I said, from over $300,000 to well over $500,000 today.

The income growth experienced by the wealthiest 1 percent of American families was greater than the income growth for 90 percent of American families combined.

If the tax payments for the richest 1 percent of Americans had kept pace with their income rise through the 1980's, the deficit today would be $75 billion lower. That is more than 50 percent, it is almost double the deficit-reduction package which we are being asked to vote on, the deficit reduction that would occur for the first year.

Even if their tax had kept pace with their income, they would still have

after taxes the largest increase in income of any group in our society.

On the tax side, if we combine all income and payroll taxes, 60 percent of all Americans, the bottom 60 percent, have actually had a tax increase. The second highest 20 percent of all American families have had a tax cut of about $45 on average, but the richest 1 percent have had an average income-tax cut of $12,000.

Yet, in the wake of all this, the President asked us 2 weeks ago when he was standing before us to support a capital gains tax package which would have added over $20 billion to the deficit over 5 years and have given 80 percent of the benefits of those tax cuts to the wealthiest people in our society.

The argument made by the Reagan revolutionaries that average working families would eventually benefit from those policies of the 1980's did not pan out. The evidence is in. The promises were wrong, and the budget summiteers wisely objected and rejected as unfair the President's proposition for yet a new goodie for the people who have had the most goodies in the 1980's.

But in the end, the President's willingness to shut down all of Government if he did not largely get his way backed the budget summiteers into accepting a 5-year budget deal which is even more unfair than the existing Tax Code. I have no quarrel with the Democratic Party leadership's efforts in the summit. I know they offered plan after plan to present the bill for the party of the 1980's to the people who had gone to the party, the high rollers, the well-connected and the wealthy. I know that the Democratic leadership fought to protect the interests of working Americans, but on the issue of tax fairness, be clear about it, they lost to the White House. I do not say that to criticize them. I simply say that to observe a fact.

In 1981 I could not support the Reagan budget and tax schemes because they produced fundamental unfairness to working people, and because I warned at the time that they would lead to runaway deficits. I cannot support this package this week for the same reason.

My objections to the package are many. First of all, it still spends too much money, especially in the area of wasteful defense spending. Oh, yes, the budget agreement eliminates the increases which had been expected in future Defense budgets because of inflation, but with the end of the cold war, we should have been able to do better than that.

In actual spending, the Defense budget outlays of $296 billion for 1991 will decline by only $5 billion over the following 2 years. So much for the peace dividend.

An excuse also used by many to justify these high military spending numbers for defense is that we face significant costs because of the Iraqi situation, but the problem is this budget agreement exempts from the defense spending ceilings money that will be spent on the Iraqi effort, so they get a double bang for the buck. In fact, the Defense budget is still so large that an additional amount of budget authority was added above previously agreed amounts in order to preserve the B-2 Stealth bomber. So much for fiscal sacrifice and discipline at the Pentagon.

This budget spends at least $50 billion too much on military spending over the next 5 years. If the gentleman from North Dakota [Mr. DORGAN] and I are given the opportunity, we will try to offer a substitute which cuts it by at least $35 billion more over the next 5 years.

Please remember this is a military budget which has been doubled over the last decade and could reasonably absorb a cut larger than that. This House just voted for one about a month ago.

In the 1980's, domestic discretionary programs have been reduced by almost 40 percent domestic investment programs have been reduced by almost 40 percent in real-dollar terms, and they should not be reduced more.

In the context of an overall budget agreement requiring fair sacrifice from everyone, we could cut domestic discretionary spending by at least $3 billion more over the next 3 years by eliminating low-priority items such as the $6 billion supercollider.

If given the opportunity, the alternative that the gentleman from North Dakota [Mr. DORGAN] and I would offer would reduce domestic discretionary spending in the fourth and fifth years by an additional amount to be spread also over foreign-aid spending and military spending.

Let us now take a look at taxes. The worst part of this new agreement is that it pounds the middle-class taxpayer, but it hardly lays a glove on the superrich with incomes of $200,000.

This budget raises $50 billion in new gasoline taxes, but it does nothing to guarantee that any of that money will be used to rebuild our energy research programs which were gutted by Reagan budgets in the 1980's. It does nothing to mitigate the effects of the gasoline tax on low-income and moderate-income people with limited purchasing power. It exempts corporate jets from the new tax on luxuries, but it takes away $3 billion from unemployed people by making them wait 2 weeks after they have lost their job to collect their first unemployment check.

The income Tax Code under which we are now operating, as we all know, has a special gimmick to protect the rich. The administration was adamant in refusing to change that gimmick known as the bubble. That gimmick produces the following result, that if you are a taxpayer earning less than $42, 000 a year, under the existing Tax Code which the White House successfully protected, you pay on that income a tax rate of about 15 percent. On income which ranges between $42,000 and about $75,000, you pay a marginal tax rate of 28 percent. On income between $75,000 and roughly $170,000, you pay a marginal tax of 33 percent.

□ 2010

However, on all income above $170,000, the effective marginal tax rate drops to 28 percent. That drop, that special favor for the super rich, costs the Treasury $9 billion a year, and $45 billion in lost revenues over 5 years. Two-thirds of the size of the cut which this package instead takes from Medicare.

Because the super rich were protected by the President's negotiating team at the summit, Medicare will be cut by $60 billion over the next 5 years. I talk to Medicare recipients every month. They do not expect to be exempted from sacrifice, but they should not have to accept a double hit because the super rich avoided even a glancing blow. The amendment that the gentleman from North Dakota [Mr. DORGAN] and I would seek to offer, if given a chance, would cut in half the attack that this budget summit makes on Medicare. That is essential, not just to ease the squeeze on lower and moderate Medicare recipients, but also to prevent hundreds of rural hospitals around this country from being put out of business, exposing millions of rural Americans to the charm and the risk of long-distance health care.

In many ways, this package is amazingly antirural. The gas tax falls most heavily on rural Americans. Medicare cuts will fall most heavily on the rural communities because of the impact on rural hospitals, and even entitlement cuts will fall most heavily on farmers who work and on their urban brothers and sisters who lose their work in the cities.

This budget also mandates an almost $3 billion cut for veterans at a time when we are likely to witness the creation of many more veterans of foreign wars, because of events in the Middle East. Do we really want to send a message to American veterans that we are going to ask them to make yet another sacrifice in their postwar years, while the super rich are avoiding any significant additional sacrifice? Again, I expect that they are willing to take their fair share of budget reductions. That is the veterans I am talking about. However, almost $3 billion a year is simply not fair, and the Obey-Dorgan amendment, if we were allowed to offer it,

would restore $1 billion to veterans' programs.

Mr. Speaker, I was amazed this morning to see the President being interviewed on Air Force One, America's newest flying palace. When he was asked by a reporter how he would handle the outcry from senior citizens because of Medicare cuts, he responded roughly as follows: "You can't keep everybody happy. You just have to do what is right, and you know, I didn't have the horses in Congress to do it my way." Well, all I can say, Mr. President, is thank God that you did not. Because if you look at the President's budget for this year, we would see that he proposed larger Medicare cuts in the first year than were adopted by the Senate or passed by the House in our original budget resolution.

In summit negotiations the administration proposed cuts on seniors almost 50-percent larger than those finally adopted, and those cuts recommended by the administration included long delays of cost-of-living increases for senior citizens. If the President had his way, defense spending would also have been larger. If the President had had his way, foreign aid spending would have been larger. If the President had had his way, it would have been even more tax breaks for the very rich, paid for by the working middle class. But because of the insistence of the White House, the injustice represented by the income tax bubble which protects the wealthiest taxpayers from paying their fair share of taxes, it is made worse by approximately 20 percent.

The nonpartisan congressional budget analysis, the President's budget summit package indicates that the wealthiest people in this society with an average after-tax income before the summit of $428,000 will see their after-tax income reduced by one-half of 1 percent. But the average American family making $33,000 in after-tax income would be hit three times as hard, and their income would go down by 1½ percent a year as opposed to the one-half percent for the super rich. If you have an income of over $700,000, then you will probably have an increase in income because of the creation of new tax shelters in this turkey of a budget summit proposal. That is grossly unfair, and I simply will not support it unless the package is changed to eliminate the middle-class ripoffs imposed on Members by White House negotiators who put the interest of the richest taxpayers in America ahead of the interest of the hardest working families in America.

Mr. Speaker, I want to make the observations that I made on the House floor several weeks ago. Today, government is unfortunately seen as being in cahoots with the high rollers in this society. It is seen accurately as being on the side of the wealthy. It is seen as being the instrument which puts the fix in, so that the wealthy and the well connected can do exactly what they did in the 1980's, increase their income by gargantuan amounts at the same time they are reducing their tax burden in comparison to that income, leaving middle-class taxpayers holding the bag. That has been the sad story of the 1980's on budget and tax policy, and that is what has to change. The single most important thing that any government official can do to restore public confidence is to put government back on the side of average families in this country by seeing to it that our deficit is reduced quickly and fairly. That means resisting the temptation to use the Persian Gulf crisis as an excuse to resurrect spending for every turkey weapons system which drains our strength rather than adds to it. Weapons which have absolutely nothing to do with our ability to fight in the Persian Gulf. I am talking about items like the B-2, star wars, the MX missile, and the like.

The second thing we must do is to say "no" when the President's economic team insists that we protect the interest of the wealthy, while gouging the interests of everyone else. The tax system simply must be made more progressive. Those at the very top income tax scale ought to be paying a higher tax rate so that the rest of Americans do not have to pay twice. Any so-called budget compromise coming out of Andrews Air Force Base that does not meet those changes, fails to meet the fundamental test of fairness, and it should be rejected. We have an obligation to see to it that middle-income families are treated fairly, and to see to it that people who were not invited to the party in the 1980's, do not get stuck with both the bill and the tip.

Now, I have heard the President and several budget negotiators say, "Well, we have to make tough decisions." Well, Mr. Speaker, that is right, but when the political system is tougher on middle-income workers than it is on the wealthiest people of our society, it is not very tough. It is flabby. It simply is not listening to what the American people have been trying to say.

I hope this House has an opportunity to turn down this poor excuse for a budget so that we have an opportunity to offer a substitute, which will be much more fair for working men and women of this country. If we do not have the right to offer a substitute, if the House does not give Members that right to offer a constructive substitute, then they give Members no option but to vote "no" on this package.

Mr. Speaker, a number of years ago when I served in the Wisconsin Legislature, I served with a friend of mine named Harvey Dueholm who was a retired farmer. He was the gutsiest man I have ever known. He observed once that the trouble with our politics is that all too often the poor and the rich get the same amount of ice, but the poor get theirs in the wintertime. This summit negotiation process, dominated by the White House negotiating team, is an outrageous example of just how that happens. It was put together, very frankly, by too many people who are too comfortable wearing suits seven days a week. It would be a quite different package if more people wearing jeans had been at the table when the fix was put in.

□ 2020

That unfortunately is why I have to vote against the package, because it does continue the march to unfairness which began in 1981 and which this budget package will exacerbate. It pounds the middle income taxpayer. It hardly lays a glove on the super rich, because the super rich were protected by their well-connected friends on the White House negotiating team.

I have used some numbers here tonight which have been based upon the CBO, the Congressional Budget Office and the Joint Tax Committee estimates of the budget summit package. I have just received updated estimates which change only slightly the numbers which I have used tonight and which indicate clearly that the wealthiest 1 percent of people still wind up with a kid glove treatment, while the other taxpayers in this country, especially middle class, take it on the jaw and they take it hard.

I have also seen other analyses of the budget which indicate that the tax breaks will once again recreate tax shelters. High income taxpayers will once again be allowed to debt-finance a sizeable portion of the so-called small business investments which are being created in this bill and they will then deduct the full cost of borrowing and obtain tremendous tax benefits on those investments, and those tax shelters will be used obviously by the super wealthy. Those above $700,000 will be able to use them, so that while everybody else in this society is experiencing a loss in after-tax income, they will experience an increase in after-tax income. That, Mr. Speaker, is backwards. That is what I thought the Democratic Party would always oppose. That is what the Democratic Party has tried to oppose.

Unfortunately, because there is only one big gorilla in our political system, and that is the fellow who occupies the big White House and because that fellow was willing to shut down the entire Government in order to get his way, the Democratic Party lost the fight on tax fairness.

I regret it. I wish I could do something about it. I am going to try to do something about it when we take up

the budget tomorrow, or the rule on the budget conference report tomorrow, and if we do not get that opportunity to offer a constructive alternative which spends less, borrows less, taxes less, but does it in a much more fair way to protect the interests of the middle class, just a mite for a change, unless we get that opportunity, we have no choice but to vote no, and that is what I will regrettably do if not given that opportunity.

IN SUPPORT OF THE COMPROMISE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. COOPER] is recognized for 60 minutes.

Mr. COOPER. Mr. Speaker, tonight we have had an unsual treat. We have just heard from two of our distinguished colleagues, each of whom is opposed to the President's budget compromise, but each of whom is opposed for almost completely different reasons.

First the gentleman from Indiana [Mr. BURTON] opposes the plan because he did not think it was fair to the rich in our society. He thought that the defense cuts were great.

Then we heard from the gentleman from Wisconsin [Mr. OBEY] who said that he thought defense was not cut enough and that the rich were taxed enough

During my 8 years in the House, the arguments we have heard tonight are all too familiar. they are a rehash of arguments that we have heard for many years. My friend, the gentleman from Wisconsin [Mr. OBEY] will probably never vote for a budget that the gentleman from Indiana [Mr. BURTON] is for, likewise the gentleman from Indiana [Mr. Burton] will probably never vote for a budget that the gentleman from Wisconsin [Mr. OBEY] is for, and yet these two men, one from the left and one from the right, are each opposed to President Bush's compromise plan.

Well, I stand foursquare behind the President's plan. I am a Democrat, but I want to see the budget deficit problem solved. I am tired of waiting for a solution. I am tired of the endless speeches, each well-reasoned, each thoughtful, each careful, but each in the end turning down a reasonable compromise to the budget deficit problem.

Mr. Speaker, I have had the privilege of serving in the House of Representatives for almost 8 years. During each of those years I have heard countless speeches made by my colleagues saying they really want to reduce the Federal budget deficit. I have given a few myself. Well, Mr. Speaker, this week we will have our first real opportunity in 8 years to reduce the deficit. We have the chance to back up our words with action. I hope that my colleagues have the courage to do what they have said they have wanted to do all these years: Vote for a serious deficit reduction package that has a real chance of passing the Senate and being signed into law by the President.

President Bush will speak to us in 35 minutes. He will speak on live television to every citizen in this Nation. I hope that the people of this country will listen and respond to his plea, because as the President said in his Inaugural Address, he wants Congress to stop bickering. He wants Congress to start acting, and this budget compromise is the best way to start reducing the budget deficit.

Mr. Speaker, those of us who care about reducing the deficit have had to wait many years for this vote. Although the Democrats who were elected in 1982 have been meeting almost every week for 8 years to push for deficit reduction, every previous effort has failed. This week we have our best chance to succeed.

For a decade we have been electing Presidents who have promised us balanced budgets just 4 years off, and the proposed budgets of these Presidents have had so little support in Congress that they have been considered dead on arrival. Many of these Presidential budgets were drafted with such unrealistic economic assumptions or political assumptions that their authors knew they were not serious attempts to solve the deficit problem. While many Democrats have opposed these Presidential budgets, the vast majority of House Republicans have as well. I remember one Reagan budget that was voted on the House floor, and it received only one vote, that of Jack Kemp, who made clear in his remarks that his was only a token vote of support for the President.

To give the apppearance of action on the deficit, Congress finally was presured into passing the Gramm-Rudman Act. This law also promised to give us balanced budgets in five years. Of course the 5 years is already up, and we are as far as we have ever been from a balanced budget.

Only this summer, a majority of the House voted for a balanced budget amendment to our Constitution so that we could prove to our constituents and to ourselves that we really wanted to reduce the deficit. Of course, the amendment failed to get the necessary two-thirds vote for passage, although it came close. And even if it had passed, Congress would still have had to come up with a specific plan to balance the budget, a plan very much like this plan.

Now, this week, we have a chance to do more than posture on the deficit issue. As a result of the budget summit, we have an agreement that the leaders of both political parties, and the leaders of the executive and legislative branches of Government support. The only question is whether a majority of the rank and file of Congress support the plan and the hard work of our own leadership.

My colleagues will recall that President Reagan refused, after 1982, to even conduct a summit with the Congress on the deficit issue.

POST MARKET CRASH SUMMIT

Many of us criticized him for failing to meet with us on such an important national issue. Many of us said that a summit was indispensable for solving the deficit problem. Well, now we not only have a summit, but a successful smmit, and many of my colleagues are regretting that their wish had ever been granted.

TIME TO ACT

Mr. Speaker, if we could only get the vote of every Member who has supported the balanced budget amendment, or who had opposed debt ceiling increases in the name of budget restraint, or who had denounced budget deficits in his speeches, we would not have any trouble passing the budget summit agreement.

What we are discovering, however, is that many Members are losing their courage. They talk tough on the deficit, but will not vote tough. They claim to be fighting against the deficit, but they are fair-weather warriors.

Mr. Speaker, it is time for the House of Representatives to put up or shut up on the deficit. In the last 10 years, we have increased the national debt from about $1 trillion to over $3 trillion. It took every President from George Washington to Jimmy Carter to give us that first trillion in debt, but while George Bush has been Vice President and President, we have added another 2 trillion to that debt.

It is time to stop the bleeding, and, to President Bush's credit, he and his staff have finally negotiated with Congress on a way to stop the fiscal hemorrhaging.

The vote this week may well be the most important vote that we will have cast in this, or any recent, Congress. The real question is whether the President and Congress are competent to govern the fiscal affairs of our Nation. Does our proud democracy still work? Or are we the slaves of parochial and special interests who don't mind our Nation living on borrowed money and borrowed time until we wake up and discover that we are a second-class economic power?

EASY TO CRITICIZE

The primary reason for the past deadlock on deficit issues has been the fact that it is almost impossible to please a majority of House and Senate Members, and the President, on a single deficit reduction package. This has been the tragic legacy of our Nation's longest experiment with divided

Government, with the White House controlled by one political party and most of the Congress by another.

Why has it been hard to achieve a consensus, or even a bare majority, over almost a decade? Because, as any politician can tell you, it is always easier to criticize something than to improve it.

There are many ways to state that fundamental political principle. It is notoriously easy to be a back-seat driver or a Monday-morning quarterback. Speaker Sam Rayburn said it even more strongly, "Any jackass can kick a barn down; it takes a carpenter to build one."

It would be easy for me to kick this budget summit agreement down, as many of our colleagues are doing. I hate the Medicare cuts; I hate the gasoline tax; I hate the lack of progressivity in the package; but I hate the deficit even more.

This is a spinach and broccoli package. We hate it, the President hates it, but it is good for both of us.

It is becoming harder and harder in modern politics to make good decisions in the long-term interest of our Nation and avoid a backlash in the polls and on election day. Put another way, the skills required to get elected to office do not necessarily serve you well once you are in office. There is a split between the needs of politics and the needs of governing. This is all too plain when you talk to our Nation's political experts.

The noted political consultant and pollster firm, the Garin-Hart Strategic Research Group, is quoted in today's Washington Post as saying:

> Voting for a budget settlement may be the most responsible course, but do not expect much credit from voters for doing the responsible thing . . . If you vote for the budget compromise, you should realize that many voters will resent it.

Another noted political adviser and pollster, Harrison Hickman, also realizes that his advice to candidates is against the national interest. He is quoted as saying, "The Republic is better off if no one asks me."

I may be completely wrong, but I think the voters are smarter than the so-called experts give them credit for. I think the voters want their representatives to be honest with them, even when the truth is unpleasant. I think that voters want what it is in the long-term best interests of the Nation, and are tired of politicians deceiving them with false hopes and false promises. I think that voters want the deficit reduced now; in fact I think they wanted the problem solved several years ago. They are tired of hearing about it and tired of us not solving the problem faster.

BEWARE SECRET PLANS

When Richard Nixon was running for President in 1968, he claimed to have a secret plan to end the Vietnam war. He was elected and, of course, he turned out not to have a secret plan. In fact the war escalated, contrary to what most voters had been led to believe by his campaign.

Today, many of our colleagues have, if not secret, at best partial plans to reduce the deficit. Each one of these plans, even if fleshed out and audited by the CBO and OMB, caters to every local interest in that Member's district. For years now, we have been campaigning against the deficit and keeping our plans ready in case any reporter questions us on the specifics. So far these individual plans have been good enough to fool reporters, but no longer. Why? Because individual solutions do not work; only plans with 218 votes have a chance of working.

We all know that there is no majority for any of our personal plans, so there is absolutely no danger of any of them passing. We have had 10 years to see whether there is such a majority. I personally have favored across-the-board budget freezes so that every American would be treated the same, and so that there would be no new taxes. But the last time this idea was voted on, it received 56 votes out of the necessary 218. Other plans have done about the same. I have voted for many of them as well.

When every Congressman has his or her own plan, Congress has no plan. Every congressional district is different and every deficit reduction plan is not only different but often contradictory. Our diversity as a nation has gridlocked Congress on the most important and persistent economic issue of our time.

Members have been unwilling to compromise, to set aside personal and local preferences, for the good of the whole Nation. Each member, and each special interest group across our Nation, wants the power to veto any measure that offends their parochial interest. The phrase "I got mine" has become more popular than "I did it for the good of the Nation."

I would like to suggest that, particularly in this time of prolonged divided Government, it is important for Members to make sacrifices for the good of the Nation. What excuse is going to be good enough for our grandchildren when they ask us why we carelessly piled additional trillions of dollars of debt on their shoulders? The Republicans wouldn't help us? The Democrats bailed out? Folks in my district would have been upset? I was afraid to take the heat?

These answers are not good enough. Individual solutions to a national problem are not good enough. We are a legislature and we must act as a legislature, not as a group of independent operators. While we are busy saving our own political hides, our Nation is getting scalped.

PAINLESSLY PAINFUL

As painful as particular parts of the budget summit agreement are, the pain is mild indeed when compared to a real solution of the deficit problem. This package will reduce the deficit by $40 billion this year, and by $500 billion over the next 5 years, but it is still not enough to guarantee us a balanced budget. We can continue to expect large deficits, just not as large as they would have been.

The most valid criticism of the package is that it is too little, too late. But this is criticism that can only be made by those who are willing to vote for this level of pain, not by those who say they want even more pain but are afraid of even this amount.

Another valid criticism of the package is that it still contains too much false savings, so-called smoke and mirrors. True, this package has less gimmickry in it than most recent reforms, but its' unrealistic interest rate assumptions, increased tax collection assumptions, and the estimated savings from the lump-sum civil service retirement termination, still mislead the public as to the real deficit reduction impact of the package.

For all of these faults, to have a package that makes a serious effort to reduce the deficit this year by $40 billion and by $500 billion over the next 5 years, all without touching Social Security, COLA's, or tax rates, is too good to pass up. The package looks even better when you compare it to the alternatives: Sequestration or continued record deficits.

Mr. Speaker, the hour is late and the stakes are high. This House has a chance to prove that it can responsibly manage the fiscal affairs of this Nation, or it can shirk its responsibility for yet another year. I hope that we will rise to the challenge of preserving the long-term economic health of our Nation by reducing the deficit, instead of thinking only of preserving our own political careers. This is a rare opportunity, to have a bipartisan agreement that begins to solve a painful problem in one of the most painless possible ways, I hope that we will not miss this chance. Let us support the President, let us support our own leadership, and let us support the budget summit agreement.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ENGEL (at the request of Mr. GEPHARDT), for today, on account of illness.

Mr. MYERS of Indiana (at the request of Mr. MICHEL), until 4 p.m. today, on account of family medical reasons.

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. PORTER) to revise and extend their remarks and include extraneous material:)

Mr. PASHAYAN, for 1 hour, on October 9.

Mr. PORTER, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Mr. ALEXANDER, for 5 minutes, today.

Mr. OWENS of Utah, for 5 minutes each day, today and on October 4.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COOPER, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FAWELL today on Smith amendment No. 5 in H.R. 4300.

(The following Members (at the request of Mr. PORTER) and to include extraneous matter:)

Mr. COUGHLIN.

Ms. ROS-LEHTINEN in four instances.

Mr. BOEHLERT.

Mr. BAKER in two instances.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. TORRICELLI.

Mr. GORDON in two instances.

Mr. SOLARZ.

Mr. MRAZEK.

Mr. SKELTON

Mr. TRAFICANT.

Mr. SAWYER

Mr. MCNULTY.

Mr. PALLONE.

Mrs. PATTERSON.

Mr. MILLER of California.

Mr. MORRISON of Connecticut.

Mr. VENTO.

Mr. MCHUGH.

Mr. WEISS.

Mr. BONIOR.

SENATE BILL AND JOINT RESOLUTION REFERRED

A bill and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1731. An act to provide for the creation, restoration, protection, enhancement, and conservation of coastal wetlands, and to conserve North American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats, and for other purposes; to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

S.J. Res. 342. Joint resolution designating October 1990 as "Ending Hunger Month"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1243. An Act to require the Secretary of Energy to establish Centers for Metal Casting Competitiveness Research;

H.R. 2372. An Act to provide jurisdiction and procedures for claims for compassionate payments for injuries due to exposure to radiation from nuclear testing;

H.R. 3897. An Act to authorize appropriations for the Administrative Conference of the United States for fiscal years 1991, 1992, 1993, and 1994, and for other purposes;

H.R. 5725. An Act to extend the expiration date of the Defense Production Act of 1950;

H.J. Res. 398 vs. Joint resolution to commemorate the centennial of the creation by Congress of Yosemite National Park;

H.J. Res. 469. Joint resolution to designate October 6, 1990, as "German-American Day"; and

H.J. Res. 603. Joint resolution to designate the month of October 1990 as "Country Music Month."

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and a joint resolution of the Senate of the following titles:

S. 2588. An act to amend section 5948 of title 5, United States Code, to reauthorize physicians comparability allowances; and

S.J. Res. 301. Joint resolution designating October 1990 as "National Breast Cancer Awareness Month."

ADJOURNMENT

Mr. COOPER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 44 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 3, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3987. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize urgent supplemental appropriations for fiscal year 1990 for the Department of Defense, and for other purposes; to the Committee on Armed Services.

3988. A letter from the Secretary of Defense, transmitting notification that the Air Force intends to obligate $7 million in active RDT&E funding for the ALQ-161A "Core" program; to the Committee on Armed Services.

3989. A letter from the Secretary of Defense, transmitting a letter urging Congress to extend for 2 years the provisions of the Defense Production Act; to the Committee on Banking, Finance and Urban Affairs.

3990. A letter from the Secretary of Health and Human Services, transmitting the 1989 annual report on expenditures with respect to AIDS, pursuant to Public Law 100-607, section 201 (102 Stat. 3063); to the Committee on Energy and Commerce.

3991. A letter from the Executive Director, National Mediation Board, transmitting the Board's annual report of its compliance with the Government in the Sunshine Act during calendar year 1989, pursuant to 5 U.S.C. 552b; to the Committee on Government Operations.

3992. A letter from the Secretary of Labor transmitting a copy of the annual report in compliance with the Government in the Sunshine Act for calendar year 1989, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3993. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report dated March 20, 1989, from the Chief of Engineers, Department of the Army, on Cattaraugus Creek, NY, together with other pertinent reports; to the Committee on Public Works and Transportation.

3994. A letter from the Secretary of Labor, transmitting a report on the labor market situation for certain disabled veterans and Vietnam Theater veterans, pursuant to 38 U.S.C. 2010A; to the Committee on Veterans' Affairs.

3995. A letter from the Secretary of Health and Human Services, transmitting a letter stating that in lieu of submitting a separate report to fulfill the requirements of section 9111 of Public Law 99-272, the Department will include an evaluation of potential modifications in payment policies for SCH's in the report mandated by section 6003(i) of Public Law 101-239; to the Committee on Ways and Means.

3996. A letter from the Secretary of Health and Human Services, transmitting a letter stating that in lieu of submitting a separate report to fulfill the requirements section 4005(d)(2) of OBRA 1987, the Department will include an evaluation of potential modifications in payment policies for RRC's in the report mandated by section 6003(i) of OBRA 1989; to the Committee on Ways and Means.

3997. A letter from the Secretary of Health and Human Services, transmitting notification that the Department will not be sending the report mandated by section 4049(b) of OBRA 1987 because the provision has been fully implemented and the need for this report is outdated; jointly, to the Committees on Energy and Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DE LA GARZA: Committee on Agriculture. S. 319. An act to effect an exchange of lands between the United States Forest Service and the Salt Lake City Corporation

within the State of Utah and for other purposes; with an amendment (Rept. 101-547, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.[H02OC0-T3]{H8705}GARZA:

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1608. A bill to strengthen national nutrition monitoring by requiring the Secretary of Health and Human Services to prepare and implement a ten-year plan to assess the dietary and nutritional status of the United States population, to support research on, and development of, nutrition monitoring, to foster national nutrition education, to establish dietary guidelines, and for other purposes; with an amendment (Rept. 101-788). Referred to the Committee of the Whole House on the State of the Union.

Mr. YATES: Committee on Appropriations. H.R. 5769. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-789). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4765. A bill to enable the people of Puerto Rico to exercise self-determination; with an amendment (Rept. 101-790, Pt. 1). Ordered to be printed.

Mr. MOAKLEY: Committee on Rules. H.R. 4765. A bill to enable the People of Puerto Rico to exercise self-determination; with an amendment (Rept. 101-790, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHEAT: Committee on Rules. House Resolution 485. Resolution providing for the consideration of H.J. Res. 647, joint resolution disapproving the recommendation of the President to extend nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China (Rept. 101-791). Referred to the House Calendar.

Mr. HALL of Ohio: Committee on Rules. House Resolution 486. Resolution providing for the consideration of H.J. Res. 649, joint resolution approving the extension of nondiscriminatory treatment (most favored nation treatment) to the products of Czechoslovakia (Rept. 101-792). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 487. Resolution providing for the consideration of H.R. 5422, a bill to authorize appropriations for fiscal year 1991 for intelligence and intellgence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 101-793). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 488. Resolution providing for consideration of the conference report on the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995 (Rept. 101-794). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 489. Resolution waiving the requirement of clause 4(b) of rule XI, against consideration of certain resolutions reported from the Committee on Rules (Rept. 101-795). Referred to the House Calendar.

Ms. SLAUGHTER of New York. Committee on Rules. House Resolution 490. Resolution providing for the consideration of H.R. 5269, a bill to control crime (Rept. 101-796). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. YATES:

H.R. 5769. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

By Mr. THOMAS of California (for himself and Mr. LAGOMARSINO):

H.R. 5770. A bill to authorize the President to lease Naval Petroleum Reserve Numbered 1 and thereby assure the efficient production of oil, natural gas, and other hydrocarbon resources at that property; to ensure the Federal Government receives fair market value for leasing that property; to upgrade the Nation's energy security assets by establishing a Defense Petroleum Inventory; and to provide for the equitable sharing with the State of California of revenue from Naval Petroleum Reserve Numbered 1; jointly, to the Committees on Energy and Commerce and Armed Services.

By Mr. BARNARD (for himself, Mr. THOMAS of Georgia, Mr. HATCHER, Mr. RAY, Mr. JONES of Georgia, Mr. LEWIS of Georgia, Mr. GINGRICH, Mr. DARDEN, Mr. ROWLAND of Georgia, Mr. JENKINS, Mr. LEHMAN of California, and Mr. MCMILLEN of Maryland):

H.R. 5771. A bill to authorize the minting of commemorative coins to support the training of American athletes participating in the 1996 Olympic Games; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HUCKABY:

H.R. 5772. A bill to provide for Federal recognition of the Jena Band of Choctaws of Louisiana, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PICKETT:

H.R. 5773. A bill to require the President to submit a national energy policy plan, together with implementing legislation; to the Congress by March 31, 1991, and biennially thereafter through 1999, that will provide for energy self-sufficiency for the United States by the year 2000; to the Committee on Energy and Commerce.

H.R. 5774. A bill to amend the Internal Revenue Code of 1986 to allow the one-time exclusion on gain from the sale of a principal residence to be taken before age 55 if the taxpayer is permanently and totally disabled; to the Committee on Ways and Means.

By Mr. RIDGE:

H.R. 5775. A bill to use the income on depository institution reserves at the Federal Reserve banks to protect and enhance the deposit insurance system; to the Committee on Banking, Finance and Urban Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

531. By the SPEAKER: Memorial of the Legislature of the State of California, relative to cable television; to the Committee on Energy and Commerce.

532. Also, memorial of the Legislature of the State of California, relative to the World Summit for Children; to the Committee on Foreign Affairs.

533. Also, memorial of the Secretary of the State of Delaware, relative to the Delaware-New Jersey compact; to the Committee on the Judiciary.

534. Also, memorial of the House of Representatives of the State of Michigan, relative to judicially imposed taxation; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. McCOLLUM:

H.R. 5776. A bill for the relief of Global Exploration and Development Corp., Kerr-McGee Corp., and Kerr-McGee Chemical Corp.; to the Committee on the Judiciary.

By Mr. McCOLLUM:

H. Res. 491. Resolution for the relief of Global Exploration and Development Corp., Kerr-McGee Corp., and Kerr-McGee Chemical Corp.; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 303: Mr. TAUKE.

H.R. 446: Mr. DYSON, Mr. LANCASTER, Mrs. SMITH of Nebraska, Mr. BLILEY, Mr. GOSS, Mr. SIKORSKI, Mr. BARNARD, Mr. WYLIE, Mr. SMITH of New Jersey, Mrs. BENTLEY, Mr. GALLEGLY, Mr. FRANK, Mr. SAXTON, Mr. DUNCAN, Mr. WASHINGTON, Mr. PICKETT, Mr. KENNEDY, and Mrs. PATTERSON.

H.R. 659: Mr. GEREN of Texas.

H.R. 708: Ms. KAPTUR and Mr. TAUKE.

H.R. 1932: Mr. DORNAN of California.

H.R. 2870: Mr. WISE and Mr. PAXON.

H.R. 3004: Mr. CAMPBELL of Colorado.

H.R. 3243: Mr. GEREN of Texas, Mr. GILLMOR, Mr. PETRI, Mr. HANSEN, Mr. WALSH, Mrs. JOHNSON of Connecticut, Mr. NEAL of North Carolina, and Mr. FORD of Tennessee.

H.R. 3654: Mr. ROGERS and Mr. ROE.

H.R. 3735: Mr. VISCLOSKY and Mr. NEAL of Massachusetts.

H.R. 3818: Mr. ECKART and Mr. GEREN of Texas.

H.R. 4168: Mr. ECKART.

H.R. 4212: Mr. HUBBARD and Mr. BROOKS.

H.R. 4233: Mr. PICKLE.

H.R. 4424: Mr. CLINGER and Mr. HANSEN.

H.R. 4494: Mr. DYSON and Mr. SANGMEISTER.

H.R. 4513: Mr. PASHAYAN, Mr. BATES, Mr. ATKINS, Mrs. SCHROEDER, Mr. FRENZEL, Mr. CONDIT, and Mr. WAXMAN.

H.R. 4573: Mr. BROWN of California and Mr. FISH.

H.R. 4649: Mr. OWENS of New York.

H.R. 4770: Mr. FISH, Mr. AUCOIN, Mr. GORDON, and Mr. DYSON.

H.R. 4849: Ms. KAPTUR, Mr. FEIGHAN, Mr. ROSE, and Mr. SABO.

H.R. 4948: Mr. JONTZ, Mr. BENNETT, and Mr. HOCHBRUECKNER.

5185: Mr. WEISS.

H.R. 5212: Mr. WATKINS, Mr. LAGOMARSINO, Mr. DWYER of New Jersey, Mr. GEPHARDT, and Mr. TORRICELLI.

H.R. 5216: Mr. COYNE.

H.R. 5362: Mr. NEAL of North Carolina.

H.R. 5368: Mr. ECKART, Mr. BLILEY, and Mr. INHOFE.

H.R. 5379: Mr. PURSELL, Mr. EDWARDS of Oklahoma, and Mr. VANDER JAGT.

H.R. 5493: Mr. ROWLAND of Connecticut, Mr. RITTER, Mr. SHAYS, and Mr. FISH.

H.R. 5505: Mr. BILBRAY and Mr. FISH.

H.R. 5544: Mr. DWYER of New Jersey and Mr. ECKART.

H.R. 5551: Mr. VENTO, Mr. KOSTMAYER, and Mr. KOLTER.

H.R. 5568: Mr. REGULA, Mr. APPLEGATE, Mr. EVANS, Mr. HORTON, Mr. SYNAR, Mr. WISE, and Mr. BRYANT.

H.R. 5585: Ms. LONG.

H.R. 5603: Mr. JONTZ and Mr. PALLONE.

H.R. 5639: Mr. NEAL of Massachusetts, Mr. ROE, Mr. SMITH of Florida, and Mr. LIPINSKI.

H.R. 5652: Mr. WOLF, Mr. HORTON, Mr. EARLY, Mr. STAGGERS, Mr. LAGOMARSINO, Mr. CAMPBELL of Colorado, Mr. MCCLOSKEY, Mr. WELDON, Mr. FAUNTROY, and Mr. GALLO.{H02OC0-U1}{H8706s5658:

H.R. 5658; Mr. JENKINS.

H.R. 5689: Mr. EVANS.

H.R. 5722: Mrs. MARTIN of Illinois.

H.R. 5726: Mrs. JOHNSON of Connecticut, Mr. SUNDQUIST, Mr. WALKER, and Mr. THOMAS of Georgia.

H.R. 5739: Mr. HORTON, Mr. SCHEUER, Mr. ACKERMAN, Mr. DOWNEY, Mr. FISH, Mr. GILMAN, Mr. HOCHBRUECKNER, Mr. LAFALCE, Mrs. LOWEY of New York, Mr. MCGRATH, Mr. BOEHLERT, Mr. ENGEL, Mr. FLAKE, Mr. GREEN of New York, Mr. HOUGHTON, Mr. LENT, Mr. MANTON, Mr. MCHUGH, Ms. MOLINARI, Mr. NOWAK, Mr. PAXON, Mr. SERRANO, Ms. SLAUGHTER of New York, Mr. SOLOMON, Mr. WALSH, Mr. MARTIN of New York, Mr. MRAZEK, Mr. OWENS of New York, Mr. RANGEL, Mr. SCHUMER, Mr. SOLARZ, Mr. TOWNS, and Mr. WEISS.

H.J. Res. 87: Mr. SCHUETTE.

H.J. Res. 214: Mrs. VUCANOVICH, Mr. ROSE, Mr. SAXTON, Mrs. ROUKEMA, Mr. HAYES of Louisiana, Mr. RINALDO, Mr. QUILLEN, Mr. DICKS, Mr. LEACH of Iowa, Mr. GOODLING, Mr. DANNEMEYER, Mr. SHAW, Mr. HENRY, Mr. BROWN of Colorado, Mr. MCHUGH, Mr. LAFALCE, Mr. BROOKS, Mr. MADIGAN, Mr. SHAYS, Mr. BEREUTER, Mr. PETRI, and Mr. SKELTON.

H.J. Res. 248: Mr. ANTHONY, Mr. CHAPMAN, Mr. CLAY, Mr. ERDREICH, Mr. FLAKE, Mr. GIBBONS, Mr. HAYES of Louisiana, Mr. JOHNSTON of Florida, Mr. LAUGHLIN, Mr. LEHMAN of California, Mr. MILLER of California, Mr. ORTIZ, Mr. PARKER, Mr. COLEMAN of Texas, Mr. DARDEN, Mr. DICKS, Mr. ANDREWS, Mr. BROWN of Colorado, Mr. COYNE, Mr. FLIPPO, Mr. GALLO, Mr. HOAGLAND, Mr. JACOBS, Mr. MINETA, Mr. PAYNE of Virginia, Mr. PICKLE, Mr. RIDGE, Ms. MOLINARI, Mr. SKAGGS, Mr. CONDIT, Mr. GEREN of Texas, Mr. WALGREN, and Mr. WASHINGTON.

H.J. Res. 419: Mr. MURTHA.

H.J. Res. 543: Mr. VENTO, Mr. UPTON, and Mr. OXLEY.

H.J. Res. 562: Mr. GUARINI, Mr. MCDERMOTT, Mr. MCNULTY, Mr. SERRANO, Mr. ROE, Ms. KAPTUR, Mr. SYNAR, and Mr. WAXMAN.

H.J. Res. 571: Mr. GUARINI, Mr. PAYNE of New Jersey, Mr. HANSEN, Mr. LEWIS of Georgia, Mr. RANGEL, Mr. SCHEUER, Mr. SYNAR, and Mr. MAZZOLI.

H.J. Res. 583: Mr. JOHNSON of South Dakota and Mr. FRANK.

H.J. Res. 612: Mr. HEFNER.

H.J. Res. 628: Mr. ENGEL.

H.J. Res. 642: Mrs. MARTIN of Illinois, Mrs. MEYERS of Kansas, and Mr. HYDE.

H. Con. Res. 322: Mr. SKELTON, Mr. BROOKS, Mr. ROE, Mr. CRANE, Mr. FROST, Mr. SCHUMER, Mr. MCGRATH, and Mr. HERTEL.

H. Con. Res. 371: Mr. FISH, Mr. DWYER of New Jersey, and Ms. PELOSI.

H. Con. Res. 373: Mr. HUGHES, Mr. DEFAZIO, Mr. KLECZKA, Mr. ECKART, Mr. STARK, Mr. APPLEGATE, and Mr. BATES.

PETITIONS, ETC.

Under clause 1 of rule XXII,

240. The SPEAKER presented a petition of the Common Council of the city of Sheboygan, WI, relative to support of H.R. 5423; which was referred to the Committee on Ways and Means.