HOUSE OF REPRESENTATIVES—*Thursday, May 10, 1990*

The House met at 10 a.m.

The Reverend Douglas Tanner, Virginia Conference, United Methodist Church, offered the following prayer:

O God, creator and sustainer of us all, we gather before You as a group of very human beings in a profession that takes its toll on our humanity. We carry the same doubts and fears, the same broken places, the same weaknesses as our brothers and sisters in other walks of life. We are encouraged, though, to hide our flaws, and to continually project confidence and strength. You, O Lord, know us as we truly are, and You are here in our midst. Grant us an awareness of Your presence among us and Your acceptance of us, that we might respond, as loving human beings of integrity. 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 gentlewoman from Connecticut (Mrs. KENNELLY) please come forward and lead the House in the Pledge of Allegiance?

Mrs. KENNELLY 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. Hallen, one of its clerks, announced that the Senate has passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 922. An act to designate the building located at 1515 Sam Houston Street in Liberty, Texas, as the "M.P. Daniel and Thomas F. Calhoon, Senior, Post Office Building";

H.R. 2890. An act to designate the Federal Building and United States Courthouse located at 750 Missouri Avenue in East St. Louis, IL, as the "Melvin Price Federal Building and United States Courthouse"; and

H.J. Res. 453. Joint resolution designating May 1990 as "National Digestive Disease Awareness Month."

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

S.J. Res. 286. Joint resolution to designate the week beginning May 6, 1990, as "National Correctional Officers Week."

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the previous announcement of the Chair, the 1-minute statements will be limited to five on each side.

INTRODUCTION OF LEGISLATION PROTECTING THE STATUS OF LITHUANIAN NATIONALS

(Mr. DONNELLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. DONNELLY. Mr. Speaker, I am introducing legislation today, along with Congressmen DURBIN, RUSSO, WOLPE, GEJDENSON, and HERTEL, to grant to citizens of Lithuania the same benefits afforded nonimmigrants from the People's Republic of China under President Bush's recent Executive order.

Mr. Speaker, as a supporter of the legislation dealing with Chinese students, I am well aware of the special consideration which must be shown to individuals temporarily visiting the United States from countries undergoing civil unrest. Certainly, Lithuania fits that description. Every morning, the news from that troubled region of the world is worse.

Unfortunately, the President vetoed the Pelosi legislation, but to his credit, President Bush has issued an Executive order protecting individuals from China from immigration law requirements that they return home. No such protections apply to Lithuania nationals, however, our legislation provides it.

Our consular office in Leningrad issued over 1,300 nonimmigrant visas to Lithuanian nationals in 1989. Although it is unclear how many are still in the United States, some or all of them will be helped by our legislation.

Mr. Speaker, I urge prompt and favorable consideration of this bill by the House and Senate Judiciary Committees, and I submit a technical description of my legislation.

LEGISLATION PROTECTING THE STATUS OF CERTAIN NATIONALS OF LITHUANIA

SECTION 1.—TITLE

The Act is cited as the "Emergency Lithuanian Immigration Relief Act of 1990."

SECTION 2.—STATUS OF CERTAIN NATIONALS OF LITHUANIA

(a) Waiver of two-year home residency requirement: Under present law, nonimmigrants in the United States on a "J" visa (i.e., visas for students, trainees, teachers, professors, research assistants, or specialists in any field) must generally satisfy a two-year home residency requirement before applying for immigrant status, or a change in nonimmigrant status.

The bill waives the two-year residency requirement in the case of a Lithuanian national who (1) is present in the United States on May 10, 1990 and (2) files a petition for adjustment in change of status within 4 years of enactment of the legislation. Thus, Lithuanian nationals could apply for U.S. citizenship, permanent resident status, or a different class of nonimmigrant visa within four years of enactment without satisfying the home residency requirement.

(b) Presumption of Continuous Residence in the U.S. If, under present law, an alien applies for adjustment to permanent resident status or a change in nonimmigrant status, the individual must generally have had a "continuous period of lawful residence" in the United States. The bill deems this requirement to be met in the case of a national of Lithuania who was present in the United States on May 10, 1990. The requirement is deemed met for as long as the Secretary of State certifies to Congress that the Soviet Union has economic or military sanctions in effect against Lithuania.

(c) Employment Authorization: Generally, most classes of nonimmigrants are not authorized to engage in employment while in the United States. The bill authorizes any nonimmigrant to engage in employment in the United States for such period of time as the Secretary of State certifies to Congress that the Soviet Union has economic or military sanctions in effect against Lithuania.

(d) Notification Required: In the case of any national of Lithuania, the bill requires the Attorney General to notify the individual when their authorized period of stay has expired (i.e., instead of initiating deportation proceedings). The notice is to be nonadversarial in nature and must contain a list of legal options for the individual.

FLEXIBLE SPENDING LIMITS AS AN ALTERNATIVE

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

Mr. WALSH. Mr. Speaker, the Democrats have accused Republicans of being against spending limits. Well Republicans are interested in spending limits, too.

Recently, a bipartisan panel of experts assembled by the Senate to look at the issue of campaign finance reform proposed a concept which they coined flexible spending limits.

Simply, this plan would limit overall spending of funds contributed by PAC's and individuals who do not live in that Member's district. The right of political parties and constituents to contribute to their candidates would be unimpaired.

The benefits of the plan to candidates would be to free them from their dependence on special interest groups, and nonresidents.

The bottom line, is that if a candidate cannot garner enough support in their own district to be elected, then they do not deserve to be elected.

However, we must be mindful of the fact that spending limits will not by themselves reduce the amount of money in elections. This can only be done by greater limitations on PAC contributions, as well as stricter disclosure rules.

Republicans in this House are ready for meaningful reform, we are awaiting the Democrats.

IS JOHN DEMJANJUK REALLY IVAN THE TERRIBLE?

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

Mr. TRAFICANT. Mr. Speaker, this Monday Israel will hear the appeal of John Demjanjuk. Demjanjuk is the Cleveland auto worker who has been convicted of being the infamous Ivan the Terrible of Treblinka.

The problem Mr. Speaker, is that more and more evidence continues to surface that casts a great shadow on this particular case. Now it has been found in documents not released that Cashmir Dudek said that Ivan had black hair; Joseph Wojak, Ivan had black hair; Maria Dudek, Ivan had black hair and his name was Marczenko; Eugenia Samuels, Ivan had black hair. Everybody on record said he had black hair, was in his late thirties, over 190 centimeters, 6-foot-4. John Demjanjuk was 22 years old at the time and had blond hair.

Mr. Speaker, I am saying the Polish War Crimes Commission had the facts, and before America's investigation lets the shadow from history hang over Israel, we should press the Polish War Crimes Commission for all the information on Ivan Marczenko and John Demjanjuk. History does not deserve to let Ivan the Terrible go scot-free and, if there is any doubt, the world should know the truth and the facts. We should push for it.

□ 1010

MUSIC LABELING

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

Mr. NIELSON of Utah. Mr. Speaker, today I am introducing a concurrent resolution expressing the sense of the Congress that the music and music videotape industries should develop and use a uniform warning and disclosure system regarding violence and perversity which has become a significant element of those industries.

All one has to do is read the lead articles in the May 7 issue of Time magazine and the March 19 Newsweek to realize we have a major problem. Bills have been introduced in at least 12 State legislatures because so many are concerned.

Music almost by definition is meant to influence the psyche of man—and women, too. Martial music often stirs feeling of patriotism, a desire to march. The affect of romantic music needs no explanation. The word "lyric," Websters tells us, means, "expressing direct usually intense personal emotion expecially in a manor suggestive of song * * *."

Fortunately, most music is uplifting to the human spirit. But unfortunately, more and more of the music targeting our children and grandchildren are suggestive of violence, satanism, vandalism, rape, murder, drug abuse, suicide, human sacrifice, degradation of race, women, children, and human life, not to mention bestiality, sadism, masochism, and other perversions.

Nevertheless, my resolution is not in any way aimed at curtailing speech protected under the first amendment. Rather, it is directed toward encouraging the music industry to develop its own system of warning and disclosure so that purchasers and particularly parents and guardians can have some idea of what is contained in the package.

For years we have required warning on cigarette packages and listing of ingredients on morning cereal boxes so that you can make some judgment as to affect on physical health. Can it be more onerous to have a warning and the contents of a music package available so you may judge the affect on emotional health?

I am gratified that the president of the Recording Industry Association of America [RIAA], Jay Berman, held a press conference only yesterday announcing the adoption of a standard logo to be stickered to recording products. The logo provides parental advisory of explicit lyrics. Mr. Berman believes that virtually the whole industry will fall in line, but it will be weeks or months before a list of those which will comply is available.

While this effort is a great stride forward, it is by no means the end of the journey. For example, the position of the logo could be better located as a flag of warning. The system does not cover music videos which, with the added visual dimension, can be more inflamatory than words and music alone. Finally, a means of knowing of what we are being warned is not considered. The guidelines of my resolution fill these voids.

ED MADIGAN, JIM HANSEN, HERB BATEMAN, JOE BARTON, CLAUDE HARRIS, BILL DANNEMEYER, RICHARD STALLINGS, and DAN BURTON have already joined in expressing concern. I will be in touch with many if not all of you so that you, too, can urge the recording industry to give us the tools to monitor a major and powerful influence in our children's lives.

WHERE IS THE PRESIDENT?

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

Mr. ECKART. Mr. Speaker, the President is missing. Only President Bush can settle the terrible raging debate within the Republican Party over whether or not he will raise taxes to tame the deficit. We have heard a lot about the President's position. We have heard about it from everyone but the President himself, and the American people are asking all over, where is the President?

White House spokesman and acting president Marlin Fitzwater said that we will consider anything to reduce the deficit. But where is the President?

House Republican leaders say everying is on the the table, but where is the President?

Even the major Republican campaign operative, Ed Rollins, says the President's position is a disaster, but where is the President?

Nineteen Senate Republicans say to the President, "Don't raise taxes." But where is the President?

Last week when the President's own party would not even offer the President's own budget on the floor of the House, where was the President?

And just 5 months ago the President stood here in the well giving us the State of the Union Address and said, "Read my lips."

Today, where is the President?

But that was then and this is now, and people all over America are asking that famous question, Where is George?

RETURN OUR ELECTIONS TO THE GRASSROOTS

(Mr. CLINGER asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, I would join my colleague, the gentleman from New York, in urging that our elections should be decided by the people in our districts. To win an election, we have to campaign in our districts for a majority of votes. But today when Members campaign for funds, increasingly they turn to Washington, New York, and Los Angeles. Distant money is determining the results of what are supposed to be local elections. Mr. Speaker, that is not right. Let us return our elections to the grassroots.

Let us require that a majority of campaign funds come from within a candidate's district. Then our constituents would determine how much money each candidate is permitted to spend. Indeed, spending limits will be set at the local level by constituents, not in Washington by incumbents.

Candidates with strong, broadly based district support will have an advantage over candidates aligned with distant special interests. Candidates will be encouraged to have grassroots campaigns that emphasize hands-on voter contact instead of expensive media blitzes.

Mr. Speaker, let us return our elections to our constituents and require candidates to raise a majority of their campaign funds from their districts.

DEMOCRATS WILL NOT PUT TAXES ON THE TABLE

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

Mr. SCHUMER. Mr. Speaker, we read in today's morning newspaper that some high-up officials in the White House are saying, "We are allowing them"—the Democrats—"to bring their good arguments for taxes to the table," a senior official said of the Democrats; whether that was Chief of Staff John Sununu or someone else. We have a message to the whole White House, "Don't worry. Democrats will not put taxes on the table."

After all, it was the White House that called the summit. It was the President that called the summit. It is the President who sees a state of emergency. It is the President who is saying behind closed doors that something has got to change.

Well, it is up to the President to tell us, No. 1, what the crisis is; and No. 2, what he intends to do about it.

This House has passed a budget, a very good budget, a fine budget. It does deficit reduction. It does not raise taxes. It is a document we can be proud of.

If the President thinks something is wrong with this budget, let him tell us what it is. Let him put his counterproposal on the table.

But we say to the President, "Don't worry. We're not putting taxes on the table. We have our budget and we are moving forward."

IMPACT—THE ART OF NEBRASKA WOMEN

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

Mrs. SMITH of Nebraska. Mr. Speaker, I am very proud to be sponsoring the Washington debut of an outstanding art exhibition featuring 33 paintings and photographs and three sculptures created by 35 outstanding artists, in fact superbly talented women from across Nebraska.

This exhibition is on display today and will be on display through May 17 in the rotunda of the Cannon House Office Building.

This exhibition provides an opportunity to view a magnificent array of contemporary works created by Nebraska women, women recognized for their significant contributions to the visual arts. The exhibition is an ensemble of work shared through dedicated cooperative effort depicting the history of Nebraska, making a social statement showing Nebraska past and present, evoking nostalgia showing Nebraska, past and present, and some of it as "art for art's sake."

I hope you will take the opportunity to come by the rotunda of the Cannon Building and I hope you will have a minute to visit with four of those outstanding artists who are here for the week; Amy Sadle of Columbus, Judy Greff of Burwell, Patsy Smith of North Platte and Sue Olson-Mandler of Bellevue.

IT IS TIME TO HEAR FROM THE PRESIDENT ON THE BUDGET

(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, we are told that there is a budget crisis in America, that indeed this crisis threatens the very economic health of our Nation. Among our colleagues, I am sure each has an idea. Both parties have proposals. Both Houses of this Congress have legislation they might propose; but Mr. Speaker, there is one President. We have heard from his press spokesman. We have heard from his political aides. We have heard from his consultants, but the American people have not heard from the President of the United States.

Presumably George Bush became President of this country because he wanted to provide leadership, because he had ideas, because he cared for its economic and its budgetary health.

Mr. Speaker, it is time for the President to speak. It is time that we heard from this President on what is it he intends to do, what ideas is it that he would bring forward.

Mr. Speaker, the President waits, but the Nation deserves to hear.

□ 1020

DO NOT GIVE THEM EVEN A NICKEL

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

Mr. SOLOMON. Mr. Speaker, after listening to the last speaker and several from that side of the aisle, I am compelled to read from an excerpt of a letter I am going to deliver to the White House in a few minutes.

It says, "Mr. President, don't be fooled by these big-spending liberals in the Congress that are trying to force you into agreeing to raise taxes. Mr. President, you know, I know, and those big-spending liberals know, without raising taxes, we will receive almost $100 billion, not a million, $100 billion this coming year in new revenues just because of Ronald Reagan, George Bush economic growth factors throughout the last 10 years.

"If that money, along with a little belt-tightening like your constituents have to do," you people on that side of the aisle, "was used to lower the deficit instead of increasing spending, we would not need any new taxes."

"Mr. President, what this Congress gets, Congress spends. Don't give them a nickel."

PERMISSION FOR MEMBER TO SIGN AND SUBMIT A LIST OF ADDITIONAL COSPONSORS ON H.R. 3677

Mr. ECKART. Mr. Speaker, I ask unanimous consent that I may sign and submit a list of additional cosponsors on the bill, H.R. 3677.

The SPEAKER pro tempore (Mr. DONNELLY). Is there objection to the request of the gentleman from Ohio?

There was no objection.

FAMILY AND MEDICAL LEAVE ACT OF 1989

The SPEAKER pro tempore. Pursuant to House Resolution 388 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 770.

□ 1021

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the

Whole House on the State of the Union for the further consideration of the bill (H.R. 770) to entitle employees to family leave in certain cases involving a birth, an adoption, or a serious health condition and to temporary medical leave in certain cases involving a serious health condition, with adequate protection of the employees' employment and benefit rights, and to establish a commission to study ways of providing salary replacement for employees who take any such leave, with Mrs. KENNELLY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, May 9, 1990, 60 minutes remained in general debate.

The gentleman from Missouri [Mr. CLAY] has 30 minutes remaining in general debate and the gentleman from Iowa [Mr. GRANDY] has 30 minutes remaining in general debate.

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

Mr. CLAY. Madam Chairman, I yield 15 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA], and I ask unanimous consent that she be allowed to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CLAY. Madam Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, this has been an interesting issue for Members of Congress, and I would like to share my experience with my colleagues on the floor and those listening to this debate.

Over the last several years, there have been any number of business representatives who have come to my office to speak against the bill which we are now considering, the Family Medical Leave Act. I have asked in each instance of those who have come to lobby the following questions: "As the owner of a business, are you prepared, or is it your policy, to fire an employee who has worked for you for several years if that employee asks for time off without pay to go home with a dying child or to be home, of course, for the birth of their own child?" In every single instance, the business person who presented himself to lobby me against this bill said, "Of course not. That is inhumane. We would not do that to our employees."

I said, "While these employees are gone because of some medical tragedy in their family, have you said to them, 'We are going to cut you off in terms of your hospitalization insurance?' "

They said, "Of course not. What do you take us for? We care for our employees."

And I have said to each of them, "Then you need not worry about this bill, because the provisions of this bill do no more than what you are presently giving your own employees."

Why is it that the business organizations did not send around to lobby those businesses representing policies which are contrary to this law? Why do they not send us the employer who will say, "Of course, I will fire the woman who wants to go home and have a baby. Of course, I would fire a person who wants to go home with an ailing relative?" They do not send those people around because they do not make a very convincing case.

Ladies and gentlemen of the House, this legislation brings to a minimal standard basic standards of decency and dignity and compassion when it comes to dealing with the employees of America.

To say that we are going to turn our backs on those who are suffering because of a tragedy in their family and stand behind the handful of employers who do not have that compassion is not the policy nor should it be the policy of this country.

Mr. GRANDY. Madam Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GOODLING], the ditinguished ranking member of the Committee on Education and Labor.

Mr. GOODLING. Madam Chairman, one could argue this issue and argue it legitimately strictly on the idea that mandates should not come from Congress when we are talking about employers and employees. That is something they negotiate.

But I want to go beyond that. I want to talk a little bit about the economy as we presently see it and what the legislation that is coming from my committee could do to that economy.

We have been pretty spoiled the last 6, 7, 8 years. The economy has been progressing quite rapidly, growing constantly, but some of the air may be going out of that balloon. If it does, then we certainly do not want to take this opportunity to mandate expenses to businesses at a time when all of the good work that we think we are doing may go for nought because they will end up not having a job anyway.

I want to talk about what we are doing as a committee collectively, because each one of these individual titles that is coming before us sounds awfully good. They are motherhood. They are apple pie and ice cream. All of us would like to see them.

But let me tell the Members what they mean collectively. I have said several times that our committee should have to do an employment impact study before we release any of our bills to the Congress of the United States to act on.

Let me talk about the total package that we have had or will be having before our committee: minimum wage, civil rights, Americans with Disabilities Act, high-risk notification, pension reversions, ERISA amendments, mandated leave, age discrimination waivers, mandated health benefits. Those are just a few from our committee. Then put on top of that clean air and a few others. What I am calling to the attention of the Members is that the economy is pretty shaky at the present time, and we want to be very, very careful that we in the Congress of the United States do not cause the limbs to shake even more, that we bring the growth that we are now having down to a standstill and we end up, as I said, providing benefits, but it will be unemployment benefits if we are not careful.

Again, please, do not look at each one of these individually. Look at the impact that all of them are going to have when we talk about increasing the cost of production, and then the increased costs at a time when we are trying to survive in a very competitive world.

Again, look at the overall package coming from the Committee on Education and Labor at this particular time, and think seriously about the damage we may do to a growing economy which is struggling at the present time.

Mrs. ROUKEMA. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, members of both political parties talk a good game and give lipservice to "family values" but too often turn their backs when a concrete proposal to give much needed support to working families comes forward.

After the long hours we have spent debating this issue there are some things that are well known, some which are honest differences of opinion and some which are dowright fiction.

Now some facts. As ranking Republican on the Labor-Management Subcommittee, I have a strong record of support for business, large and small, over my 10 years in this Congress.

I have labored long to develop a compromise bill—far different from the original parental leave bill. This legislation balances the problems and hard realities facing working families with the legitimate concerns of the business community.

By now, most of my colleagues know that I am a mother of three and that I personally cared for my own son when he was terminally ill with leukemia.

It has come as a surprise to me that it was a surprise to most of my colleagues that my family had endured this personal tragedy. Yes, I suppose that gives me unique perspective on the stresses and strains working people must endure everyday.

I continually asked myself during this process: "what would I have done if I not only had the tragedy and the trauma of caring for my child, but also had to worry about losing a job and a roof over my head?"

And this question, my friends on both sides of the aisle, is a question faced everyday in this country.

Each day, hard-working, tax-paying Americans lose their jobs because a family medical emergency requires that they take time off to give temporary care to a seriously ill member of the family. It may be a child dying of cancer who needs a mother's loving care. It may be a beloved parent who is terminally ill and requires home care.

In a day and age when the majority of American families need two paychecks to get by, it is inconceivable that we do not have a minimum guarantee of job security when a medical emergency strikes. The debate over the Family and Medical Leave Act is not about mandates or benefit packages. It is about values and a standard of decency to protect the jobs for workers trying to capture a piece of the American dream.

This case has clearly been made and the supportive data is compelling. Two-thirds of the women in the work force are there out of economic necessity. Job security for both wage-earners is now crucial.

Now to my efforts at compromise and the cost of this bill.

BUSINESS LOBBY

The organized business lobby in Washington is out of step with the real world and that includes conscientious, no-nonsense, bottom-line business people at the grassroots. The lobbyists have overreacted in a way that no one can explain to me.

I was the architect of the committee compromise bill which dealt with every legitimate small business concern. The compromise contains the flexibility needed to continue productive, uninterrupted operations:

First, key employee exemption;

Second, medical certification;

Third, specialized divisions; and

Fourth, permanent employees.

And the argument has been raised that granting this job security guarantee will force employers to cancel or curtail other benefits. Not one State, not one business, has come forward to say that adopting a similar or more far-reaching leave policy has caused disruptions or declines in productivity.

The firestorm over this bill was created by the paid business lobby here in Washington.

Now let's separate fact from fiction. Is this a radical departure from the traditions of American labor law? Not at all. It is completely consistent with established labor standards which gave us such protections as child labor laws, antisweatshop codes and the 40-hour work week. As society has changed, we have always adjusted our labor protection standards to meet the new circumstances.

And this issue of playing off benefits packages against leave may have superficial plausibility. It simply just does not hold up under analysis.

The GAO calculates the benefit at just over $5 dollars per covered employee. What can you buy in an alternative benefits package? Nothing. It is a specious argument.

In conclusion, I would ask for the personal attention of President Bush. He is a compassionate, sensitive family man. Yes, he and all of us should be concerned about imposing costly new mandates, that is, mandated health benefits, asset reversion.

Let us not say "women and children last." But, job security for America's hard-working, tax-paying families is not one of them.

Let us pass this bill now.

□ 1030

Mr. CLAY. Madam Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Madam Chairman, as an economist, I just want to make two brief points about this bill. One, it is cost effective to pass this bill, and two, it is not anticompetitive.

On cost effective, let me make this point briefly: as long as there is a welfare system in our country, and there always will be, and thank goodness we have a safety net, as long as that exists, then someone on a very low income who is working who has to leave that job and be fired because they want to take care of the first few weeks of their child's new life, that person may not get back to work for quite a while.

We all know that the longer a person is off work, the harder it is to regain employment. So that person, yes, the employer may have the lack of a mandate, so-called, but society picks up an extra welfare bill. It is expensive to put people on welfare. That balances very close for some people at the low income level.

So we should do everything we can to make sure people for whom welfare is an alternative in fact have every incentive to stay on the job. So it is cost effective from a budgetary point of view.

No. 2, competitiveness. Over 100 countries, our trading competitors, have this provision. In fact, many of them have paid family leave, not unpaid, as this would be.

I think it is a slander on United States business to say that our businesses need an extra margin, an extra edge, in order to be competitive. I do not believe that. I think the United States business can compete on the same footing with Japan and Germany and Korea and France and England, all those countries that have this provision. Why is it uncompetitive for us to have it when our business in fact is productive.

This is not anticompetitive. It puts us on the same playing field and it is humane for our own people. So on economic grounds alone, not to mention compassion grounds, pro-family grounds, this measure should be passed.

Mr. GRANDY. Madam Chairman, I yield myself 5 minutes.

Madam Chairman, as we begin round two on the parental family and medical leave debate this morning, let me call to mind the words of our departed retired colleague, Mr. Gene Taylor of Missouri, who had a pretty good way to assess the value of legislation. He had three criteria. One was who does it really help; two is how much does it really cost; and three, if it is really necessary, how have we gotten along without it for this long?

Let us begin with who this really helps. Well, the gentlewoman from New Jersey [Mrs. ROUKEMA] has said dual family incomes, and that is probably true. But can it be argued that it helps single family income earners, either single parents or parents with one person earning income, or those families with $11,000 or less annual income?

Probably not, because they are at the lower end of the spectrum and cannot afford to take that benefit. These are not just my words. The New York Times today in an editorial has said as much.

Let me ask who it really helps in terms of families, in terms of bonding. Does this really help a young working couple with kids older than newborns who might be more concerned with the first 10 years of life than the first 10 weeks, who might need additional child care benefits over and above what we are trying to do in H.R. 3? No, because their ability to negotiate that benefit will probably be proscribed by this mandate.

Will it help that young child that might have a congenital birth defect, let us say kidney disease? Yes, sure, 12 weeks of unpaid leave is valuable, but is it as good as extra medical coverage that might pay for the dialysis machine or the transplant?

Who are we really trying to help here? Who is really going to take advantage of this legislation? How much does it really cost? Five dollars per employee. Of course, that is up from $4 last year, and that is based only on the cost of health care, which, by the way, grows at 30 percent every year.

But that does not figure in the quadruple damages which will be assessed under this bill if you are found in violation. It does not figure in litigation. It does not figure in the retraining costs, the costs of going out and re-

cruiting and rehiring temporary employees. It does not figure in what kind of drain might be on a State unemployment insurance plan if you have to pay those temporary employees when the present employee comes back.

□ 1040

Madam Chairman, what about this statement in the rule? We have a provision in this bill to establish a commission to study ways of providing salary replacement for employees who take such leave, salary replacement. That is paid leave. Is that what we are doing in this bill? Are we providing a stalking horse and a reason to mandate paid leave down the line? Does anybody know what the cost of that is?

To tell people that this bill does not cost anything is an outrageous lie. It is bogus. It is untrue and it is deceitful.

First of all look at the bill in the Senate. In the other body they have 20 employees as a threshold. This bill has 50. Now what is the usual compromise between 50 and 20? Probably 35. That means more employers are covered, that means greater costs.

Finally, let me ask how long can we get along without this bill and how have we been able to get along without it this long? Maybe because not that many people are looking for it. Maybe the hue and cry is not that great.

There is a Washington Post survey that claims that mandated leave in terms of what the Nation really wanted came in at 3 percent. Sixty-three percent want stronger action to clean up the Nation's air and water, 19 percent wanted a minimum wage, 15 percent wanted affordable child care, 3 percent said they want to make it easier for parents to take time off from work without pay. That is what we are talking about.

Finally, one word about minimum standards. One can argue this is a minimum standard, but can we not argue that Federal pensions are a minimum standard? We do not mandate pensions in the workplace in this country. Social Security, yes; ERISA, yes; in those plans, yes; but we do not make the employer do it, and we do not make them require health benefits. Yet everybody gets sick. Not everybody has a baby. Everybody who comes into the workplace probably has teeth, maybe not their own, but they have got them somewhere. Are we going to mandate dental benefits too? What is a minimum standard? What is not a minimum standard?

Answer these questions and maybe this bill is worth supporting, but at this time the legislation is still not ready to leave this body.

Madam Chairman, I reserve the balance of my time.

Mr. CLAY. Madam Chairman, I yield myself 20 seconds for the purpose of clarifying a statement that the previous speaker made. He gave the erroneous impression that our former colleague, Gene Taylor, was departed. He has departed this Congress, but he is very much alive. And the gentleman quoted him inferring that he would oppose this bill, but on June 11, 1986, the Committee on Post Office and Civil Service, by a rollcall vote of 18 to 0, ordered this bill favorably reported, and Mr. Taylor was the ranking member of that committee.

Madam Chairman, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Madam Chairman I rise in strong support of the Family and Medical Leave Act. This bill is win-win legislation.

It is a profamily bill that will help Americans fulfill their family responsibilities without losing their jobs.

Because it preserves employment, it will save all Americans money in reduced spending on unemployment compensation and other social programs.

It will help make America more competitive by promoting a well-trained, experienced, high-morale workplace.

It will help ensure that our young people—the next generation of leaders in this Nation—receive that care they deserve early in life.

And it will help ensure that the elderly and infirm receive the loving care they deserve.

All of us are concerned about the status of the family in American life. Now we have before us a bill that responds to the family's changing needs. This is the most important pro-family vote of this Congress.

I urge my colleagues to stand up for the American family by approving this essential bill.

Mr. CLAY. Madam Chairman, I yield 1 minute to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Madam Chairman, I rise today in support of the Family and Medical Leave Act of 1989.

I hear speakers who have come to this well today talking about the problem for the employer, talking about the problem of the economics of the bill, how much does it cost, they ask.

The reality is how much does it cost not to do the bill. If we are concerned about families in America with the deteriorating conditions of many of our families, I do not think there can be a price tag that speaks adequately for the concern for trying to develop a family and medical leave bill.

I rise in support of this bill because I think it is imperative that we make an expression to the American family that we believe enough in them that at the earliest stages of the life of our children we are willing to create the mechanism by which parents and children might be involved in a nurturing, caring, loving relationship. Therefore, I think this is one of the most important pieces of legislation to come before this body. It deserves our support.

Mrs. ROUKEMA. Madam Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Madam Chairman, I thank my colleague for yielding time to me and I rise in support of the compromise legislation.

Madam Chairman, generally, I subscribe to the view: "that Government is best which governs least." History justifies the founding fathers' distrust of government.

As a rule public policy should not interfere with labor-management issues. We should let the marketplace control.

But also, I strongly support the family. A Nation's progress and happiness depends on the strength of the family. The growth and development of our children—mine, yours, those of our friends and neighbors—is nurtured within the family.

One doesn't need to read yet another study to know that the traditional American family is undergoing new strains in a rapidly changing world.

The issue posed by family and medical leave is not whether the Federal Government should mandate that employers provide unpaid leave benefits.

Rather, the issue is whether it is in the public interest for the Federal Government to act to guarantee job security to a family members who takes short-term, unpaid leave to care for a newborn child or an ill parent.

It is my view that such a policy is very much in the public's interest.

This legislation would provide workers of organizations with 50 or more employees up to 12 weeks of unpaid leave a year to attend a newborn or adopted child or a seriously ill child, spouse or parent. The employee would be guaranteed the same or a comparable job after returning from this leave.

Normally, I would say that business owners should have flexibility in determining employee benefits. Ordinarily, I would resist in the idea of further government intrusion into the marketplace.

For some businesses, the new law would create a hardship. And no doubt it would increase the cost of doing business.

Still, I feel we should make an exception to the general rule that government not interfere in the workings of the free enterprise system.

It's not so much that there are millions of women who need to work and also want to have children, though it is probably true.

It's not so much that parental leave will save money over time because we will have healthier or more emotionally stable children, though such a result is likely.

It's simply a case of my wanting to put the interests of children first.

To me, the early weeks that a parent spends at home with a new baby are so vital, the need to nurture the parent-child relationship so important, that I am willing to set aside competing interests and give children priority.

To maintain traditional family values, these changing times require new policies. I can't think of a more worthy goal than strengthening the family in America.

Mrs. ROUKEMA. Madam Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. ROWLAND].

Madam Chairman, I rise today in strong support for the legislation before us.

In order to help families cope with the nature of today's workplace, it is critical for Congress to establish a minimum standard that ensures employees the availability of unpaid medical leave.

We have heard the arguments today and throughout the week that the Federal Government should not be mandating minimal standards. That is incorrect and shortsighted. In the past, Congress has responded to changing economic realities by establishing minimum standards such as the Fair Labor Standards Act and the Occupational Safety and Health Act. This legislation today draws on that tradition and proposes a labor standard to address significant new realities in today's workplace.

Only a fraction of American business will be impacted. As a matter of fact, many businesses I have talked to in the State of Connecticut have already some type of unpaid leave which already has more progressive standards than we enjoy in this particular legislation.

This initiative balances the interests of the business community with minimal cost and flexibility, with the pressing needs of the American workers for modest periods of unpaid leave and job security during a family medical crisis.

Mr. GRANDY. Madam Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Madam Chairman, I rise in opposition to H.R. 770.

Madam Chairman, I rise in opposition to H.R. 770, the Federal Government Knows Best Act of 1990.

I have nine kids. I know the importance of bonding between parents and children. But this is not a baby bonding bill, it is a one-size-fits-all business bondage bill.

It basically says that the U.S. Congress knows better than the marketplace; that Congress knows better than the Nation's employers and employees what kind of benefits our Nation's workers want and need.

This bill not only reduces flexibility in the kind of benefit programs employers can offer, it also imposes very real costs on small business.

If this bill was harmless and as inexpensive as its supporters pretend, they wouldn't have had to exempt 95 percent of all businesses from its coverage to get it to the floor.

But, what is even more frightening is that we all know what happens to small business exemptions. They tend to erode over the years. We know that this bill is just the beginning. We know that, if we enact this bill, it is just the first step to paid leave and other mandated benefits for all American businesses, large and small alike.

Madam Chairman, this is a bad bill. It's bad policy. And it should be rejected.

Mr. GRANDY. Madam Chairman, I yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Madam Chairman, I rise in strong oppostion to H.R. 770, the Family and Medical Leave Act of 1989.

H.R. 770 and its substitutes would erode the very basis of democracy on which our Nation is based by forcing employers to provide certain benefits to their employees thereby denying other preferred benefits negotiated with employees. Moreover, its sends a signal to the American people that the Federal Government knows better how to run their business than they do, by mandating a blanket leave policy. At issue here is, not whether occupational leave for parental and other health reasons is a good idea, but whether or not it is the proper role of Government to mandate such policy. This is a wolf in sheep's clothing. Many have attempted to mislead the American people by calling this a profamily, pro-women bill. It is anything but that.

This bill and its substitutes would work against a trend in American business toward flexible benefits and force all employees to accept benefits that they may neither want nor need. Government mandates, however well-intentioned, threaten to negatively influence this trend and reduce the flexibility so many families need in today's workplace.

Madam Chairman, my greatest fear is that this bill or its substitutes, if enacted, will discriminate against two groups that least need to be discriminated against: women and the working poor.

Companies, when faced with two equally qualified candidates will surely hire the one who is less likely to elect mandatory leave; thus, potentially eliminating women between the ages of 20–35 from being hired in the first place or from being promoted to managerial and other key positions if they are already in the work force. This would greatly roll back the clock of time and the strides which have been made by women in the past three decades.

Moreover, H.R. 770 and its substitutes discriminate against those Americans who need our help the most: poor working parents and single mothers who cannot afford to take 10–12 weeks of unpaid leave but would rather have paid maternity benefits.

I strongly support strengthening the relationship between employer and employee by encouraging flexible benefit packages which strengthen families and promote economic progress. H.R. 770 and its substitutes would only work toward eliminating flexible benefit programs already offered by employers. I cannot support any measure which so drastically interferes with the efficient workings of our free enterprise system and that would potentially cause increased discrimination against women and the working poor that we have fought so hard to overcome.

□ 1050

Mr. GRANDY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I thank the gentlewoman from Nevada [Mrs. VUCANOVICH] for offering that perspective. Let me just quote from testimony to our committee:

We cannot afford to pass this bill on a purely emotional vote for the American family. The American family can best be served through responsible legislation which requires you, the decisionmaker, to see beyond the emotionalism of the long-term implications. All of us pay the price for this one, especially working women just like me.

Madam Chairman, these are the quotes of Cynthia Simpler, who testified against this bill. So it is wrong to assume that there are not people coming forward against this bill.

I might tell my colleague from Connecticut who spoke just before [Mrs. VUCANOVICH] one of the reasons we have not heard a lot from businesses in States where there is mandated leave is there is no State, Connecticut notwithstanding, that has a policy as strong as the Federal Government.

In Connecticut, State, municipal, local, and regional boards of education are exempt, private and parochial elementary schools are exempt. We do not exempt all those nonprofits in this bill.

So consequently there is a difference. We do not offer 2 weeks of notification as they do in Connecticut.

Madam Chairman, there is a difference, and it is because nobody is going to come forward from these States to say, "We have no problem with our State statute," that is not to say that they would not have problems with the Federal statute which goes far beyond what is being mandated collectively and individually around the country.

Madam Chairman, I reserve the balance of my time.

Mr. CLAY. Madam Chairman, I yield 2 minutes to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Madam Chairman, members of the committee, first I want to commend the chairman of the subcommittee and the chairman of the committee for bringing this bill forward. I really think that this bill should pass. I hope it will pass.

The reason that I feel so strongly about it is I think all of us now understand that if America is to be strong, America's families have to be strong. I think all of us also understand that America's families have changed and changed by a lot over the last 10, and 20, and 30 years.

Families face stresses, difficulties, complications that families did not face even 20 and 30 years ago.

In order to face those complications, parents need to be available to take charge of situations where there are difficulties, so that the families can hold together and children can have the strength that they need at important, critical times and junctures in their lives.

Back in the early 1970's our son—and my family—was critically ill. In order to bring him through it and, through God's will, and a lot of good fortune, he was brought through it, my wife, Jean, and I had to be present over many, many days of therapy and many different medical settings, hospitals, doctors offices, and so on.

I had an employer at the time who was good enough to give me large chunks of time off. If I had not had been that fortunate, I would have quit my job and done it anyway.

I do not think any American should be faced with that choice. Therefore I believe we need to pass this bill to set that minimum standard for every workplace in the country.

Mrs. ROUKEMA. Madam Chairman, I yield 2 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. CLAY. Madam Chairman, I yield 1 minute to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Madam Chairman, I thank the gentlewoman and the gentleman for yielding.

Whenever we consider a major legislative initiative such as family leave, I spend the majority of my time with the skeptics and potential opponents. It is nice to hear from those who agree with me on this family issue, but it is more important to listen to those who might oppose me, who have legitimate questions.

Their questions boil down to essentially four: It is too burdensome to small business.

I thought about that, and I worked with my colleagues in the Congress and we have an exemption for small business. All small businesses of 50 or fewer employees are exempt. That is the majority of the American business community.

Then I have heard it is too expensive, it is too costly. Then I reminded the skeptics this is unpaid leave we are talking about. And then I hear it is anticompetitive at a time when the United States has never before been as challenged as we are now, it is anticompetitive.

So I said, "What are our competitors around the world doing?" I looked at Japan. We all agree it is No. 1 in terms of competition. Japan has paid leave for 12 weeks at 60 percent pay. Then I looked at West Germany. They have paid leave for 14 to 19 weeks at 100 percent pay. Canada, the United Kingdom have similar policies of paid leave. We are talking here about unpaid leave.

Then I am told it is going to be disruptive, people are going to take advantage of it, after the baby is home and taken care of, then they are just going to hang around the house and take a vacation. Or, after the illness is over, they are going to take advantage of it and stay home. That is not so. Do you know why the majority of people work? They work because they like to eat, they want a roof over their heads, they want to educate their kids. They are going to go back to their jobs as soon as they can out of economic necessity because this is unpaid leave.

Now we talk about family values in this town a lot. Why don't we do something to translate those words into deeds? Why don't we focus on that most important unit in our society, the American family?

And while we are at it, why don't we ask ourselves, each and every Member of this House of Representatives, which is about to pass legislation impacting on all Americans, what are we doing individually in our offices? I stand before you very proud of the fact that I have had a voluntary family leave policy in my office for 2 years, and it is more progressive than this one. This one is a modest proposal, zeroing in on the needs of the American family.

It makes sense to me. It makes sense to me because we have considered the needs of small business. It makes sense to me because it is not overly costly or burdensome. It makes sense to me because it is not disruptive to the work force.

But most of all, it makes sense to me because the House of Representatives today in this Chamber here and now is saying the American family is important to us.

Mr. GRANDY. Madam Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Madam Chairman, I believe in parental leave, and I wish I could stand before you today supporting this legislation. Unfortunately, I cannot because I am not at all convinced as to who the deliverer of that parental leave ought to be, how long it ought to be.

I am convinced this legislation in front of us is simply too much too soon and it is not a compromise. It is pure camouflage.

Let us understand exactly what we are doing here today. As the gentleman from New York said on voluntary parental leave, he is one of the 75 percent of the businesses in this country providing parental leave today. Perhaps that begs the question of whether there even is a legitimate Federal need to get involved.

□ 1100

Second, let Members understand that someplace between 16 to 25 States, depending on who is asked, are already providing some kind of benefits. If half the States are doing it, should the Federal Government get involved and preempt the States from dealing with this kind of labor policy at the present time?

However, the big problem with this legislation is not that it is trying to enact a Federal parental leave policy. I believe in that. The problem is that the original bill that was brought out of the committee provided family leave of 10 weeks over 2 years. This bill provides 12 weeks per year, or for 24 weeks over 2 years. Where is the compromise? This bill provides enforcement, not only to the Department of Labor, but it says that we can go into the courts and have litigation. I ask the question, name one low- and middle-income family in this country that has the means to go into court and try to provide the enforcement of this legislation?

This legislation is not a compromise in the whole area of damages. Unlike any other civil rights or labor law in this country, the bill provides treble damages, plus back pay. We do not do that in civil rights discrimination. We do not do it in harassment. We do not do it in any other area.

As the gentleman from Pennsylvania said earlier, I would simply hope that we would understand that in this week in which we are talking about summit, we are talking about concerns in the American economy, take a look at everything we are going to do. Any of them by themselves has great merit. The cumulative effect of civil rights, of ADA, or risk notification, of age discrimination, of minimum wage, of mandated health, of EPA, of clean air, of tax increases, of child care—is there no limits to which we in the Congress will go to impose mandates on our economy and on small business? This is not a compromise. It is a camouflage. Parental leave is a good concept, but this goes too far, too fast. Unfortunately, we will have to come back next year and start over.

Mr. GRANDY. Madam Chairman, I thank the gentleman from Wisconsin for his comments, and would point out that Wisconsin, the gentleman's State, has a leave policy of 6 weeks in a 12-month period for family leave, and 2 weeks for medical leave. There is advance notice required, which is appreciably different from that what we have before Members today.

Let me take a brief moment to talk about the other changes States have innovatively put into their packages. In Oregon, any employer which offers employees a nondiscriminatory cafeteria plan which includes as one of the options a parental leave benefit, is exempted from the statute. So are the rewards flexible? None in this bill. In Tennessee, the maternity leave statute recognizes when an employee's job is so unique that reasonable efforts by the employer cannot fill the position temporarily, then the employer is exempted from the requirement to reinstate the employee at the end of the leave. We do have a key employee exemption, but it merely denies restoration under a subsection, and such denial is necessary to prevent substantial and grievous economic injury to the employer's operations. I defy any Member to take that to court. In Rhode Island, prior to the commencement of parental leave, the employee shall pay to the employer a sum of the premium required to maintain the employee's health benefits during the period of leave. There is nothing in this legislation that does that. We do not know if the employee has to continue to pay into his or her own health plan.

I only bring these up to point out that we have a lack of flexibility among the States that have enacted these leave policies, and yet we want to proscribe and co-opt every one of these plans by putting a statute over the top of them. Not a floor, but a ceiling.

Madam Chairman, may I inquire how much time is remaining?

The CHAIRMAN. The gentleman from Missouri [Mr. CLAY] has 5 minutes remaining, the gentleman from Iowa [Mr. GRANDY] has 13 minutes remaining, and the gentlewoman from New Jersey [Mrs. ROUKEMA] has 6 minutes remaining.

Mrs. ROUKEMA. Madam Chairman, I yield such time as he may consume to the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Madam Chairman, I rise in support of H.R. 770.

Madam Chairman, I rise in support of H.R. 770, the Family and Medical Leave Act, and against the killer amendments which will be offered today.

We have done precious little for the average American worker so far in this Congress and this bill gives us an opportunity to do something—not much, but something—for the people who elected and sent us here in the first place.

It would be hard to weaken and water down this bill any more than it has been in the 5 years it has taken it to get to the floor. Incredibly, though, some of our colleagues are still going to try today.

Most businesses are not even covered by this bill anymore. Small businesses with fewer than 50 employees are now completely exempted. This bill will have no effect at all on 95 percent of the businesses and 44 percent of the employees in this country.

The amount of leave that would be available to employees has been cut back dramatically. When we started this process we were talking about providing 18 weeks of family leave and 26 weeks of disability leave. What we are down to now is a total of just 12 weeks of leave for any reason.

Keep in mind also that the leave we are talking about today is unpaid leave. Unpaid. That means that workers who are not independently wealthy are not going to be able to take the leave provided by this bill unless they absolutely have to. Unless there is a crisis or emergency or important family event like the birth or adoption of a child that requires them to be home for a while.

In other words, this bill is not—or should not be—a big deal.

Workers in 135 other countries—including nearly every industrialized nation and some Third World nations—already have the kind of job-protected family leave H.R. 770 would provide to Americans. In 127 nations—including some of our chief economic competitors like Japan and Germany—workers even get paid family leave. And workers in some of these countries have had these basic rights since before World War I.

Unpaid family leave is not going to be too expensive for business to bear. The General Accounting Office estimates that H.R. 770 will cost the 5 percent of businesses covered by the bill about $5 per year per employee. That amounts to a little more than a penny per day per worker. You do not get much cheaper than that. Last year George Bush and the big business PAC's said $4.35 an hour was too much to pay minimum wage workers at the bottom of our society. This week they are telling us that even a penny a day more is too much for working people. A penny a day.

So it is not a big deal. It is not a radical concept. Most American workers will not be covered by this bill. Many of those who are covered will not take the leave because they cannot afford it or do not need it. And for the few who are covered and do take the leave, H.R. 770 will not provide any great windfall or benefit—just one less problem to worry about at a time of family stress and turmoil. That is not much to ask.

Big businesses, however, says it is. The sponsors of this bill have worked for 5 years to come up with some kind of compromise that would be acceptable to the big business PAC's who are fighting this bill tooth and nail. But big business opposes any bill and any family and medical leave standard—no matter how short it is or how few workers it applies to. This is nothing new. Fifty years ago they opposed any restrictions on child labor. Twenty years ago they said we did not need any workplace health and safety protections. And now here they are fighting for the unfettered right to fire a worker for having a baby.

That is an outrageous position that only the most fanatical advocate of shark-tank capitalism could support. This is a modest bipartisan compromise which should receive the overwhelming support of this body. Vote for H.R. 770 and do something good for your constituents. Vote against it and you just might find your constituents giving you 52 weeks of unpaid leave come election day in November.

Mrs. ROUKEMA. Madam Chairman, I yield 3 minutes to the gentleman from New York [Mr. MCGRATH].

Mr. MCGRATH. Madam Chairman, I want to take this opportunity to express my support for the substitute amendment to H.R. 770, offered by one of the most bipartisan group of Members I have seen in my many years of service in this House.

Perhaps the most significant change in our society in the last half century has been the increasing participation of women in the work force. In 1970, less than 30 percent of the married women with children under 2 years old, were also working outside the home. Today, almost 50 percent of women in that category are working outside the home, and the percentage is growing.

Despite this revolution in the structure of the family, the United States, alone among industrial societies, has no national policy regarding parental leave. Too many workers are forced to make choices between the need to provide the necessary early physical and emotional care for new children and the need to maintain gainful employment.

It is also important to realize that the bill's provisions do not end when a child matures and becomes independent. This legislation allows for siblings to take time out to care for sick parents, who in the autumn of their years, may become dependent on the very people they themselves have raised. I encountered this situation recently with my mother, who was discharged from a hospital and sent home needing around-the-clock care. Had this legislation been in effect, one of my brothers or sisters could have taken time to pay my mother the proper attention; she deserved, instead my family was forced to hire a live-in nurse at a substantial uninsured cost of over $1,000 a week.

The substitute which will be offered will alleviate the burden of choice placed on employees, who must decide whether to care for a sick parent or child, or put their job and seniority in jeopardy. Many employers claim that they already have standards similar to the legislation in place, however, at the same time we have all heard the horror stories from women who were fired after telling their boss that they are pregnant. This substitute is aimed at keeping family values and responsibilities intact, while at the same time not placing an overbearing mandate on employers.

Many of the arguments that have evolved during the debate of family and medical leave focus on the pressures faced by small business. Productivity should not be affected by the substitute, since the measure permits

employers to exempt key personnel. Additionally, by expanding the applicability from 35 employees in H.R. 770 to 50 employees in the substitute, I believe the substitute answers much of criticism levied by small businesses.

In short, the compromise is a uniform measure designed to bring the United States in line with other industrialized nations, and simply give employees peace of mind should they be encountered by a medical emergency, or blessed with the birth of a child. I urge my colleagues to support this bipartisan effort and vote for passage of the compromise.

Mr. GRANDY. Madam Chairman, I yield 4 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Madam Chairman, I rise to make three points on this piece of legislation. This legislation is going nowhere. It is legislation that would harm workers of America, parents, and all senior citizens. Young people, low income, and high income alike.

The three points are, first of all, there is no compromise here. There is not an ounce of compromise. It is the same bill we started with that has been discussed for 3 years. Second, it is mandated, and by being mandated, it will cost some employees both their jobs and other benefits. Third, it is that this is homogenized leave, nationalized. It is the Federal Government deciding what kind of leave policy every employee and every employer should decide between them.

I would note at the beginning, though, that there is one good portion of the bill, one portion that I do commend the sponsors of this bill for, and that is title V, in which they have agreed to included Congress, congressional coverage, so that Congress, as an employer, is covered by this legislation. I would commend the sponsors of the bill for including that section. It is long overdue, and I think it needs to stay in there.

First, it is not a compromise. There has been no compromise with those who had opposed the legislation. I had intended to offer several amendments, for example, on notice requirements and part-time workers. I am not going to offer these amendments at this time. I want to tell Members why. I would not want any Member to mistake a modestly improving amendment, making a modest improvement to this bill, for anything resembling a compromise. With or without any amendments, the bill is still egregious, it will cost people their jobs, and cost the people other benefits for which they would like to have. It is not a compromise. The original bill of H.R. 770 was a Federal mandate, covering employers and employees, regardless of their preferences. This is still a Federal mandate. The original bill provided for intermittent leave. Leave can be taken 1 day or 1 hour at a time.

□ 1110

The original bill had treble damages; this bill has treble damages. The original bill covered seasonal, part time, migrant, and temporary workers; this bill covers part time, migrant, and temporary workers. The original bill provides a continuation of paid health benefits for an additional 12 weeks whether or not the employee comes back to work; this bill does exactly the same thing.

The original bill provided a job guarantee, with the same job to be held open; this bill does also.

The fact is that there is no compromise here. The original bill was a mandate; this is a mandate.

Second, these are mandated benefits, and what is wrong with that is that the way employees want to operate in the workplace is, they want to negotiate for their own package of benefits. Some employees would like to have extra dental care, some employees would like to have additional health care, some employees would like to have additional time off at Christmas, some employees would like to have transportation plans, and some would like to have parental leave. This bill says one size fits all, and with every benefit that you add to someone, that you mandate, you have to take away a benefit from someone else.

One of the things that makes this bill so unfair is that it is a yuppie bill. It is a bill with yuppie benefits, in which only the young, upwardly mobile professional people can afford to take 12 weeks unpaid leave off. It is the $4 and $5 an hour cafeteria worker who will be harmed by losing other benefits.

Lastly, let me say that I am not against parental leave. I am for it. I use it in my own operation. Most employers do. This bill is homogenized. It tells every employee and employer what kind of parental leave to require. Some employers have 6 weeks paid leave, other have 16 weeks at half pay if the employee calls in every week to notify them that they are going to return. some have 4 weeks' paid and 10 weeks at half paid. Some have 10 weeks' paid and another 10 weeks' unpaid leave.

If we had adopted this kind of legislation in the 1950's for vacation pay and decided we wanted to mandate paid vacations, the country today would still be stuck with 1 week of paid vacations because the Federal Government mandated it. The fact is that employees and employers negotiate for a package of benefits that suit them and that meet their particular needs. We ought to encourage that. We ought to let that happen, not choke it off.

Mr. CLAY. Madam Chairman, I yield such time as she may consume to the gentlewoman from Colorado [Mrs. SCHROEDER] for the purpose of engaging in colloquy with the gentleman from Tennessee [Mr. GORDON].

Mrs. SCHROEDER. Madam Chairman, I thank the gentleman for yielding this time to me.

First of all, Madam Chairman, for those who say that this is not a compromise, let me say that I was the original author of the bill, and I wish they would come over and see me about this, because I would like to tell them how much of a compromise this is.

I would now like to address the offerer of the compromise and ask him a few questions. My understanding of the gentleman's substitute is that when a woman is physically unable to work because of pregnancy, childbirth, or related medical conditions, she is entitled to leave for her serious health condition under section 102(a)(1)(D) of the gentleman's substitute. Thus, while she is on leave for these reasons, she is entitled to any temporary disability insurance or other compensation as the employer or other insurance may provide for these purposes. Is that correct?

Mr. GORDON. Madam Chairman, if the gentle woman will yield, I would say that the answer is yes.

Mrs. SCHROEDER. My understanding of the gentleman's substitute is also that once a woman is physically able to work after recuperating from childbirth and related medical conditions, she is then eligible for leave to care for her newborn child under section 102(a)(1)(A) to the extent that she has not exhausted her 12-week leave period. Is that correct?

Mr. GORDON. Yes, that is correct also.

Mrs. SCHROEDER. My understanding of the gentleman's substitute is also that section 102(a)(2) prohibits both parents from simultaneously taking leave under section 102(a)(1)(A) following the birth of their biological child. However, while a mother is on leave to recover from childbirth and related medical conditions under section 102(a)(1)(D), the father may take leave at that time to care for his spouse or their new baby under section 102(a)(1) (C) or (A). Is that correct?

Mr. GORDON. Madam Chairman, the answer is yes.

Mrs. SCHROEDER. Madam Chairman, I thank the gentleman very much for his responses.

Again I just want to reiterate one more time, Madam Chairman, how this truly is a big compromise from where we started. As a matter of fact, this is the third compromise in a row. So I do not know where there are get-

ting this idea that this is not a compromise.

The CHAIRMAN. The Chair wishes to state that the gentleman from Missouri [Mr. CLAY] has 3 minutes remaining, the gentleman from Iowa [Mr. GRANDY] has 9 minutes remaining, and the gentlewoman from New Jersey [Mrs. ROUKEMA] has 3 minutes remaining.

Mr. CLAY. Madam Chairman, I reserve the balance of my time.

Mr. GRANDY. Madam Chairman, I yield 2 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Madam Chairman, I have watched this debate for the last 2 days, and I have heard it said over and over again that this bill will increase competitiveness and productivity. Well, I say that that is ludicrous and lacks an understanding of our free enterprise system.

The proponents of this legislation say that we ought to do it because the rest of the world does it and every other country does it. They lack the understanding, and I would ask, why do they think we are the No. 1 economy in the world, bringing about the best and highest standard of living for the American family compared to any other country in the world? It is because we have resisted this kind of legislation.

This bill is not going to be the doom of our economy, but it is just another nail in that coffin in which we will bury competitiveness and productivity. The reason is that this adds to the long list of the kinds of social engineering that our Government does, the huge spending by our Government, and the massive taxation of the American family which has forced both parents to work. The reason we are here today discussing a piece of legislation like this is because our Government has forced both parents to work in order to maintain the same standard of living that their parents have been able to enjoy.

This is not a profamily bill; it is an antifamily bill, because it is just another addition to that long list that forces parents to work.

I ask the Members to resist this kind of legislation that will reduce the standard of living of the American family, reduce productivity, raise the cost of living, lower the standard of living, and affect the benefit packages that are being enjoyed now and that have been worked out with individual companies, not by some Federal, nationalistic mandate by this House.

Madam Chairman, I ask the Members to reject this bill. I ask them to vote "no" on this bill.

Mrs. ROUKEMA. Madam Chairman, I reserve the balance of my time.

Mr. GRANDY. Madam Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Madam Chairman, we have heard a lot of emotional statements by those on both sides of the Family and Medical Leave Act. But this bill, this issue, is too important to be decided by emotion. We need to cut through the rhetoric and examine the facts in this matter.

Everyone in this chamber supports leave for reasons of maternity or family illness. With the change toward two income families, business and government has to be flexible to meet the needs and demands of its employees. Public opinion polls show there is strong public support for family and medical leave benefits. But, Madam Chairman, that is not the real issue before us today.

The true issue is whether the Federal Government should be in the business of negotiating employee-employer benefit packages. Should the Federal Government determine which benefits are important and which are not? Of course not. But that is exactly what we will be doing today if we pass H.R. 770 or the substitute for it.

This whole debate rests on a simple premise that businesses are not meeting the needs of its employees and are thus hurting the family. Certainly there are groups of employers that have been slow to adopt maternity leave policies. It is important to recognize, however, a few of the many companies that offer progressive benefit packages.

Most of us are familiar with the cafeteria benefits plan offered by IBM, allowing employees to tailor benefits to meet their needs. Hermans Sporting Goods probably offers the most comprehensive maternity benefits package in the country. Not only does Hermans offer 4 months of leave after a child is born to one of its employees, but half of it is paid leave.

If we pass this bill, what will be the incentive for Hermans or IBM to maintain their generous benefit levels? We must keep in mind that every company can't be an IBM or Hermans and does not have the resources to offer such generous benefits. They can, however, work arrangements with their employees to meet their needs as adequately as possible. This legislation, despite its wonderful intent, would severely hamper that flexibility.

Family and medical leave is an important and positive benefit to help young families. There are ways to reward companies who have adopted progressive benefit plans and to encourage more companies to adopt similar plans. I urge my colleagues to reject the proposals before us today and send this back to committee to come up with incentives rather than obstacles to family and medical leave.

□ 1120

Mr. CLAY. Madam Chairman, I yield myself 65 seconds for the purpose of engaging in a colloquy with the gentleman from California [Mr. MINETA].

Mr. MINETA. Madam Chairman, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from California [Mr. MINETA].

Mr. MINETA. Madam Chairman, H.R. 770 applies only to workers who have worked for their employer for at least 12 months and for at least 1,000 hours during the immediately preceding 12 months. I understand that there is some concern whether flight attendants will be covered by this bill because of the unique way in which the airline industry counts its workers' hours.

Many flight attendants and pilots are often credited and paid only for those hours actually spent in the air, and not for any hours spent on the ground in preparation for their in-flight duties.

Flight attendants must spend considerable time checking emergency equipment and supplies, preparing the cabin, and receiving passengers. Consequently, even a flight attendant working full time may not have accrued 1,000 hours of actual time.

Should not these workers be entitled to family and medical leave?

Mr. CLAY. Yes, by all means. The minimum-hours-worked requirement is designed to ensure that employees demonstrate a significant level of commitment—at least half-time over the last year—to their employer before becoming eligible for their family and medical leave entitlement.

Almost all employers, of course, credit their employees each hour actually spent on the job. Under the conventional 40-hour work week, 1,000 hours constitutes at least half-time employment over a year's time.

We certainly do not intend that dedicated workers in unique circumstances should be excluded from the bill's protection simply because of their industry's unusual time-keeping methods. Flight attendants and pilots who work the number of hours constituting half-time employment during the previous 12 months as defined either by a collective-bargaining agreement or by industry standard are fully entitled to family and medical leave under this bill.

Madam Chairman, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Madam Chairman, as we approach the turn of the century, we have witnessed extraordinary, evolutionary changes in the American work force, and the purpose of this legislation is to keep up with those changes. There are many myths about the American work force out there, and, if one asks a couple of questions, one can expose those myths.

For example, Madam Chairman, if we were to say to people, "Name America's largest employer," they are liable to say Lee Iacocca.

No, Madam Chairman, Beverly hires more people than Lee Iacocca. Beverly? Who is Beverly? Beverly Nursing Homes hires more people than Chrysler.

If one were to say to people, "What companies sell the most items in America?", people might say, "Well, the greatest number of sales are probably by General Mills, or probably Bethlehem Steel."

No, no, no. McDonald's, Hospital Corp. of America topped both of them.

The popular view in America holds that American families are headed by a single male breadwinner. Madam Chairman, that is the myth. The reality is that only 10 percent of American families are of that model.

Seventy-two percent of the women in America who are mothers and have children 18 years or under work outside the home. Fifty percent of the mothers in America with children under 1 year of age work outside the home.

Today, while we are debating this bill, 44 percent of the American work force is made up of women, and, before the turn of the century, more than half of the workers in this land will be women, unorganized, without collective bargaining.

Madam Chairman, there has been a change in the American workplace. Let us catch up with it. Let us pass this legislation.

Madam Chairman, in addition, I want to make the following explanation of the bill.

Section 106(c) of the bill generally requires an employer to maintain health plan coverage for an employee while he or she is on family or temporary medical leave.

In cases where the employer participates in a multiemployer health plan the Education and Labor Committee's report on the bill addresses this question. The committee recognized that special arrangements are needed when an employee's health coverage is provided under a multiemployer plan. The report describes the special arrangements intended by the bill. In particular, I want to emphasize the committee's judgment and intent that, when an employee on family or medical leave has had health coverage under a multiemployer plan, the employer is obligated to continue contributing to the plan on that person's behalf for the duration of the leave.

Timely employer contributions are essential for the sound funding, and very existence, of multiemployer plans. Under ERISA's contribution collection provisions, the plan can pursue all Federal and State law remedies to collect the amounts due to maintain coverage for the person on leave. The benefit rights of the person are determined under the plan.

Mr. CLAY. Madam Chairman, I yield the balance of my time to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Madam Chairman, I probably would not have spoken on this bill a couple of years ago, but in the last 2½ years I have had, like some other Members of this body, the opportunity to observe how helpful it would be to have parental leave.

Madam Chairman, I have a daughter who was diagnosed with leukemia. She has had a bone marrow transplant, and now enjoys good health. However, I have spent a lot of time in pediatric cancer wards, and I have seen what parental love and nurturing can mean to the health care of children who need help and who need it perhaps from above as much as from their physician.

Madam Chairman, I firmly believe this bill is in the great tradition of a country that cares about its children, its families, and its parents. Yet we turn away from this at great peril.

It is tough enough to make it in this country economically, but this Nation can provide at least one firm benefit to all its workers. It can take into consideration the fact that these workers are not getting any help here with their mortgage or their rent. They are not getting paid because we cannot afford to pay the wages of people who have to be with their children.

However, Madam Chairman, I hope we will have at least the compassion to take this one step forward.

Madam Chairman, I am pleased to support H.R. 770, the Family and Medical Leave Act. I also want to congratulate my colleagues who have worked long and hard over several years to bring this legislation to the floor.

The changing face of the American family—with more single-headed households or families where both spouses work—has increased the demands on these families. Juggling the demands of work and family are difficult enough, but with the arrival of a new child or the illness of a family member, they become nearly impossible.

H.R. 770 is an important recognition of these changes and represents a critical step in addressing the needs of American families. At the same time, this bill does not place undue strain on the Nation's businesses. The substitute version of the bill merely provides a single category of leave of up to 12 weeks, which could be used to care for a new child or for a sick spouse, child or parent, or for the employee's own treatment or recuperation from an illness. Further, it only would affect firms with 50 or more employees, which means that only 5 percent of American employers would be affected by the substitute's requirements.

Everyone should have the right to work and have a family, without jeopardizing either one. Unfortunately, the reality is that many employees risk losing their jobs when family responsibilities or a serious illness take precedence. I know from personal experience that dealing with a family illness is extremely stressful. Having the opportunity to take leave reduces the anxiety of having to worry about making that impossible choice between family and job. American workers should never be forced to have to make this choice.

Some critics, including our President, contend that we do not need this legislation, that we should leave the decision of providing unpaid family and medical leave to the individual employers. While there are a number of employers who have taken this important step, many others have not. Leaving it to the employer is just not good enough. Too many employers have failed to provide reasonable leave and job security for their employees. A new standard is necessary which will emphasize the importance of both job security and family responsibilities.

Further, the critics of this bill contend that it will be too costly for all of us. That is just not the case. When some Americans can't return to their jobs, the rest of us pay the bill in lost revenues and higher payments for social programs like unemployment compensation, Medicaid and Food Stamps. Further, each year, American workers lose $607 million in earnings when they can't take unpaid parental leave. And each year, these same working parents end up drawing over $108 million in social benefits—when they'd rather be back at their old jobs.

The cost to companies is also quite minimal. For example, it cost employers less to hold on to experienced employees than to hire and train new ones. With this bill, employers invest in an experienced, well-trained, high-morale work force. And GAO estimates that this bill would cost an average of only $5.30 per employee annually and that the cost to employers is less than $200 million per year. Clearly the benefits of this legislation outweigh its costs.

We should be embarrassed by our President's position on this legislation. The U.S. is the only industrialized country that lacks parental leave benefits for employees. In fact, while other countries offer paid leave, we offer nothing.

Eighty-one percent of the American people overwhelmingly support family and medical leave. This legislation is a reaffirmation of our support for working families. Now is the time to stop lip service to our commitment to America's working families and pass this bill.

In addition, I'd like to add a strong supportive article from the Sacramento Bee on this bill.

TIME TO BE A PARENT

Since the days of Ozzie and Harriet, the proportion of U.S. mothers in the work force has tripled, to 65 percent; more than half of all women with children under 1 now work. Yet despite this huge sociological shift, national social policy has not yet changed to help two-earner or single-parent households balance work with their family responsibilities. The Family and Medical Leave Act, before the House of Representatives this week, would begin to change that.

H.R. 770, a bipartisan bill authored by Reps. William Clay, Patricia Schroeder and Marge Roukema, would require large employers to allow workers to take one job-protected leave of up to 12 weeks a year to care for a new baby, a sick child or an ailing parent. An employee would also be eligible for the leave to recuperate from a serious illness. Family and medical leaves would be unpaid, but companies would be required to

maintain health benefits for the absent worker.

Business groups strongly oppose the family leave legislation, arguing that it will be burdensome to companies, especially small ones. But the same thing can be said about any labor standard, including the 40-hour week and health and safety rules. What counts in such matters is how the benefits of the policy weigh against the costs. In the case of family leaves, the burden is small and the social benefit important. The legislation exempts companies with fewer than 50 employees, thereby eliminating any burden from 90 percent of employers. The General Accounting Office has estimated that only one employee in 275 will be on leave at any given time and that the total cost to business will be $236 million a year, most of it for health insurance for workers on leave.

The need for labor policies that acknowledge workers' dual role as providers and parents is recognized around the world: The United States is alone among the major industrialized nations in not providing leave for parents with new children; indeed most countries, in requiring paid leave, go much further than that. As a result, in U.S. households where both parents must work, or where a single parent is the sole source of economic support, a pregnancy or a seriously ill child or elderly parent can become an agonizing dilemma in which parents must weigh their family obligations against their economic need to retain their job.

That's cruel and counterproductive to society's desire for healthy families. In a civilized nation, normal events of family life should not be a source of anguish and economic peril. The House should pass the Family and Medical Leave Act.

Mr. GRANDY. Madam Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Madam Chairman, I thank the gentleman from Iowa [Mr. GRANDY] for yielding, and I think that it is important to recognize that, as we read this bill, that this is not a family bill.

Madam Chairman, I say, "If you're going to help the family by creating a bureaucratic nightmare, then maybe this is a family bill," but I do not think that is the case. Government does not know better than people do about what is good for them, and yet this bill assumes that it does.

Madam Chairman, this is not a family bill. This is another big government, welfare-oriented kind of bill, and why do I say that? Because I bothered to read the bill, and, if my colleagues will go into this bill, they will find out that this is a bureaucratic nightmare.

For example, when my colleagues come to defining "serious health condition" and they find out who is eligible, they will find out that in the so-called compromise they have changed the term "health care provider" to "doctor," and they have now then eliminated a lot of availability of health care providers in my district, for instance, where they use a lot of chiropractors. There are a lot of families in my district that use chiropractors. They come from fundamentalist religious sects. So, now they are not going to be eligible under this program despite the fact that many employers in my area already offer those benefits. That is a bureaucractic nightmare.

If my colleagues look at page 66 of the bill, they will find this kind of language:

> In any case in which the second opinion described in subsection (d) differs from the original certification provided under subsection (a), the employer may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (b).

Madam Chairman, this is bureaucracy that employers are going to have to make and meet. It is ridiculous.

If my colleagues go back on page 78, under section C they will find out that the Secretary of Labor can literally intervene in a civil action brought by any employee. The Department of Labor, the Secretary, is now, under this bill, going to be able to get in any civil action brought against an employer by an employee. That is just a bureaucratic nightmare. That is not what we ought to be doing here.

Madam Chairman, if we are going to do something that is helpful to the family, we should not create more bureaucrats telling families and businesses what to do. Let us reach out to help the family, but to call this a family oriented bill is wrong. This is a bureaucratically oriented bill.

Mr. GRANDY. Madam Chairman, I yield myself the balance of my time.

Let me just say that I have heard a lot of stories, and I think every person in this body probably has a lot of stories about their personal experience with parental leave and medical leave, and I think that is one of the reasons that we cannot hope to create a Federal mandate for this multifaceted problem and solution.

□ 1130

Indeed, what we are doing today is creating a legislative problem. We are not creating a legislative solution. As a matter of fact, this is a solution in search of a problem.

Let me take some time, Madam Chairman, to talk about an experience in my workplace, and I am supposedly the grinch in this argument. I am the one opposed to this legislation, but I have a story to tell. I have an employee who works for me since the day I got elected who about a year-and-a-half ago contracted Lou Gehrig's disease, and if you do not know what that is, that is a disease that takes your life a little bit at a time. It does not have the decency to cripple you outright. It lures you into illness and then takes a piece of your body bit by bit.

Now, this friend of mine, this employee, still works for me on a limited basis. I provide him as much leave as he needs on a daily basis, on an hourly basis if he needs it, because I would not be here if it were not for him.

I defy this body to create, I defy this Congress to create a mandate that can accommodate this individual. I defy somebody to define a serious health condition that goes directly to this need; but I can guarantee you that if we attempt to try, if we begin to palpitate over what a serious health condition means in courts to win contested damages that will pay four times what the reward should be, we will deny employers and employees their basic rights to work out their differences and solutions in the workplace where they belong.

I will not be affected by this legislation. We are covering Members of Congress, but I will continue to offer this policy. I cannot speak, however, for the hospitals in my district which are closing their doors, which are fighting to keep their employees, their key employees, not defined by the gentlewoman from New Jersey [Mrs. ROUKEMA]. The key employees of the gentlewoman from New Jersey [Mrs. ROUKEMA] are those highest paid employees. I have key employees who are not the highest paid, that would not qualify under a private sector criteria for this.

So we have almost as many situations for leave as the workplace provides, and it is for that reason, not because of the cost in dollars, Madam Chairman, but because of the human cost, that we cannot afford to begin the mandated benefit process.

Mrs. ROUKEMA. Madam Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Madam Chairman, I have listened to the debate about this bill, and I must say, it is such a modest, well-crafted compromise of a compromise, and I would say to the gentleman from Iowa that he can continue to offer those benefits, as I do in my own office and currently have two people who are on paid leave for parenting.

But what if a company would not allow his employee, his prized employee, who has Lou Gehrig's disease, any kind of minimal opportunity to take time off with a guaranteed job?

I also heard somebody say that this is too much too soon. Well, I have to scratch my head, because I know it was introduced in the 99th Congress and we are now in the 2d session of the 101st Congress. My problem is, this is too little or so little and almost too late.

We are, as has been mentioned, the only industrialized country that does not offer something like this for our families so that they do not have to make a decision between the economic realities and their particular family.

I would say we should not be engaged in paralysis by analysis, but we certainly should pass this minimal bill, which is indeed a family bill.

Madam Chairman, as an original cosponsor of this legislation, I speak in strong support of the Family and Medical Leave Act. In the past 25 years, the American work force has changed dramatically, and these changes are having a significant effect on families. Two-thirds of mothers of children under the age of 3 work outside the home. Forty-five percent of the American work force are women and this number is steadily increasing.

There is precedent for this legislation—the Family and Medical Leave Act is modeled after long-standing standards such as the minimum wage, Social Security, and health and safety standards. The cost of not providing leave can be substantial. The study "unnecessary losses" sponsored by the Institute for Women's Policy Research estimates that—

The costs borne by workers because of childbirth, illness and dependent care are staggering, amounting to over $100 billion annually.

A number of national leaders in various fields support the need for the Family and Medical Leave Act. T. Berry Brazelton, professor of pediatrics at the Harvard Medical School states:

The first few months after a new baby comes are a critical time to support families in creating a sense of mutual understanding, trust, and love. New parents must be given a full, free choice to be at home to nurture a new infant, if that parent so desires.

Joseph Cardinal Bernardin, Archbishop of Chicago, commented:

The Family and Medical Leave Act acknowledges the important role of parents in a child's life. Policies of the work place—and all public policies—should support, not erode, family values. This legislation will enable us to become the decent, humane nation we yearn to be. It deserves our support.

I support the Weldon-Gordon substitute, which maintains a balance between the needs of business and working families. The worker may take 12 weeks a year for family or medical needs. It gives workers job security for these 12 weeks, and it allows businesses to replace employees who do not return after this time.

The compromise allows leave to care for a new child, or a sick spouse, child, or parent. This compromise exempts employers with fewer than 50 employees, and requires that medical certification be done by a doctor.

Seventeen States have responded to workers' family and medical needs by passing laws that pertain to these needs. Last year, 30 States considered enacting such legislation. The Federal Government lags behind these State initiatives and a Federal law would ensure that there be a uniform minimum standard for all American workers.

Many successful American companies already have family and medical leave policies. Johnson & Johnson, Colgate-Palmolive, and Hechinger are among these companies which provide leave and job security. These companies believe that having a leave policy is good business—such a policy builds a loyal, experienced, and hard-working work force.

Madam Chairman, this legislation is supported by the Leadership Conference on Civil Rights, the National Education Association, the American Federation of Government Employees, the American Association of Retired Persons, the Children's Defense Fund, the U.S. Catholic Conference, the American Jewish Conference, and many others. I urge my colleagues to adopt the Weldon-Gordon substitute. It is a bill that is fair to workers and business.

Mrs. ROUKEMA. Madam Chairman, I yield my remaining time to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Madam Chairman, I have agonized over this bill considerably. I recognize the serious nature of the objections to it, that it is a mandate, that discrimination in hiring could result. There is a tradeoff for other benefits here. The flexibility is gone and the penalties, it seems to me, are very onerous; but on the other hand, I am not appalled that this is a Federal mandate. We mandate job security for jury service. We mandate job security for ROTC duty. It seems to me for motherhood, for caring for a sick member of your family, that our economy and our society should be compassionate enough to include them.

This will not be abused. There is no pay involved. A doctor's certificate is required; but in the final analysis and weighing all the equities, and they are considerable on both sides, we get down to the fact that society should have a policy of encouraging motherhood, not encouraging abortion. It seems to me if a working woman becomes pregnant, she needs to have job security and have an incentive to have that child, not to exterminate that child so she does not lose her job.

There are very few bills that involve apple pie and motherhood. This one does not involve apple pie, but it does involves motherhood, and it seems to me a social policy of encouraging motherhood is good. Therefore, for that reason, I will support this bill.

Mr. STOKES. Madam Chairman, I rise today in support of H.R. 770, the Family and Medical Leave Act, and to urge my colleagues to support the bipartisan Gordon-Weldon substitute, which strikes a compromise between the committee version of the bill, and some of the concerns of employers and the business community.

The Family and Medical Leave Act is responsible, necessary legislation, which fills the void left by employers in addresing the legitimate needs of their employees for these types of benefits. American families are finding it more and more difficult to meet both their work and family responsibilities. Today, most couples find they need two incomes simply to make ends meet. About two-thirds of all married women, 72 percent of married women with school-aged children, and 57 percent of women with preschool children work outside the home. American business has not responded to the new reality in the workplace.

A recent report issued by the Institute for Women's Policy Research on the costs to American workers of not having family and medical leave shows that these costs are staggering. The report, "Unnecessary Losses," shows that workers who have above average absence due to illness lose $12.2 billion yearly in lost earnings due to unemployment. Similarly, women workers who have babies lose $607 million annually in earnings because they do not have family and medical leave. The report also shows that those who are hurt most by lack of leave now are those with lower earnings, and those who are already disadvantaged in the labor market, such as black workers. The Family and Medical Leave Act in providing job-protected leave would enable workers to take short leaves for family and medical reasons with the security of knowing they can return to their jobs. The General Accounting Office has found that the costs of these benefits to business would be only about $200 million per year.

As a result of these trends, it is much more difficult for working parents to perform the functions of a traditional family, caring for young children, family members who are seriously ill, or a seriously ill parent. As a result, too many American workers are being forced to choose between maintaining their economic livelihood, and meeting their family responsibilities.

The Family and Medical Leave Act will address this problem by establishing a minimum level of benefits, so as to allow employers flexibility. The Gordon-Weldon substitute provides for one category of unpaid leave, which covers either family or medical leave, limited to 12 weeks per year. The Gordon-Weldon substitute will also permanently exempt all firms with less than 50 employees, thereby exempting 95 percent of all businesses from the act.

This compromise also addresses a number of other employer concerns regarding the original committee bill. The substitute specifies that only one parent at a time may take leave to care for a newly born child. It also specifies that certification of medical condition must be done by a doctor. In addition, the substitute allows for leave to care for a seriously ill parent or the employee's spouse. The committee bill did not allow for leave to care for one's spouse.

The Gordon-Weldon substitute, like the committee bill, would entail costs to the employer of $5.30 per covered employee, on average, as determined by the General Accounting Office. This is hardly an undue burden to place on American businesses, and would certainly not force employers to curtail other employee benefits. The facts clearly show that no reduction of other employee benefits has occurred in States which require family and medical leave, or in companies that have already adopted such policies.

I find it appalling that the administration, in the midst of congressional debate on this important legislation, would threaten to veto any form of family and medical leave legislation. Passage of the Family and Medical Leave Act will bring the United States into the modern world of employee leave policy. Every major industrial nation in the world, except the

United States, requires some form of parental leave. In fact, most industrialized countries provide more weeks of leave, and many require employers or the government to pay workers for at least a portion of the leave. It is time to take this small step toward reconciling the realities of the workplace with the realities of the family.

Mr. FRENZEL. Madam Chairman, I rise in opposition to H.R. 770 as well as the Gordon-Weldon substitute which has been accepted by the authors of the bill.

I am sympathetic to claims that many employees do not have flexibility to take unpaid leave when family emergencies occur. However, I am not convinced that the Government should dictate any kind of employee benefits to private sector employers, especially smaller ones.

In 1989, the Bureau of Labor Statistics found that 89 percent of employees already have short term disability leave, which, under law, would have to include maternity leave. To me, that is quite an impressive statistic.

The trends in collective bargaining are positive when it comes to negotiating new employee benefits like these. There are even cafeteria plans where employees can choose which benefits are most appropriate to them. We are not in the best position to decide which employee benefits should be mandated. Many employees may not choose parental and medical leave in favor of child care or other benefits.

In my judgment, private companies should have the ability to work with their employees to find the most appropriate employee benefits. And, they should have the ability to communicate to their employees the reasons why they cannot provide certain benefits, especially if they happen to be in a shaky competitive position.

Mr. Chairman, I congratulate Congressmen GORDON and WELDON for their attempts to develop a compromise to H.R. 770. It is a better proposal. However, the same bottom line applies. This is an unfair, unnecessary, and counterproductive intrusion into private sector decisionmaking.

The Penny substitute is a more moderate approach that would not have quite the same negative impact on employers. I regret that the gentleman from Minnesota will not offer it. He believes that the House has developed such rigidity on this issue after more than a year of confrontation, that Members will not seriously consider a middle course.

We have become accustomed over the years to a continuous parade of benefit bills, promoted by the employee groups to be benefited. The sponsors' theory is to negotiate the cash benefits, and legislate the rest. U.S. employers pay the bill both ways, at a time when they are struggling for competitiveness in an increasingly internationalized market.

We have, and should maintain, a free marketplace in which labor negotiations can be conducted openly and fairly. We should not add extra burdens at the Government's whim. If these benefits are needed, employees should bargain for them.

I urge my colleagues to oppose H.R. 770 and the Gordon-Weldon substitute. The Government has imposed too many restrictions on businesses already. It is time to say, "No more mandates."

Mr. LAFALCE, Madam Chairman, when the idea of requiring employers to provide unpaid leave was first introduced in Congress several years ago, it was limited to leave for parents to care for newborn, newly adopted, or seriously ill children.

I supported that concept. I still support it strongly. Under the rule before us today we would have had an opportunity to express our support for one such approach but, regrettably in my view, the sponsor of an amendment which would have limited the bill to child care has decided not to offer it.

As chairman of the Committee on Small Business, I held hearings during the last Congress on the much broader proposals before us today—to provide leave for care of children, for the employee's own medical problems or to care for parents. Our goal was to review the potential impact such a program might have on smaller employers, and more generally to explore the need for a Federal policy of this kind.

Many witnesses at those hearings strongly opposed such an approach, testifying that a broad leave policy would be particularly burdensome to small firms due to the costs of hiring and training temporary employees, and that it would seriously disrupt their business operations. They also opposed the concept because it would impair an employer's flexibility to tailor benefits to meet specific employee needs.

I was pleased that a number of concerns raised at those hearings and elsewhere were addressed, to some extent at least, in the final version of H.R. 770 and even more so in the substitute being proposed today by Representatives WELDON and GORDON. An increase in the small business size exemption, limitation on the annual amount of leave, key employee provisions, and a tightening of the range of individuals for whose care leave could be taken are all, I believe, improvements which would make this program less onerous to American employers.

Nevertheless, Madam Chairman, the present bill offers a very broad program—in my judgment, too broad.

Based on research by my committee staff, I know of only one country in the world—Sweden—which offers anything comparable to the proposed eldercare provisions we are being asked to approve today. Many nations have leave policies limited to child care, as the committee report points out, but that is not the bill before us.

Similarly, evidence in the committee report about State level initiatives here in the United States indicates that almost all leave programs are limited to child care or to the employee's own medical problems. In fact, it appears that only two recently enacted programs, in Maine and Wisconsin, offer leave to care for other categories such as a parent or a spouse. Importantly, both have tighter limits on the amount of leave available for those purposes than would be the case nationally if we approve the proposal before us—Maine has 8 weeks in a 2-year period and Wisconsin only 2 weeks in a 1-year period. Further, neither has been on the books very long—Wisconsin's was enacted only last year, while Maine's became law in 1987.

Should we impose greater costs on our employers—costs not imposed on their foreign competitors—at a time when we are running trade deficits of enormous proportions? Should we impose nationwide standards that go beyond those adopted by any of the 50 States before we have the opportunity to assess how those State programs are performing? How can we benefit from experiments at the State level if we go beyond them before the results are in?

I have come reluctantly to the conclusion that, with regard to the "eldercare" provisions, this bill simply goes too far, too fast.

It appears likely that the House will approve this very broad approach today, although it also appears that the Senate will take a much more limited approach. Whether the administration would follow through on its veto threat depends, of course, on what comes out of conference, but if there is a veto and it is upheld, I would hope that we could revisit this issue and move forward with a more limited child care program which would more closely align the United States with international norms. I do want a Federal law—a maternity/paternity leave law—but the eldercare bill that is before us today simply presents too onerous of a burden for the employer community of America to shoulder at this time.

Mr. LIGHTFOOT. Madam Chairman, I rise today in support of the concept of family and medical leave, but in opposition to the legislation brought before the House today. I believe employers should offer a leave program for their employees. I agree wholeheartedly that if an employee must temporarily leave his or her job to care for a sick parent or because of a new addition to his or her family or because the employee has had the misfortune to become ill, he or she should not have to worry whether or not his or her job will be there for him or her when he or she comes back. A sense of fairness and a good head for business will tell any employer an adequate leave program is a must. A prospective employee seeks a job that not only pays well, but that offers decent, reasonable benefits. As an employer myself, I have always striven to offer my employees a leave program that guarantees flexibility and job security. However, I part company with those who support this legislation when it comes to the idea of the Federal Government dictating what leave schedule is best for those whom I employ. In my view, such a program is best determined through cooperation and consultation between the employer and the employee. I believe it should be a fundamental right of employers and employees to determine what kind of benefits package will be offered. In addition, I have not seen any conclusive proof that all employees regardless of their age, sex and economic status will benefit equally from this legislation. Also, this legislation causes concern for its possible effect on women of childbearing years. Employers may be reluctant to hire women they believe are most likely to use up to 2½ months of leave time as allowed under H.R. 770 or 3 months under a compromise also offered. Therefore, Madam Chairman, I must conclude that while adequate family and

medical leave makes perfect sense, legislation creating a Government dictate does not. The Government must not become a union boss that brokers deals that do not allow businesses to have a voice in the outcome.

Mr. FORD of Michigan. Madam Chairman, I rise in strong support of the Family and Medical Leave Act, which will require employers to provide unpaid leave to workers who need time to care for a newborn or seriously ill child, to care for a seriously ill spouse or parent, or to recover from a disabling personal illness.

It has been 5 years since my Committee on Post Office and Civil Service first reported the Family and Medical Leave Act, and I am gratified that, at long last, the House will have an opportunity to vote on this important legislation. Even more than the landmark child care bill this Congress is considering, H.R. 770 breaks new ground in the Federal Government's support of families and working parents. Whereas the child care bill provides the money and institutional support to make quality day care available and affordable for working people's families, the Family and Medical Leave Act provides important protection for their jobs.

The philosophy of the act is simple, and it is obviously right and just: No one should be fired because they have a child and need time to care for it; no one should be fired because they take a reasonable period of time to care for a seriously ill family member—whether it be a child, spouse, or parent. Working people should not be forced to make an impossible choice between caring for their families and keeping their jobs.

I believe this philosophy was always morally right. But today, when most women with children are by necessity in the work force, the issue is not just a moral one but an economic one as well. Indeed, the Family and Medical Leave Act addresses the profound transformation of the American work force—36 million children now live in homes where the sole parent or both parents work outside the homes. In addition, only 5 percent of the 27 million elderly are institutionalized in nursing homes. The vast majority of these folks may someday need the temporary care of their grown children. Clearly, the likelihood of finding oneself called to care for either a newborn or adopted child, a sick child, or a sick parent has become almost unavoidable for most of the working population.

To have a productive, world class work force, we have to strike an appropriate balance between the responsibilities people have to their families and their responsibilities as employers. Nobody works well when ill or incapacitated, when worried about a seriously ill family member, or when needed at home with a newborn child. This bill offers just such an equitable balance.

In the event of a family or medical crisis, employees can take 12 weeks of unpaid leave with the assurance that their former jobs will be there for them when they return. Is this too much to ask? I don't think so. Both the employer and the employee are winners. The experience of the employees won't be permanently lost to the employers when a personal crisis arises. Likewise, the loyalty of an employee to her employer will be reinforced and strengthened if she can be assured that her job will be preserved even in the event that she must leave work for an extended period to address a family or medical crisis.

FMLA does not impose onerous responsibilities on businesses. While the benefits of the leave policy for employers and employees will be great, the costs to the employers will be limited to the recruitment and training of temporary replacement employees and the extension of insurance coverage to these individuals. In addition, certain provisions of the bill protect against abuse of the leave privileges that would lead to serious disruptions of normal business. Chief among these provisions is the fact that the leave is unpaid.

Further, the notion that the imposition of these minimal standards will prove detrimental to our worldwide economic stature is unfounded. Germany's, Japan's, and Canada's paid parental leave policies are well documented. These requirements surely have not impaired those nations' economic strength. We will not win the battle to uphold our economic stature worldwide by compromising the welfare of American employees. We can only win by abolishing unfair trade practices, increasing productivity, and improving the quality of American-made products. The battle's casualties must not continue to include the American family.

In fact, passage of this bill will make us more productive and more competitive. The actual economic costs for the implementation of the Family and Medical Leave Act are negligible when compared to the present costs incurred as a result of the lack of a national leave program. The GAO study offers a clear picture on the savings. The cost of the bill to the employers will be $188 million per year—or a little over $5 per employee. On the other hand, $607 million a year in earnings is lost to working Americans when they lose their jobs because they can't take parental leave, and $12 billion in earnings is lost when they can't take medical leave. Society also must pay the cost of increased unemployment compensation and welfare expenditures that go to families who are precluded from taking such leave.

It is clear that the Family and Medical Leave Act makes both moral and economic sense. We cannot continue to ignore the needs of our work force and concomitantly the needs of our society. The failure to enact H.R. 770 would implicate Congress, too, in a national disgrace that has already destroyed the careers and the well-being of too many Americans.

Mr. GALLO. Madam Chairman, when the Federal Government steps in and imposes a mandated benefit program upon companies and employees without regard to economic capability, workers' needs, size and skill of the work force or the nature of the industry, the employer and the employee lose their right to decide what kind of benefits best suit their individual needs. This sort of Government intervention results in a one-size-fits-all approach to the ever-changing workplace.

H.R. 770 raises a number of serious concerns. As is too often the case with federally mandated benefits, H.R. 770 presumes that all workers have the same needs, desires and lifestyles. But employees value benefits differently. Older employees might prefer eye care benefits. Younger employees may want more vacation leave. Mothers and fathers might prefer insurance for their young adult children or access to more comprehensive health insurance. Companies should be free to tailor their benefit plans to their workers' needs—mandating one benefit could result in the loss of other nonmandated benefits.

Let's be honest—who are we really trying to help here? The truth is that while H.R. 770 is being sold as a proemployee bill, it actually hurts hard working employees who are struggling to make ends meet. Most single income parents simply will not be able to take advantage of the leave program because they cannot afford to be without money. Couples, neither of whom are paid professional-level salaries, also cannot afford to go without the two paychecks.

Not only does H.R. 770 discriminate against the working class, I believe it will lead to unconscious discrimination against women of child-bearing age. By mandating parental leave, women may be less likely be hired or advanced to positions of higher pay and authority. Another problem not often mentioned is that women care-givers to aged parents or relatives—they may also face the same consequences.

Proponents of mandated leave assert that an employer's cost in offering this benefit is minimal since the leave is unpaid. Unfortunately, uncompensated leave does not mean that there are no additional costs to employers. In fact, the General Accounting Office estimates that the bill will cost employers about $188 million a year, not including the substantial cost of continuing to pay for health insurance premiums for employees on leave.

A letter from a company manager in Maplewood, NJ emphasizes the problem. He writes:

I am deeply concerned with H.R. 770. I employ 100 people and to date have paid all health insurance premiums. With skyrocketing costs, (43% increase since January 1, 1989), that policy may not continue. On average, I pay $78.00 per employee per week for health insurance. Very few small businesses would be able to bear the burden of continuing these payments for such an extended period. This would most likely lead to discontinuing any health benefits. Most individuals would either purchase their own insurance (at even higher costs) or go without.

The proposal that no notice is required and leave can be intermittent would be devastating to any production scheduling. Two employees represent 8% of my work force! If I had to hire replacements and then discharge them upon the employees return, I would be liable for increased unemployment premiums as well.

Please oppose this legislation. Small businesses in this state need encouragement and stimulation, not devastating and restrictive legislation.

I do not believe that businesses are insensitive to the needs of employees. Most businesses value capable employees and will make arrangements on an individual basis to keep good workers when personal demands make it necessary. According to the National Federation of Independent Businesses, about 75 percent of its members now accommodate employees with time off to care for sick family

members or the birth of a child when that leave is requested.

The benefits pie, however, cannot be expanded, only slices adjusted. To accommodate a new piece, employers must cut back on other preferred benefits. I strongly believe that employers should not be discouraged from providing a range of flexible policies and a variety of services or that Congress should step in and decide for all employers and employees what benefits they will and will not receive.

Madam Chairman, mandated benefits deny employers and employees the right to choose benefits most appropriate to their situation.

Mr. LEVINE of California. Madam Chairman, I rise today in full support of the Family and Medical Leave Act. The vast majority of industrialized nations have enacted laws guaranteeing working people paid leave in order to care for a newborn infant or a sick member of the family. Viewed in this light, the measure we are here debating is a very modest step forward. It will simply tell parents and children that they have the right to care for each other without risking the loss of their jobs.

This is an important pro-family bill. A majority of all women of childbearing age work. Many of these women carry the heavy burdens of providing primary care for both young children and aging parents in addition to full-time employment.

Numerous studies show that a mother's relationship with her infant is the best predictor of the growth and development in later life. The bill fosters a cohesive family environment as it puts value back into caregiving roles that employees sometimes must fill.

This bill is also good for business. Arnold Hiatt, chairman of the Stride Rite Corp., states that employees who are allowed time off to tend to the care of a newborn or to tend to a medical emergency, return to their jobs with a stronger morale and sense of commitment. As well, the GAO estimates that this bill, because the leave is not paid, will cost businesses an average of about $5 per employee per year. This amount is approximately $395 less than the average vacation package costs employers. Clearly, this legislation makes good sense for employers.

This is a win-win bill. Everyone benefits: employees, businesses, and most of all, society in general. Preserving the foundation of American society should be a consideration of every bill debated in this body. And in few bills is this intent as clear as it is in the Family and Medical Leave Act. I will support this legislation wholeheartedly and strongly urge my colleagues to do the same.

Mr. BROWN of California. Madam Chairman, I rise today to express my support for the bipartisan, compromise version of H.R. 770, the Family and Medical Leave Act.

The structure of the American family has changed dramatically over the last 30 years. The traditional family model, where dad worked for pay and mom took care of the children at home, is vanishing. Today, approximately half of the work force is female, and the majority of families consist of two-earner couples. When family obligations or emergencies arise, it is increasingly difficult to juggle family and work responsibilities.

Unfortunately, many businesses have failed to adopt flexible policies that take into account the changing structure of the family. While some employers do have a parental leave policy, parents returning to the workplace are not always ensured that they will return to their previous position. Often, the employee returns to a job which has been diminished: they find that their job involves fewer responsibilities and lower paycheck. In 1986 nearly two out of three large businesses failed to allow their employees family leave for very sick children. Similarly, a 1987 study disclosed that only 3 percent of employers permit their workers to take unpaid leave to care for elderly parents. All industrialized countries, except the United States and South Africa, have established a national leave policy.

During a serious illness, children need increased exposure to their parents at certain critical points if they are to have a good chance of growing into healthy adults. According to the American Academy of Pediatrics, children who are hospitalized get well faster and have fewer complications when their parents are able to be with them. Furthermore, parents are often the only people to care for children after they are released from the hospital, but before they are ready to return to school or day care.

Now that Americans are living longer, many families are serving as double-duty caregivers—for both children and aging parents. Families provide between 80 and 90 percent of the medical and personal care of elderly family members. This care amounts to an average of 47 hours each week. It is nearly impossible to fulfill these responsibilities while maintaining a full-time job. The lack of a family or medical leave policy makes these trying times more stressful.

American workers should not be forced to choose between having a job and responding to major family needs. The Family and Medical Leave Act will guarantee that workers will be able to return to their jobs without the loss of seniority after a short period of leave. A maximum of 12 weeks of unpaid leave can be taken for the birth of a new child, the serious illness of an immediate family member, or the employee's own illness. Employers are required to continue health benefits during the leave period.

With this act, employers invest in an experienced, well-trained work force in which morale is high. The General Accounting Office estimates that it will cost employers less than $200 million per year or $4.50 per year for each employee to comply with the Family and Medical Leave Act. The societal costs of not having a national policy are far greater. We all lose when some Americans can't return to their jobs because of illness or the care of a newborn. Taxpayers pay the bill in lost tax revenues and higher payments for social programs, such as unemployment compensation, Medicaid, and Food Stamps.

The bill addresses the special needs of small businesses by exempting firms with fewer than 50 employees—95 percent of all employers—yet still covering 47 percent of all employees. It is my hope that many of these exempted businesses will recognize the importance of providing a positive and productive work environment for employees, and independently institute a leave policy for their workers.

Protecting the American family is a goal that we all share. I am disappointed that the President has threatened to veto this legislation. Families are the benchmark of the strength and health of our society, and I believe that we must rise above partisan politics to help working families across America. It is our responsibility to bring public policy in line with the realities of contemporary family life. I urge my colleagues on both sides of the aisle to vote in support of the compromise version of H.R. 770.

Mr. SERRANO. Madam Chairman, I rise in strong support of the Family and Medical Leave Act of 1990, H.R. 770. This legislation will offer unpaid, job-guaranteed leave for new parents, seriously ill workers, and workers who must care for a seriously ill child or family member.

Madam Chairman, this legislation is a strong, affordable, forward-looking proposal. The estimated costs to implement the proposal are nominal for both employers and taxpayers. In fact, the proposal does not call for a dime in new Federal expenditures and it will not require businesses to spend money on new employee benefits. All it does is ensure that American workers have a job to come back to if they have a child, become seriously ill, or have a serious illness in their family.

The State of New York, with a work force of approximately 8.1 million employees, has no work-leave policy. New York State workers lose an estimated $3.1 billion annually as a result of compelling family needs. The taxpayers' share of these losses is approximately $464 million annually in payments from government programs such as unemployment insurance, supplemental security income and welfare to people who have lost their jobs for having experienced childbirth, tended to an ill family member, or become incapacitated by an illness themselves.

Madam Chairman, in my opinion, it makes sense to invest in America's workers by providing job protected leave in times of medical or other compelling family need, rather than spend much more in welfare, unemployment compensation, Medicaid, and other social programs when workers lose their jobs under such circumstances.

Overwhelming public opinion research data shows that the Family and Medical Leave Act has enormous support from the American public. A recent Gallup organization survey found that 81 percent of all Americans support this proposal. They believe the Government should ensure employees the right to be with their children during the first weeks of their life, to care for their family members in times of crisis, and to recover from serious illness—without risking their jobs.

Madam Chairman, I wholeheartedly support H.R. 770 and I urge my colleagues to support its final passage.

Mr. WALGREN. Madam Chairman, today I intend to vote for the new compromise Family and Medical Leave Act of 1990, H.R. 770. This bill presents us with a real opportunity to support those family values that all of us hold dear.

It is long past time to recognize the realities of family life today. This bill is important to all who must raise children and care for sick spouses or parents. The Family and Medical Leave Act would allow employees to elect to take up to 12 weeks of unpaid family leave per year for the birth of a child or the serious illness of a member of the household or elderly parents.

The workplace is rapidly changing in America. In fact, it has changed. And it is critical that our laws which govern employer-employee relationships change to take account of the new realities. The "traditional" family in which the father works and the mother stays home no longer describes most families in America. More than half of all women with children less than 1 year old are working; 2 out of 3 women with children under 3 years old are working. In today's economy, that second income is essential to provide most families the means to keep food on the table and a decent roof over the family's head.

Of equal importance is the fact that America's population is living longer and therefore growing older. As more women leave the home to work and as families that used to stay "in the hometown" disperse, many elderly parents are left alone, without traditional family support nearby. The fact that we have almost no home medical or nursing care is leading us toward a major crisis in how to care for the elderly.

The bill before us recognizes that when both women and men work, employers must allow them to care for extraordinary medical needs of their family at home. It is time to recognize the importance of home care by family members as an important part of what all employees have a right to expect. Most employers do. All should.

This bill provides a good answer to those who have argued that provisions like these would unreasonably increase the cost of goods and services. The time away from work required will be unpaid leave, limited to no more than 12 weeks per year. Common sense tells us that few are in a position to forego their income for longer—and that for a mother not to be able to stay with a newborn child less than 10 weeks old without losing her job is unconscionable.

I would like to quote from a letter I received from the American Academy of Pediatrics on the importance of this bill:

As pediatricians, we know that there are times when the need for a parent's care is critical.

During the first few months of a child's life. The bond between parent and child develops in this early stage.

When a child is hospitalized. Children are known to get well faster and have fewer complications when their parents are able to be with them.

When a child is newly adopted. The parents and the child require time to form physical as well as psychological attachments.

There is hardly a more compelling argument for this bill.

The compromise bill goes far in recognizing the special needs of small businesses by exempting employers with less than 50 employees. Employees must have worked 1,000 hours for their employer over a 12-month period to be eligible for the unpaid leave.

If "family" means anything of value to our society, government must take these kinds of steps. As our work force changes, certainly it would not be right for employers who have benefited from women wanting to work, to be unwilling to recognize the importance of family and medical leave. This is a bill that will make America a better place to work—and live. I hope the House will pass the bill today.

Mr. GLICKMAN. Madam Chairman, today the House of Representatives considered and passed H.R. 770, the Family and Medical Leave Act. I did not support this legislation because I am truly concerned about the practicality of Government involvement in this issue. I believe it would be extremely difficult to draft a logical law that takes into account the complex needs of working people across the country. The kind of leave that is needed and appropriate will vary from situation to situation. I voted against this bill because I believe that it precludes the ability of employers to work out suitable arrangements in special circumstances involving family sickness and other health and maternity situations.

The Federal Government traditionally has not imposed particular benefit packages on employers and employees, and it should not begin now. The kinds of benefits that a firm provides to its employees should continue to be decided by negotiations between labor and management—not mandated by the Government. No kind of mandated national benefit can take into account the unique circumstances that individual businesses face. This bill goes against the current trend to flexible benefits such as cafeteria plans and forces all employees to accept benefits that they may neither want nor need.

Coming from a small business background myself, I understand that each special circumstance determines what amount of leave is appropriate, whether it be 4, 8 or 12 weeks. Businesses large and small need the flexibility to work with their employees to provide the type of benefit package that helps them most. If we come in and mandate one lone piece of the employee benefits pie, who is to say that the other fringe benefits that make up the package aren't more important to employees? Employers may have workers who prefer flextime, dental insurance, more vacation, or other benefits. These employers and employees both will suffer without the flexibility to decide what is best for them.

This year, Congress is considering a number of mandates which will affect the average business in this country, many of which I support. New minimum wage standards, which I fully supported, went into effect in April. The Americans with Disabilities Act, which I also support, will soon be considered here in the House. That law requires that companies provide employment opportunity and equal access to the disabled. The Civil Rights Act of 1990, currently being considered in the House Judiciary Committee, and which I have cosponsored, strengthens the laws prohibiting employment discrimination. In addition, I expect that legislation providing minimum health benefits for all workers will also become a reality in the near future.

But the Government should mandate on the business sector only those requirements which cannot feasibly and sensibly be handled between employers and employees in a negotiated context. While the reasons for the family and medical leave bill are very real indeed, the bill creates more problems than it solves.

Mr. MATSUI. Mr. Chairman, today the House of Representatives has a historic opportunity to help American families. By passing the Family and Medical Leave Act we are recognizing the relationship between family obligations and professional responsibilities.

This is a vote for the American family, an institution that has come under hard times lately and truly needs and deserves this kind of boost.

The substitute that will be offered by Representatives GORDON and WELDON presents a generous compromise that both protects the leave provisions of the bill and takes into consideration the concerns raised by the business community.

As someone who has spent many years advocating the strengthening of our foster care and child welfare systems, I strongly support this bill. At a time when American families are breaking apart because of drug use, divorce, and child abuse, this legislation eases some of the conflicts and burdens many families face.

The provisions of this bill are especially critical to adoptive and foster families. Presently, there are over 31,000 children in the United States waiting to be adopted; some 240,000 children are presently living in family-foster-care situations. These children and their adoptive or foster parents need time to bond and become a family.

A large portion of these children living in foster care are older and have been the victims of sexual or physical abuse. Adjusting to a new family is not easy, but being able to take time off from a job to bond with a new child can help ease the transition.

Caring for a new family member can be tremendously stressful. By denying parents the opportunity to take a short leave to get their family together, we compound this stress. Imagine the conflicts a new parent must address if they have to choose between getting to know their newly-adopted child, who is experiencing emotional trauma after being placed in the home, and keeping the job that allows the parent to put food on the table, to clothe, and to protect that youth.

We cannot, and should not, continue to ask parents to choose between earning a living or fulfilling their obligations to their families.

I urge my colleagues to vote in support of the Gordon-Weldon substitute. American families are depending upon us.

Mr. SYNAR. Madam Chairman, today I rise in support of the Family and Medical Leave Act because it strikes the proper balance between family and work responsibilities. The bill provides employees with 12 weeks a year in unpaid family and/or medical leave and exempts businesses with under 50 employees.

Years ago, when fathers worked and mothers stayed home, there was no question about how to care for a sick relative or a newly born child. Today, 57 percent of married mothers

with children under 6 work. Suddenly, providing care for a sick husband, child, or parent can mean choosing between your family or your job. Working Americans should not have to make that choice.

This is a bill which the vast majority of Americans want and need. According to a recent Gallup poll, 80 percent of all Americans believe parents should be with their children during the first weeks of life and should care for family members during illness without risk of losing their jobs.

Unfortunately, many working Americans have lost their jobs when they tried to juggle work and care for a sick family member. When working Americans lose their jobs because of a family medical crisis, we all lose. The rest of us pay the bill in lost tax revenues and higher payments for social programs, such as unemployment compensation, Medicaid, and Food Stamps. The Family and Medical Leave Act won't cost one penny in new Federal spending.

The bill includes exemptions for those small businesses who would have difficulty implementing a family and medical leave policy. While 95 percent of all businesses nationwide will be exempted, the remaining 5 percent of businesses that are covered employ 49 percent of all Americans. In Oklahoma, 39 percent of all employees will be covered by the Family and Medical Leave Act.

The Family and Medical Leave Act will help make American companies more competitive internationally by increasing employee productivity and decrease turnover. America's two toughest competitors—West Germany and Japan—guarantee at least 3 months of paid family leave. With this act, businessmen invest in an experienced, well-trained, happy work force and America invests in a more competitive work force.

Mr. WEISS. Madam Chairman, I rise in support of the substitute amendment to H.R. 770 offered by Representative GORDON and Representative WELDON. This compromise represents a reasonable approach toward accommodating work and family needs of Americans. Workers should not be forced to make a choice between keeping their jobs and meeting their family responsibilities.

The composition of the work force has changed dramatically in recent years. Today, in most American families both parents are employed outside the home. Sixty-seven percent of women with children under the age of 3 are in the work force. One out of every four families is headed by a single parent. Clearly, there is a pressing need for a national policy which sufficiently addresses this changed work and home environment. The Gordon-Weldon substitute does just this.

Several recent studies, including one completed by the Institute for Women's Policy Research, has concluded that the cost to workers and taxpayers of the current lack of a national leave policy are many times greater than the costs to business of having a national policy. Having a national leave policy would reduce the costs to workers and society of the socially necessary tasks of childbirth, child care and eldercare, or of illness. Having the right to return to their jobs would reduce unemployment and earnings losses for workers who must be absent for these reasons.

While the cost borne by workers because of childbirth, illness, and dependent care amount to over $100 billion annually, according to the GAO H.R. 770 would cost employers only $188 million per year, and the compromise version significantly less than that.

In addition, to address the concerns of small business, the compromise legislation permanently exempts employers with 50 or fewer employees. As a result, approximately 95 percent of all employers would be exempt from the requirement of the bill.

I have supported family and medical leave legislation since its inception. Importantly, as the bill was originally introduced in the 99th Congress, its provisions went further to respond to the needs of the American family. This legislation exempted small employers with five workers or fewer. The compromise version of H.R. 770 exempts employers with 50 or fewer, which, as I stated before, will exempt 95 percent of all employers.

The original version of the Family and Medical Leave Act allowed an employee to take, in 1 calendar year, 18 weeks to care for a child and 26 weeks for a temporary disability or medical problem. The compromise version of H.R. 770 allows no more than 12 weeks total per year for any combination of leaves.

Clearly, the compromise version of H.R. 770 is modest. I urge my colleagues to support it, however; it takes important steps toward addressing the changing needs of the American work force and the American family.

Mr. MILLER of California. Madam Chairman, I rise in support of H.R. 770, the Family and Medical Leave Act.

I want to thank everyone who has worked so hard to bring this legislation to the floor, especially my esteemed colleagues on the Education and Labor Committee, the Post Office and Civil Service Committee, and the Committee on House Administration. These committees have worked together and with the leadership to present this compromise bill for our consideration today and I want to say thank you for your efforts.

I also want to thank the broad coalition of national, State and grass-roots organizations, including women's groups, labor, child and family advocates, disability rights groups, churches, and countless others who represent families and individuals trying to maintain economic stability.

President Bush says he is going to veto this bill. He says he supports parental leave, but thinks it should be a private decision by private businesses.

Does the President apply this same laissez-faire attitude in general?

Should the Government allow nondiscrimination to be a private decision by private businesses?

What about nonpollution activities? Should that be a private decision by private businesses, too?

How about worker health and safety? Maybe the President also thinks that ought to be a private decision by private business.

I do not think so.

Apparently, only when the issue primarily affects the women of America, the young families in our work force, the needs of new parents—only then does the President rise to the high principle of private business making private decisions.

Only when it would benefit the younger, less senior, less powerful new parents does the President summon up some great moral principle that Government should not tell private business how to operate.

Only a few weeks ago, this same President, who wants billions for new savings and loan bailouts, and billions for new weapons systems, and billions for new foreign aid—this same President threatened a veto when the Congress proposed new funding for child care for young families.

And now he threatens a veto over a modest proposal to relieve young workers of having to choose between a job and their families.

This is a President who practices the rhetoric of caring about families, but whose answer to the real financial and employment problems of America's families is not compassion, is not creativity, is not commitment: his answer is a veto threat.

And I just hope that America's families remember what he said and what he did on this critical subject.

Let us not let George Bush threaten to veto child care, threaten to veto parental and family leave, and then describe himself as pro-family.

The need for a parental leave policy first emerged during the yearlong bipartisan child care investigation conducted by the Select Committee on Children, Youth, and Families in 1984. The select committee concluded that "financial considerations, the need for a continuous income and job security, often impede parents who may want to stay home to care for a newborn. For families who wish to choose infant care outside their own home, escalating costs are a major obstacle."

The select committee recommended, "Congress should review both the barriers and incentives to improving current leave and personnel policies. Policies should be developed which do not penalize parents for giving birth or spending an acceptable period at home with their infants."

Since then, study after study, including the most recent report from the National Academy of Sciences Panel on Child Care Policy, has reaffirmed the importance of parental and child-bonding following the birth or adoption of a child, and the need to develop policies in support of families.

The select committee has documented the extreme stress already faced by the families of more than 3 million children with serious chronic illness or disability, who must also decide every day between their jobs and their children, between financial stability and poverty, between keeping their children at home or institutionalizing them, at much greater costs to families, Government and society.

And, new evidence from the select committee further documents the increasing fragility among America's families. Hundreds of thousands of infants are now born drug-exposed each year, leaving them vulnerable to long-term illness and disability. These are the very families for whom bonding and support during those first critical weeks are essential.

I doubt that there are many among us who would deny that parents should spend time

getting to know and learning how to care for their new infants, or that parents should be with their children during a serious illness. Or that people who are disabled on the job should not be punished by losing that job.

And with many of us faced with caring for our own elderly parents, it is hard for me to believe that we would force others to choose between keeping their jobs and tending to the needs of a critically ill or dying parent.

I do not believe that this is what the debate is about. The debate is about costs to be incurred by employers and about employer mandates. But the arguments are fallacious. The cost to employers of implementing family and medical leave under this legislation would amount to only about $102 million per year according to GAO, only $4.50 per year per covered employee. And this legislation excludes from coverage small employers, those who have argued that the costs of holding open a position can be devastating for employers with limited resources.

What about the lost income to the hundreds of thousands of working families who lose their jobs because they choose their families over their jobs? One study estimates that the lack of parental and related leave cost families more than $600 million per year—six times as great as the cost to their employers.

Then there is the cost to the taxpayers who pay more than $100 million every year in unemployment compensation and other social benefits for workers who have lost their jobs because they don't have guaranteed parental or medical leave.

In a time when we want more families in America to be self-sufficient and to reduce welfare dependency, failing to provide for parental leave is counterproductive. If parents are forced to choose between caring for their closest loved ones or losing their livelihoods, we are not offering them choices, only desperation and economic catastrophe.

I have listened to arguments that we do not need Federal legislation, that family and medical leave is a decision best left to individual employers. While many of the Fortune 500 companies offer some form of job-protected parental leave, according to the National Academy of Sciences, a substantial majority of employees in small, medium-sized or large firms have no leave of any kind available to care for infants. The Department of Labor's 1989 study found that only 37 percent of full-time female employees in the large and medium size firms surveyed could take unpaid maternity leave. In a study of 384 companies nationwide, only slightly more than one-third offered unpaid leave to fathers. Many employees have some sick leave benefits, but they are prohibited from using that leave to take care of a sick child or care for a dying parent.

States have not picked up the gauntlet either. Only five States currently require employers to offer disability leave, and less than half the States have some type of parental leave policy.

Recent research suggests that women without the right to such leave policies are precisely the most vulnerable members of the labor force—those workers who may be only a paycheck away from needing public assistance: unmarried and part-time workers, low-wage workers, young workers and those who have less education.

The United States prides itself on the leadership role that it plays among the nations of this world. But where is our leadership when it comes to taking care of our families?

Guaranteed maternity leave is a long-established Government policy in virtually every corner of the world, including 24 countries in Africa, 9 in Asia, 7 in the Middle East, 19 in Europe and 14 in Central America. Included in this list are the nations with the strongest national economies as well as most of the Third World countries that manufacture goods that are sold in this country. Apparently, concerns about cost or diminished ability to compete in world markets do not enter into the political decisions of these nations to offer family leave as a social benefit. What's more, virtually all of them—including many of the poorest ones—guarantee paid maternity leave. Yet in this country, we are still arguing over guaranteeing unpaid leave.

We can sit on our hands and keep on waiting for a voluntary system to help America's families, but how long will the American labor force have to wait for some minimal job protections that are guaranteed now to workers throughout the world? How long do we tell parents in this country that they will have to wait?

If you vote against this legislation, what will you say to people like James Callor, whose employer denied him time off to spend with his dying 4-year-old daughter, in spite of his 8 years of excellent work? How will you explain your vote to people like Deborah Drewek who was denied leave to care for her father who was dying of bone cancer—alone, halfway across the country? Will you tell them that maybe in a few more years, their employer will voluntarily adopt parental and medical leave policies? Will you tell that in order for America to stay competitive, their children and parents will have to die alone?

The American public believes that family leave should be a guaranteed protection. In a recent Gallup poll, more than four out of five respondents agreed that employers should be required to provide an unpaid leave to employees upon the birth or adoption of a child or to care for a sick child or other sick family members. More than three-fourths favored an employer requirement to maintain employee benefits during the leave period.

If you agree with the American public, if you believe that parents should have some time off to care for their newborn or newly adopted children, that parents should be able to care for their dying or critically ill children, without having to fear losing their jobs—and possibly the health insurance that goes with it—and if we want to keep families from welfare dependency, then there must be some job protection for workers in this country and it is time we did something about providing that protection.

In a time when we are tormented by our budget deficit, and searching for cost-effective programs, the Family and Medical Leave Act is one program that makes sense. It makes sense because it will keep families from financial ruin and from becoming dependent on the social welfare system for support.

This is a bare bones piece of legislation. It exempts small employers and many families from coverage. But it is of critical importance to those families for whom it will offer a floor of support that is desperately needed in an era when most parents have two jobs—one inside the home and one outside. And if they do not already, many of our Nation's moms and dads may soon have a third job—caring for their elderly and/or infirm parents.

Just a few weeks ago, the House passed the Early Childhood Education and Development Act of 1990. That piece of legislation, together with the Family and Medical Leave Act, represent the cornerstones of a new era for America, one where we recognize the contributions that our Nation's families make to society and where society in turn ensures that families do not suffer economic ruin as a result.

If you are truly concerned about cost, then think about the cost to America's families for not having parental and medical leave. And then vote to do something about it. Support this legislation.

Mr. PALLONE. Madam Chairman, I rise today in strong support of H.R. 770, the Family and Medical Leave Act.

In America today, you can lose your job for having a baby. Fathers cannot spend time with a newborn son or daughter. Working women become unemployed mothers for the act of bearing children. Our sense of justice should tell us this is wrong.

Of all the industrialized nations, the United States stands alone with South Africa in denying working men and women the ability to care for a sick parent or child. Shall another Mother's Day pass where caring for your own mother can cost you your career?

On May 7, 1990, a family leave took effect in New Jersey. The New Jersey Family Leave Act was signed into law by Governor Kean as one of his last official acts. It is worth noting Governor is a Republican and a strong supporter of President Bush. H.R. 770 has as a principal sponsor Congresswoman MARGE ROUKEMA of New Jersey. She is also a Republican and a stalwart supporter of President Bush. Family leave is not a partisan issue nor is it a labor issue; it is a family issue.

This bill is not antibusiness, 95 percent of all businesses in America will not be affected by this bill. This bill is proworking family because it will protect nearly half of all employees.

In this body, many Members label themselves as "profamily." Well, firing someone for having a baby is antifamily. Telling parents who adopt to make a decision between their career and getting to know an adopted child is antifamily. Making a person work when a serious ill parent or child is at home in need of care is antifamily. If you want to be profamily, here is a vote to prove it.

Mr. RAY. Madam Chairman, I rise in opposition to H.R. 770, the Family and Medical Leave Act.

The Family and Medical Leave Act is well-intentioned legislation. I believe businesses should make every effort to provide leave for family medical emergencies. However, the Federal Government has no business mandat-

ing the type of benefits a business should offer.

Throughout the history of this Nation, the Government has allowed employers and employees to design the wage and benefit package they desire using their own particular situation. This is proper. Quite frankly, I do not know why the Congress has decided they can do a better job of setting employee benefits.

Our Nation finds itself in a precarious situation. The budget deficit is increasing, corporate profits are down, and inflation and interest rates are increasing. This is not the time to mandate new costly benefits on business. Indeed, I believe it is important to legislate in a way which will encourage and motivate business. Businesses are already heavily shackled with Government mandates, and the ultimate result will be slower business growth and an increased number of people out of work. I do not believe any of us want that type of end result.

I support America's work force and good jobs for families. Economically sound business without Federal mandates is the best vote I can make to accomplish this.

Madam Chairman, in conclusion, it is more proper to allow workers to choose their benefits rather than those of us in Congress choosing their benefits.

Mr. STENHOLM. Madam Chairman, I rise in strong opposition to H.R. 770 as reported, as it would be amended by the Gordon-Weldon substitute, and, in fact, in just about any form.

Family and medical leave are good benefits; however, a Federal mandate that all employers, regardless of individual circumstances, be required to provide this extended time off from work, would be bad law.

We've heard a lot about how the Gordon-Weldon substitute is purported to be a compromise, watering down H.R. 770 as reported, which in turn is supposed to have watered down previous proposals.

I've examined the Gordon-Weldon substitute. For all the watering down that is supposed to have happened, I'm a little surprised—the bill looks about as dry as the lower Rio Grande during a draught.

I certainly respect and like the gentlemen sponsoring the substitute, but I can not support their proposal.

Public support for mandated leave is not nearly as strong as claimed. Supporters repeatedly cite polling data showing overwhelming support for these kinds of benefits. Of course, to paraphrase the National Rifle Association, statistics don't kill; people kill.

At any rate, some folks torture statistics until they say what those folks want to hear. I am reminded of the polls that showed a majority of Americans opposed to abortion on demand, but a majority also opposed to prohibiting abortion. And, from just a very few years ago, I am reminded of polls that showed a majority of Americans supporting the United States aiding resistance to Communism in Central America, but also a majority opposed to the United States assisting guerrillas seeking to overthrow the government of Nicaragua.

The conventional wisdom notwithstanding, support for a good benefit in principle is far different from a demand for a universal, Federal mandate. Support for such mandates has evaporated in surveys when respondants are asked in more detail about the Federal Government mandating that employers provide such time off. Overwhelming majorities in poll after poll have expressed the strongest support for flexible benefit packages, where the benefits can be tailored to the needs and circumstances of employees. And certainly this one benefit is not a high priority; in an April 1989 Washington Post poll, only 3 percent of respondents rated parental leave—even without the mandate issue raised—as the most important of four issues.

This bill will be especially burdensome to small businesses, which are labor intensive, have greater difficulty replacing employees and require flexibility to remain competitive.

In general, small businesses operate on tighter budgets and smaller margins than big businesses.

Costs the bill would impose include: Overtime of workers absorbing an absent employee's workload; cost of hiring temporary workers; cost of training replacement workers; unemployment insurance costs; and loss of productivity associated with these and other factors.

Many employees have unique and critical skills and would have to be replaced immediately by new employees; for example, lawyers, accountants, physics or special ed teachers, RNs, emergency room personnel, medical technicians, respiratory therapists, radiologic technicians and, I'd like to think, vocational agriculture teachers. Sometimes, finding a temporary replacement with such specialized skills will be exceedingly difficult, especially in small towns and rural areas. In other cases, the marketplace will require an employer to hire a replacement employee on a permanent basis; costs will thus increase as employers provide pay and benefits for duplicate employees.

Let's not lull ourselves into a false sense of security over the bill's 50-employee "small business threshold":

First, there are a lot of businesses with 50 or 100 or 200 employees that, for their industries, are small. For those going through troubled times—auto dealers, right now, for example—this is exactly the type of bill that could put them over the brink.

Second, we know the companion bill in the other body has been reported with a 20-employee threshold. We remember that H.R. 925, in the last Congress, had a 15-employee threshold.

We can guess where the conference would go; we understand where the agenda of the groups pushing this bill is headed.

Besides opposing the principle of this mandated intrusion into employer-employee relations, many small business men and women quite reasonably fear that this mandate could easily be expanded in the future to apply to all employers.

A powerful example of the harmful effects this bill would have can be found in a rural hospital setting, the kind that is so familiar in the 17th District of Texas.

One benefits manager for a hospital testified before a Senate subcommittee regarding H.R. 770's companion bill as follows:

> It costs us $28,000 to train one RN to work in our Operating Room, $18,000 to train a Critical Care RN, and $13,000 to train an RN to work on a medical or surgical floor. . . . If a hospital can't hire all the nurses it needs at the outset, it won't be able to hire replacement workers either if the supply was inadequate to begin with.

In the 35 counties of the 17th District of Texas, we have 42 hospitals, mostly small—28 have 50 beds or fewer. We have several whole counties that have only one or a few registered nurses, some of them adjoining counties that have none. To attract qualified, capable personnel, such a hospital may offer generous benefits that, for obvious good reasons, can not include several kinds of extended time off. Instead, the benefits negotiated will be more cost-effective to the hospital and, very frequently, more useful and desirable to the employee.

Administration and enforcement of this bill would be a nightmare. This bill would ultimately require a much-expanded Federal bureaucracy to administer and enforce its requirements.

By allowing law suits in Federal courts, the bill would increase workloads in an already over-burdened court system; allow punitive damages of up to 3 times regular, compensatory damages—for lost wages, benefits, and interest, punitive damages unprecedented under existing Federal employment discrimination law; encourage law suits by parties with marginal cases in hopes of high out-of-court settlements; and unfairly threaten often-innocent employers with lengthy, expensive administrative reviews and court litigation.

This bill restricts employees' ability to negotiate for other job benefits they themselves prefer, since fringe benefits are carved out within a finite "pie" of costs.

The BLS [Department of Labor Bureau of Labor Statistics] estimates that more than 25 percent of all employee compensation currently is in the form of benefits; more than 8 percent is mandatory participation in government benefit programs for example, Social Security, unemployment insurance, worker's compensation.

It's simple math: If this bill raises the mandatory portion to 9 or 10 or 11 percent, the voluntary—that is, flexible, negotiated portion—is going to decline from 17 percent to 16 or 15 or 14 percent. Therefore, some employees will lose other benefits they prefer to benefits in this bill. Unfairly, some employees who don't need or can't qualify for family or medical leave will have to give up benefits from their package to pay for these mandated benefits provided for other employees. This bill discourages innovative benefits. Such a mandate will stifle positive trends toward flexible benefits, such as cafeteria plans and flextime, which provide all employees with benefits more suited to their individual needs.

Rigid work force mandates will impair our international competitiveness. Supporters of this bill point to similar benefits in other industrialized nations, particularly in Europe; however, this is one of several rigid restrictions on workplace flexibility that have led to zero job creation in Europe since 1970 versus 40 million new jobs in the United States.

The GAO cost study of this bill is seriously flawed. GAO's 1988 study estimated annual costs to the economy of about $200 million

per year. These were revised upward a year later by 30 percent & even GAO acknowledges they would double with the addition of spousal leave—such as the Gordon-Weldon substitute proposes.

Moreover, GAO's methodology was seriously flawed. The sample size in GAO's survey was too small to be statistically valid. GAO's unrepresentative survey covered only 80 firms in 2 labor markets: Detroit, Michigan, and Charleston, SC—There are 4.5 million small business employers in the United States.

GAO ignored such significant cost items as: Overtime of workers absorbing an absent employee's workload; cost of hiring temporary workers; cost of training replacement workers; unemployment insurance costs; and loss of productivity associated with these and other factors.

GAO also estimated that only 1 in 300 employees would take such leave, an unsupportable, unrealistic, and highly debatable figure.

Unintended discrimination will result. Employers will discriminate in hiring, even unconsciously, in favor of those least likely to use such leave, for example, single, healthy, orphaned males apparently past child-rearing age. In fact, a survey by the certified employee benefits specialists found that 61 percent are worried that mandated leave would result in discrimination—much of it not even intended—against prospective employees most likely to use the leave.

This is a Yuppie bill. Those working on lower economic rungs can't afford 10 to 15 weeks of unpaid leave. Lower paid workers will be forced to give up part of their firm's benefits pie to pay for higher costs caused by better off employees taking advantage of these mandated benefits. But, then, that's consistent with the agenda of the groups pushing this bill. This year they will say the United States is backward because Europe has mandated paid leave and we have no leave. Next year they'll tell us we're backward because Europe has paid leave and we have only unpaid leave.

There are better, pro-family initiatives that would provide flexibility and increase economic resources for working families with lost income. In fact, one such provision was included in the child care substitute I offered just a few weeks ago, along with the gentleman from Florida [Mr. SHAW], namely, the wee-pots supplement to the earned income tax credit, for families with a child under age 1.

CONCLUSION

This is a bad bill, for employees, employers, and the economy.

The Gordon-Weldon substitute—which we'll discuss shortly—is no improvement, because it's not really any different.

Some of our colleagues have spoken of the tortured, 5-year journey this bill has made to the floor of the House. I'm sympathetic. It's time to put this bill out of its misery once and for all.

Mr. SCHUETTE. Madam Chairman, the Family and Medical Leave Act is a dangerous proposition. While the gesture to require businesses with 50 or more employees to provide 10 weeks of job-guaranteed family leave every 2 years, and 15 weeks of job-guaranteed sick leave annually is well-intended, I have very basic concerns about both H.R. 770 as it has been reported and the substitutes introduced by Mr. PENNY, and Mr. GORDON, and Mr. WELDON.

Requiring an employee to provide reasonable and practicable notice so as not to unduly disrupt the operations of an employer lacks the specificity which ought to be contained in legislation which forces an employer to hold open, or fill with a temporary worker, any position in the firm. The bill does not even allow employers to require advance notice of an employee's intent to return.

The eligibility requirements in the bill are also extremely vague. There is no specific definition of serious health conditions. Also an employee is entitled to the leave regardless of whether an ablebodied spouse or other relative is actually attending to the needs of the family member who is ill, with family member being defined so loosely that it only exacerbates the problem. Under those loose definitions, the bill would subject an employer to triple damages if a civil suit is brought.

The Gordon-Weldon substitute attempts to better the bill at the margins only. Requiring doctor instead of nurse certification, something of which the original sponsors should have thought, is clearly an improvement. Another is tightening the few requirements which do exist in the committee report. The Gordon/Weldon changes are a start, but hardly enough to correct the fundamental structural flaws of the bill.

The Penny substitute moves further in the right direction, but the fact remains that this type of legislation will cost employers at least $300 million annually for payment of health benefits and temporary replacement worker salaries alone. It is a fact these costs, even if not seriously underestimated, increase geometrically every year due to increases in the costs of health benefits. Furthermore, the estimate does not even include the cost to businesses from lost productivity, of training workers who will only be temporary, or retraining employees who have been on extended leave.

More importantly, I have grave concerns about the effect this legislation will have on employees. Unquestionably, employers have limited budgets for benefits. This is especially true of the small business employers who produced much of the employment growth in the last decade. What benefits will be foregone by those employees who do not take such leave in order to pay the costs of those who do? Also, it is a fact that more women than men take parental and care-giving leave. This legislation could lead to discrimination against female employees whether conscious or not by employers purely for cost effective reasons. Again, the substitutes do little or nothing to correct this fundamental structural flaw. I am absolutely and unalterably opposed to discrimination in the workplace.

The biggest problem with this legislation, however, is that it is based on the faulty assumption that the Government does a better job of managing the economy than employers and employees. The fact is that business owners and employees have been working together in good faith and with great success to negotiate parental leave and child care employment policies. In 1987 two-thirds of all employers including small business provided flexible work and child care policies for their employees. Of medium and large firms 90 percent had disability leave, which by federal law includes pregnancy and child birth. Many employers consider this leave separate from sick or vacation leave which may also be used for this purpose. Frankly, with the cost of training employees as high as it is many other employers accommodate their valued employees on a case by case basis.

Madam Chairman, for all these reasons and after careful consideration, I find I cannot support H.R. 770 or its substitutes as I feel it will be detrimental to rank and file employees, employers, and the general economy.

Mr. SMITH of New Jersey. Madam Chairman, as a cosponsor of H.R. 770, I urge my House colleagues to adopt the Family and Medical Leave Act.

The vital legislation will provide adequate employee leave for workers during some of the most emotionally trying times in one's life. The bill guarantees 10 weeks of unpaid leave for non-Federal workers during the birth or adoption of a child. In addition, the measure provides the same amount of leave when the care of a seriously ill child or parent requires the employee to remain in the home. H.R. 770 extends even more generous leave to Federal workers—18 weeks of unpaid leave—under the same critical circumstances.

A vital provision of this legislation is the job protection provided to employees who utilize the upaid leave. Even after 10 weeks of family or medical leave, an employee is guaranteed his or her job upon returning to their place of employment. During this leave, the employee will continue to enjoy their full health insurance benefits without any interruption in coverage. While the bill's provisions appropriately are provided to employees of the U.S. House of Representatives, a small business exemption is included. Those enterprises with fewer than 50 employees are not required to provide this benefit to their workers; however, that number drops to 35 employees after 3 years.

Madam Chairman, one need only look at our neighbors to the North to see family and medical leave benefits in place. In Canada maternity leave is provided for mothers allowing them up to 41 weeks of leave so that they may care for their child during the precious early stages of growth. For the first 15 weeks of leave, in fact, the mother receives 60 percent of her salary. Yet, Canada is not alone in providing these benefits; 135 countries around the globe offer some form of maternity benefits, while 127 include wages with the leave. The benefits provided by H.R. 770 are very modest when compared with those provided by our industrialized trading partners in Europe and Japan.

I am also interested in securing the passage of this bill since my home State has already taken the lead in providing similar benefits under State law. Effective just this week Mr. Chairman, New Jersey now has one of the most comprehensive family and medical leave policies in the Nation. Our State's new law includes the same basic benefits found in H.R. 770. Sound policy for our State, and sound policy for the Nation.

Before we vote today, I urge my colleagues to review the need for this legislation. Dramatic demographic changes, according to the Bureau of Labor Statistics, have altered the structure of the American family. Parents are working outside of the home at unprecedented numbers, 96 percent of fathers and 60 percent of mothers are not available to meet family needs in the home on a daily basis. This trend is especially hard on families with young children; 52 percent of mothers with children under age 3 now work outside of the home. The federally protected leave which we are debating today would clearly provide needed help to families with working parents as well as the many fatherless families. In addressing a slightly different demographic aspect, this legislation would also provide help to those 2.2 million people who need to care for aged parents or spouses.

The Family and Medical Leave Act is timely legislation that deserves our enthusiastic support.

Mr. ARMEY. Madam Chairman, I oppose H.R. 770 because I believe it would set a dangerous precedent by mandating employee benefits for virtually the first time. Benefits that are commonly offered in America today—everything from vacation time and sick leave to health insurance and retirement pensions—are available despite the absence of a mandate from Washington. Beginning to mandate other benefits with this legislation would open an entirely new area of Government regulation. That would have significant consequence for our economy and even, I would argue, for our liberty. Limited government is, of course, a fundamental value in a free society; regulations of this type are inconsisent with it.

I would, however, like to make a couple of practical points against the legislation.

First, it would impose certain burdens on low-income workers. Realistically, lower paid employees will not be able or willing to avail themselves of 12 weeks' of unpaid leave. Those who would take advantage of this benefit will primarily be higher paid professional employees who can afford a disruption of their income. But when these higher income workers take leave, someone will be required to do their job during their absence. Most businesses will be unable to hire replacements for them for only a 12-week period. More often, businesses will require their coworkers or the support personnel to handle their duties to the extent possible.

Consider a law firm, for example. When one of the lawyers takes parental leave, the firm will not be able to call a temporary service to replace him or her. Instead, the firm's paralegals and secretaries will be forced to do as much of the lawyer's routine tasks as possible. Thus, the lower income worker—who generally will not take the offered leave—will be forced to work harder in order to supply the benefit to a higher income employee.

Second, I'm concerned that because of the costs of offering this benefit, some businesses will discriminate against those likely to take the benefit. Obviously, if an employer has a choice between hiring two job candidates—one of whom is likely to take a leave and disrupt the business' operations, and one of whom is not—he may be inclined to hire the latter, all other factors being equal. This is not necessarily right, but it is likely to occur.

In fact, when this legislation was considered by the Education and Labor Committee, on which I served, I examined unemployment statistics for women of child-bearing age in several European countries and the United States. There was an unmistakable correlation between high unemployment rates of individuals in this category and extensive mandated leave laws. The unemployment rate for woman of child-bearing age in the United States was lower than in any of the European countries.

For these and other reasons, I urge my colleagues to oppose H.R. 770.

Mr. KLECZKA. Madam Chairman, parental and medical leave coverage for workers is an overdue improvement in American labor policy that also makes good sense for our businesses. For these reasons, the Family and Medical Leave Act [H.R. 770] has my full support.

Generous leave laws are standard labor policy in 137 industrialized and Third World nations—including our major trade competitor, Japan. However, despite the economic and social success of these policies elsewhere, the United States remains almost the only developed country without a national leave policy.

A mandated, rather than a voluntary leave policy is necessary precisely because certain businesses have been unwilling to create leave policies to accommodate the changing work force. According to the Bureau of Labor Statistics [BLS], the number of large businesses providing some sort of leave coverage, 33 percent, has not increased substantially since 1986—although the number of women in the work force with young children climbed 10 percent during this period. Nor are negotiations between labor and management a cure for this problem. Less than 17 percent of our work force is represented by labor unions today. Of those unionized workers, nearly 40 percent still do not have leave coverage.

The lack of family and medical leave coverage has forced millions of workers to make the painful choice between their family's well-being and the job which provides their livelihood. These choices tear families apart. Nobody should have to make such choices.

The public pays for lost wages and opportunities. According to the Institute for Women's Policy Research [IWPR], nearly $12 billion of public assistance spending a year is allocated to help dislocated workers with no leave coverage to survive. This spending could be limited if businesses provided reasonable family and medical leave coverage to their employees. The General Accounting Office [GAO] estimates that the cost to businesses of providing such coverage to the employees made eligible for it under this bill would amount to less than $240 million a year. This figure represents a cost to businesses of $5.30 a day.

It is clear that family and medical leave coverage would promote family stability at a time when only a small number of American households resemble that of Ward and June Cleaver. Moreover, reasonable leave coverage, such as H.R. 770 proposes, enhances worker morale and commitment to the companies which allow employees to care for newborns or ill family members without worrying about whether they will have a job to return to.

My colleagues should note that this legislation is very similar to successful leave coverage mandated in my home State of Wisconsin. It is one of the most important pro-family bills Congress will consider this session, and deserves to become public law this year.

Ms. PELOSI. Madam Chairman, I rise today in support of H.R. 770, the Family and Medical Leave Act. This bill will provide job security for our working families who must take leave due to the birth of a child or to take care of a sick spouse or parent.

Many of us in this body are parents and know first hand how important it is to be at home when a baby is born. Some of us know the time and energy it requires to take care of an ailing parent. It is during these important times of our lives—when one desperately needs to be with their family, that we need the Family and Medical Leave Act. Families need the assurance that they can be with their families when needed and not have to worry about losing a job. As we all know, the demographics of the American family are drastically changing. In 1987 for the first time, more than half of all mothers with babies 1 year old or younger, were working or looking for work. These mothers are raising families, working to support their families and often times single. They must have job security to keep their family together.

To be fair to everyone, we need a minimum level of family and medical leave, so as not to have any confusion or discrimination. A gentleman who works in my district of San Francisco requested time off from their work to take care of his wife and new born child. His employer denied him the leave. As it turns out, his wife had twins by caesarean section and needed her husband's assistance and support after a difficult pregnancy and then needed him to take care of their two other children. He finally was allowed a minimal leave, but only after his employer realized the compelling necessity of his being home. One does not need the additional burden of fighting for a job, when there is no question they are needed by their families.

The President has said that he hopes businesses will provide family and medical leave and that the Federal Government does not need to get involved. However, I believe we cannot sit here and just hope. We must act now to protect our families by requiring a minimum level of family and medical leave. Corporate America is not keeping step with the changes occurring with America's families. The U.S. Government will not be keeping step either, if we do not pass this legislation, for many of our allies around the world already have paid parental leave laws. This legislation is in the same order of previous Federal minimum labor laws, such as the Fair Labor Standards Act, the Age Discrimination in Employment Act and the Occupational Safety and Health Act. It is nothing extraordinary. It is ordinary protection that should be allowed for America's workers and their families.

This legislation is based on values—family and work and I am certain all of us take great pride in these two values. I urge my colleagues to vote in favor of this legislation,

without any weakening amendments for all families.

Mr. RAHALL. Madam Chairman, I am pleased to rise in support of H.R. 770, the Family and Medical Leave Act.

We have all heard the horror stories that have been put out concerning what will happen to employees if this bill is passed. We have heard that their other employer provided benefits will have to be terminated in order for them to be given family and medical leave.

We have been told that many employees don't want a decent leave policy. If they don't want it or can't use it, they don't have to use it. But should disaster hit them or their family members from some unforeseen quarter, it will be there for them.

I guess we just have to insist on doing the right thing here, as we are often forced to do in the face of fierce opposition. Only time will tell—and it usually always does—that the doom and gloom predictions never quite come time.

It is the least we can do on behalf of working Americans.

Madam Chairman, Congress has been busy this last 8 or 9 years it seems, restoring civil rights to Americans—civil rights we had hoped were taken care by the 1964 act. Many of our actions are necessary because we have to undo the harm done through court decisions affecting those civil rights.

A couple of years ago we passed the Civil Rights Restoration Act here on the floor of the House. More recently, we have brought the Americans With Disabilities Act all the way through four House committees of jurisdiction, and it is ready for floor consideration and passage, perhaps even by next week.

In the past several months, the Education and Labor Committee has reported a bill to restore employee rights under the Anti-Age Discrimination Act in the Betts case. The chairman also introduced H.R. 4000, the Civil Rights Act of 1990, and yesterday saw it finally reported favorably from the committee—again, a bill restoring the civil rights of Americans lost to them under Supreme Court rulings that set back employee civil rights by 18 years.

And though it has not been billed as such, I believe H.R. 770 can be described as a civil rights bill—finally giving job protection to workers, enabling them to take short leaves for family and medical reasons secure in the knowledge that they can return to their jobs.

Its about time.

West Virginia, just a few short years ago, finally enacted legislation giving State workers a guaranteed 12 weeks leave to care for a family member. But not in time to help Susan Noggi of Buckhannon, WV, who lost her job because she was away from her job for 8 weeks in 1987 caring for her terminally ill father.

Susan Noggi said: "Children shouldn't have to choose between being at their parent's side or losing their jobs."

I agree. And I will just add "Parents shouldn't have to choose between being at their children's side or losing their jobs."

Madam Chairman, luckily there are many employers in this country who do have family and medical leave policies that guarantee them their jobs when they are able to return.

But unfortunately, not every employer does so, leaving our society, so advanced in many ways, a society in which people still lose their jobs when they have compelling family or medical needs that keep them out of work for short periods of time.

Such losses can and have percipitated a descent into poverty and even homelessness for many a worker—some of whom have had 15 and 18 and 20 years seniority on their jobs with good work records—suddenly finding themselves with no job, no mortgage payment, no health insurance or medical coverage, and often no self-respect because they have been made to feel inferior for having been let go or laid off or fired—depending on the word or phrase used by employers who did not permit adequate, if any, family or medical leave for employees.

I believe this is a civil rights bill—but whatever we call it, it is about time.

I support wholeheartedly the Gordon-Weldon substitute being offered today, reducing the number of weeks of unpaid leave required to be offered, and exempting permanently businesses with 50 employees or less, which should take care of the concerns of the small business employer community. I believe the substitute accommodates or should alleviate concerns and anxieties expressed by opponents to the original bill reported out of our committee.

I commend my colleagues from both sides of the aisle who worked to put this compromise, or substitute, together. I commend both my committee Chairman, Mr. HAWKINS, and the distinguished manager of the bill, Mr. CLAY, for having the strength of their resolve in staying with this legislation and insisting upon its enactment.

I join the Speaker of the House, the Honorable TOM FOLEY in the hope that given time, the President will rethink his threat of vetoing this legislation and will, by the time it reaches his desk, have decided to sign it into law.

Opponents of this legislation will call it a mandate, and call it undue and unwarranted intervention in the lives of the family unit that makes up this great country of ours. But I say Mr. Chairman, the family unit in this country is struggling to remain a unit, struggling to care for children when both parents must work to support families when unexpected illness or disease strikes. And there are single parents trying as hard as they can to form a family unit, a self-supporting family unit, caring for their children, until devastating accidents, disease or illness strikes. What about struggling children with parents who are aged and infirm, and who need their attention and their time every once in a while? What is to happen to them? Shall we just continue to say to them what the President's spokesperson said to reporters yesterday? Mr. Fitzwater said: "If they can't get their present employer to offer adequate leave time, let them look for another job." Do we want to keep on saying that to America's workers?

I don't think so.

As I said, I have a tendency to call it a civil rights bill—a bill that guarantees American workers the right—the civil right—to return to their old jobs, or jobs with equivalent pay or status, after they have been assured and have used, up to 12 weeks of unpaid family or medical leave in order to care for themselves, their children, their spouse, or their parents.

H.R. 770 is not a mandate as much as it is our effort to establish a minimum Federal labor standard calling for humanitarian assistance and support by employers for their employees in times of family hardships brought about by illness of children, spouse or other family member, or made necessary by virtue of a decision to have a child or adopt a child, or for one's own personal medical necessities. In exchange for this leave policy, Mr. Chairman, the employees agree to take such leave in an unpaid status, as long as health benefits and job security remains. That's a pretty even exchange, I think.

A vote for the Family and Medical Leave Act is a vote for children and their families. Let's put an end to our unenviable position as one of the few industrial countries in the world still without a national policy on family leave.

And if that doesn't persuade you to support the bill, ask yourself if it might not be you or a member of your family who are next forced to make the intolerable choice between financial security and parental responsibility.

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute consisting of the text printed in part 1 of House Report 101-479 shall be considered as an original bill for the purpose of amendment and shall be considered as having been read.

The text of the amendment in the nature of a subsitute is as follows:

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family and Medical Leave Act of 1990".

(b) TABLE OF CONTENTS.—

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the number of single-parent households and two-parent households in which the single parent or both parents work is increasing significantly;

(2) it is important to the development of the child and to the family unit that fathers and mothers be able to participate in early childrearing and the care of their family members who have serious health conditions;

(3) the lack of employment opportunities to accommodate working parents can force individuals to choose between job security and parenting;

(4) there is inadequate job security for some employees who have serious health conditions that prevent them from working for temporary periods;

(5) due to the nature of women's and men's roles in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects their working lives more than it affects the working lives of men; and

(6) employment standards that apply to one gender only have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender.

(b) PURPOSES.—The Congress therefore declares that the purposes of this Act are—

(1) to balance the demands of the workplace with the needs of families, to promote stability and economic security in families, and to promote Federal interests in preserving family integrity;

(2) to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child or parent who has a serious health condition;

(3) to accomplish such purposes in a manner which accommodates the legitimate interests of employers;

(4) to accomplish such purposes in a manner which, consistent with the Equal Protection Clause of the Fourteenth Amendment, minimizes the potential for discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis; and

(5) to promote the goal of equal employment opportunity for women and men, pursuant to such clause.

TITLE I—GENERAL REQUIREMENTS FOR FAMILY LEAVE AND MEDICAL LEAVE

SEC. 101. DEFINITIONS.

For purposes of this title the following terms have the following meanings:

(1) The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include "commerce" and any activity or industry "affecting commerce" within the meaning of the Labor Management Relations Act, 1947 (29 U.S.C. 141 et seq.).

(2) The terms "employ", "person", and "State" have the meanings given such terms in sections 3(g), 3(a), and 3(c), respectively, of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g), 203(a), 203(c)).

(3)(A) The term "eligible employee" means any employee as defined in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)) who has been employed by the employer with respect to whom benefits are sought under this section for at least—

(i) 1,000 hours of service during the previous 12-month period, and

(ii) 12 months.

(B) Such term does not include any Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code (as added by title II of this Act).

(4) The term "employee" means any individual employed by an employer.

(5)(A) The term "employer" means any person engaged in commerce or any activity affecting commerce who—

(i) during the 3-year period beginning after the effective date of this title, employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year; or

(ii) after such period, employs 35 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year.

(B) For purposes of subparagraph (A), the term "person" includes, among other things—

(i) any person who acts, directly or indirectly, in the interest of an employer to any of the employer's employees;

(ii) any successor in interest of an employer; and

(iii) any public agency, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)).

(C) For purposes of subparagraph (A), a public agency shall be deemed to be a person engaged in commerce or in an activity affecting commerce.

(6) The term "employment benefits" means all benefits provided or made available to employees by an employer, and include group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a policy or practice of an employer or through an employee benefit plan as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

(7) The term "health care provider" means—

(A) any person licensed under Federal, State, or local law to provide health care services; or

(B) any other person determined by the Secretary to be capable of providing health care services.

(8) The term "reduced leave schedule" means leave scheduled for fewer than an employee's usual number of hours per workweek or hours per workday.

(9) The term "Secretary" means the Secretary of Labor.

(10) The term "serious health condition" means an illness, injury, impairment, or physical or mental conditions which involves—

(A) inpatient care in a hospital, hospice, or residential health care facility, or

(B) continuing treatment or continuing supervision by a health care provider.

(11) The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

(A) under 18 years of age, or

(B) 18 years of age or older and incapable of self-care because of mental or physical disability.

(12) The term "parent" means a biological, foster, or adoptive parent, a parent-in-law, a stepparent, or a legal guardian.

SEC. 102. INAPPLICABILITY.

The rights provided under this title shall not apply—

(1) during the 3-year period beginning after the effective date of this title, with respect to employees of any facility of an employer at which fewer than 50 employees are employed, and when the combined number of employees employed by the employer within 75 miles of the facility is fewer than 50; and

(2) after such period, with respect to employees of any facility of an employer at which fewer than 35 employees are employed, and when the combined number of employees employed by the employer within 75 miles of the facility is fewer than 35.

SEC. 103. FAMILY LEAVE REQUIREMENT.

(a) IN GENERAL.—(1) An eligible employee shall be entitled, subject to section 105, to 10 workweeks of family leave during any 24-month period—

(A) because of the birth of a son or daughter of the employee;

(B) because of the placement of a son or daughter with the employee for adoption or foster care; or

(C) in order to care for the employee's son, daughter, or parent who has a serious health condition.

(2) The entitlement to leave under paragraphs (1)(A) and (1)(B) shall expire at the end of the 12-month period beginning on the date of such birth or placement.

(3) In the case of a son, daughter, or parent, who has a serious health condition, such leave may be taken intermittently when medically necessary, subject to subsection (e). Leave under either such paragraph may not be taken intermittently unless the employer and employee agree otherwise.

(b) REDUCED LEAVE.—Upon agreement between the employer and the employee, leave under this section may be taken on a reduced leave schedule, however, such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.

(c) UNPAID LEAVE PERMITTED.—Leave under this section may consist of unpaid leave, except as provided in subsection (d).

(d) RELATIONSHIP TO PAID LEAVE.—(1) If an employer provides paid family leave for fewer than 10 workweeks, the additional weeks of leave added to attain the 10-workweek total may be unpaid.

(2) An eligible employee or employer may elect to substitute any of the employee's paid vacation leave, personal leave, or family leave for any part of the 10-week period.

(e) FORESEEABLE LEAVE.—(1) In any case in which the necessity for leave under this section is foreseeable based on an expected birth or adoption, the eligible employee

shall provide the employer with prior notice of such expected birth or adoption in a manner which is reasonable and practicable.

(2) In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee—

(A) shall make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee's son, daughter, or parent; and

(B) shall provide the employer with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

(f) SPOUSES EMPLOYED BY THE SAME EMPLOYER.—In any case in which a husband and wife entitled to family leave under this section are employed by the same employer, the aggregate number of workweeks of family leave to which both may be entitled may be limited to 10 workweeks during any 24-month period, if such leave is taken—

(1) under subparagraph (A) or (B) of subsection (a)(1); or

(2) to care for a sick parent under subparagraph (C) of such subsection.

SEC. 104. TEMPORARY MEDICAL LEAVE REQUIREMENT.

(a) IN GENERAL.—(1) Any eligible employee who, because of a serious health condition, becomes unable to perform the functions of such employee's position, shall be entitled, subject to section 105, to temporary medical leave. Such entitlement shall continue for as long as the employee is unable to perform such functions, except that it shall not exceed 15 workweeks during any 12-month period.

(2) Such leave may be taken intermittently when medically necessary, subject to subsection (d).

(b) UNPAID LEAVE PERMITTED.—Such leave may consist of unpaid leave, except as provided in subsection (c).

(c) RELATIONSHIP TO PAID LEAVE.—(1) If an employer provides paid temporary medical leave or paid sick leave for fewer than 15 weeks, the additional weeks of leave added to attain the 15-week total may be unpaid.

(2) An eligible employee or employer may elect to substitute the employee's accrued paid vacation leave, sick leave, or medical leave for any part of the 15-week period, except that nothing in this Act shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.

(d) FORESEEABLE LEAVE.—In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee—

(1) shall make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employer, subject to the approval of the employee's health care provider; and

(2) shall provide the employer with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

SEC. 105. CERTIFICATION.

(a) IN GENERAL.—An employer may require that a claim for family leave under section 103(a)(1)(C), or temporary medical leave under section 104, be supported by certification issued by the health care provider of the eligible employee or of the employee's son, daughter, or parent, whichever is appropriate. The employee shall provide a copy of such certification to the employer.

(b) SUFFICIENT CERTIFICATION.—Such certification shall be sufficient if it states—

(1) the date on which the serious health condition commenced,

(2) the probable duration of the condition;

(3) the appropriate medical facts within the provider's knowledge regarding the condition; and

(4)(A) for purposes of leave under section 104, a statement that the employee is unable to perform the functions of the employee's position; and

(B) for purposes of leave under section 103(a)(1)(C), an estimate of the amount of time that the eligible employee is needed to care for the son, daughter, or parent.

(c) EXPLANATION OF INABILITY TO PERFORM JOB FUNCTIONS.—The employer may request that, for purposes of section 106(d), certification under this section that is issued in any case involving leave under section 104 include an explanation of the extent to which the eligible employee is unable to perform the functions of the employee's position.

(d) SECOND OPINION.—(1) In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a), the employer may require, at its own expense, that the eligible employee obtain the opinion of a second health care provider designated or approved by the employer concerning any information certified under subsection (b).

(2) Any health care provider designated or approved under paragraph (1) may not be employed on a regular basis by the employer.

(e) RESOLUTION OF CONFLICTING OPINIONS.—(1) In any case in which the second opinion described in subsection (d) differs from the original certification provided under subsection (a), the employer may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (b).

(2) The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employer and the employee.

(f) SUBSEQUENT RECERTIFICATION.—The employer may require that the eligible employee obtain subsequent recertifications on a reasonable basis.

SEC. 106. EMPLOYMENT AND BENEFITS PROTECTION.

(a) RESTORATION TO POSITION.—(1) Any eligible employee who takes leave under section 103 or 104 for its intended purpose shall be entitled, upon return from such leave—

(A) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(B) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) The taking of leave under this title shall not result in the loss of any employment benefit earned before the date on which the leave commenced.

(3) Except as provided in subsection (b), nothing in this section shall be construed to entitle any restored employee to—

(A) the accrual of any seniority or employment benefits during any period of leave; or

(B) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(4) As a condition to restoration under paragraph (1), the employer may have a policy that requires each employee to receive certification from the employee's health care provider that the employee is able to resume work, except that nothing in this paragraph shall supersede a valid State or local law, or a collective bargaining agreement that governs the return to work of employees taking medical leave.

(b) EXEMPTION CONCERNING CERTAIN HIGHLY COMPENSATED EMPLOYEES.—(1) An employer may deny restoration under this subsection to any eligible employee described in paragraph (2) if—

(A) such denial is necessary to prevent substantial and grievous economic injury to the employer's operations;

(B) the employer notifies the employee of its intent to deny restoration on such basis at the time the employer determines that such injury would occur; and

(C) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.

(2) An eligible employee described in this paragraph is a salaried eligible employee who is among the—

(A) highest paid 10 percent of employees, or

(B) 5 highest paid employees,

whichever is greater, of the employees employed by the employer within 75 miles of the facility at which the employee is employed.

(c) MAINTENANCE OF HEALTH BENEFITS.—During any period an eligible employee takes leave under section 103 or 104, the employer shall maintain coverage under any group health plan (as defined in section 162(i)(2) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously from the date the employee commenced the leave until the date the employee is restored under subsection (a).

(d) NO BAR TO AGREEMENT CONCERNING ALTERNATIVE EMPLOYMENT.—Nothing in this title shall be construed to prohibit an employer and an eligible employee from mutually agreeing to alternative employment for the employee throughout the period during which the employee would be entitled to leave under this title. Any such period of alternative employment shall not cause a reduction in the period of temporary medical leave to which the employee is entitled under section 104.

SEC. 107. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—(1) It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this title.

(2) It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this title.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because such individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this title;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(3) has testified, or is about to testify in any inquiry or proceeding relating to any right provided under this title.

SEC. 108. ADMINISTRATIVE ENFORCEMENT.

(a) IN GENERAL.—The Secretary shall issue such rules and regulations as are necessary to carry out this section, including rules and regulations concerning service of complaints, notice of hearings, answers and amendments to complaints, and copies of orders and records of proceedings.

(b) CHARGES.—(1) Any person (or person, including a class or organization, on behalf of any person) alleging an act which violates any provision of this title may file a charge respecting such violation with the Secretary. Charges shall be in such form and contain such information as the Secretary shall require by regulation.

(2) Not more than 10 days after the Secretary receives notice of the charge, the Secretary—

(A) shall serve a notice of the charge on the person charged with the violation; and

(B) shall inform such person and the charging party as to the rights and procedures provided under this title.

(3) A charge may not be filed more than 1 year after the date of the last event constituting the alleged violation.

(4) The charging party and the person charged with the violation may enter into a settlement agreement concerning the violation alleged in the charge before any determination is reached by the Secretary under subsection (c). Such an agreement shall be effective unless the Secretary determines, within 30 days after notice of the proposed agreement, that the agreement is not generally consistent with the purposes of this title.

(c) INVESTIGATION; COMPLAINT.—(1) Within the 60-day period after the Secretary receives any charge, the Secretary shall investigate the charge and issue a complaint based on the charge or dismiss the charge.

(2) If the Secretary determines that there is no reasonable basis for the charge, the Secretary shall dismiss the charge and promptly notify the charging party and the respondent as to the dismissal.

(3) If the Secretary determines that there is a reasonable basis for the charge, the Secretary shall issue a complaint based on the charge and promptly notify the charging party and the respondent as to the issuance.

(4) Upon the issuance of a complaint, the Secretary and the respondent may enter into a settlement agreement concerning a violation alleged in the complaint. Any such settlement shall not be entered into over the objection of the charging party, unless the Secretary determines that the settlement provides a full remedy for the charging party.

(5) If, at the end of the 60-day period referred to in paragraph (1), the Secretary—

(A) has not made a determination under paragraph (2) or (3),

(B) has dismissed the charge under paragraph (2), or

(C) has disapproved a settlement agreement under subsection (b)(4) or has not entered into a settlement agreement under paragraph (4) of this subsection,

the charging party may elect to bring a civil action under section 109. Such election shall bar further administrative action by the Secretary with respect to the violation alleged in the charge.

(6) The Secretary may issue and serve a complaint alleging a violation of this title on the basis of information and evidence gathered as a result of an investigation initiated by the Secretary pursuant to section 110.

(7) The Secretary shall have the power to petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for appropriate temporary relief or restraining order. Upon the filing of any such petition, the court shall cause notice of the petition to be served upon the respondent, and the court shall have jurisdiction to grant to the Secretary such temporary relief or restraining order as it deems just and proper.

(d) RIGHTS OF PARTIES.—(1) In any case in which a complaint is issued under subsection (c), the Secretary shall, not more than 10 days after the date on which the complaint is issued, cause to be served on the respondent a copy of the complaint.

(2) Any person filing a charge alleging a violation of this title may elect to be a party to any complaint filed by the Secretary alleging such violation. Such election must be made before the commencement of the hearing.

(3) The failure of the Secretary to comply in a timely manner with any obligation assigned to the Secretary under this title shall entitle the charging party to elect, at the time of such failure, to bring a civil action under section 109.

(e) CONDUCT OF HEARING.—(1) The Secretary shall have the duty to prosecute any complaint issued under subsection (b).

(2) An administrative law judge shall conduct a hearing on the record with respect to any complaint issued under this title. The hearing shall be commenced within 60 days after the issuance of such complaint, unless the judge, in the judge's discretion, determines that the purposes of this Act would best be furthered by commencement of the action after the expiration of such period.

(f) FINDINGS AND CONCLUSIONS.—(1) After the hearing conducted under this section, the administrative law judge shall promptly make findings of fact and conclusions of law, and, if appropriate, issue an order for relief as provided in section 111.

(2) The administrative law judge shall inform the parties, in writing, of the reason for any delay in making such findings and conclusions if such findings and conclusions are not made within 60 days after the conclusion of such hearing.

(g) FINALITY OF DECISION; REVIEW.—(1) The decision and order of the administrative law judge shall become the final decision and order of the agency unless, upon appeal by an aggrieved party taken not more than 30 days after such action, the Secretary modifies or vacates the decision, in which case the decision of the Secretary shall be the final decision and the order of the agency.

(2) Not later than 60 days after the entry of such final order, any person aggrieved by such final order may seek a review of such order in the United States court of appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

(3) Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that the same shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

(h) COURT ENFORCEMENT OF ADMINISTRATIVE ORDERS.—(1) If an order of the agency is not appealed under subsection (g)(2), the Secretary may petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for the enforcement of the order of the Secretary, by filing in such court a written petition praying that such order be enforced.

(2) Upon the filing of such petition, the court shall have jurisdiction to make and enter a decree enforcing the order of the Secretary. In such a proceeding, the order of the Secretary shall not be subject to review.

(3) If, upon appeal of an order under subsection (g)(2), the United States court of appeals does not reverse such order, such court shall have the jurisdiction to make and enter a decree enforcing the order of the Secretary.

SEC. 109. ENFORCEMENT BY CIVIL ACTION.

(a) RIGHT TO BRING CIVIL ACTION.—(1) Subject to the limitations in this section, an eligible employee or any person, including a class or organization on behalf of any eligible employee or the Secretary may bring a civil action against any employer (including any State employer) to enforce the provisions of this title in any appropriate court of the United States or in any State court of competent jurisdiction.

(2) Subject to paragraph (3), a civil action may be commenced under this subsection without regard to whether a charge has been filed under section 108(b).

(3) No civil action may be commenced under paragraph (1) if the Secretary—

(A) has approved a settlement agreement or has failed to disapprove a settlement agreement under section 108(b)(4), in which case no civil action may be filed under this subsection if such action is based upon a violation alleged in the charge and resolved by the agreement; or

(B) has issued a complaint under section 108(c)(3) or 108(c)(6), in which case no civil action may be filed under this subsection if such action is based upon a violation alleged in the complaint.

(4) Notwithstanding paragraph (3)(A), a civil action may be commenced to enforce the terms of any such settlement agreement.

(5)(A) Except as provided in subparagraph (B), no civil action may be commenced more than 1 year after the date of the last event constituting the alleged violation.

(B) In any case in which—

(i) a timely charge is filed under section 108(b), and

(ii) the failure of the Secretary to issue a complaint or enter into a settlement agreement based on the charge (as provided under section 108(c)(4)) occurs more than 11 months after the date on which any alleged violation occurred,

the charging party may commence a civil action not more than 60 days after the date of such failure.

(6) The Secretary may not bring a civil action against any agency of the United States.

(7) Upon the filing of the complaint with the court, the jurisdiction of the court shall be exclusive.

(b) VENUE.—An action brought under subsection (a) in a district court of the United States may be brought—

(1) in any appropriate judicial district under section 1391 of title 28, United States Code, or

(2) in the judicial district in the State in which—

(A) the employment records relevant to such violation are maintained and administered, or

(B) the aggrieved person worked or would have worked but for the alleged violation.

(c) NOTIFICATION OF THE SECRETARY; RIGHT TO INTERVENE.—A copy of the complaint in any action by an eligible employee under subsection (a) shall be served upon the Secretary by certified mail. The Secretary shall have the right to intervene in a civil action brought by an employee under subsection (a).

(d) ATTORNEYS FOR THE SECRETARY.—In any civil action under subsection (a), attorneys appointed by the Secretary may appear for and represent the Secretary, except that the Attorney General and the Solicitor General shall conduct any litigation in the Supreme Court.

SEC. 110. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—To ensure compliance with the provisions of this title, or any regulation or order issued under this title, the Secretary shall have, subject to subsection (c), the investigative authority provided under section 11(a) of the Fair Labor Standards Act (29 U.S.C. 211(a)).

(b) OBLIGATION TO KEEP AND PRESERVE RECORDS.—Any employer shall keep and preserve records in accordance with section 11(c) of such Act and in accordance with regulations issued by the Secretary.

(c) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary may not under the authority of this section require any employer or any plan, fund, or program to submit to the Secretary any books or records more than once during any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order issued pursuant to this title, or is investigating a charge pursuant to section 108.

(d) SUBPOENA POWERS, ETC.—For the purposes of any investigation provided for in this section, the Secretary shall have the subpoena authority provided under section 9 of the Fair Labor Standards Act.

SEC. 111. RELIEF.

(a) INJUNCTIVE.—(1) Upon finding a violation under section 108, the administrative law judge shall issue an order requiring such person to cease and desist from any act or practice which violates this title.

(2) In any civil action brought under section 109, the court may grant as relief against any employer (including any State employer) any permanent or temporary injunction, temporary restraining order, and other equitable relief as the court deems appropriate.

(b) MONETARY.—(1) Any employer (including any State employer) that violates any provision of this title shall be liable to the injured party in an amount equal to—

(A) any wages, salary, employment benefits, or other compensation denied or lost to such eligible employee by reason of the violation, plus interest on the total monetary damages calculated at the prevailing rate; and

(B) an additional amount equal to the greater of (i) the amount determined under subparagraph (A), or (ii) consequential damages, not to exceed 3 times the amount determined under such subparagraph.

(2) If an employer who has violated this title proves to the satisfaction of the administrative law judge or the court that the act or omission which violated this title was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this title, such judge or the court may, in its discretion, reduce the amount of the liability provided for under this subsection to the amount determined under paragraph (1)(A).

(c) ATTORNEYS' FEES.—The prevailing party (other than the United States) may be awarded a reasonable attorneys' fee as part of the costs, in addition to any relief awarded. The United States shall be liable for costs the same as a private person.

(d) LIMITATION.—Damages awarded under subsection (b) may not accrue from a date more than 2 years before the date on which a charge is filed under section 108(b) or a civil action is brought under section 109.

SEC. 112. SPECIAL RULES CONCERNING EMPLOYEES OF LOCAL EDUCATIONAL AGENCIES.

(a) IN GENERAL.—Except as otherwise provided in this section, the rights, remedies, and procedures under this Act shall apply to any local educational agency (as defined in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12))) and its employees, including the rights under section 106, which shall extend throughout the period of any employee's leave under this section.

(b) LEAVE DOES NOT VIOLATE CERTAIN OTHER FEDERAL LAWS.—A local educational agency shall not be in violation of the Education of the Handicapped Act (20 U.S.C. 1400 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), solely as a result of an eligible employee of such agency exercising such employee's rights under this Act.

(c) INTERMITTENT LEAVE FOR INSTRUCTIONAL EMPLOYEES.—(1) Subject to paragraph (2), in any case in which an employee employed principally in an instructional capacity by any such educational agency seeks to take leave under section 103(a)(1)(C) or 104 which is foreseeable based on planned medical treatment or supervision and the employee would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, the agency may require such employee to elect either—

(A) to take leave for periods of a particular duration, not to exceed the planned medical treatment or supervision; or

(B) to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified, and which—

(i) has equivalent pay and benefits, and

(ii) better accommodates recurring periods of leave than the employee's regular employment position.

(2) The elections described in subparagraphs (A) and (B) of paragraph (1) shall apply only with respect to an employee who complies with section 103(e)(2) or 104(d) (whichever is appropriate).

(d) RULES APPLICABLE TO PERIODS NEAR THE CONCLUSION OF AN ACADEMIC TERM.—The following rules shall apply with respect to periods of leave near the conclusion of an academic term in the case of any employee employed principally in an instructional capacity by any such educational agency:

(1) If the employee begins leave under section 103 or 104 more than 5 weeks before the end of the academic term, the agency may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of at least 3 weeks duration; and

(B) the return to employment would occur during the 3-week period before the end of such term.

(2) If the employee begins leave under section 103 during the period that commences 5 weeks before the end of the academic term, the agency may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of greater than 2 weeks duration; and

(B) the return to employment would occur during the 2-week period before the end of such term.

(3) If the employee begins leave under section 103 during the period that commences 3 weeks before the end of the academic term and the duration of the leave is greater than 5 working days, the agency may require the employee to continue to take leave until the end of such term.

(e) RESTORATION TO EQUIVALENT EMPLOYMENT POSITION.—For purposes of determinations under section 106(a)(1)(B) (relating to an employee's restoration to an equivalent position) in the case of a local educational agency, such determination shall be made on the basis of established school board policies, practices, and collective bargaining agreements.

(f) REDUCTION OF THE AMOUNT OF LIABILITY.—If a local educational agency which has violated title I proves to the satisfaction of the administrative law judge or the court that the agency or department had reasonable grounds for believing that the underlying act or omission was not a violation of such title, such judge or court may, in its discretion, reduce the amount of the liability provided for under section 111(b)(1) to the amount determined under subparagraph (A) of such section.

SEC. 113. NOTICE.

(a) IN GENERAL.—Each employer shall post and keep posted, in conspicuous places upon its premises where notices to employees and applicants for employment are customarily posted, a notice, to be prepared or approved by the Secretary, setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertaining to the filing of a charge.

(b) PENALTY.—Any employer that willfully violates this section shall be assessed a civil money penalty not to exceed $100 for each separate offense.

TITLE II—FAMILY LEAVE AND TEMPORARY MEDICAL LEAVE FOR CIVIL SERVICE EMPLOYEES

SEC. 201. FAMILY AND TEMPORARY MEDICAL LEAVE.

(a) IN GENERAL.—(1) Chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"Subchapter V—Family and Temporary Medical leave

"§ 6381. Definitions

"For purposes of this subchapter—

"(1) 'employee' means—

"(A) an employee as defined by section 6301(2) of this title (excluding an individual employed by the government of the District of Columbia); and

"(B) an individual under clause (v) or (ix) of such section;

whose employment is other than on a temporary or intermittent basis;

"(2) 'serious health condition' means an illness, injury, impairment, or physical or mental condition which involves—

"(A) inpatient care in a hospital, hospice, or residential health care facility; or

"(B) continuing treatment, or continuing supervision, by a health care provider;

"(3) 'child' means an individual who is—

"(A) a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, and

"(B)(i) under 18 years of age, or

"(ii) 18 years of age or older and incapable of self-care because of mental or physical disability; and

"(4) 'parent' means a biological, foster, or adoptive parent, a parent-in-law, a stepparent, or a legal guardian.

"§ 6382. Family leave

"(a) Leave under this section shall be granted on the request of an employee if such leave is requested—

"(1) because of the birth of a child of the employee;

"(2) because of the placement for adoption or foster care of a child with the employee; or

"(3) in order to care for the employee's child or parent who has a serious health condition.

"(b) Leave under this section—

"(1) shall be leave without pay;

"(2) may not, in the aggregate, exceed the equivalent of 18 administrative workweeks of the employee during any 24-month period; and

"(3) shall be in addition to any annual leave, sick leave, temporary medical leave, or other leave or compensatory time off otherwise available to the employee.

"(c) An employee may elect to use leave under this section—

"(1) immediately before or after (or otherwise in coordination with) any period of annual leave, or compensatory time off, otherwise available to the employee;

"(2) under a method involving a reduced workday, a reduced workweek, or other alternative work schedule;

"(3) on either a continuing or intermittent basis; or

"(4) any combination thereof.

"(d) Notwithstanding any other provision of this section—

"(1) a request for leave under this section based on the birth of a child may not be granted if, or to the extent that, such leave would be used after the end of the 12-month period beginning on the date of such child's birth; and

"(2) a request for leave under this section based on the placement for adoption or foster care of a child may not be granted if, or to the extent that, such leave would be used after the end of the 12-month period beginning on the date on which such child is so placed.

"(e)(1) In any case in which the necessity for leave under this section is foreseeable based on an expected birth or adoption, the employee shall provide the employing agency with prior notice of such expected birth or adoption in a manner which is reasonable and practicable.

"(2) In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee—

"(A) shall make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employing agency, subject to the approval of the health care provider of the employee's child or parent; and

"(B) shall provide the employing agency with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

"§ 6383. Temporary medical leave

"(a) An employee who, because of a serious health condition, becomes unable to perform the functions of such employee's position shall, on request of the employee, be entitled to leave under this section.

"(b) Leave under this section—

"(1) shall be leave without pay;

"(2) shall be available for the duration of the serious health condition of the employee involved, but may not, in the aggregate, exceed the equivalent of 26 administrative workweeks of the employee during any 12-month period; and

"(3) shall be in addition to any annual leave, sick leave, family leave, or other leave or compensatory time off otherwise available to the employee.

"(c) An employee may elect to use leave under this section—

"(1) immediately before or after (or otherwise in coordination with) any period of annual leave, sick leave, or compensatory time off otherwise available to the employee;

"(2) under a method involving a reduced workday, a reduced workweek, or other alternative work schedule;

"(3) on either a continuing or intermittent basis; or

"(4) any combination thereof.

"(d) In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee—

"(1) shall make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employing agency, subject to the approval of the employee's health care provider; and

"(2) shall provide the employing agency with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

"§ 6384. Certification

"(a) An employing agency may require that a request for family leave under section 6382(a)(3) or temporary medical leave under section 6383 be supported by certification issued by the health care provider of the employee or of the employee's child or parent, whichever is appropriate. The employee shall provide a copy of such certification to the employing agency.

"(b) Such certification shall be sufficient if it states—

"(1) the date on which the serious health condition commenced;

"(2) the probable duration of the condition;

"(3) the medical facts within the provider's knowledge regarding the condition; and

"(4) for purposes of section 6383, a statement that the employee is unable to perform the functions of the employee's position.

"§ 6385. Job protection

"An employee who uses leave under section 6382 or 6383 of this title is entitled to be restored to the position held by such employee immediately before the commencement of such leave.

"§ 6386. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with such employee's rights under this subchapter.

"(b) For the purpose of this section, 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

"§ 6387. Health insurance

"An employee enrolled in a health benefits plan under chapter 89 of this title who is placed in a leave status under section 6382 or 6383 of this title may elect to continue the employee's health benefits enrollment while in such leave status and arrange to pay into the Employees Health Benefits Fund (described in section 8909 of this title), through that individual's employing agency, the appropriate employee contributions.

"§ 6388. Regulations

"The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall be consistent with the regulations prescribed by the Secretary of Labor under title I of the Family and Medical Leave Act of 1990.".

(2) The table of contents for chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER V—FAMILY AND TEMPORARY MEDICAL LEAVE

"6381. Definitions.
"6382. Family leave.
"6383. Temporary medical leave.
"6384. Certification.
"6385. Job protection.
"6386. Prohibition of coercion.
"6387. Health insurance.
"6388. Regulations.".

(b) EMPLOYEES PAID FROM NONAPPROPRIATED FUNDS.—Section 2105(c)(1) of title 5, United States Code, is amended by striking out "53" and inserting in lieu thereof "53, and subchapter III of chapter 63,".

TITLE III—COMMISSION ON FAMILY AND MEDICAL LEAVE

SEC. 301. ESTABLISHMENT.

There is established a commission to be known as the Commission on Family and Medical Leave (hereinafter in this Act referred to as the "Commission").

SEC. 302. DUTIES.

The Commission shall—

(1) conduct a comprehensive study of—

(A) existing and proposed policies relating to family leave and temporary medical leave,

(B) the potential costs, benefits, and impact on productivity of such policies on businesses which employ fewer than 50 employees, and

(C) alternative and equivalent State enforcement of this Act with respect to employees described in section 113; and

(2) within 2 years after the date on which the Commission first meets, submit a report to the Congress, which may include legislative recommendations concerning coverage of businesses which employ fewer than 50 employees and alternative and equivalent State enforcement of this Act with respect to employees described in section 113.

SEC. 303. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall be composed of 12 voting members and 2 ex-officio members appointed not more than 60 days after the date of the enactment of this Act as follows:

(1) One Senator shall be appointed by the majority leader of the Senate, and one Senator shall be appointed by the minority leader of the Senate.

(2) One member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one Member of the House of Representatives

shall be appointed by the minority leader of the House of Representatives.

(3)(A) Two members each shall be appointed by—

(i) the Speaker of the House of Representatives,

(ii) the majority leader of the Senate,

(iii) the minority leader of the House of Representatives, and

(iv) the minority leader of the Senate.

(B) Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor-management issues and shall include representatives of small business.

(4) The Secretary of Health and Human Services and the Secretary of Labor shall serve on the Commission as nonvoting ex-officio members.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson and a vice chairperson from among its members.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when performing duties of the Commission.

SEC. 305. POWERS.

(a) MEETINGS.—The Commission shall first meet not more than 30 days after the date on which members are appointed, and the Commission shall meet thereafter upon the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act. Upon the request of the chairperson or vice chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(d) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director from the personnel of any Federal agency to assist the Commission in carrying out its duties.

(e) USE OF FACILITIES AND SERVICES.—Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency.

(f) PERSONNEL FROM OTHER AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to assist the Commission in carrying out its duties.

SEC. 306. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of its report to the Congress.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTIDISCRIMINATION LAWS.—Nothing in this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or handicapped status.

(b) STATE AND LOCAL LAWS.—Nothing in this Act shall be construed to supersede any provision of any State and local law which provides greater employee family or medical leave rights than the rights established under this Act.

SEC. 402. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE.—Nothing in this Act shall be construed to diminish an employer's obligation to comply with any collective-bargaining agreement or any employment benefit program or plan which provides greater family and medical leave rights to employees than the rights provided under this Act.

(b) LESS PROTECTIVE.—The rights provided to employees under this Act may not be diminished by any collective-bargaining agreement or any employment benefit program or plan.

SEC. 403. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this Act shall be construed to discourage employers from adopting or retaining leave policies more generous than any policies which comply with the requirements under this Act.

SEC. 404. REGULATIONS.

The Secretary shall prescribe such regulations as are necessary to carry out title I of this Act, within 60 days after the date of the enactment of this Act.

SEC. 405. EFFECTIVE DATES.

(a) TITLE III.—Title III shall take effect on the date of the enactment of this Act.

(b) OTHER TITLES.—(1) Except as provided in paragraph (2), titles I, II, and IV shall take effect 6 months after the date of the enactment of this Act.

(2) In the case of a collective-bargaining agreement in effect on the effective date of paragraph (1), title I shall apply on the earlier of—

(A) the date of the termination of such agreement; or

(B) the date which occurs 12 months after the date of the enactment of this Act.

TITLE V—FAMILY LEAVE AND TEMPORARY MEDICAL LEAVE FOR EMPLOYEES IN THE HOUSE OF REPRESENTATIVES

SEC. 501. FAMILY LEAVE AND TEMPORARY MEDICAL LEAVE FOR EMPLOYEES IN THE HOUSE OF REPRESENTATIVES.

(a) IN GENERAL.—Except as provided in subsection (b) and subsection (c), the rights and protections under sections 103 through 107 shall apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(b) NONAPPLICABILITY OF EXEMPTION CONCERNING CERTAIN HIGHLY COMPENSATED EMPLOYEES.—Section 106(b) shall not apply with respect to any employee in an employment position in the House of Representatives.

(c) SPECIAL LIMITATION ON DURATION.—Notwithstanding section 103 and section 104, the duration of family leave under such section 103 shall be limited as provided in section 6382 of title 5, United States Code, and the duration of temporary medical leave shall be limited as provided in section 6383 of title 5, United States Code.

(d) ADMINISTRATION.—In the administration of this section, the remedies and procedures under the Fair Employment Practices Resolution shall be applied.

(e) DEFINITION.—As used in this section, the term "Fair Employment Practices Resolution" means House Resolution 558, One Hundredth Congress, agreed to October 3, 1988, as continued in effect by House Resolution 15, One Hundred and First Congress, agreed to January 3, 1989.

The CHAIRMAN. No amendment to said substitute shall be in order except those amendments printed in part 2 of House Report 101-479. Said amendments shall be considered in the order and manner specified in said report, shall be considered as having been read, and shall not be subject to amendment except as specified in said report. Debate time specified for each amendment shall be equally divided and controlled by the proponent of the amendment and a Member opposed thereto.

It shall be in order to consider the amendment offered by the gentleman from Missouri [Mr. CLAY] or his designee, printed in part 2 of House Report 101-479, as pending simultaneously to both amendments offered by the gentleman from Texas [Mr. STENHOLM]. Said amendments shall be considered en bloc and shall not be subject to a demand for a division of the question. The Chair shall put the question on the amendments en bloc offered by the gentleman from Missouri as one question.

Where House Report 101-479 indicates that amendments shall be pending simultaneously to the amendment offered by the gentleman from Tennessee [Mr. GORDON] and to the amendment in the nature of a substitute made in order as an original text by House Resolution 388, said amendments shall be considered en bloc and shall not be subject to a demand for a division of the question. The Chair shall put the question on the amendments en bloc as one question.

If more than one amendment in the nature of a substitute printed in part 2 of House Report 101-479 is adopted, only the latter amendment adopted shall be considered as finally adopted and reported back to the House.

It is now in order to consider amendment No. 1 printed in part 2 of House Report 101-479.

Apparently, the gentleman from Minnesota [Mr. PENNY] does not seek recognition.

It is now in order to consider amendment No. 2 printed in part 2 of House Report 101-479.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GORDON

Mr. GORDON. Madam Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. GORDON:

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family and Medical Leave Act of 1990".

(b) TABLE OF CONTENTS.—

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the number of single-parent households and two-parent households in which the single parent or both parents work is increasing significantly;

(2) it is important to the development of the child and to the family unit that fathers and mothers be able to participate in early childrearing and the care of their family members who have serious health conditions;

(3) the lack of employment opportunities to accommodate working parents can force individuals to choose between job security and parenting;

(4) there is inadequate job security for some employees who have serious health conditions that prevent them from working for temporary periods;

(5) due to the nature of women's and men's roles in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects their working lives more than it affects the working lives of men; and

(6) employment standards that apply to one gender only have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender.

(b) PURPOSES.—The Congress therefore declares that the purposes of this Act are—

(1) to balance the demands of the workplace with the needs of families, to promote stability and economic security in families, and to promote Federal interests in preserving family integrity;

(2) to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition;

(3) to accomplish such purposes in a manner which accommodates the legitimate interests of employers;

(4) to accomplish such purposes in a manner which, consistent with the Equal Protection Clause of the Fourteenth Amendment, minimizes the potential for discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis; and

(5) to promote the goal of equal employment opportunity for women and men, pursuant to such clause.

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

SEC. 101. DEFINITIONS.

For purposes of this title:

(1) The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include "commerce" and any activity or industry "affecting commerce" within the meaning of the Labor Management Relations Act, 1947 (29 U.S.C. 141 et seq.).

(2) The terms "employ" and "State" have the meanings given such terms in sections 3(g) and 3(c), respectively, of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g), 203(a), 203(c)).

(3)(A) The term "eligible employee" means any employee as defined in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)) who has been employed by the employer with respect to whom leave is sought under section 102 for at least—

(i) 1,000 hours of service during the previous 12-month period, and

(ii) 12 months.

(B) Such term does not include—

(i) any Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code (as added by title II of this Act), or

(ii) any employee of an employer employed at a worksite at which such employer employs less than 50 employees if the total number of employees employed by that employer within 75 miles of that worksite is less than 50.

(4) The term "employee" means any individual employed by an employer.

(5)(A) The term "employer" means any person engaged in commerce or any activity affecting commerce who employs 50 or more employees for each working day during each of 20 or more workweeks in the current or preceding calendar year.

(B) For purposes of subparagraph (A), the term "person" includes—

(i) any person who acts, directly or indirectly, in the interest of an employer to any of the employer's employees;

(ii) any successor in interest of an employer; and

(iii) any public agency, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)).

(C) For purposes of subparagraph (A), a public agency shall be deemed to be a person engaged in commerce or in an activity affecting commerce.

(6) The term "employment benefits" means all benefits provided or made available to employees by an employer, and include group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a policy or practice of an employer or through an employee benefit plan as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

(7) The term "health care provider" means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such function or action.

(8) The term "reduced leave schedule" means leave scheduled for fewer than an employee's usual number of hours per workweek or hours per workday.

(9) The term "Secretary" means the Secretary of Labor.

(10) The term "serious health condition" means an illness, injury, impairment, or physical or mental conditions which involves—

(A) inpatient care in a hospital, hospice, or residential health care facility, or

(B) continuing treatment or continuing supervision by a health care provider.

(11) The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

(A) under 18 years of age, or

(B) 18 years of age or older and incapable of self-care because of mental or physical disability.

(12) The term "parent" means the biological parent of the child or an individual who stood in loco parentis to a child when the child was a son or daughter.

SEC. 102. LEAVE REQUIREMENT.

(a) IN GENERAL.—(1) An eligible employee shall be entitled, subject to section 103, to 12 workweeks of leave during any 12-month period—

(A) because of the birth of a son or daughter of the employee;

(B) because of the placement of a son or daughter with the employee for adoption or foster care;

(C) in order to care for the employee's son, daughter, spouse, or parent who has a serious health condition; or

(D) because of a serious health condition which makes the employee unable to perform the functions of such employee's position.

(2)(A) The entitlement to leave under paragraphs (1)(A) and (1)(B) for a birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement. If one parent of a son or daughter takes leave under paragraph (1)(A), the other parent of such son or daughter may not take leave under such paragraph at the same time.

(B) Leave under paragraph (1)(A) or (1)(B) may not be taken by an employee intermittently unless the employee and the employee's employer agree otherwise. Leave under paragraph (1)(C) or (1)(D) may be

taken intermittently when medically necessary, subject to subsection (e).

(b) REDUCED LEAVE.—Upon agreement between the employer and the employee, leave under subsection (a) may be taken on a reduced leave schedule. Such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.

(c) UNPAID LEAVE PERMITTED.—Leave under subsection (a) may consist of unpaid leave, except as provided in subsection (d).

(d) RELATIONSHIP TO PAID LEAVE.—(1)(A) An eligible employee may elect, or an employer may require the employee, to substitute for leave under paragraph (1)(A), (1)(B), or (1)(C) of subsection (a) any of the employee's paid vacation leave, personal leave, or family leave for any part of the 12-week period of such leave under such paragraph.

(B) An eligible employee or employer may elect, or an employer may require the employee, to substitute for leave under paragraph (1)(D) of subsection (a) any of the employee's paid vacation leave, personal leave, or medical or sick leave for any part of the 12-week period of such leave under such paragraph, except that nothing in this Act shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.

(2) If an eligible employee is entitled to leave under subsection (a), if under paragraph (1) the employee elects to substitute or is required by the employee's employer to substitute paid leave for such leave, and if such paid leave is less than the 12 weeks leave under subsection (a), the employee's employer shall provide the employee such additional weeks of leave as may be necessary to attain such 12 weeks.

(e) FORESEEABLE LEAVE.—(1) In any case in which the necessity for leave under paragraph (1)(A) or (1)(B) of subsection (a) is foreseeable based on an expected birth or adoption, the eligible employee shall provide the employer with prior notice of such expected birth or adoption in a manner which is reasonable and practicable.

(2) In any case in which the necessity for leave under paragraph (1)(C) or (1)(D) of subsection (a) is foreseeable based on planned medical treatment or supervision, the employee—

(A) shall make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employer, subject to the approval of the employee's health care provider or the health care provider of the employee's son, daughter, or parent; and

(B) shall provide the employer with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

(f) SPOUSES EMPLOYED BY THE SAME EMPLOYER.—In any case in which a husband and wife entitled to leave under subsection (a) are employed by the same employer, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period, if such leave is taken—

(1) under subparagraph (A) or (B) of subsection (a)(1); or

(2) to care for a sick parent under subparagraph (C) of such subsection.

SEC. 103. CERTIFICATION.

(a) IN GENERAL.—An employer may require that a claim for leave under section 102(a)(1)(C) or 102(a)(1)(D) be supported by certification issued by the health care provider of the eligible employee or of the employee's son, daughter, spouse, or parent, whichever is appropriate. The employee shall provide a copy of such certification to the employer.

(b) SUFFICIENT CERTIFICATION.—Such certification shall be sufficient if it states—

(1) the date on which the serious health condition commenced,

(2) the probable duration of the condition;

(3) the appropriate medical facts within the provider's knowledge regarding the condition; and

(4)(A) for purposes of leave under section 102(a)(1)(C), an estimate of the amount of time that the eligible employee is needed to care for the son, daughter, spouse, or parent; and

(B) for purposes of leave under section 102(a)(1)(D), a statement that the employee is unable to perform the functions of the employee's position.

(c) EXPLANATION OF INABILITY TO PERFORM JOB FUNCTIONS.—The employer may request that, for purposes of section 104(d), certification under subsection (a) that is issued in any case involving leave under section 102(a)(1)(D) include an explanation of the extent to which the eligible employee is unable to perform the functions of the employee's position.

(d) SECOND OPINION.—(1) In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a) for leave under paragraph (1)(C) or (1)(D) of section 102(a), the employer may require, at its own expense, that the eligible employee obtain the opinion of a second health care provider designated or approved by the employer concerning any information certified under subsection (a) for such leave.

(2) Any health care provider designated or approved under paragraph (1) may not be employed on a regular basis by the employer.

(e) RESOLUTION OF CONFLICTING OPINIONS.—In any case in which the second opinion described in subsection (d) differs from the original certification provided under subsection (a), the employer may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (a). The opinion of the third health care provider concerning the information certified under subsection (a) shall be considered to be final and shall be binding on the employer and the employee.

(f) SUBSEQUENT RECERTIFICATION.—The employer may require that the eligible employee obtain subsequent recertifications on a reasonable basis.

SEC. 104. EMPLOYMENT AND BENEFITS PROTECTION.

(a) RESTORATION TO POSITION.—(1) Any eligible employee who takes leave under section 102 for its intended purpose shall be entitled, upon return from such leave—

(A) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(B) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) The taking of leave under section 102 shall not result in the loss of any employment benefit earned before the date on which the leave commenced.

(3) Except as provided in subsection (b), nothing in this subsection shall be construed to entitle any restored employee to—

(A) the accrual of any seniority or employment benefits during any period of leave; or

(B) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(4) As a condition to restoration under paragraph (1), the employer may have a policy that requires each employee to receive certification from the employee's health care provider that the employee is able to resume work, except that nothing in this paragraph shall supersede a valid State or local law or a collective bargaining agreement that governs the return to work of employees taking leave under section 102(a)(1)(D).

(b) EXEMPTION CONCERNING CERTAIN HIGHLY COMPENSATED EMPLOYEES.—(1) An employer may deny restoration under subsection (a) to any eligible employee described in paragraph (2) if—

(A) such denial is necessary to prevent substantial and grievous economic injury to the employer's operations;

(B) the employer notifies the employee of its intent to deny restoration on such basis at the time the employer determines that such injury would occur; and

(C) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.

(2) An eligible employee described in this paragraph is a salaried eligible employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed.

(c) MAINTENANCE OF HEALTH BENEFITS.—During any period an eligible employee takes leave under section 102, the employer shall maintain coverage under any group health plan (as defined in section 162(i)(2) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously from the date the employee commenced the leave until the date the employee is restored under subsection (a).

(d) NO BAR TO AGREEMENT CONCERNING ALTERNATIVE EMPLOYMENT.—Nothing in this title shall be construed to prohibit an employer and an eligible employee from mutually agreeing to alternative employment for the employee throughout the period during which the employee would be entitled to leave under section 102. Any such period of alternative employment shall not cause a reduction in the period of temporary leave to which the employee is entitled under section 102(a)(1)(D).

SEC. 105. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—(1) It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this title.

(2) It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this title.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because such individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this title;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(3) has testified, or is about to testify in any inquiry or proceeding relating to any right provided under this title.

SEC. 106. ADMINISTRATIVE ENFORCEMENT.

(a) IN GENERAL.—The Secretary shall issue such regulations as are necessary to carry out this section, including regulations concerning service of complaints, notice of hearings, answers and amendments to complaints, and copies of orders and records of proceedings.

(b) CHARGES.—(1) Any person (or person, including a class or organization, on behalf of any person) alleging an act which violates any provision of this title may file a charge respecting such violation with the Secretary. Charges shall be in such form and contain such information as the Secretary shall require by regulation.

(2) Not more than 10 days after the Secretary receives notice of the charge, the Secretary—

(A) shall serve a notice of the charge on the person charged with the violation; and

(B) shall inform such person and the charging party as to the rights and procedures provided under this title.

(3) A charge may not be filed more than 1 year after the date of the last event constituting the alleged violation.

(4) The charging party and the person charged with the violation may enter into a settlement agreement concerning the violation alleged in the charge before any determination is reached by the Secretary under subsection (c). Such an agreement shall be effective unless the Secretary determines, within 30 days after notice of the proposed agreement, that the agreement is not generally consistent with the purposes of this title.

(c) INVESTIGATION; COMPLAINT.—(1) Within the 60-day period after the Secretary receives any charge respecting a violation of this title, the Secretary shall investigate the charge and issue a complaint based on the charge or dismiss the charge.

(2) If the Secretary determines that there is no reasonable basis for the charge, the Secretary shall dismiss the charge and promptly notify the charging party and the respondent as to the dismissal.

(3) If the Secretary determines that there is a reasonable basis for the charge, the Secretary shall issue a complaint based on the charge and promptly notify the charging party and the respondent as to the issuance.

(4) Upon the issuance of a complaint, the Secretary and the respondent may enter into a settlement agreement concerning a violation alleged in the complaint. Any such settlement shall not be entered into over the objection of the charging party, unless the Secretary determines that the settlement provides a full remedy for the charging party.

(5) If, at the end of the 60-day period referred to in paragraph (1), the Secretary—

(A) has not made a determination under paragraph (2) or (3),

(B) has dismissed the charge under paragraph (2), or

(C) has disapproved a settlement agreement under subsection (b)(4) or has not entered into a settlement agreement under paragraph (4) of this subsection,

the charging party may elect to bring a civil action under section 107. Such election shall bar further administrative action by the Secretary with respect to the violation alleged in the charge.

(6) The Secretary may issue and serve a complaint alleging a violation of this title on the basis of information and evidence gathered as a result of an investigation initiated by the Secretary pursuant to section 108.

(7) The Secretary shall have the power to petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for appropriate temporary relief or restraining order. Upon the filing of any such petition, the court shall cause notice of the petition to be served upon the respondent, and the court shall have jurisdiction to grant to the Secretary such temporary relief or restraining order as it deems just and proper.

(d) RIGHTS OF PARTIES.—(1) In any case in which a complaint is issued under subsection (c), the Secretary shall, not more than 10 days after the date on which the complaint is issued, cause to be served on the respondent a copy of the complaint.

(2) Any person filing a charge alleging a violation of this title may elect to be a party to any complaint filed by the Secretary alleging such violation. Such election must be made before the commencement of the hearing.

(3) The failure of the Secretary to comply in a timely manner with any obligation assigned to the Secretary under this title shall entitle the charging party to elect, at the time of such failure, to bring a civil action under section 107.

(e) CONDUCT OF HEARING.—(1) The Secretary shall have the duty to prosecute any complaint issued under subsection (b).

(2) An administrative law judge shall conduct a hearing on the record with respect to any complaint issued under this title. The hearing shall be commenced within 60 days after the issuance of such complaint, unless the judge, in the judge's discretion, determines that the purposes of this Act would best be furthered by commencement of the action after the expiration of such period.

(f) FINDINGS AND CONCLUSIONS.—(1) After the hearing conducted under this section, the administrative law judge shall promptly make findings of fact and conclusions of law, and, if appropriate, issue an order for relief as provided in section 109.

(2) The administrative law judge shall inform the parties, in writing, of the reason for any delay in making such findings and conclusions if such findings and conclusions are not made within 60 days after the conclusion of such hearing.

(g) FINALITY OF DECISION; REVIEW.—(1) The decision and order of the administrative law judge shall become the final decision and order of the agency unless, upon appeal by an aggrieved party taken not more than 30 days after such action, the Secretary modifies or vacates the decision, in which case the decision of the Secretary shall be the final decision and the order of the agency.

(2) Not later than 60 days after the entry of such final order, any person aggrieved by such final order may seek a review of such order in the United States court of appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

(3) Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that the same shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

(h) COURT ENFORCEMENT OF ADMINISTRATIVE ORDERS.—(1) If an order of the agency is not appealed under subsection (g)(2), the Secretary may petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for the enforcement of the order of the Secretary, by filing in such court a written petition praying that such order be enforced.

(2) Upon the filing of such petition, the court shall have jurisdiction to make and enter a decree enforcing the order of the Secretary. In such a proceeding, the order of the Secretary shall not be subject to review.

(3) If, upon appeal of an order under subsection (g)(2), the United States court of appeals does not reverse such order, such court shall have the jurisdiction to make and enter a decree enforcing the order of the Secretary.

SEC. 107. ENFORCEMENT BY CIVIL ACTION.

(a) RIGHT TO BRING CIVIL ACTION.—(1) Subject to the limitations in this section, an eligible employee or any person, including a class or organization on behalf of any eligible employee or the Secretary may bring a civil action against any employer (including any State employer) to enforce the provisions of this title in any appropriate court of the United States or in any State court of competent jurisdiction.

(2) Subject to paragraph (3), a civil action may be commenced under this subsection without regard to whether a charge has been filed under section 106(b).

(3) No civil action may be commenced under paragraph (1) if the Secretary—

(A) has approved a settlement agreement or has failed to disapprove a settlement agreement under section 106(b)(4), in which case no civil action may be filed under this subsection if such action is based upon a violation alleged in the charge and resolved by the agreement; or

(B) has issued a complaint under section 106(c)(3) or 106(c)(6), in which case no civil action may be filed under this subsection if such action is based upon a violation alleged in the complaint.

(4) Notwithstanding paragraph (3)(A), a civil action may be commenced to enforce the terms of any such settlement agreement.

(5)(A) Except as provided in subparagraph (B), no civil action may be commenced more than 1 year after the date of the last event constituting the alleged violation.

(B) In any case in which—

(i) a timely charge is filed under section 106(b), and

(ii) the failure of the Secretary to issue a complaint or enter into a settlement agreement based on the charge (as provided under section 106(c)(4)) occurs more than 11 months after the date on which any alleged violation occurred,

the charging party may commence a civil action not more than 60 days after the date of such failure.

(6) The Secretary may not bring a civil action against any agency of the United States.

(7) Upon the filing of the complaint with the court, the jurisdiction of the court shall be exclusive.

(b) VENUE.—An action brought under subsection (a) in a district court of the United States may be brought—

(1) in any appropriate judicial district under section 1391 of title 28, United States Code, or

(2) in the judicial district in the State in which—

(A) the employment records relevant to such violation are maintained and administered, or

(B) the aggrieved person worked or would have worked but for the alleged violation.

(c) NOTIFICATION OF THE SECRETARY; RIGHT TO INTERVENE.—A copy of the complaint in any action by an eligible employee under subsection (a) shall be served upon the Secretary by certified mail. The Secretary shall have the right to intervene in a civil action brought by an employee under subsection (a).

(d) ATTORNEYS FOR THE SECRETARY.—In any civil action under subsection (a), attorneys appointed by the Secretary may appear for and represent the Secretary, except that the Attorney General and the Solicitor General shall conduct any litigation in the Supreme Court.

SEC. 108. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—To ensure compliance with this title, or any regulation or order issued under this title, the Secretary shall have, subject to subsection (c), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(b) OBLIGATION TO KEEP AND PRESERVE RECORDS.—Any employer shall keep and preserve records in accordance with section 11(c) of such Act and in accordance with regulations issued by the Secretary.

(c) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary may not under the authority of this section require any employer or any plan, fund, or program to submit to the Secretary any books or records more than once during any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order issued pursuant to this title, or is investigating a charge pursuant to section 106.

(d) SUBPOENA POWERS, ETC.—For the purposes of any investigation provided for in this section, the Secretary shall have the subpoena authority provided under section 9 of the Fair Labor Standards Act of 1938.

SEC. 109. RELIEF.

(a) INJUNCTIVE.—(1) Upon finding a violation under section 106, the administrative law judge shall issue an order requiring such person to cease and desist from any act or practice which violates this title.

(2) In any civil action brought under section 107, the court may grant as relief against any employer (including any State employer) any permanent or temporary injunction, temporary restraining order, and other equitable relief as the court deems appropriate.

(b) MONETARY.—(1) Any employer (including any State employer) that violates any provision of this title shall be liable to the injured party in an amount equal to—

(A) any wages, salary, employment benefits, or other compensation denied or lost to such eligible employee by reason of the violation, plus interest on the total monetary damages calculated at the prevailing rate; and

(B) an additional amount equal to the greater of (i) the amount determined under subparagraph (A), or (ii) consequential damages, not to exceed 3 times the amount determined under such subparagraph.

(2) If an employer who has violated this title proves to the satisfaction of the administrative law judge or the court that the act or omission which violated this title was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this title, such judge or the court may, in its discretion, reduce the amount of the liability provided for under this subsection to the amount determined under paragraph (1)(A).

(c) ATTORNEYS' FEES.—The prevailing party (other than the United States) may be awarded a reasonable attorneys' fee as part of the costs, in addition to any relief awarded. The United States shall be liable for costs the same as a private person.

(d) LIMITATION.—Damages awarded under subsection (b) may not accrue from a date more than 2 years before the date on which a charge is filed under section 106(b) or a civil action is brought under section 107.

SEC. 110. SPECIAL RULES CONCERNING EMPLOYEES OF LOCAL EDUCATIONAL AGENCIES.

(a) IN GENERAL.—Except as otherwise provided in this section, the rights, remedies, and procedures under this Act shall apply to—

(1) any local educational agency (as defined in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12))) and its employees, and

(2) any private elementary and secondary school and its employees,

including the rights under section 104, which shall extend throughout the period of any employee's leave under this section.

(b) LEAVE DOES NOT VIOLATE CERTAIN OTHER FEDERAL LAWS.—A local educational agency and a private elementary and secondary school shall not be in violation of the Education of the Handicapped Act (20 U.S.C. 1400 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), solely as a result of an eligible employee of such agency or school exercising such employee's rights under this Act.

(c) INTERMITTENT LEAVE FOR INSTRUCTIONAL EMPLOYEES.—(1) Subject to paragraph (2), in any case in which an employee employed principally in an instructional capacity by any such educational agency or school seeks to take leave under section 102(a)(1)(C) or 102(a)(1)(D) which is foreseeable based on planned medical treatment or supervision and the employee would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, the agency or school may require such employee to elect either—

(A) to take leave for periods of a particular duration, not to exceed the planned medical treatment or supervision; or

(B) to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified, and which—

(i) has equivalent pay and benefits, and

(ii) better accommodates recurring periods of leave than the employee's regular employment position.

(2) The elections described in subparagraphs (A) and (B) of paragraph (1) shall apply only with respect to an employee who complies with section 102(e)(2).

(d) RULES APPLICABLE TO PERIODS NEAR THE CONCLUSION OF AN ACADEMIC TERM.—The following rules shall apply with respect to periods of leave near the conclusion of an academic term in the case of any employee employed principally in an instructional capacity by any such educational agency or school:

(1) If the employee begins leave under section 102 more than 5 weeks before the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of at least 3 weeks duration; and

(B) the return to employment would occur during the 3-week period before the end of such term.

(2) If the employee begins leave under paragraph (1)(A), (1)(B), or (1)(C) of section 102(a)(1) during the period that commences 5 weeks before the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of greater than 2 weeks duration; and

(B) the return to employment would occur during the 2-week period before the end of such term.

(3) If the employee begins leave under paragraph (1)(A), (1)(B), or (1)(C) of section 102 during the period that commences 3 weeks before the end of the academic term and the duration of the leave is greater than 5 working days, the agency or school may require the employee to continue to take leave until the end of such term.

(e) RESTORATION TO EQUIVALENT EMPLOYMENT POSITION.—For purposes of determinations under section 104(a)(1)(B) (relating to an employee's restoration to an equivalent position) in the case of a local educational agency or a private elementary and secondary school, such determination shall be made on the basis of established school board policies and practices, private school policies and practices, and collective bargaining agreements.

(f) REDUCTION OF THE AMOUNT OF LIABILITY.—If a local educational agency or a private elementary and secondary school which has violated title I proves to the satisfaction of the administrative law judge or the court that the agency, school, or department had reasonable grounds for believing that the underlying act or omission was not a violation of such title, such judge or court may, in its discretion, reduce the amount of the liability provided for under section 109(b)(1) to the amount determined under subparagraph (A) of such section.

SEC. 111. NOTICE.

(a) IN GENERAL.—Each employer shall post and keep posted, in conspicuous places upon its premises where notices to employees and applicants for employment are customarily posted, a notice, to be prepared or approved by the Secretary, setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertaining to the filing of a charge.

(b) PENALTY.—Any employer that willfully violates this section shall be assessed a civil money penalty not to exceed $100 for each separate offense.

SEC. 112. REGULATIONS.

The Secretary shall prescribe such regulations as are necessary to carry out this title (including regulations under section 106(a)) within 60 days after the date of the enactment of this Act.

TITLE II—FAMILY LEAVE AND TEMPORARY MEDICAL LEAVE FOR CIVIL SERVICE EMPLOYEES

SEC. 201. FAMILY AND TEMPORARY MEDICAL LEAVE.

(a) IN GENERAL.—(1) Chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"Subchapter V—Family and Temporary Medical Leave

"§ 6381. Definitions

"For purposes of this subchapter—

"(1) 'employee' means—

"(A) an employee as defined by section 6301(2) of this title (excluding an individual employed by the government of the District of Columbia); and

"(B) an individual under clause (v) or (ix) of such section;

whose employment is other than on a temporary or intermittent basis;

"(2) 'serious health condition' means an illness, injury, impairment, or physical or mental condition which involves—

"(A) inpatient care in a hospital, hospice, or residential health care facility; or

"(B) continuing treatment, or continuing supervision, by a health care provider;

"(3) 'child' means an individual who is—

"(A) a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, and

"(B)(i) under 18 years of age, or

"(ii) 18 years of age or older and incapable of self-care because of mental or physical disability; and

"(4) 'parent' means a biological, foster, or adoptive parent, a parent-in-law, a stepparent, or a legal guardian.

"§ 6382. Family leave

"(a) Leave under this section shall be granted on the request of an employee if such leave is requested—

"(1) because of the birth of a child of the employee;

"(2) because of the placement for adoption or foster care of a child with the employee; or

"(3) in order to care for the employee's child or parent who has a serious health condition.

"(b) Leave under this section—

"(1) shall be leave without pay;

"(2) may not, in the aggregate, exceed the equivalent of 18 administrative workweeks of the employee during any 24-month period; and

"(3) shall be in addition to any annual leave, sick leave, temporary medical leave, or other leave or compensatory time off otherwise available to the employee.

"(c) An employee may elect to use leave under this section—

"(1) immediately before or after (or otherwise in coordination with) any period of annual leave, or compensatory time off, otherwise available to the employee;

"(2) under a method involving a reduced workday, a reduced workweek, or other alternative work schedule;

"(3) on either a continuing or intermittent basis; or

"(4) any combination thereof.

"(d) Notwithstanding any other provision of this section—

"(1) a request for leave under this section based on the birth of a child may not be granted if, or to the extent that, such leave would be used after the end of the 12-month period beginning on the date of such child's birth; and

"(2) a request for leave under this section based on the placement for adoption or foster care of a child may not be granted if, or to the extent that, such leave would be used after the end of the 12-month period beginning on the date on which such child is so placed.

"(e)(1) In any case in which the necessity for leave under this section is foreseeable based on an expected birth or adoption, the employee shall provide the employing agency with prior notice of such expected birth or adoption in a manner which is reasonable and practicable.

"(2) In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee—

"(A) shall make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employing agency, subject to the approval of the health care provider of the employee's child or parent; and

"(B) shall provide the employing agency with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

"§ 6383. Temporary medical leave

"(a) An employee who, because of a serious health condition, becomes unable to perform the functions of such employee's position shall, on request of the employee, be entitled to leave under this section.

"(b) Leave under this section—

"(1) shall be leave without pay;

"(2) shall be available for the duration of the serious health condition of the employee involved, but may not, in the aggregate, exceed the equivalent of 26 administrative workweeks of the employee during any 12-month period; and

"(3) shall be in addition to any annual leave, sick leave, family leave, or other leave or compensatory time off otherwise available to the employee.

"(c) An employee may elect to use leave under this section—

"(1) immediately before or after (or otherwise in coordination with) any period of annual leave, sick leave, or compensatory time off otherwise available to the employee;

"(2) under a method involving a reduced workday, a reduced workweek, or other alternative work schedule;

"(3) on either a continuing or intermittent basis; or

"(4) any combination thereof.

"(d) In any case in which the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee—

"(1) shall make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employing agency, subject to the approval of the employee's health care provider; and

"(2) shall provide the employing agency with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

"§ 6384. Certification

"(a) An employing agency may require that a request for family leave under section 6382(a)(3) or temporary medical leave under section 6383 be supported by certification issued by the health care provider of the employee or of the employee's child or parent, whichever is appropriate. The employee shall provide a copy of such certification to the employing agency.

"(b) Such certification shall be sufficient if it states—

"(1) the date on which the serious health condition commenced;

"(2) the probable duration of the condition;

"(3) the medical facts within the provider's knowledge regarding the condition; and

"(4) for purposes of section 6383, a statement that the employee is unable to perform the functions of the employee's position.

"§ 6385. Job protection

"An employee who uses leave under section 6382 or 6383 of this title is entitled to be restored to the position held by such employee immediately before the commencement of such leave.

"§ 6386. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with such employee's rights under this subchapter.

"(b) For the purpose of this section, 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

"§ 6387. Health insurance

"An employee enrolled in a health benefits plan under chapter 89 of this title who is placed in a leave status under section 6382 or 6383 of this title may elect to continue the employee's health benefits enrollment while in such leave status and arrange to pay into the Employees Health Benefits Fund (described in section 8909 of this title), through that individual's employing agency, the appropriate employee contributions.

"§ 6388. Regulations

"The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall be consistent with the regulations prescribed by the Secretary of Labor under title I of the Family and Medical Leave Act of 1990.".

(2) The table of contents for chapter 63 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER V—FAMILY AND TEMPORARY MEDICAL LEAVE

"6381. Definitions.
"6382. Family leave.
"6383. Temporary medical leave.
"6384. Certification.
"6385. Job protection.
"6386. Prohibition of coercion.
"6387. Health insurance.
"6388. Regulations.".

(b) EMPLOYEES PAID FROM NONAPPROPRIATED FUNDS.—Section 2105(c)(1) of title 5, United States Code, is amended by striking out "53" and inserting in lieu thereof "53, and subchapter III of chapter 63,".

TITLE III—COMMISSION ON LEAVE

SEC. 301. ESTABLISHMENT.

There is established a commission to be known as the Commission on Leave (hereinafter in this Act referred to as the "Commission").

SEC. 302. DUTIES.

The Commission shall—

(1) conduct a comprehensive study of—

(A) existing and proposed policies relating to leave,

(B) the potential costs, benefits, and impact on productivity of such policies on businesses which employ fewer than 50 employees, and

(C) alternative and equivalent State enforcement of this Act with respect to employees described in section 110; and

(2) within 2 years after the date on which the Commission first meets, submit a report to the Congress, which may include legislative recommendations concerning coverage of businesses which employ fewer than 50 employees and alternative and equivalent State enforcement of this Act with respect to employees described in section 110.

SEC. 303. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall be composed of 12 voting members and 2 ex-officio members appointed not more than 60 days after the date of the enactment of this Act as follows:

(1) One Senator shall be appointed by the majority leader of the Senate, and one Senator shall be appointed by the minority leader of the Senate.

(2) One member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one Member of the House of Representatives shall be appointed by the minority leader of the House of Representatives.

(3)(A) Two members each shall be appointed by—

(i) the Speaker of the House of Representatives,

(ii) the majority leader of the Senate,

(iii) the minority leader of the House of Representatives, and

(iv) the minority leader of the Senate.

(B) Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor-management issues and shall include representatives of small business.

(4) The Secretary of Health and Human Services and the Secretary of Labor shall serve on the Commission as nonvoting ex-officio members.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson and a vice chairperson from among its members.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when performing duties of the Commission.

SEC. 305. POWERS.

(a) MEETINGS.—The Commission shall first meet not more than 30 days after the date on which members are appointed, and the Commission shall meet thereafter upon the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act. Upon the request of the chairperson or vice chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(d) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director from the personnel of any Federal agency to assist the Commission in carrying out its duties.

(e) USE OF FACILITIES AND SERVICES.—Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency.

(f) PERSONNEL FROM OTHER AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to assist the Commission in carrying out its duties.

SEC. 306. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of its report to the Congress.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTIDISCRIMINATION LAWS.—Nothing in this Act or any amendment made by this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or handicapped status.

(b) STATE AND LOCAL LAWS.—Nothing in this Act or any amendment made by this Act shall be construed to supersede any provision of any State and local law which provides greater employee leave rights than the rights established under this Act or any amendment made by this Act.

SEC. 402. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE.—Nothing in this Act or any amendment made by this Act shall be construed to diminish an employer's obligation to comply with any collective-bargaining agreement or any employment benefit program or plan which provides greater family and medical leave rights to employees than the rights provided under this Act or any amendment made by this Act.

(b) LESS PROTECTIVE.—The rights provided to employees under this Act or any amendment made by this Act may not be diminished by any collective bargaining agreement or any employment benefit program or plan.

SEC. 403. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this Act or any amendment made by this Act shall be construed to discourage employers from adopting or retaining leave policies more generous than any policies which comply with the requirements under this Act or any amendment made by this Act.

SEC. 404. EFFECTIVE DATES.

(a) TITLE III.—Title III shall take effect on the date of the enactment of this Act.

(b) OTHER TITLES.—(1) Except as provided in paragraph (2), titles I and II and this title shall take effect 6 months after the date of the enactment of this Act.

(2) In the case of a collective bargaining agreement in effect on the effective date prescribed by paragraph (1), title I shall apply on the earlier of—

(A) the date of the termination of such agreement; or

(B) the date which occurs 12 months after the date of the enactment of this Act.

SEC. 405. REGULATIONS.

The Secretary shall prescribe such regulations as are necessary to carry out this title within 60 days after the date of the enactment of this Act.

TITLE V—COVERAGE OF CONGRESSIONAL EMPLOYEES

SEC. 501. LEAVE FOR CERTAIN CONGRESSIONAL EMPLOYEES.

(a) IN GENERAL.—The rights and protections under sections 102 through 105 (other than section 104(b)) shall apply to any employee in an employment position and any employing authority of the House of Representatives.

(b) ADMINISTRATION.—In the administration of this section, the remedies and procedures under the Fair Employment Practices Resolution shall be applied.

(c) DEFINITION.—As used in this section, the term "Fair Employment Practices Resolution" means House Resolution 558, One Hundredth Congress, agreed to October 3, 1988, as continued in effect by House Resolution 15, One Hundred and First Congress, agreed to January 3, 1989.

The CHAIRMAN. The gentleman from Tennessee [Mr. GORDON] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. GORDON].

Mr. GORDON. Madam Chairman, I yield myself such time as I may consume.

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

Mr. GORDON. Madam Chairman, first I want to take a moment to recognize the contribution of the gentleman from Minnesota [Mr. PENNY] on this issue. The gentleman has played a constructive role and has raised important issues about this bill.

Madam Chairman, today we have an opportunity. After 5 years of work by scores of those dedicated to the well-being of America's families. We have the chance to give our Nation's workers job security while they care for a member of their own household.

America has changed in the last 30 years. Two income households have become the norm rather than the exception. There are more single parents than ever before. The cost of raising a child or caring for a sick parent has never been greater.

And now is the time for real competition with nations such as Japan and West Germany. These countries assure their workers of job-secure leave. It's time to make sure that the productive and dedicated workers America needs are never burdened with the anxiety of choosing between work and family.

The Gordon-Weldon amendment offers the best chance at giving America a workable, commonsense family and medical leave bill this year.

Our amendment is the product of legitimate concerns expressed about the committee bill. Those concerns

brought Republicans like CURT WELDON and MARGE ROUKEMA together with Democrats like me in an effort to give American businesses a fair bill and America's families and a bill that makes a real difference.

Some feel the original bill's 15 weeks per year for personal medical leave and 10 weeks every 2 years for family leave is too much. Our amendment allows an employee one period of unpaid leave of no more than 12 weeks total in a year.

The committee bill allows both new parents to be on leave at the same time. Our amendment allows only one parent to take leave at a time.

The committee bill's definition on a parent includes in-laws, legal guardians and step-parents. We have tightened that provision to include only biological parents or those who actually raised the employee.

Certification of illness under our amendment must be provided by a doctor, rather than simply anyone defined as a health care provider.

And what about small businesses, the businesses that are the backbone of the American economy?

I hope that the hardware store on the square in Murfreesboro, TN or the beauty salon in CURT WELDON's home town of Aston, PA, will give their employees the same choices outlined in our amendment.

But we understand that America's small businesses really are special. They need special flexibility. And they need the 50-employee permanent exemption provided in our amendment.

Our amendment also exempts the key employees that no business can afford to do without.

Some supporters of family leave say we haven't done enough for working families. Opponents say we go too far, that working families should not have the option of 12 weeks of unpaid leave under any circumstances.

That criticism tells me our bipartisan compromise amendment is just where it should be. And that's what compromise is all about.

As we consider this amendment, let's not forget the message that we time and again give our young, "Work hard, raise a family, always care for your parents."

Work and family, those basic values are the social fabric that binds this country together.

Today millions of Americans, Americans in every congressional district represented in this body, are choosing between beginning a family and staying on the job. They're choosing between work and caring for an older parent. They're doing their best to reach a balance between the values they believe are important—work and family.

No act of Congress can make those choices easy. Twelve weeks of unpaid leave spent with a newborn baby or ill parent is not a vacation, but it is an option that every working American deserves.

□ 1140

Madam Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Madam Chairman, I rise in support of the amendment offered by Representative GORDON and Representative WELDON. A lot of hard work has gone into this compromise. I want to commend my colleagues on the Education and Labor and Post Office and Civil Service Committees for drafting a bill which Members from both sides of the aisle can support today.

Madam Chairman, opponents of this bill have spend a lot of time talking about their fundamental opposition to Federal mandates, you know, the principle of the thing. Let us spend just a minute talking about the reality of the benefits we are considering here today. The employers I have heard from insist that mothers do not need 12 weeks to recover from the birth of a child. You know, in most cases, they are probably right, but they assume that every employee who is eligible for leave is going to take the maximum 12 weeks. Remember, an employee is not required to stay away from work for 3 months just because he or she is eligible.

I am not speaking for any other State, but I want to remind my colleagues from North Carolina, and I do not mention this with pride, that we have the lowest average manufacturing wages in the Nation. Now I wonder how many new parents are going to be able to afford to go 3 months without a paycheck? Maybe those employees in the top 10 percent of the salary structure can afford it, but, hey, they are not covered under this bill. Opponents of the bill say business cannot afford leave benefits; if anyone cannot afford it, it's employees. Let us show a little faith in this Nation's employees. They are not interested in putting their bosses out of business.

What this bill is all about is the changing needs of American workers and employers as well. Why do we not stop treating worstcase scenario's like the gospel, and start listening to what American workers are really saying, and that is: "We need a little job protection for our families, but we want to work together with you on this thing."

Mr. GRANDY, Madam Chairman, may I inquire as to how much time I have?

The CHAIRMAN. The gentleman from Iowa [Mr. GRANDY] has 15 minutes.

Mr. GRANDY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I would take this time to inquire of the authors of the Weldon-Gordon substitute about the provisions in the bill. I would ask that, under the so-called compromise, time can be taken off, and I would ask this to either sponsor of the bill: Time can be taken off for a so-called serious health condition. How is that defined in the bill?

I will be happy to yield to either the gentleman from Tennessee [Mr. GORDON] or the gentleman from Pennsylvania [Mr. WELDON] for an answer to this.

Mr. GORDON. Madam Chairman, will the gentleman yield?

Mr. GRANDY. I am happy to yield to the gentleman from Tennessee.

Mr. GORDON. Madam Chairman, one is either in a hospital or in the constant supervision of a health-care provider.

Mr. GRANDY. It is the continuing supervision of a health-care provider, is it not?

Mr. GORDON. The gentleman is correct.

Mr. GRANDY. Let me now ask about the term "serious health condition." Did not the General Accounting Office say that that term was subject to varying interpretations?

Mr. WELDON. Madam Chairman, will the gentleman yield?

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

Mr. WELDON. Madam Chairman, on that point, if the gentleman would understand it, there has been a very significant tightening up of the certification process and requirement that requires not just a medical practitioner but a medical doctor as defined by Medicare to certify that the illness is of such a nature that an individual should, in fact, provide care at home and, in addition to that, there is a three-step process.

If the employer disagrees with the advice and counsel of the individual employee's doctor or physician, then the employer can have their doctor or physician assess the merits of the leave request.

Mr. GRANDY. I am going to reclaim my time on this point.

Mr. WELDON. Madam Chairman, the gentleman has asked me for an answer.

Mr. GRANDY. I am reclaiming my time.

Mr. WELDON. And obviously the gentleman will not allow me to answer his question.

Mr. GRANDY. Madam Chairman, who has the time?

The CHAIRMAN. The gentleman from Iowa [Mr. GRANDY] has the floor.

Mr. GRANDY. I take that time back, because it is my understanding that it is not necessarily the employer's physician. It is a physician agreed to by the employer and the employee,

and the employer pays for that decision. Is that not correct?

Mr. WELDON. Madam Chairman, is the gentleman going to yield and allow me to answer?

Mr. GRANDY. Madam Chairman, I will yield, and I will allow the gentleman to answer that question.

Mr. WELDON. Madam Chairman, as I was explaining the three-part certification process, the physician as selected and paid by the employer, if they disagree with the recommendation of the employee's physician, then can refer it to a neutral third party who then decides and arbitrates whether or not the leave is in fact justified.

I think this far and away protects the concerns that anyone would raise about someone who would try to abuse this process.

Mr. GRANDY. Reclaiming my time, I appreciate the gentleman's answer. May I ask another question?

What obligations are there for employees under this substitute to meet in taking leave and then in returning? Is there any obligation at all to give advance notice of intent to return to work? An employee has gone out on leave; is there any obligation by that employee to give that employer notice to return to work?

Mr. GORDON. If the gentleman will yield further, they have to give notice they are going to take the leave, and then they would be limited to 12 weeks thereafter.

Mr. GRANDY. But they are not obligated to give notice as to when they are coming back? Is that correct?

Mr. GORDON. If the gentleman will yield further, there is no more than 12 weeks that would be eligible.

Mr. GRANDY. Could an employee simply take all the leave together with obviously the continued health insurance coverage and then choose not to return to work?

Mr. WELDON. If the gentleman will yield further, this is not a change, by the way, from the initial legislation, so I do not understand why it was not questioned on the initial general debate. This is the same as the initial bill provided. The employer can, in fact, question the fitness or the ability of the employee to return to work during the process of the leave.

Mr. GRANDY. Again, that is not the question.

Mr. GORDON. Madam Chairman, if the gentleman will yield further, this is unpaid leave, and certainly the employee would not have to come back to work, just as an employee could walk out of a job at any time.

Mr. GRANDY. However, if an employee walks off the job, an employer is not required to maintain the health benefits. If this employee walks off the job while he is on leave and never returns, the employer is obligated to pay those health benefits, is he not, and the employee is not necessarily obligated to contribute to those health benefits?

Mr. GORDON. If there was never an intention to return, he would not be obligated. However, this is a hypothetical that is a pretty bizarre and extreme motive. If the gentleman would like to cite a specific example of where this has happened, maybe we could deal with it more specifically.

Mr. GRANDY. I only take that point because there are provisions in State law, Rhode Island being one, that requires an employee to make a good-faith gesture of putting their health contributions into an escrow plan so that should they decide to use what would normally be maternity leave to look for another job, let us say, after taking some leave, they would forfeit those benefits.

□ 1150

Mrs. SCHROEDER. Madam Chairman, will the gentleman yield?

Mr. GRANDY. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Madam Chairman, one of the very important tools that the employer still has, if you take the worst case, which is what I assume the gentleman from Iowa [Mr. GRANDY] is talking about, someone who takes the 12 weeks of leave knowing they are going to quit anyway and does not tell the employer, and the gentleman is saying the employer paid the health care benefits and so the employer is left high and dry, if you take that worst case, I still think there would be very few employees that would ever do that because the minute the employee goes to get another job, the first person they turn to is the employer for a recommendation.

I want to tell you if I were the employer of an employee that did that, I can tell you what kind of recommendation I would give. I think the gentleman from Iowa [Mr. GRANDY] knows that. We do not need to put that in the law. That is human nature and common sense.

Mr. GRANDY. Madam Chairman, reclaiming my time, I would quote from the committee report on H.R. 770. Testimony was given by a witness who said the following:

> We recently had a young woman who requested 3 months maternity leave which we granted. In order to hold her job, we employed a temporary employment service to fill this job as secretary-receptionist. During the leave we paid all benefits. At the end of the leave the individual informed us of her decision not to return to the labor force. In other words, we went through a period of inefficiency and delay and being able to seek and train a replacement, as well as the monetary outlay to cover fringe benefits.

Madam Chairman, I might point out here none of the costs referred to in this particular paragraph are covered in the supposed costs of H.R. 770 or Gordon-Weldon.

> In other words, we went through a period of inefficiency and delay in being able to seek and train a replacement for an employee who did not return.

Hypotheticals notwithstanding, there is precedent for this kind of behavior. That is why some States have taken preventive measures.

Mr. GORDON. Madam Chairman, will the gentleman yield?

Mr. GRANDY. I yield to the gentleman from Tennessee.

Mr. GORDON. Madam Chairman, I concur and agree there are some sorry people in this world, and there will be situations where this, as any benefit, will be taken advantage of. But they are going to be very rare and it will be the exception. But yes, the gentleman is right, there are sorry people in the world.

Mr. GRANDY. Madam Chairman, reclaiming my time, I thank the gentleman from Tennessee [Mr. GORDON] for his comment, because the gentleman is talking about sorry employers. I am talking about sorry employees, and his legislation talks about sorry employers.

I would guarantee that no matter how tightly we draft the statute, we will not catch everybody in our net. But as I refer to some of the problems in this bill, I see some loopholes here that could provide for some real problems to the employers who at this point can offer this leave, but have no requirement from the employee to notify them if they are coming back. They will still be on the hook for all of the benefits, regardless of whether that person comes back to the workplace or bolts from the workplace.

Let me ask the gentleman from Tennessee [Mr. GORDON] this: Is there any requirement in the bill for emergency or pressing circumstances to exist before taking leave? Is there any criteria for that?

Mr. GORDON. If the gentleman will yield?

Mr. GRANDY. I yield to the gentleman from Tennessee.

Mr. GORDON. Madam Chairman, you yourself have to have a family health condition or a family member has to have a serious health condition and there has to be a doctor's certification.

Mr. GRANDY. Madam Chairman, reclaiming my time, could, for example, an employee take time off to care for a child living separately with a divorced spouse? Are there requirements for the child to live with the parent?

Mr. GORDON. Madam Chairman, will the gentleman yield?

Mr. GRANDY. I yield to the gentleman from Tennessee.

Mr. GORDON. Madam Chairman, if it was a natural child and only if you were going to be caring for that child.

Mr. GRANDY. Madam Chairman, reclaiming my time, I have some other

questions, but at this point I reserve the balance of my time.

Mr. GORDON. Madam Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Madam Chairman, I have listened to this debate very carefully, and I support the substitute offered by the gentleman from Tennessee [Mr. GORDON].

I worked on the substitute. I think this is a much better bill. I want to tell Members why I support it.

Think of all of the votes we make on the House floor. There are a few that you occasionally want to retrieve. If you vote for this bill, we may want to retrieve that vote from a political standpoint. It may not be too popular.

If you vote against this bill, sometime down the road you are going to wish that you could retrieve this vote. Because a vote for this bill is the right thing to do.

Now, I have heard the arguments against it, that this does not help poor people. My friends, you would be surprised what a mother can do, a poor person, that has a terminally ill child. They will find a way to live, to eat, but this would help them a bit to go back to work.

But even so, say it only helps middle-income people, the so-called yuppies. What is wrong in America today to occasionally helping a middle-income worker? I do not know what is wrong with helping middle-income America. Have we abandoned those people who work every day of their lives, paying taxes, asking for nothing more than decency and compassion?

I say to you that there are those who say good employers do this anyway. Well, wonderful. I am delighted. I agree. So this bill primarily will just apply to bad employers, who do not have the compassion, who do not have the feeling, who do not have any interest in the family.

I want to pay tribute to our colleague from Illinois who says this is a pro-family bill. Yes, it is a pro-family bill. You do not know what goes through the mind of a young working mother who is pregnant again and must make a decision as to whether or not to have an abortion or to have that child.

Yes, it is pro-family. No, it may not be the right political vote, but it is the right vote. I urge Members to vote for the substitute.

Mr. GORDON. Madam Chairman, I yield 30 seconds to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Madam Chairman, I rise in support of the amendment and want to associate myself with the remarks of the gentleman from Georgia [Mr. JENKINS] who just preceded me in the well.

I think this substitute is good legislation. I think it is good for families. I think it is good for the morale of the workplace. It is a reasonable compromise. Madam Chairman, I think it preserves the intent and the integrity of the original legislation introduced 5 years ago by the gentlewoman from Colorado [Mrs. SCHROEDER].

Madam Chairman, I urge my colleagues to support the compromise.

Mr. GORDON. Madam Chairman, I yield 1 minute to the gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN of Maryland. Madam Chairman, I want to commend the gentleman from Tennessee [Mr. GORDON] and the gentleman from Pennsylvania [Mr. WELDON] for forging this compromise. It is sensitive to the concerns of small business.

These provisions for a permanent 50-employee exemption are a very positive change. While I would have preferred for emphasis on parental leave, I think this compromise is a major step forward in labor-business relations. But more important, this compromise is the drive toward the hodgepodge of State laws.

This administration has consistently abdicated national responsibility in the areas of transportation, education, and other areas, and once again today they are saying let us have 50 different State standards, so that that is the way we prepare this Nation to compete against the Common Market in 1992, where they are dropping these kinds of different standards.

The lastest General Accounting Office estimates are that compliance costs will be a little over $100 million. That compares very favorably with the $600 million in lost wages due to the fact that we do not have a national standard in this country.

Madam Chairman, I urge the adoption of the substitute.

Madam Chairman, I rise in support of the compromise version of this bill offered by the gentleman from Tennessee and the gentleman from Pennsylvania. They have forged a compromise that I feel all of us—business and labor—can live with. The amendment in the nature of a substitute simpifies H.R. 770 and addresses some of businesses' concerns about onerous mandates from the Federal Government. For instance, the exemption for businesses of fewer than 50 persons is an improvement—small businesses simply don't have the personnel redundancy to permit unscheduled periods of leave.

While I endorse the compromise version, I believe that the emphasis should be on parental leave—in this way, we would have a better handle on the cost to businesses involved. This is because it is easier to estimate the number of workers likely to take parental, rather than medical, leave. Further, slightly reducing the number of weeks one is entitled to under this proposal would be a welcome refinement, giving both businesses greater flexibility in personnel management.

In a country where citizens must juggle work and family responsibilities, family and medical leave is really our only course of action. It is the only way we as a society can position ourselves for maximum productivity in the global marketplace in the coming century. Not only that, you can be sure that without a Federal statute, there would be a hodgepodge of State laws, many of which may be conflicting. This is antithetical to an economy that operates largely on a national scale, such as the American economy. It is important to note that a Federal regulation would not preclude various State standards, but would instead discourage the formation of inconsistent State initiatives.

In fact, it can argued that a Federal law actually helps businesses. Federal legislation would allow national corporations to avoid the potential disruption created by having to contend with a patchwork of State and medical leave regulations. In this instance, the Federal Government should not shy away from Federal intervention in the workplace—it will clearly have positive consequences here. As has been the case with transportation, education and environmental protection, the Federal Government cannot surrender jurisdiction to the 50 States—in these cases, an overarching framework, established by the Federal Government, is essential.

Family and medical leave has been a hotly debated issue for at least the past 5 years. Since then interested parties have worked diligently to seek a common ground on this potentially explosive issue. This bill, GAO estimates, will have a compliance cost of about $107 million a year for American businesses. This compares favorably with the annual societal cost of $607 million for lost wages and productivity that results from no national family and medical leave policy. I urge my colleagues to support the compromise and to oppose weakening amendments.

□ 1200

Mr. GORDON. Madam Chairman, I reserve the balance of my time pending resolution of amendments to the amendment in the nature of a substitute.

Mr. GRANDY. Madam Chairman, may I inquire as to how much time remains?

The CHAIRMAN. The gentleman from Iowa [Mr. GRANDY] has 6 minutes remaining, and the gentleman from Tennessee [Mr. GORDON] has 5½ minutes remaining.

Mr. GRANDY. Madam Chairman, I yield myself 2 minutes for the purpose of asking a question. I would ask again the cosponsors of the amendment if they can clarify for me the exemption for covered employees in the bill. I am curious about the so-called key employee exemption that the gentlewoman from New Jersey [Mrs. ROUKEMA] has offered and referred to. Under what circumstances would the key employee not be allowed to take leave? I would ask either the gentleman from Tennessee or the gentleman from Pennsylvania.

Mr. WELDON. Madam Chairman, if the gentleman will yield, since this was also part of the original bill, I

would ask my colleague to yield to the gentlewoman from New Jersey.

Mr. GRANDY. I yield to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. The key employee exemption has to do with those top employees without whom, of course, it is obvious that the business cannot continue. For example, if there is a business with one engineer, one draftsman and one person where there would be grievous economic injury to the business, that employer is exempted from the requirements. The employee is identified clearly in the bill. We tried to go through some other formula.

Mr. GRANDY. Let me reclaim my time. I just want to know one thing, because here is where I am unclear. Are we talking about denying that employee leave or are we talking about denying restoration?

Mrs. ROUKEMA. Restoration, we are denying the restoration should the employer learn that he cannot continue the operations of the business without the key employee.

Mr. GRANDY. So unlike the New Jersey law which did deny family leave to an employee who is a salaried employee among the highest 5 percent of employees or seven highest employees, we are talking about here allowing that key employee back into the workplace, is that correct?

Mrs. ROUKEMA. There is no requirement for reinstatement. I think it is very clear in the legislation, and I do not know why the gentleman is obfuscating the issue.

Mr. GRANDY. Allow me to reclaim my time, Madam Chairman. I think the amendment or the provision, I should say, obfuscates the issue because we are saying that the key employee cannot be denied leave, he can just be denied restoration. If he is a key employee, why would we do that? What use is it?

I thought I understood the intent of this, but there are no conditions under which a key employee could be denied leave. So who cares if he is a key employee?

I wonder if this kind of intent is going to wind up causing problems with the implementation of this legislation.

Madam Chairman, I reserve the balance of my time.

Mr. GORDON. Madam Chairman, I yield such time as he may consume to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Madam Chairman, I appreciate the gentleman yielding time to me, and I rise in strong support of the Family and Medical Leave Act and the bipartisan Gordon-Weldon compromise.

Madam Chairman, I rise in strong support of the Family and Medical Leave Act, and the bipartisan Gordon-Weldon compromise.

I have looked forward to consideration of this legislation on the House floor since the day I first entered this body. Legislation enabling American workers to cope with their own serious medical conditions and with their obligations to their families is long overdue.

Twelve years ago, I authored the California pregnancy disability law. My intention in moving that bill was to recognize that employment policies which provide inadequate or no leave to workers disabled by pregnancy have a disparate impact upon female employees. The object of my bill was to ensure equality of treatment in the workplace by making certain that women do not lose their jobs as a result of loss of time from work due to pregnancy.

My bill accomplished that objective by requiring employers to provide up to 4 months unpaid leave to employees disabled by pregnancy, and to reinstate the returning employee. I was gratified that the U.S. Supreme Court upheld that law in 1987.

But proud as I am, I am convinced that maternity leave, even if it is expanded beyond pregnancy disability to cover care for a newborn child or for a newly adopted child, as the substitute would do, does not suffice.

All workers face the prospect of needing to take time off due to disability or very serious family responsibilities. That is why I have enlisted in the effort to extend to all workers the benefits accorded some workers under California law.

Labor standards have historically evolved in just this fashion. In response to pressing human needs, the States often act first, resulting in a spotty patchwork of State laws which make it particular difficult for companies operating in more than one State to do business. The need for a uniform, Federal law becomes urgent. That is why it becomes essential for us to act: Because the human need is pressing, and because we do not want to leave employees or employers subject to the vagaries of where they happen to work or do business.

I feel compelled to respond to the argument of opponents of this legislation that it would destroy the flexibility needed to permit employers and employees to tailor benefits to their own needs. "Don't mandate benefits" is the slogan.

I can understand the self interest of employers in tailoring employee benefits to suit the needs of employers, but I cannot let employers get away with the assertion that H.R. 770 hobbles the ability of employees to bargain for employee rights.

The fact is that securing family and medical leave is a top priority for American workers. If employers were uniformly extending these rights to workers, this legislation would not be before us today.

I am also irked that the competitiveness argument is being dragged out in the service of employer opposition to H.R. 770. The argument that providing decent employee benefits makes American business less competitive and productive in the world market is a patently bogus excuse. Can it fairly be said that it enhances America's competitive edge when experienced, dedicated employees are compelled to quit or be fired in lieu of human leave policies?

The other industrialized nations have frankly left us in the dust when it comes to establishing sound leave policies, so I find it hard to believe that enactment of H.R. 770 would harm the competitive position of the United States.

H.R. 770 balances the needs of employers with the needs of workers and their families. I urge my colleagues to support the Family and Medical Leave Act and the Gordon-Weldon substitute, and to oppose all weakening substitutes and amendments.

Mr. GORDON. Madam Chairman, once again I reserve the balance of my time pending the resolution of the amendments to this amendment in the nature of a substitute.

Mr. GRANDY. Madam Chairman, I was under the impression that the sequence of amendments began with the gentleman from Texas [Mr. STENHOLM] and then there was to be a perfecting amendment by the gentleman from Missouri [Mr. CLAY]. Am I correct?

The CHAIRMAN. The Chair sees no Member seeking recognition, and unless an amendment made in order as a perfecting amendment is offered when the Chair calls on them, the debate will proceed.

PARLIAMENTARY INQUIRIES

Mrs. ROUKEMA. Parliamentary inquiry, Madam Chairman. I need a clarification of the parliamentary situation. I am not quite sure about it. Is the time of the gentleman from Pennsylvania [Mr. WELDON] reserved under this agreement?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WELDON] has no time. The time right now is that of the gentleman from Tennessee [Mr. GORDON] who has 5½ minutes remaining.

Mr. GORDON. Madam Chairman, with our 5½ minutes remaining, I will yield 5 minutes to the gentleman from Pennsylvania [Mr. WELDON] at the conclusion of any amendments that might be introduced.

Mrs. ROUKEMA. Then my parliamentary inquiry stated the situtation correctly, that the gentleman from Tennessee [Mr. GORDON] has time reserved under the parliamentary procedure following the disposition of amendments, is that correct?

The CHAIRMAN. Unless there is another Member who is seeking recognition on a perfecting amendment, and the Chair does not see another Member, the time must be used.

Mr. GORDON. Madam Chairman, then I yield 5 minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. I have a parliamentary inquiry, Madam Chairman. Does not the gentleman from Tennessee [Mr. GORDON] have the right to close debate on this amendment?

The CHAIRMAN. The gentleman is correct.

Mr. WELDON. In that case, then the gentleman from Iowa [Mr. GRANDY] has to use his time first.

The CHAIRMAN. The gentleman from Iowa [Mr. GRANDY] has 3 minutes remaining.

Mr. GRANDY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I would like to ask one more question regarding the cost of this. One of the changes that I have discerned in this substitute is that it does make provision to include spouses, and I assumed that this was an omission from H.R. 770. There is obviously the ability to go home and care for an ill spouse.

Could either gentleman tell me what the cost of this provision is estimated to add to the cost of the bill, because we have presumed throughout this bill that we were talking about a price tag of roughly between $188 million and $212 million, depending upon how one estimates health care costs, and that has been disputed. But I would just like to know what the cost of spousal illness is, because I think that would probably add costs to the bill, and I would like those few Members who maybe are undecided on this legislation to know what we are adding in this provision.

Mr. GORDON. Madam Chairman, will the gentleman yield?

Mr. GRANDY. I yield to the gentleman from Tennessee.

Mr. GORDON. Madam Chairman, the substitute does not change that situation, so it should not cost any more than the original bill.

Mr. GRANDY. I would argue that if we add another class of individuals to be included under this bill there is increased costs, and indeed the GAO in April of this year said that by including spouses under this provision the addition will increase the cost to $330 million annually.

Madam Chairman, in the time I have remaining let me address this substitute, such as it is.

On the approach, H.R. 770 is a Federal mandate. The Weldon-Gordon substitute is the same.

On intermittent leave under H.R. 770, medical time can be taken at any day or hour. There is no requirement to take it consecutively for medical leave. Weldon-Gordon is the same.

There are quadruple damages under both bills.

There is part-time and seasonal coverage under both bills. In other words, an employee with 1,000 hours of work in the previous calendar year will entitle that employee to take 12 weeks of unpaid leave in the subsequent year.

Under both bills health care benefits are required to be continued for the entire leave period.

Under the job guarantee, the employer is required to hold the job open with no incentive or requirement for an employee to return to work.

The serious health condition definition for less-than-serious or life threatening reasons can simply be under the continuing treatment or continuing supervision by a health care provider, and is the same in both bills.

Notice, under both bills, the employee should give notice only to the extent that is reasonable and practicable. That is not a requirement, and they should schedule medical leave so as not to unduly disrupt, whatever, that means.

Madam Chairman, I would only argue that this is the same circus in a different tent. I urge defeat of the substitute and H.R. 770.

Madam Chairman, I have no time remaining, is that correct?

The CHAIRMAN. The gentleman from Iowa has no time remaining.

The Chair at this time will inquire does the gentleman from Texas [Mr. STENHOLM] intend to offer his amendment?

If not, does the gentleman from Iowa [Mr. GRANDY] intend to offer his amendment?

If not, does the gentleman from Texas [Mr. BARTLETT] intend to offer his amendment?

If not, the Chair recognizes the gentleman from Tennessee [Mr. GORDON] to close debate.

Mr. GORDON. Madam Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Madam Chairman, I thank the gentleman for yielding time to me, and I appreciate his support on this bipartisan compromise.

I was not an original supporter of H.R. 770, and I am also a proud supporter of the free enterprise system in this country. My voting record and my efforts in terms of my campaigns have shown me to be an ardent supporter of the private sector and the free enterprise system. I have made some tough votes in this body on behalf of the free enterprise system, on minimum wage where I stuck with the President, high-risk notification, unlimited liability on the oil pollution bill.

But business sometimes, Madam Chairman, overreacts, much as we saw with the plant closing legislation some 2 years ago, as summarized in an article written in U.S. News & World Report 1 year later, looking at that legislation and the impact that it was going to have on our economy, entitled: "The Disaster That Never Happened."

We were told by business leaders that if we adopted the plant closing legislation, it would be a disaster for our industry and our employees. We were told by members of Congress in this very body that it would create a torrent of litigation and choke off economic growth.

□ 1210

Well, 1 year later, as the business department of the U.S. News & World Report reported in their February issue of this year, none of that happened. As a matter of fact, everything was overstated.

And in the words of U.S. News & World Report, "another example of Washington's knack for turning a molehill-sized issue into a mountain."

I think that is the case in this situation with the Gordon/Weldon compromise. This effort for this legislation has been pushed by its backers as being pro-family. It is being covered by the media as being pro-family. It has been perceived by the voters as being pro-family as determined by poll after poll.

Madam Chairwoman, as the youngest of nine children, married to the middle of seven and the father of five, I say this legislation is pro-family. This particular bill has been called a mandated benefit.

Well, that is just not so. Madam Chairwoman, there is a responsible role for Government to play in setting parameters for the private sector, for business and industry just as we did in support of our President on the minimum wage bill, where 382 of our colleagues, including myself, voted in favor of that legislation, including 135 of my Republican colleagues.

Just as we did in this body on the plant closing bill where 308 of us joined in bipartisan support of that parameter for the private sector; just as we have done for worker safety with our OSHA regulations, and just as we have done for child labor laws.

Yes, Madam Chairman, there is a role for Government to play in setting the parameters for the private sector. To say that this compromise is not in fact a compromise is just pure hogwash. It is a sincere effort to reach a workable agreement.

My business groups back in my district, my Chamber of Commerce representing 2,000 workers, my small-business group representing 5,000 employer-groups says that they can live with this compromise.

Some have argued that without this legislation on a cost basis we are losing $12 billion a year.

Well, I will not make that argument; but let me give you a real example, an example dealing with the care that we need to provide for our aging senior citizen population: I sit on the board of a hospital serving the poorest of the poor in one of the towns in my district. My wife is a nurse, been that for 18 years, and has worked as a hospice nurse.

The cost to provide quality care in the hospital today for an ailing senior citizen is $500 in my district. The cost for that senior citizen to be given

loving care at home in a hospice program is $65 a day.

Madam Chairman, that care cannot be provided unless there is a quality care provider at home, a relative who is able to care for that human being.

Why, this bill and this compromise is being supported by so many groups across the broad spectrum of America. Make no mistake about it, this legislation is about promoting and protecting the American family. It is not about management versus labor, it is not about employers versus employees and it is certainly not about the AFL-CIO versus the Chamber of Commerce.

This legislation is about allowing a single mother the chance to take an unpaid leave for up to 12 weeks to care for a sick child; this legislation is about allowing the worker to have time off after first using their paid vacation time to care for a newly adopted child, a sick spouse or a dying parent.

With over 95 percent of American companies exempted, the cost of this is minimal. We need to support the bipartisan compromise.

Madam Chairman, I urge my colleagues to join with us in this effort.

Mr. GORDON. Madam Chairman, I yield myself the remainder of my time.

The CHAIRMAN. The gentleman from Tennessee [Mr. GORDON] is recognized for 30 seconds.

Mr. GORDON. Madam Chairman, American families need this bill, and the Gordon-Weldon amendment is our best shot at making it the law of the land. This amendment is for the mother who cannot care for her baby because she does not have enough time off from work, it is for the grandparents who need temporary care from someone who loves them rather than from an institution, for the father who fights to hold his family together while his spouse fights cancer.

Madam Chairman, American families deserve this bipartisan bill.

Mr. GEPHARDT. Madam Chairman, let me begin by congratulating Congressman CLAY, Congresswoman ROUKEMA, our other friends on the Education and Labor Committee, Congresswoman SCHROEDER, Congressman WELDON, and Congressman GORDON for bringing this legislation to the point of passage today.

I believe this bill represents Congress and public service at its best, because it recognizes the real life circumstances of the working Americans who make this country strong.

There are no higher purposes in public service than standing for a competitive economy and a just society.

This spring, we in Congress have stood for those values by passing child care legislation, a budget that invests in the future, and by bringing forward an Americans with Disabilities Act and, this week, a family and medical leave bill.

This is a proud moment for the House. Our debate today is not between Republicans and Democrats, because this legislation has support on both sides of the aisle.

Our debate today is not between liberals and conservatives, because conscientious Members who hold widely disparate views on many issues which divide us are standing together for this bill. Today, this debate is between old thinking and new thinking about our economy.

The old thinking says to families in the work force. You must choose between a newborn baby and your job.

You must choose between a sick child or a sick parent and your career.

You must choose between your obligations as a family member and a bread winner.

And we say today: Those choices are immoral, antifamily, and unacceptable in a society that needs the contributions of every talented worker, regardless of his family's circumstances.

There are progressive businessmen and businesswomen in this country who understand that old thinking represents a false choice.

I was in Kansas City the other day, and business leaders there told me the following. If Congress wants this country to be competitive, it is not enough to get the budget right.

It is not enough to get the cost of capital down. It is not enough to enforce the rules of international trade. You must also understand the demographics and dynamics of the work force.

If we do not strengthen our families and help our kids, this country is going to go down the tubes.

My friends, this is what this legislation is all about. It is good for our families and it is good for business.

Family and medical leave is a matter of policy and law in the nations against which we must compete economically, and we need this legislation adopted today.

Let me conclude by urging the administration to hear the voices of America's families over the din of the special interests.

It is not enough to support rhetorically the need for a kinder, gentler society, if you are unwilling to back up campaign poetry with the prose of governing.

Family and medical leave, as with child care and disabilities legislation, will make America stronger and better. To stand with working families, we urge adoption of this bill.

Mr. LEWIS of Florida. Madam Chairman, the Family and Medical Leave Act, H.R. 770, though well-intended, is a prime example of congressional interference in an area that is better handled by the private sector. Everyone agrees that family and medical leave is a desirable employee benefit. In fact, most employers provide such leave in order to recruit and retain good employees.

However, it is counterproductive for Congress to step in and apply one set of leave benefits for the entire country. Leave is just one of a package of benefits that employers and employees negotiate. A congressional mandate on leave, or any other employee benefit, deprives businesses and workers latitude in these negotiations. Other, more desirable benefits would have to be sacrificed in order to comply with a congressional mandate on one specific benefit. In short, Congress has no business interfering with benefit arrangements worked out in the private sector.

And H.R. 770 is not a simple bill; it would hamstring the private sector with a host of new regulations and requirements. In a time when there is much concern about American competitiveness in world markets, we do not need to saddle our businesses with new, complicated, and ultimately costly Federal regulations. I favor family and medical leave, but I do not favor a one-size-fits-all Federal leave policy. H.R. 770 is a shortsighted proposal.

Mrs. SAIKI. Madam Chairman, I am speaking today in favor of the Gordon-Weldon bipartisan compromise to the Family and Medical Leave Act of 1990, H.R. 770.

When I look around this Chamber, I do not see the Federal Government, I see mothers and fathers and sons and daughters. Further, we all are employers. We have staffs both here and at home and many of us are also private businesswomen and men. With those kind of qualifications no one can claim that we do not have the knowledge and the justification to be involved in this issue.

As a former working mother of five children, I know what it is like to be denied the opportunity to stay at home with a sick child. After experiencing the agony of being made to choose between a family obligation and work commitment, I cannot imagine not supporting this measure.

We have all heard the data on the changing demographics of the workplace along with the growing economic pressures that require two paychecks for families to survive. We have heard the success stories from the businesses and the States which have some form of medical and family leave policy in place. And, we have heard the horror stories of those who have lost their jobs or placed the welfare of their families at risk because they worked for employers who have no minimum standards for emergency family leave.

Now it is time, Madam Chairman, to look to ourselves and ask what kind of support, what kind of policy, we would want from an employer if family circumstances required a prolonged absence from work. I believe that most of us would want the peace of mind that an established leave policy would give us.

I ask my colleagues to vote in favor of the Gordon-Weldon substitute. It is the right answer for the American family and it is the right answer for American business. With the passage of this legislation American business will continue to prosper because it will be run by loyal, experienced, and hard working individuals. And with passage, the American family will be given a lifeline to survival.

Mr. MFUME. Madam Chairman, I rise today in support of the right of all Americans to have the benefit of enjoying a career and raising a family. America's workers should not have to choose between caring for their families and losing their jobs. Rather they should be secure in the knowledge that no values are more important to America than family and work.

Increasingly more women with children of preschool age are entering the work force, often to contribute to household income. In

fact, 57 percent of married mothers with children under 6 years old, are in the work force. And one of every two single mothers with preschool aged children works outside the home.

Madam Chairman, more than 47 percent of America's workers are employed by businesses with 50 employees or less, about 5 percent of all businesses in the United States. Unfortunately, many of these workers do not have the benefit of a parental leave policy; and they certainly are not afforded any type of job security after a medically-related leave of absence. We all lose when America's workers have no alternatives in dealing with family matters and cannot return to their jobs.

Madam Chairman, I support a national family and medical leave policy because America's working families are well worth it. Our young couples starting new families deserve to spend time with their newly born or adopted child; that experience cannot be defined in terms of a profit margin or a bottom line. Certainly they are worth it.

And our more mature, compassionate workers caring for aged parents; for them it is often a distressing experience to choose between caring for their own children or caring for their parents who now need them. Even for those who may be able to afford the ever-increasing cost of nursing home care or in-home health care, compassion is far and away, priceless.

A family and medical leave policy is as American as free enterprise. Such a national policy is good for America's families, and for America's businesses. There is no need for this divergence to continue. I urge my colleagues to support the measure and to support America.

Mr. SCHIFF. Madam Chairman, today I regretfully cast a "no" vote on the Family and Medical Leave Act. I say regretfully because I understand and appreciate the intent of this bill. I can personally identify with the American families' difficulties in meeting both their work and family responsibilities. I grew up in a family where both mother and father worked; now my wife and I are both part of the ever growing work force, while raising two young children.

However, because a bill has a good intent, does not mean it will create a good or necessary law. It is my understanding that most employers of more than 50 employees in this country already provide leave to their employees in time of family emergency. These policies often meet or exceed the proposal here today. I know that while holding the position of District Attorney of Bernalillo County for 8 years, I established a policy of maternity and paternity and emergency leave which provided much better benefits, including paid leave, to my staff members than we would enact here. Most employers realize that providing special leave is both humane and makes good business sense.

In the cases of those few businesses employing over 50 people who really do not provide unpaid leave, their employees might still prefer to choose other benefits, such as better health insurance, over unpaid leave, which we would be imposing by enacting this bill.

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Tennessee [Mr. GORDON].

The question was taken, and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WELDON. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 259, noes 157, not voting 17, as follows;

[Roll No. 105]

AYES—259

Ackerman	Foglietta	McGrath
Akaka	Ford (MI)	McHugh
Alexander	Ford (TN)	McMillen (MD)
Anderson	Frank	McNulty
Andrews	Frost	Mfume
Annunzio	Gaydos	Miller (CA)
Anthony	Gejdenson	Miller (WA)
Applegate	Gephardt	Mineta
Aspin	Gibbons	Moakley
Atkins	Gillmor	Molinari
AuCoin	Gilman	Mollohan
Bates	Gonzalez	Moody
Bellenson	Gordon	Morella
Bennett	Gray	Morrison (CT)
Bereuter	Green	Morrison (WA)
Berman	Guarini	Mrazek
Bevill	Hall (OH)	Murphy
Bilbray	Hamilton	Murtha
Bilirakis	Harris	Nagle
Boehlert	Hatcher	Natcher
Boggs	Hawkins	Neal (MA)
Bonior	Hayes (IL)	Nielson
Borski	Hayes (LA)	Nowak
Bosco	Hefner	Oakar
Boucher	Hertel	Oberstar
Boxer	Hoagland	Obey
Brennan	Hochbrueckner	Olin
Brooks	Horton	Ortiz
Browder	Hoyer	Owens (NY)
Brown (CA)	Hughes	Pallone
Bruce	Hyde	Panetta
Bryant	Jacobs	Pashayan
Bustamante	Jenkins	Payne (NJ)
Cardin	Johnson (CT)	Pease
Carper	Johnson (SD)	Pelosi
Carr	Johnston	Perkins
Chapman	Jones (GA)	Poshard
Clay	Jones (NC)	Price
Clement	Jontz	Rahall
Coleman (TX)	Kanjorski	Rangel
Collins	Kaptur	Ravenel
Condit	Kastenmeier	Regula
Conte	Kennedy	Richardson
Conyers	Kennelly	Rinaldo
Costello	Kildee	Ritter
Coughlin	Kleczka	Roe
Coyne	Kolter	Ros-Lehtinen
Crockett	Kostmayer	Rose
Davis	LaFalce	Roukema
de la Garza	Lancaster	Rowland (CT)
DeFazio	Lantos	Roybal
Dellums	Lehman (CA)	Russo
DeWine	Lehman (FL)	Sabo
Dicks	Levin (MI)	Saiki
Dingell	Levine (CA)	Sangmeister
Dixon	Lewis (GA)	Savage
Dorgan (ND)	Lipinski	Sawyer
Downey	Long	Scheuer
Durbin	Lowey (NY)	Schiff
Dwyer	Luken, Thomas	Schneider
Dymally	Machtley	Schroeder
Dyson	Madigan	Schumer
Early	Manton	Serrano
Eckart	Markey	Sharp
Edwards (CA)	Martin (IL)	Shays
English	Martin (NY)	Sikorski
Erdreich	Martinez	Sisisky
Espy	Matsui	Skaggs
Evans	Mavroules	Slaughter (NY)
Fascell	Mazzoli	Smith (FL)
Fazio	McCloskey	Smith (IA)
Feighan	McCurdy	Smith (NE)
Fish	McDade	Smith (NJ)
Flake	McDermott	Smith (TX)
Smith (VT)	Torres	Weldon
Snowe	Torricelli	Wheat
Solarz	Towns	Whitten
Solomon	Traficant	Williams
Spence	Traxler	Wise
Spratt	Unsoeld	Wolpe
Staggers	Vento	Wyden
Stark	Visclosky	Yates
Stokes	Volkmer	Yatron
Studds	Walgren	Young (AK)
Synar	Washington	Young (FL)
Tauzin	Waxman	
Taylor	Weiss	

NOES—157

Archer	Hammerschmidt	Porter
Armey	Hancock	Pursell
Baker	Hansen	Quillen
Ballenger	Hastert	Ray
Barnard	Hefley	Rhodes
Bartlett	Henry	Ridge
Barton	Herger	Roberts
Bateman	Hiler	Rogers
Bliley	Holloway	Rohrabacher
Broomfield	Hopkins	Roth
Brown (CO)	Houghton	Rowland (GA)
Buechner	Hubbard	Sarpalius
Bunning	Huckaby	Saxton
Burton	Hunter	Schaefer
Byron	Hutto	Schuette
Callahan	Inhofe	Schulze
Campbell (CA)	Ireland	Sensenbrenner
Campbell (CO)	James	Shaw
Chandler	Kasich	Shumway
Clarke	Kolbe	Shuster
Clinger	Kyl	Skeen
Coleman (MO)	Lagomarsino	Skelton
Combest	Leach (IA)	Slattery
Cooper	Leath (TX)	Slaughter (VA)
Courter	Lent	Smith, Denny (OR)
Cox	Lewis (FL)	Smith, Robert (NH)
Craig	Lightfoot	Smith, Robert (OR)
Crane	Livingston	Stallings
Dannemeyer	Lowery (CA)	Stangeland
Darden	Lukens, Donald	Stearns
DeLay	Marlenee	Stenholm
Derrick	McCandless	Stump
Dickinson	McCollum	Sundquist
Donnelly	McCrery	Tallon
Dornan (CA)	McEwen	Tanner
Douglas	McMillan (NC)	Tauke
Dreier	Meyers	Thomas (CA)
Duncan	Michel	Thomas (GA)
Fawell	Miller (OH)	Thomas (WY)
Fields	Montgomery	Upton
Frenzel	Moorhead	Valentine
Gallegly	Myers	Vander Jagt
Gallo	Neal (NC)	Vucanovich
Gekas	Oxley	Walker
Geren	Packard	Walsh
Gingrich	Parker	Weber
Glickman	Parris	Whittaker
Goodling	Patterson	Wolf
Goss	Paxon	Wylie
Gradison	Payne (VA)	
Grandy	Penny	
Grant	Petri	
Gunderson	Pickett	
Hall (TX)	Pickle	

NOT VOTING—17

Bentley	Laughlin	Rostenkowski
Coble	Lewis (CA)	Swift
Edwards (OK)	Lloyd	Udall
Emerson	Nelson	Watkins
Engel	Owens (UT)	Wilson
Flippo	Robinson	

□ 1236

The CLerk announced the following pair:

On this vote:

Mr. Nelson of Florida for, with Mr. Lewis of California against.

Messrs. BARTLETT, MOORHEAD, and JAMES changed their vote from "aye" to "no."

Mr. MADIGAN changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. OWENS of Utah. Madam Chairman, during the vote on the Gordon substitute to the bill H.R. 770 earlier today, rollcall No. 105, I was not recorded.

I was attending a meeting on the Senate side of the Capitol with my colleague from the Senate, Mr. HATCH, and, for reasons not clear, my beeper did not sound to alert me to the vote.

Had I been present I would have voted "aye".

The CHAIRMAN. The question is on the amendment in the nature of a substitute made in order as original text, as amended.

The amendment in the nature of a substitute made in order as original text, as amended, was agreed to.

The CHAIRMAN. Under the rule, the committee rises.

Accordingly the committee rose; and the Speaker having resumed the Chair, Mrs. KENNELLY, 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. 770) to entitle employees to family leave in certain cases involving a birth, an adoption, or a serious health condition and to temporary medical leave in certain cases involving a serious health condition, with adequate protection of the employees' employment and benefit rights, and to establish a commission to study ways of providing salary replacement for employees who take any such leave, pursuant to House Resolution 388, reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the amendment in the nature of a substitute made in order as original text?

If not, the question is on the amendment in the nature of a substitute made in order as original text as amended.

The amendment in the nature of a substitute made in order as original text as amended, was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GRANDY

Mr. GRANDY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman from Iowa [Mr. GRANDY] the designee of the Republican leader of the House?

Mr. GRANDY. I am, Mr. Speaker.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. GRANDY. I am, Mr. Speaker, in its present form.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GRANDY moves to recommit the bill, H.R. 770, to the Committee on Education and Labor with instructions to report the same forthwith to the House with the following amendment:

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

TITLE I—COMMISSION ON LEAVE

SEC. 101. ESTABLISHMENT.

There is established a commission to be known as the Commission on Leave (hereafter in this Act referred to as the "Commission").

SEC. 102. DUTIES.

The Commission shall—

(1) conduct a comprehensive study of—

(A) existing and proposed policies and State and local laws relating to leave,

(B) the potential costs, benefits, and impact on productivity of such policies on businesses which employ fewer than 50 employees, and

(2) within 2 years after the date on which the Commission first meets, submit a report to the Congress, which may include legislative recommendations concerning coverage of businesses which employ fewer than 50 employees.

SEC. 103. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall be composed of 12 voting members and 2 ex-officio members appointed not more than 60 days after the date of the enactment of this Act as follows:

(1) One Senator shall be appointed by the majority leader of the Senate, and one Senator shall be appointed by the minority leader of the Senate.

(2) One member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one Member of the House of Representatives shall be appointed by the minority leader of the House of Representatives.

(3)(A) Two members each shall be appointed by—

(i) The Speaker of the House of Representatives,

(ii) the majority leader of the Senate,

(iii) the minority leader of the House of Representatives, and

(iv) the minority leader of the Senate.

(B) Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor-management issues and shall include representatives of small business.

(4) The Secretary of Health and Human Services and the Secretary of Labor shall serve on the Commission as nonvoting ex-officio members.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson and a vice chairperson from among its members.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 104. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSE.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when performing duties of the Commission.

SEC. 105. POWERS.

(a) MEETINGS.—The Commission shall first meet not more than 30 days after the date on which members are appointed, and the Commission shall meet thereafter upon the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act. Upon the request of the chairperson or vice chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(d) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director from the personnel of any Federal agency to assist the Commission in carrying out its duties.

(e) USE OF FACILITIES AND SERVICES.—Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency.

(f) PERSONNEL FROM OTHER AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to assist the Commission in carrying out its duties.

SEC. 106. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of its report to the Congress.

TITLE II—FAMILY LEAVE FOR EMPLOYEES OF THE HOUSE OF REPRESENTATIVES

SEC. 201. DEFINITIONS.

For purposes of this title:

(1) The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include "commerce" and any activity or industry "affecting commerce" within the meaning of the Labor Management Relations Act, 1947 (29 U.S.C. 141 et seq.).

(2) The terms "employ" and "State" have the meanings given such terms in sections 3(g) and 3(c), respectively, of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g), 203(a), 203(c)).

(3) The terms "eligible employee" means any employee as defined in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)) who is in an employment position in the House of Representatives.

(4) The term "employer" means any employing authority of the House of Representatives.

(5) The term "employment benefits" means all benefits provided or made available to employees by an employer, and include group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a policy or practice of an employer or through an employee benefit plan as defined in section 3(3) of the Employee Retire-

ment Income Security Act of 1974 (29 U.S.C. 1002(1)).

(6) The term "health care provider" means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such function or action.

(7) The term "reduced leave schedule" means leave scheduled for fewer than an employee's usual number of hours per workweek or hours per workday.

(8) The term "Secretary" means the Secretary of Labor.

(9) The term "serious health condition" means an illness, injury, impairment, or physical or mental conditions which involves—

(A) inpatient care in a hospital, hospice, or residential health care facility, or

(B) continuing treatment or continuing supervision by a health care provider.

(10) The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

(A) under 18 years of age, or

(B) 18 years of age or older and incapable of self-care because of mental or physical disability.

(11) The term "parent" means the biological parent of the child or an individual who stood in loco parentis to a child when the child was a son or daughter.

SEC. 202. LEAVE REQUIREMENT.

(a) IN GENERAL.—(1) an eligible employee shall be entitled, subject to section 203, to 12 workweeks of leave during any 12-month period—

(A) because of the birth of a son or daughter of the employee;

(B) because of the placement of a son or daughter with the employee for adoption or foster care;

(C) in order to care for the employee's son, daughter, spouse, or parent who has a serious health condition; or

(D) because of a serious health condition which makes the employee unable to perform the functions of such employee's position.

(2)(A) The entitlement to leave under paragraphs (1)(A) and (1)(B) for a birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement. If one parent of a son or daughter takes leave under paragraph (1)(A), the other parent of such son or daughter may not take leave under such paragraph at the same time.

(B) Leave under paragraph (1)(A) or (1)(B) may not be taken by an employee intermittently unless the employee and the employee's employer agree otherwise. Leave under paragraph (1)(C) or (1)(D) may be taken intermittently when medically necessary, subject to subsection (e).

(b) REDUCED LEAVE.—Upon agreement between the employer and the employee, leave under subsection (a) may be taken on a reduced leave schedule. Such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.

(c) UNPAID LEAVE PERMITTED.—Leave under subsection (a) may consist of unpaid leave, except as provided in subsection (d).

(d) RELATIONSHIP TO PAID LEAVE.—(1)(A) An eligible employee may elect, or an employer may require the employee, to substitute for leave under paragraph (1)(A), (1)(B), or (1)(C) of subsection (a) any of the employee's paid vacation leave, personal leave, or family leave for any part of the 12-week period of such leave under such paragraph.

(B) An eligible employee or employer may elect, or an employer may require the employee, to substitute for leave under paragraph (1)(D) of subsection (a) any of the employee's paid vacation leave, personal leave, or medical or sick leave for any part of the 12-week period of such leave under such paragraph, except that nothing in this Act shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.

(2) If an eligible employee is entitled to leave under subsection (a), if under paragraph (1) the employee elects to substitute or is required by the employee's employer to substitute paid leave for such leave, and if such paid leave is less than the 12 weeks leave under subsection (a), the employee's employer shall provide the employee such additional weeks of leave as may be necessary to attain such 12 weeks.

(e) FORESEEABLE LEAVE.—(1) In any case in which the necessity for leave under paragraph (1)(A) or (1)(B) of subsection (a) is foreseeable based on an expected birth or adoption, the eligible employee shall provide the employer with prior notice of such expected birth or adoption in a manner which is reasonable and practicable.

(2) In any case in which the necessity for leave under paragraph (1)(C) or (1)(D) of subsection (a) is foreseeable based on planned medical treatment or supervision, the employee—

(A) shall make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employer, subject to the approval of the employee's health care provider or the health care provider of the employee's son, daughter, or parent; and

(B) shall provide the employer with prior notice of the treatment or supervision in a manner which is reasonable and practicable.

(f) SPOUSES EMPLOYED BY THE SAME EMPLOYER.—In any case in which a husband and wife entitled to leave under subsection (a) are employed by the same employer, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period, if such leave is taken—

(1) under subparagraph (A) or (B) of subsection (a)(1); or

(2) to care for a sick parent under subparagraph (C) of such subsection.

SEC. 203. CERTIFICATION.

(a) IN GENERAL.—An employer may require that a claim for leave under section 202(a)(1)(C) or 202(a)(1)(D) be supported by certification issued by the health care provider of the eligible employee or of the employee's son, daughter, spouse, or parent, whichever is appropriate. The employee shall provide a copy of such certification to the employer.

(b) SUFFICIENT CERTIFICATION.—Such certification shall be sufficient if it states—

(1) the date on which the serious health condition commenced,

(2) the probable duration of the condition;

(3) the appropriate medical facts within the provider's knowledge regarding the condition; and

(4)(A) for purposes of leave under section 202(a)(1)(C), an estimate of the amount of time that the eligible employee is needed to care for the son, daughter, spouse, or parent; and

(B) for purposes of leave under section 202(a)(1)(D), a statement that the employee is unable to perform the functions of the employee's position.

(c) EXPLANATION OF INABILITY TO PERFORM JOB FUNCTIONS.—The employer may request that, for purposes of section 204(d), certification under subsection (a) that is issued in any case involving leave under section 202(a)(1)(D) include an explanation of the extent to which the eligible employee is unable to perform the functions of the employee's position.

(d) SECOND OPINION.—(1) In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a) for leave under paragraph (1)(C) or (1)(D) of section 202(a), the employer may require, at its own expense, that the eligible employee obtain the opinion of a second health care provider designated or approved by the employer concerning any information certified under subsection (a) for such leave.

(2) Any health care provider designated or approved under paragraph (1) may not be employed on a regular basis by the employer.

(e) RESOLUTION OF CONFLICTING OPINIONS.—In any case in which the second opinion described in subsection (d) differs from the original certification provided under subsection (a), the employer may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (a). The opinion of the third health care provider concerning the information certified under subsection (a) shall be considered to be final and shall be binding on the employer and the employee.

(f) SUBSEQUENT RECERTIFICATION.—The employer may require that the eligible employee obtain subsequent recertification on a reasonable basis.

SEC. 204. EMPLOYMENT AND BENEFITS PROTECTION.

(a) RESTORATION TO POSITION.—(1) Any eligible employee who takes leave under section 202 for its intended purpose shall be entitled, upon return from such leave—

(A) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(B) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) The taking of leave under section 202 shall not result in the loss of any employment benefit earned before the date on which the leave commenced.

(3) Nothing in this subsection shall be construed to entitle any restored employee to—

(A) the accrual of any seniority or employment benefits during any period of leave; or

(B) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(4) As a condition to restoration under paragraph (1), the employer may have a policy that requires each employee to receive certification from the employee's health care provider that the employee is able to resume work, except that nothing in this paragraph shall supersede a valid State or local law or a collective bargaining agreement that governs the return to work of employees taking leave under section 202(a)(1)(D).

(b) MAINTENANCE OF HEALTH BENEFITS.—During any period an eligible employee takes leave under section 202, the employer shall maintain coverage under any group health plan (as defined in section 162(i)(2) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously from the date the employee commenced the leave until the date the employee is restored under subsection (a).

(c) NO BAR TO AGREEMENT CONCERNING ALTERNATIVE EMPLOYMENT.—Nothing in this title shall be construed to prohibit an employer and an eligible employee from mutually agreeing to alternative employment for the employee throughout the period during which the employee would be entitled to leave under section 202. Any such period of alternative employment shall not cause a reduction in the period of temporary leave to which the employee is entitled under section 202(a)(1)(D).

SEC. 205. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—(1) It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this title.

(2) It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this title.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because such individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this title;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(3) has testified, or is about to testify in any inquiry or proceeding relating to any right provided under this title.

SEC. 206. ADMINISTRATION.

In the administration of this title, the remedies and procedures under the Fair Employment Practices Resolution shall be applied. As used in this section, the term "Fair Employment Practices Resolution" means House Resolution 558, One Hundredth Congress, agreed to October 3, 1988, as continued in effect by House Resolution 15, One Hundred and First Congress, agreed to January 3, 1989.

Mr. GRANDY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER. The gentleman from Iowa [Mr. GRANDY] is recognized for 5 minutes in support of his motion to recommit.

□ 1240

Mr. GRANDY. Mr. Speaker, this motion to recommit makes two contributions, I hope, to this debate, offers another alternative to the Weldon-Gordon substitute which this body just passed.

I ask for the following two provisions in this motion to recommit:

One, to establish a commission to conduct a comprehensive study on the effects of family and medical leave mandates for businesses with less than 50 employees. In other words, basically title III, Mr. Speaker, that is contained in the present legislation, but I ask that the commission comes before the implementation of the legislation in the private sector, and I ask that because my purpose in offering this commission today is to allow Members to have a data base on which to base their decision as to whether or not at some point we want to consider another kind of benefit mandate in the workplace. Today we consider unpaid benefits. Tomorrow we may be considering paid benefits. Why not put that study out there and see if we need to do both at once?

All I ask is that we do not ask the private sector to take that risk first before we have a study such as the one in the original legislation and in the substitute.

Second, Mr. Speaker, I would ask that, if we want a pilot project as to whether or not this legislation will work, and I would like to acknowledge the contribution of the gentleman from Mississippi [Mr. PARKER] whose idea it is that I am incorporating in this motion to recommit, and this would allow the House of Representatives to serve as a pilot program for the implementation of mandatory family and medical leave, a 2-year pilot program, roughly the length of the commission, to allow the congressional workplace to be the laboratory of experimentations since this type of mandate could have significant ramifications on all the small businesses across this country.

Why not for a change, Mr. Speaker, allow us to perform the experiment on ourselves as opposed to the American people? That is all I ask. In 2 years time we may return to this body with a broad-based consensus to vote for another kind of mandate entirely.

Mr. Speaker, I would just say that in today's New York Times, in an editorial that opposes the legislation that we just passed in committee, they acknowledge that over the last 25 years the proportion of women who worked before the birth of their first child has risen by 25 percent, but employers have responded, and the percentage of pregnant women——

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

Mr. GRANDY. Mr. Speaker, just let me say before I yield to the gentleman from Texas [Mr. BARTLETT], my friend, that I am trying in this particular motion to recommit to offer suggestions and possible solutions proposed by my Democratic colleagues.

The gentleman from Michigan [Mr. CARR] said, "Let's get a better data base," and I hope that this commission will provide that.

The gentleman from Mississippi [Mr. PARKER] said, "Let's try it out on the House first."

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

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

Mr. BARTLETT. Mr. Speaker, is the essence of the motion of the gentleman from Iowa [Mr. GRANDY] to apply this to Congress first to find out how it works before we apply it to the rest of the country?

Mr. GRANDY. Reclaiming my time, Mr. Speaker, crazy as it sounds, that is the idea. Make us the guinea pig for a change, conduct the study and then draw our conclusions 2 years hence.

Mr. Speaker, with that I offer this motion to recommit and hope that the House Members on both sides of the aisle who are uncomfortable with the substitute that we have just passed, but want to vote for something, will consider this alternative and consider the chance to go back to their constituents and say, "This time I will try it first and then tell you whether it works or not."

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

The SPEAKER. Does any Member seek recognition in opposition to the motion?

Mr. GORDON. Yes, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Tennessee [Mr. GORDON] for 5 minutes in opposition to the motion to recommit.

Mr. GORDON. Mr. Speaker, as the gentleman from Iowa [Mr. GRANDY] well knows, we have discussed this issue for 5 years, and we have debated it fully for the last 2 days. His motion is nothing more than an effort to gut the matter. The House has already spoken with overwhelming victory.

Mrs. ROUKEMA. Mr. Speaker, will the gentleman yield?

Mr. GORDON. I yield the balance of my time to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, this simply guts the bill. The membership should know that there is a provision for a commission study in the bill already.

Mr. Speaker, I say to my colleagues, "If you gut this bill, you're really saying, if you're pregnant, caring for a terminally ill child or a terminally ill parent, go find another job."

Mr. Speaker, that is not what this Congress wants to say to the American people today.

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

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

Mr. GORDON. I yield to the gentleman from Pennsylvania.

Mr. WELDON. Mr. Speaker, let us look at this for what it is. It is a motion to gut the entire process that we just went through, and what really upsets me the most is there were some legitimate concerns that were to be addressed by some amendments that were made in order that a number of people in this body would have supported. We were not given that opportunity to vote on those amendments. This is an attempt to give these Members a chance to impact this legislation. Let us look at this for what it is.

Mr. Speaker, this is simple a motion to undo what we have done. I resent it, and I hope my colleagues will vote against it.

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

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 264, not voting 14, as follows:

[Roll No. 106]

AYES—155

Archer	Gradison	Miller (OH)
Armey	Grandy	Moorhead
Baker	Grant	Myers
Ballenger	Gunderson	Nagle
Barnard	Hall (TX)	Neal (NC)
Bartlett	Hammerschmidt	Olin
Barton	Hancock	Oxley
Bateman	Hansen	Packard
Bereuter	Harris	Parker
Bevill	Hastert	Parris
Billirakis	Hayes (LA)	Pashayan
Bliley	Hefley	Paxon
Broomfield	Henry	Penny
Brown (CO)	Herger	Petri
Buechner	Hiler	Porter
Bunning	Holloway	Pursell
Callahan	Hopkins	Quillen
Carr	Houghton	Rhodes
Chandler	Hubbard	Ridge
Clarke	Huckaby	Ritter
Coble	Inhofe	Roberts
Coleman (MO)	Ireland	Rogers
Combest	James	Rohrabacher
Cooper	Jones (NC)	Roth
Courter	Kasich	Sarpalius
Cox	Kolbe	Saxton
Craig	Kyl	Schaefer
Crane	Lagomarsino	Schiff
Dannemeyer	Lancaster	Schuette
DeLay	Leach (IA)	Schulze
Derrick	Lent	Sensenbrenner
Dickinson	Lewis (FL)	Shaw
Dornan (CA)	Lightfoot	Shumway
Douglas	Livingston	Shuster
Dreier	Lloyd	Skeen
Duncan	Lowery (CA)	Slaughter (VA)
Edwards (OK)	Lukens, Donald	Smith, Denny (OR)
Fawell	Madigan	Smith, Robert (NH)
Fields	Marlenee	Smith, Robert (OR)
Frenzel	McCandless	Spence
Gallo	McCollum	Stallings
Gekas	McCrery	Stangeland
Gillmor	McEwen	Stearns
Gingrich	McMillan (NC)	Stump
Goodling	Meyers	Sundquist
Goss	Michel	Tallon
		Tanner
		Tauke
		Tauzin
		Taylor
		Thomas (CA)
		Thomas (WY)
		Upton
		Valentine
		Vander Jagt
		Vucanovich
		Walker
		Weber
		Whittaker
		Wolf
		Wylie
		Young (AK)
		Young (FL)

NOES—264

Ackerman	Gonzalez	Owens (UT)
Akaka	Gordon	Pallone
Alexander	Gray	Panetta
Anderson	Green	Patterson
Andrews	Guarini	Payne (NJ)
Annunzio	Hall (OH)	Payne (VA)
Anthony	Hamilton	Pease
Applegate	Hatcher	Pelosi
Aspin	Hawkins	Perkins
Atkins	Hayes (IL)	Pickett
AuCoin	Hefner	Pickle
Bates	Hertel	Poshard
Beilenson	Hoagland	Price
Bennett	Hochbrueckner	Rahall
Berman	Horton	Rangel
Bilbray	Hoyer	Ravenel
Boehlert	Hughes	Ray
Boggs	Hutto	Regula
Bonior	Hyde	Richardson
Borski	Jacobs	Rinaldo
Bosco	Jenkins	Roe
Boucher	Johnson (CT)	Ros-Lehtinen
Boxer	Johnson (SD)	Rose
Brennan	Johnston	Roukema
Brooks	Jones (GA)	Rowland (CT)
Browder	Jontz	Rowland (GA)
Bruce	Kanjorski	Roybal
Bryant	Kaptur	Russo
Bustamante	Kastenmeier	Sabo
Byron	Kennedy	Saiki
Campbell (CA)	Kennelly	Sangmeister
Campbell (CO)	Kildee	Savage
Cardin	Kleczka	Sawyer
Carper	Kolter	Scheuer
Chapman	Kostmayer	Schneider
Clay	LaFalce	Schroeder
Clement	Lantos	Schumer
Clinger	Leath (TX)	Serrano
Coleman (TX)	Lehman (CA)	Sharp
Collins	Lehman (FL)	Shays
Condit	Levin (MI)	Sikorski
Conte	Levine (CA)	Sisisky
Conyers	Lewis (GA)	Skaggs
Costello	Lipinski	Skelton
Coughlin	Long	Slattery
Coyne	Lowey (NY)	Slaughter (NY)
Crockett	Luken, Thomas	Smith (FL)
Darden	Machtley	Smith (IA)
Davis	Manton	Smith (NE)
de la Garza	Markey	Smith (NJ)
DeFazio	Martin (IL)	Smith (TX)
Dellums	Martin (NY)	Smith (VT)
DeWine	Martinez	Snowe
Dicks	Matsui	Solarz
Dingell	Mavroules	Spratt
Dixon	Mazzoli	Staggers
Donnelly	McCloskey	Stark
Dorgan (ND)	McCurdy	Stenholm
Downey	McDade	Stokes
Durbin	McDermott	Studds
Dwyer	McGrath	Swift
Dymally	McHugh	Synar
Dyson	McMillen (MD)	Thomas (GA)
Early	McNulty	Torres
Eckart	Mfume	Torricelli
Edwards (CA)	Miller (CA)	Towns
Engel	Miller (WA)	Traficant
English	Mineta	Traxler
Erdreich	Moakley	Udall
Espy	Molinari	Unsoeld
Evans	Mollohan	Vento
Fascell	Montgomery	Visclosky
Fazio	Moody	Volkmer
Feighan	Morella	Walgren
Fish	Morrison (CT)	Walsh
Flake	Morrison (WA)	Washington
Foglietta	Mrazek	Waxman
Ford (MI)	Murphy	Weiss
Ford (TN)	Murtha	Weldon
Frank	Natcher	Wheat
Frost	Neal (MA)	Whitten
Gaydos	Nielson	Williams
Gejdenson	Nowak	Wilson
Gephardt	Oakar	Wise
Geren	Oberstar	Wolpe
Gibbons	Obey	Wyden
Gilman	Ortiz	Yates
Glickman	Owens (NY)	Yatron

NOT VOTING—14

Bentley	Gallegly	Robinson
Brown (CA)	Hunter	Rostenkowski
Burton	Laughlin	Solomon
Emerson	Lewis (CA)	Watkins
Flippo	Nelson	

□ 1307

The Clerk announced the following pair:

On this vote:

Mr. Lewis of California for, with Mr. Nelson of Florida against.

Mr. MADIGAN changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 237, noes 187, not voting 9, as follows:

[Roll No. 107]

AYES—237

Ackerman	Durbin	Kennelly
Akaka	Dwyer	Kildee
Alexander	Dymally	Kleczka
Anderson	Dyson	Kolter
Andrews	Early	Kostmayer
Annunzio	Eckart	Lantos
Anthony	Edwards (CA)	Lehman (CA)
Applegate	Engel	Lehman (FL)
Atkins	English	Levin (MI)
AuCoin	Erdreich	Levine (CA)
Bates	Espy	Lewis (GA)
Beilenson	Evans	Lipinski
Bennett	Fascell	Long
Berman	Fazio	Lowey (NY)
Bilbray	Feighan	Luken, Thomas
Boehlert	Fish	Machtley
Boggs	Flake	Manton
Bonior	Foglietta	Markey
Borski	Ford (MI)	Martin (IL)
Bosco	Ford (TN)	Martin (NY)
Boucher	Frank	Martinez
Boxer	Frost	Matsui
Brennan	Gaydos	Mavroules
Brooks	Gejdenson	Mazzoli
Brown (CA)	Gephardt	McCloskey
Bruce	Gibbons	McCurdy
Bryant	Gillmor	McDade
Bustamante	Gilman	McDermott
Campbell (CA)	Gonzalez	McGrath
Cardin	Gordon	McHugh
Carper	Gray	McMillen (MD)
Chapman	Green	McNulty
Clay	Guarini	Mfume
Clement	Hall (OH)	Miller (CA)
Coleman (TX)	Hawkins	Miller (WA)
Collins	Hayes (IL)	Mineta
Condit	Hertel	Moakley
Conte	Hochbrueckner	Molinari
Conyers	Horton	Mollohan
Costello	Hoyer	Moody
Coughlin	Hughes	Morella
Coyne	Hyde	Morrison (CT)
Crockett	Jacobs	Morrison (WA)
Davis	Jenkins	Mrazek
de la Garza	Johnson (CT)	Murphy
DeFazio	Johnson (SD)	Murtha
Dellums	Johnston	Natcher
DeWine	Jones (NC)	Neal (MA)
Dicks	Jontz	Nowak
Dingell	Kanjorski	Oakar
Dixon	Kaptur	Oberstar
Dorgan (ND)	Kastenmeier	Obey
Downey	Kennedy	Ortiz

Owens (NY)	Savage	Synar
Owens (UT)	Sawyer	Torres
Pallone	Scheuer	Torricelli
Panetta	Schneider	Towns
Payne (NJ)	Schroeder	Traficant
Pease	Schumer	Traxler
Pelosi	Serrano	Udall
Perkins	Sharp	Unsoeld
Poshard	Shays	Vento
Price	Sikorski	Visclosky
Rahall	Skaggs	Volkmer
Rangel	Slaughter (NY)	Walgren
Ravenel	Smith (FL)	Washington
Regula	Smith (IA)	Waxman
Richardson	Smith (NE)	Weiss
Rinaldo	Smith (NJ)	Weldon
Roe	Smith (TX)	Wheat
Ros-Lehtinen	Smith (VT)	Whitten
Rose	Snowe	Williams
Roukema	Solarz	Wilson
Rowland (CT)	Solomon	Wise
Roybal	Staggers	Wolpe
Russo	Stark	Wyden
Sabo	Stokes	Yates
Saiki	Studds	Yatron
Sangmeister	Swift	Young (AK)

NOES—187

Archer	Hansen	Pickett
Armey	Harris	Pickle
Aspin	Hastert	Porter
Baker	Hatcher	Pursell
Ballenger	Hayes (LA)	Quillen
Barnard	Hefley	Ray
Bartlett	Hefner	Rhodes
Barton	Henry	Ridge
Bateman	Herger	Ritter
Bereuter	Hiler	Roberts
Bevill	Hoagland	Rogers
Bilirakis	Holloway	Rohrabacher
Billey	Hopkins	Roth
Broomfield	Houghton	Rowland (GA)
Browder	Hubbard	Sarpalius
Brown (CO)	Huckaby	Saxton
Buechner	Hunter	Schaefer
Bunning	Hutto	Schiff
Burton	Inhofe	Schuette
Byron	Ireland	Schulze
Callahan	James	Sensenbrenner
Campbell (CO)	Jones (GA)	Shaw
Carr	Kasich	Shumway
Chandler	Kolbe	Shuster
Clarke	Kyl	Sisisky
Clinger	LaFalce	Skeen
Coble	Lagomarsino	Skelton
Coleman (MO)	Lancaster	Slattery
Combest	Leach (IA)	Slaughter (VA)
Cooper	Leath (TX)	Smith, Denny (OR)
Courter	Lent	
Cox	Lewis (FL)	Smith, Robert (NH)
Craig	Lightfoot	
Crane	Livingston	Smith, Robert (OR)
Dannemeyer	Lloyd	
Darden	Lowery (CA)	Spence
DeLay	Lukens, Donald	Spratt
Derrick	Madigan	Stallings
Dickinson	Marlenee	Stangeland
Donnelly	McCandless	Stearns
Dornan (CA)	McCollum	Stenholm
Douglas	McCrery	Stump
Dreier	McEwen	Sundquist
Duncan	McMillan (NC)	Tallon
Edwards (OK)	Meyers	Tanner
Fawell	Michel	Tauke
Fields	Miller (OH)	Tauzin
Frenzel	Montgomery	Taylor
Gallegly	Moorhead	Thomas (CA)
Gallo	Myers	Thomas (GA)
Gekas	Nagle	Thomas (WY)
Geren	Neal (NC)	Upton
Gingrich	Nielson	Valentine
Glickman	Olin	Vander Jagt
Goodling	Oxley	Vucanovich
Goss	Packard	Walker
Gradison	Parker	Walsh
Grandy	Parris	Weber
Grant	Pashayan	Whittaker
Gunderson	Patterson	Wolf
Hall (TX)	Paxon	Wylie
Hamilton	Payne (VA)	Young (FL)
Hammerschmidt	Penny	
Hancock	Petri	

NOT VOTING—9

Bentley	Laughlin	Robinson
Emerson	Lewis (CA)	Rostenkowski
Flippo	Nelson	Watkins

□ 1325

The Clerk announced the following pair:

On this vote:

Mr. Nelson of Florida for, with Mr. Lewis of California against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GALLEGLY. Mr. Speaker, I was unable to be present today when the House voted on the Grandy motion to recommit H.R. 770 with instructions, (roll No. 106). Had I been here, I would have voted "yea" on the motion.

LEGISLATIVE PROGRAM

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

Mr. MICHEL. Mr. Speaker, I have asked that I might proceed for the purpose of inquiring of the distinguished majority leader the program for the balance of this week and next week.

Mr. GEPHARDT. If the gentleman will yield, obviously our business is finished for today.

On Monday, May 14, the House will meet at noon. However, there will not be legislative business.

On Tuesday, May 15, the House will meet at noon. There will be seven bills under suspension, recorded votes on those suspensions to be postponed until after debate on all of the bills.

The bills are:

H.R. 4612, bankruptcy amendments regarding swap agreements and forward contracts;

H.R. 29, Interlocking Directorate Act of 1989;

House Resolution 381, relating to human rights abuses by the Government of Cuba;

House Resolution 384, expressing the sense of Congress regarding the urgent famine situation in Ethiopia;

House Concurrent Resolution 311, publication of the document "Our Flag";

H.R. 1028, Mount Rushmore Commemorative Coin Act; and

H.R. 2761, United Services Organization's 50th Anniversary Commemorative Coin Act.

On Wednesday, May 16 and Thursday, May 17 the House will meet at 10 a.m. On Thursday, May 17, the House will recess at 11 a.m. for a ceremony honoring the former Members of Congress, and will continue business following that ceremony.

Then we will take up H.R. 2273, Americans With Disabilities Act, subject to a rule.

H.R. 4636, Supplemental Assistance for Emerging Democracies Act of 1990 may be taken, subject to a rule. We are, as the leader knows, involved in meetings today and probably next week with the administration to try to work out the problems surrounding that bill. And of course, we have problems in the conference on the appropriation bill that are still being worked on.

Then we have H.R. 4151, the Human Services Reauthorization Act of 1990, subject to a rule.

On Friday, May 18, the House will not be in session.

Mr. MICHEL. Did I understand the distinguished gentleman to say that on Wednesday and Thursday we would come in at 10 a.m.?

Mr. GEPHARDT. That is correct.

Mr. MICHEL. And on the supplemental assistance, H.R. 4636, the President called me again this morning with another plea. That was the subject of our joint leadership meeting a day or two ago, and the President is reminding us all, of course, that he had submitted that request for those emerging democracies, particularly down in Central America, in March, thinking about April, and the first part of April the money would be forthcoming, particularly as Mrs. Chamorro took over the Presidency of Nicaragua.

Now here we are still foundering around with that, and this idea really of having it held hostage for some other considerations here, when that is a very, very urgent piece of legislation, can the gentleman give me any more assurance that we can get this thing wrapped up now next week since it is programmed for Thursday or Wednesday or whatever it is?

Mr. GEPHARDT. We understand the concern and we share the concern. That is why there is this meeting this afternoon that we hope will yield some possible results on ways to resolve the authorization.

As the gentleman knows, the Senate put 185 amendments, as I understand it, on the appropriations supplemental, and we are trying even now between the two committees in the conference to work our way through those amendments. If we can get the bill up next week, we will. It may be that we cannot do it until the next week, but we are going to do it as quickly as we can.

Mr. MICHEL. But that meeting this afternoon has to do with the authorization rather than the supplemental.

Mr. GEPHARDT. That is true. We are working on both the authorization and the appropriation. The problem we have with the appropriation is frankly more to do with the 180 extraneous, in our view, amendments that the Senate put on the bill. But we are working our way through those.

Mr. MICHEL. I would hope that we could exert every effort to get that done, because, as I indicated, it is very,

very important to the President himself and to those of us who feel strongly about the two countries particularly involved, and obviously we know of all of the other add-ons and we are not so concerned about those.

□ 1330

Second question: This has to do with the Americans with Disabilities Act. I saw the distinguished gentleman from Maryland [Mr. HOYER] on the floor. Is it my undrstanding that the bill that we are going to be considering will not be available until maybe Monday noon or something of that nature, recognizing there is a problem when you are putting together four different committees' work into one piece of legislation?

I should further give the gentleman the reason for my propounding the question: that Mr. MOAKLEY, I think, has circulated the membership with a notice that all amendments to be added ought to be in the record by 6 p.m., Monday.

Now if that is the case, we do not know what we are amending before noon and then have only until 6 to craft the amendment to that piece of legislation that we will only see for the first time. So I have to ask myself: Is it fair? Does it accommodate those Members who would feel strongly about amending the bill in any way?

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

Mr. MICHEL. I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman for yielding.

Mr. Speaker, we understand that problem. The way that problem will be solved—and we have discussed this with the Committee on Rules—is that if an amendment is drawn to H.R. 2273, as it is, or to the committee prints that were passed in each committee which are in the process of being put together in one bill, that they will be considered to be in order and the Committee on Rules will accommodate them to the new section numbers or new paragraphs so that there will be no amendment presented to the Committee on Rules prior to 6 p.m. that will be ruled out of order because it is to an incorrect section or to an incorrect paragraph and will be made by the Rules Committee compatible with the draft.

Now in further answer to the distinguished minority leader, we are hopeful that we will have a draft as early as tomorrow evening. We are working with the four committees. We have a tentative draft, but the four committees have just seen it, in order to make sure it is technically correct.

As you know, all we are doing is putting the four committee-passed versions together. We are hopeful we can have one as early as Friday night, if not first thing Monday.

But no amendment will be ruled out of order by the Committee on Rules because of the fact that it happens to be an incorrect section or paragraph. It will be fitted in properly in the place that it applies.

Mr. MICHEL. I thank the distinguished gentleman. So in other words, if the full thrust and effect is well known other than the technicalities of the section or paragraph, et cetera?

Mr. HOYER. The gentleman is correct.

Mr. MICHEL. I want to correct my own misstatement earlier in which I said the letter indicated that they ought to be in the record by 6 p.m. to the Committee on Rules.

Mr. HOYER. That is just to the Committee on Rules.

Mr. MICHEL. By 6 o'clock on Monday.

Mr. HOYER. The gentleman is correct.

Mr. MICHEL. Now may I come back to my distinguished friend, again, the gentleman from Missouri [Mr. GEPHARDT], and ask him what he sees in the crystal ball for Clean Air?

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

Mr. MICHEL. I yield to the distinguished majority leader.

Mr. GEPHARDT. I thank the gentleman for yielding further.

Mr. Speaker, our hope is the bill will be on the floor the week after next. We have reserved, as the gentleman knows, Monday for possible votes because the bill can be a lengthy one. We want to get it done before the Memorial Day break.

So our hope is to start on it a week from Monday.

Mr. MICHEL. Mr. Speaker, I thank the gentleman and yield back the balance of my time.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ADJOURNMENT TO MONDAY, MAY 14, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON THURSDAY, MAY 17, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses, subject to the call of the Chair, on Thursday, May 17, 1990, for the purpose of receiving in this Chamber former Members of Congress.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to make an announcement.

The Chair has examined the RECORD of yesterday with respect to the proceedings wherein the words of the gentleman from New Jersey [Mr. TORRICELLI] were ruled out of order and wherein on motion Mr. TORRICELLI was thereafter permitted by the House to proceed in order. It is customary under such circumstances consistent with clause 4, rule XIV for words which are ruled unparliamentary to be stricken from the RECORD by order of the House.

Without objection, the objectionable words will be stricken from the RECORD.

There was no objection.

MAKING MISCELLANEOUS AMENDMENTS TO INDIAN LAWS

Mr. CAMPBELL of Colorado. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1846) to make miscellaneous amendments to Indian law, and for other purposes and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. RHODES. Mr. Speaker, reserving the right to object, under my reservation I yield to the gentleman from Colorado and ask him if he can explain to the House briefly what is involved in this bill.

Mr. CAMPBELL of Colorado. Mr. Speaker I thank the gentleman for yielding.

Mr. Speaker, with a few exceptions, S. 1846 makes several purely technical amendments to certain laws affecting Indian matters. Most of those that are not technical are clarifying or perfecting in nature and are not controversial. Certain provisions of the bill fall within the jurisdiction of the Education and Labor Committee and I am advised that they concur in the passage of the bill.

Mr. Speaker, the administration supports passage of the bill. I am aware of no opposition and urge passage of the bill.

Mr. RHODES. Mr. Speaker, I thank the gentleman for his explanation and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1846

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

SECTION 1. (a) Public Law 100-581 is amended—

(1) by striking out "shall take effect upon enactment of this Act" in section 203 and inserting in lieu thereof "shall take effect upon enactment of this Act if the plan has not taken effect before the enactment of this Act";

(2) by striking out "section 201" in subsections (a) and (c) of section 212 and inserting in lieu thereof "section 206";

(3) by striking out section 213;

(4) by striking out "section 3" in section 702(a) and inserting in lieu thereof "section 703";

(5) by striking out "section 602" in the last sentence of paragraph (1) of section 703(b) and inserting in lieu thereof "section 702"; and

(6) by striking out "section 602" in section 703(c) and inserting in lieu thereof "section 702".

(b) Subsection (c) of the first section of the Act of July 28, 1955 (69 Stat. 392; 25 U.S.C. 608(c)) is amended to read as follows:

"(c) Lands and interests in lands acquired by the Secretary pursuant to subsection (a)(1) and for the benefit of the Yakima Indian Nation pursuant to section 5 of the Act of June 18, 1934 (48 Stat. 985; 25 U.S.C. 465) shall be held in trust by the United States for the benefit of the Yakima Indian Nation.".

SEC. 2. (a) The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, et seq.) is amended—

(1) by inserting a comma after "688)" in section 4(e) (25 U.S.C. 450b(e)),

(2) by striking out "the appropriate the Secretary" in section 4(j) and inserting in lieu thereof "the appropriate Secretary",

(3) by striking out "pursuant to this Act" each place it appears in section 4(j) and inserting in lieu thereof "under title I of this Act",

(4) by striking out "the Single Audit Act of 1984 (98 Stat. 2327, 31 U.S.C. 7501 et seq.)," in section 5(a)(2) (25 U.S.C. 450c(a)(2)) and inserting in lieu thereof "chapter 75 of title 31, United States Code",

(5) by striking out "the Federal Grant and Cooperative Agreement Act of 1977 (Public Law 95-224; 92 Stat. 3)" in section 9 (25 U.S.C. 450e-1) and inserting in lieu thereof "chapter 63 of title 31, United States Code",

(6) by striking out "an Indian appointed" in section 104(m) (25 U.S.C. 450i(m)) and inserting in lieu thereof "an Indian (as defined in section 19 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 479)) appointed (except temporary appointments)",

(7) by striking out "sub-contracts in such cases where the tribal contractor has subcontracted the activity" in section 105(a) (25 U.S.C. 450j(a)) and inserting in lieu thereof "subcontracts of such a construction contract",

(8) by striking out "the Single Agency Audit Act of 1984 (chapter 75 of title 31, United States Code)" in section 106(f) (25 U.S.C. 450j-1(f)) and inserting in lieu thereof "chapter 75 of title 31, United States Code",

(9) by striking out "agency personnel" in section 106(i) (25 U.S.C. 450j-1(i)) and inserting in lieu thereof "agency personnel (area personnel in the Navajo Area and in the case of Indian tribes not served by an agency)", and

(10) by striking out "providing notice and hearing" in section 109 (25 U.S.C. 450m) and inserting in lieu thereof "providing notice and a hearing".

(b) Subsection (b) of section 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450m-1(b)) is amended to read as follows:

"(b) The Secretary shall not revise or amend a self-determination contract with a tribal organization without the tribal organization's consent.".

(c) Subparagraph (C) of section 3371(2) of title 5, United States Code, is amended by striking out "section 4(m)" and inserting in lieu thereof "section 4".

SEC. 3. (a) Notwithstanding section 18 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 478), sections 2 and 17 of that Act (25 U.S.C. 462 and 477) shall apply to—

(1) all Indian tribes,

(2) all lands held in trust by the United States for Indians, and

(3) all lands owned by Indians that are subject to a restriction imposed by the United States on alienation of the rights of the Indians in the lands.

(b) The proviso of section 13 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 473) is amended by striking out "sections 2, 4," and inserting in lieu thereof "sections 4,".

(c) Section 17 of the Act of June 18, 1934 (25 U.S.C. 477), is amended—

(1) by striking out "by at least one-third of the adult Indians," and inserting in lieu thereof "by any tribe,";

(2) by striking out "at a special election by a majority vote of the adult Indians living on the reservation" and inserting in lieu thereof "by the governing body of such tribe";

(3) by striking out "ten years of any of the land" and inserting in lieu thereof "twenty-five years any trust or restricted lands".

SEC. 4. Subsection (c) of section 1 of Public Law 100-425 is amended by striking out "NE¼E½,NW¼" each place it appears and inserting in lieu thereof "NE¼,E½NW¼".

SEC. 5. (a) Paragraph (5) of section 1139 of the Education Amendments of 1978 (25 U.S.C. 2019) is amended by striking out "104(a)" and inserting in lieu thereof "103(a)".

(b) Subsection (a) of section 5209 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2508) is amended by striking out "105" and inserting in lieu thereof "104".

(c) Subparagraph (C) of section 5314(e)(1) of the Indian Education Act of 1988 (25 U.S.C. 2604(e)(1)(C)) is amended to read as follows:

"(C) No local educational agency may be held liable to the United States, or be otherwise penalized, by reason of the findings of any audit that relate to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, a child's eligibility for entitlement under the Indian Elementary and Secondary School Assistance Act.".

(d)(1) Subsection (c) of section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008(c)) is amended—

(A) by striking out "0.133 percent" in paragraph (3)(A) and inserting in lieu thereof "0.2 percent",

(B) by striking out "$4,000" in paragraph (3)(C)(i) and inserting in lieu thereof "$5,000",

(C) by striking out clause (ii) of paragraph (3)(C) and inserting in lieu thereof the following:

"(ii) the lesser of—

"(I) $15,000, or

"(II) 1 percent of such allotted funds,".

(D) by striking out paragraph (2), and

(E) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(2) Section 5324(c)(4)(B) of the Indian Education Act of 1988 (25 U.S.C. 2624(c)(4)(B)) is amended by striking out "section 1128(c)(4)(A)(i)" and inserting in lieu thereof "section 1128(c)(3)(A)(i)".

(e)(1) Subsection (b) of section 5504 of Public Law 100-297 (25 U.S.C. 2001, note) is amended—

(A) by inserting "the Executive Director of the National Advisory Council on Indian Education and of" after "which shall consist of" in paragraph (1),

(B) by inserting "(but not the Executive Director of the National Advisory Council on Indian Education)" after "Task Force" in paragraph (3), and

(C) by adding at the end thereof the following new paragraph:

"(7) Sums appropriated under the authority of section 5508 shall not be used to pay the salaries of employees of the Department of the Interior or the Department of Education who are assigned as staff to the Task Force; but the salaries of such employees shall be paid out of funds appropriated to the employing Department under the authority of other provisions of law.".

(2) Subsection (a) of section 5506 of Public Law 100-297 is amended—

(A) by striking out "and" at the end of paragraph (5),

(B) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(C) by adding at the end thereof the following new paragraph:

"(7) the chairman of the National Advisory Council on Indian Education.".

(3) Section 5508 of Public Law 100-297 is amended by striking out "1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

(f) Subsection (d) of section 1128A of the Education Amendments of 1978 (25 U.S.C. 2008a(d)) is amended by adding at the end thereof the following new paragraph:

"(4) In applying this section and section 106 of the Indian Self-Determination and Education Assistance Act with respect to an Indian tribe or tribal organization that—

"(A) receives funds under this section for administrative costs incurred in operating a contract school or a school operated under the Tribally Controlled Schools Act of 1988, and

"(B) operates one or more other programs under a contract or grant provided under the Indian Self-Determination and Education Assistance Act,

the Secretary shall ensure that the Indian tribe or tribal organization is provided with the full amount of the administrative costs, and of the indirect costs, that are associated with operating the contract school, a school operated under the Tribally Controlled

Schools Act of 1988, and all of such other programs, except that funds appropriated for implementation of this section shall be used only to supply the amount of the grant required to be provided by this section.".

(g)(1) Paragraph (2) of subsection 5205(a) of the Tribally controlled Schools Act of 1988 (25 U.S.C. 2504(a)) is amended to read as follows:

"(2) to the extent requested by such Indian tribe or tribal organization, the total amount of funds provided from operations and maintenance accounts and, notwithstanding section 105 of the Indian Self-Determination Act (25 U.S.C. 450j), or any other provision of law, other facilities accounts for such schools for such fiscal year (including but not limited to all those referenced under section 1126(d) of the Education Amendments of 1978, or any other law), and".

(2) Subsection (b) of section 5205 of the Tribally Controlled Schools Act of 1988 (25 U.S.C.(b)) is amended by adding the following new paragraph:

"(4) Notwithstanding the provision of paragraph 5204(a)(2) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2503(a)(21)), with respect to funds from facilities improvement and repair, alteration and renovation (major or minor), health and safety, or new construction accounts included in the grant under such paragraph (a)(2), the grantee shall maintain a separate account for such funds and shall, at the end of the period designated for the work covered by the funds received, render a separate accounting of the work done and the funds used to the Secretary. Funds received from these accounts may only be used for the purposes for which they were appropriated and for the work encompassed by the application or submission under which they were received. Where the appropriations measure or the application submission does not stipulate a period for the work covered by the funds so designated, the Secretary and the grantee shall consult and determine such a period prior to the transfer of funds: Provided, That such period may be extended upon mutual agreement.".

SEC. 6. Notwithstanding any other provision of law, the term "class II gaming" includes, for purposes of applying Public Law 100-497 with respect to any Indian tribe located in the State of Wisconsin or the State of Montana, during the 1-year period beginning on the date of enactment of this Act, any gaming described in section 4(7)(B)(ii) of Public Law 100-497 that was legally operated on Indian lands on or before May 1, 1988, if the Indian tribe having jurisdiction over the lands on which such gaming was operated made a request, by no later than November 16, 1988, to the State in which such gaming is operated to negotiate a Tribal-State compact under section 11(d)(3) of Public Law 100-497.

SEC. 7. Section 9 of the Lac Vieux Desert Band of Lake Superior Chippewa Indians Act (25 U.S.C. 1300h-7) is amended—

(1) by striking out "Notwithstanding" and inserting in lieu thereof "(a) Notwithstanding", and

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

"(b) The Secretary shall accept as voters eligible to vote on any amendments to the constitution of the Keweenaw Bay Indian Community—

"(1) all those persons who were deemed eligible by the Keweenaw Bay Indian Community to vote in the most recent election for the Tribal Council, and

"(2) any other person certified by the Keweenaw Bay Indian Community Tribal Council as—

"(A) a member of the Keweenaw Bay Indian Community, and

"(B) eligible to vote in any election for the Tribal Council.".

SEC. 8. Section 3(l) of the White Earth Reservation Land Settlement Act of 1985 (25 U.S.C. 331, note) is amended—

(1) by inserting "(not including laws relating to spousal allowance and maintenance payments)" immediately after "inheritance laws of Minnesota in effect on March 26, 1986", and

(2) by adding at the end of section 7 the following new subsection:

"(e)(1) After publication of the second list under subsection (c), the Secretary may, at any time, add allotments or interests to that second list if the Secretary determines that the additional allotment or interest falls within the provisions of section 5(c) or subsection (a) or (b) of section 4.

"(2) The Secretary shall publish in the Federal Register notice of any additions made under paragraph (1) to the second list published under subsection (c).

"(3) Any determination made by the Secretary to add an allotment or interest under paragraph (1) to the second list published under subsection (c) may be judicially reviewed in accordance with chapter 7 of title 5, United States Code, within 90 days after the date on which notice of such determination is published in the Federal Register under paragraph (2). Any legal action challenging such a determination that is not filed within such 90-day period shall be forever barred. Exclusive jurisdiction over any legal action challenging such a determination is vested in the United States District Court for the District of Minnesota.".

SEC. 9. The Hoopa-Yurok Settlement Act (25 U.S.C. 1300i, et seq.) is amended—

(1) by adding at the end of paragraph (2) of section (5)(a) the following new sentence: "Children under age 10 on the date they applied for the Settlement Roll who have lived all their lives on the Joint Reservation or the Hoopa Valley or Yurok Reservations, and who otherwise meet the requirements of this section except they lack 10 years of Reservation residence, shall be included on the Settlement Roll.",

(2) by adding at the end of subsection (d) of section 5 the following new paragraph:

"(4) For the sole purpose of preparing the Settlement Roll under this section, the Yurok Transition Team and the Hoopa Valley Business Council may review applications, make recommendations which the Secretary shall accept unless conflicting or erroneous, and may appeal the Secretary's decisions concerning the Settlement Roll. Full disclosure of relevant records shall be made to the Team and to the Council notwithstanding any other provision of law.".

(3) by striking out "counseling," in section (9)(a)(3) and inserting in lieu thereof "counseling and assistance, shall", and

(4) by adding at the end of subsection (a) of section 14 the following new sentence: "The Yurok Transition Team, or any individual thereon, shall not be named as a defendant or otherwise joined in any suit in which a claim is made arising out of this subsection.".

SEC. 10. The Secretary of the Interior is authorized to retain collections from the public in payment for goods and services provided by the Bureau of Indian Affairs. Such collections shall be credited to the appropriation account against which obligations were incurred in providing such goods and services.

SEC. 11. There is authorized to be appropriated to the Secretary of Health and Human Services, Administration for Native Americans, $1,000,000 for the purpose of conducting a feasibility study for the establishment of a National Center for Native American Studies and Policy Development.

SEC. 12. (a) The following proviso in title I of the Act of June 24, 1967 (81 Stat. 59), under the heading "Office of the Solicitor", is repealed: *"Provided,* That hereafter hearing officers appointed for Indian probate work need not be appointed pursuant to the Administrative Procedures Act (60 Stat. 237), as amended".

(b) Hearing officers heretofore appointed to preside over Indian probate proceedings pursuant to the proviso repealed by subsection (a), having met the qualifications required for appointment pursuant to section 3105 of title 5, United States Code, shall be deemed to have been appointed pursuant to that section.

(c) The first sentence of section 1 of the Act of June 25, 1910 (36 Stat. 855; 25 U.S.C. 372), is amended by deleting "his decision thereon shall be final and conclusive" and inserting in lieu thereof "his decisions shall be subject to judicial review to the same extent as determinations rendered under section 2 of this Act".

SEC. 13. Notwithstanding the Act of March 7, 1928 (45 Stat. 210-211), and the Act of August 7, 1946 (60 Stat. 895-896), the Secretary of the Interior is authorized to allocate not to exceed $2,000,000 from power revenues available to the San Carlos Irrigation Project to pay for the operation and maintenance charges associated with the delivery of 30,000 acre-feet of water from the Central Arizona Project to the San Carlos Irrigation Project.

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.

ORDER OF BUSINESS

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that my special order for today precede that of the gentleman from New York [Mr. OWENS].

Mr. Speaker, I have cleared this with the gentleman from New York [Mr. OWENS].

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

1992 NATIONAL ASSESSMENT OF CHAPTER 1 ACT

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3910) to require the Secretary of Education to conduct a comprehensive national assessment of programs carried with assessment under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, and a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment as follows:

Senate amendment:

Page 8, after line 15, insert:

SEC. 3. IMPACT AID.

(a) AMOUNT OF PAYMENTS.—(1) Subparagraph (A) of section 3(d)(2) of Public Law 81-874 is amended to read as follows:

"(A)(i) Except as provided in clause (ii), for any fiscal year after September 30, 1988, funds reserved to make payments under subparagraph (B) shall not exceed $25,000,000 from the funds appropriated for such fiscal year.

"(ii) In the event that the payments made under subparagraph (B) in any fiscal year are less than $25,000,000, such remaining funds as do not exceed $25,000,000 shall remain available until expended for the purpose of carrying out the provisions of subparagraph (B). Such remaining funds shall not be considered part of the funds reserved to make payments under subparagraph (B), but shall be expended if funds in excess of $25,000,000 are needed to carry out the provisions of subparagraph (B) in any fiscal year.

"(iii) If for any fiscal year the total amount of payments to be made under subparagraph (B) exceeds $25,000,000 and the funds described in clause (ii) are insufficient to make such payments, then the provisions of clause (i) shall not apply.".

(2) Subparagraph (B) of section 2(b)(2) of Public Law 101-26 is hereby repealed, and Public Law 81-874 shall be applied and administered as if such subparagraph (B) (and the amendment made by such subparagraph) has not been enacted.

(b) ADJUSTEMENTS FOR DECREASES IN FEDERAL ACTIVITIES.—Section 3(e) of Public Law 81-874 is amended to read as follows:

"(e)(1) Whenever the Secretary of Education determines that—

"(A) for any fiscal year, the number of children determined with respect to any local educational agency under subsections (a) and (b) is less than 90 percent of the number of so determined with respect to such agency during the preceding fiscal year;

"(B) there has been a decrease or cessation of Federal activities within the State in which such agency is located; and

"(C) such decrease or cessation has resulted in a substantial decrease in the number of children determined under subsections (a) and (b) with respect to such agency for such fiscal year;

the amount to which such agency is entitled for such fiscal year and for any of the 3 succeeding fiscal years shall not be less than 90 percent of the payment such agency received under subsections (a) and (b) for the preceding fiscal year.

"(2) There is authorized to be appropriated for each fiscal year such amount as may be necessary to carry out the provisions of this section, which remain available until expended.

"(3) Expenditures pursuant to paragraph (2) shall be reported by the Secretary to the Committees on Appropriations and Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Human Resources of the Senate within 30 days of expenditure.

"(4) The Secretary shall make available to the Congress in the Department of Education's annual budget submission, the amount of funds necessary to defray the costs associated with the provisions of this subsection during the fiscal year for which the submission is made.".

"(c) APPLICATION.—Section 5(a) of Public Law 81-874 (Impact Aid) (hereafter in this section referred to as "the Act") is amended to read as follows:

"(a) APPLICATIONS.—(1) Any local educational agency desiring to receive the payments to which it is entitled for any fiscal year under sections 2, 3, or 4 shall submit an application therefor to the Secretary and file a copy with the State educational agency. Each such application shall be submitted in such form, and containing such information, as the Secretary may reasonably require to determine whether such agency is entitled to a payment under any of such sections and the amount of any such payment.

"(2) The Secretary shall establish a deadline for the receipt of applications. For each fiscal year beginning with fiscal year 1991, the Secretary shall accept an approvable application received up to 60 days after the deadline, but shall reduce the payment based on such late application by 10 percent of the amount that would otherwise be paid. The Secretary shall not accept or approve any application submitted more than 60 days after the application deadline.

"(3) Notwithstanding any other provision of law or regulation, a State educational agency that had been accepted as an applicant for funds under section 3 for fiscal years 1985, 1986, 1987 and 1988 shall be permitted to continue as an applicant under the same conditions by which it made application during such fiscal years only if such State educational agency distributes all funds received for the students for which application is being made by such State educational agency to the local educational agencies providing educational services to such students.".

"(d) ADJUSTMENTS.—Section 5(c)(2) of Public Law 81-874 is amended by inserting at the end thereof the following new subparagraph:

"(C) For the purpose of determining the category under subparagraph (A) that is applicable to the local educational agency providing free public education to secondary school students residing on Hanscom Air Force Base, Massachusetts, the Secretary shall count children in kindergarten through grade 8 who are residing on such base as if such students are receiving a free public education from such local educational agency.".

(e) SPECIAL RULE.—The Secretary of Education shall consider as timely filed, and shall process for payment, an application from a local educational agency that is eligible to receive the payments to which it is entitled in fiscal year 1990 under section 2 or 3 of the Act, if the Secretary receives the application by June 29, 1990, and the application is otherwise approvable.

(f) DEFINITION.—Section 403(6) of Public Law 81-874 is amended by inserting the following new sentences at the end thereof: "Such term does not include any agency or school authority that the Secretary determines, on a case-by-case basis—

"(A) was constituted or reconstituted primarily for the purpose of receiving assistance under this Act or increasing the amount of that assistance;

"(B) is not constituted or reconstituted for legitimate educational purposes; or

"(C) was previously part of a school district upon being constituted or reconstituted.

For the purpose of carrying out the provisions of section 3(a), such term includes any agency or school authority that has had an arrangement with a nonadjacent school district for the education of children of persons who reside or work on an installation of the Department of Defense for more than 25 years, but only if the Secretary determines that there is no single school district adjacent to the school district in which the installation is located that is capable of educating all such children.".

SEC. 4. BILINGUAL EDUCATION.

Awards made by the Secretary of Education to the Franklin-Northwest Supervisory Union of Vermont under the Bilingual Education Act (20 U.S.C. 3221 et seq.), in amounts of—

(1) $388,076.56 for the period of fiscal year 1984 through fiscal year 1986 (for programs of bilingual education, however characterized),

(2) $400,061.00 for the period of fiscal year 1984 through fiscal year 1986 (for programs of bilingual education, however characterized), and

(3) any expenditure of funds by the Franklin-Northwest Supervisory Union pursuant to the awards described in paragraphs (1) and (2).

shall be treated as if they were made in accordance with the provisions of the Bilingual Education Act for purposes of any claims for repayment asserted by the Secretary of Education.

SEC. 5. STUDENT LITERACY CORPS.

Section 146 of the Higher Education Act of 1965 is amended to read as follows:

"SEC. 146. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out the provisions of this part $10,000,000 for fiscal year 1991.".

SEC. 6. THE HEAD START ACT AND CHAPTER 1 OF TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

(a) FINDINGS.—The Senate finds that—

(1) one in every five children in America, some 12,600,000 youngsters under the age of 18, live in poverty;

(2) the Head Start program and programs under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 are proven early education programs that offer the best opportunity to break the cycle of poverty;

(3) since 1980, spending by the Federal Government for education has decreased by 4.7 percent in real terms;

(4) $1 invested in high-quality preschool programs like Head Start and chapter 1 of the Elementary and Secondary Education Act of 1965 saves $6 in lowered costs for special education, grade retention, public assistance, and crime;

(5) children who enroll in Head Start are more likely than other poor children to be literate, employed, and enrolled in postsecondary education;

(6) children who enroll in Head Start programs are less likely than other poor children to be high school dropouts, teen parents, dependent on welfare, or arrested for criminal or delinquent activity;

(7) children who enroll in programs under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 experience larger increases in standardized achievement scores than comparable students who did not enroll in such programs;

(8) low funding levels for the Head Start Act limit the participation in Head Start programs to less than 20 percent of the eligible population; and

(9) low funding levels for chapter 1 of title I of the Elementary and Secondary Education Act of 1965 limit participation in programs assisted under such Act to less than 50 percent of the eligible population.

(b) SENSE OF SENATE.—It is the sense of the Senate that appropriations for the Head Start Act should be increased to fully serve the potential, eligible population under such Act by fiscal year 1994 and that appropriations for chapter 1 of title I of the Elementary and Secondary Education Act of 1965 should be increased to the authorization level of such Act by fiscal year 1994.

House amendment to Senate amendment:

Insert at the end the following section:

Section . Technical Amendment

(a) IN GENERAL.—Section 2 of Public Law 81-874 is amended by inserting at the end thereof the following new subsection (d):

"(d) The United States shall be deemed to own Federal property, for the purposes of this Act where—

"(1) prior to the transfer of Federal property, the United States owned Federal property meeting the requirements of subparagraphs (A), (B), and (C) of subsection (a)(1); and

"(2) the United States transfers a portion of the property referred to in paragraph (1) to another non-taxable entity, and the United States—

"(A) restricts some or any construction on such property;

"(B) requires that the property be used in perpetuity for the public purposes for which it was conveyed;

"(C) requires the grantee of the property to report to the Federal government (or its agent) setting forth information on the use of the property;

"(D) prohibits the sale, lease assignment or other disposal of the property unless to another eligible government agency and with the approval of the Federal government (or its agent); and

"(E) reserves to the Federal government a right of reversion at any time the Federal government (or its agent) deems it necessary for the national Defense.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1989.

Mr. HAWKINS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and the House amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from California?

Mr. GOODLING. Mr. Speaker, reserving the right to object, I reserve the right to object in order to give the chairman of the committee an opportunity to explain the legislation.

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

Mr. GOODLING. I yield to the gentleman from California, chairman of the Committee on Education and Labor.

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

Mr. Speaker, on February 27, the House passed H.R. 3910, a bill requiring a national assessment of the chapter 1 program. The Senate on Monday passed that same bill requiring such an assessment but added certain provisions dealing with various other education programs.

Mr. Speaker, today Mr. GOODLING and I are urging that the House accept the House-passed bill, as amended by the Senate. The primary reason for urging this action is that we cannot lose any more time in undertaking the national assessment of chapter 1.

Chapter 1 is the largest Federal aid program affecting over 5 million poor children. Twice in the past, we have required comprehensive national evaluations of that program prior to reauthorization. Both of those large-scale studies have proved very useful to the Congress in refashioning the laws. Therefore, we feel we must have the same type of study completed by 1993, when the Congress again reviews chapter 1 for amendments.

Let me emphasize on behalf of the committee that this assessment will only be useful to the Congress if it is done in a fair and evenhanded manner. For that reason, this bill requires that the Department consult with an outside group of experts before it finalizes its plans to conduct this assessment. That outside group must include former directors of the two prior national assessments.

This bill also requires that the Office of Educational Research and Improvement [OERI] must be involved on an equal basis with the Office of Planning in fashioning this study. Neither the Office of Educational Research and Improvement or the Office of Planning, Budget, and Evaluation [OPBE] within the Department of Education is to control the study to the disadvantage of the other. The study is to be done jointly by these two divisions. Our reason for this provision is to ensure objectivity and evenhandedness in approaching the study. Both divisions of the Department are composed of very competent people, but we have learned over the years that it helps to have a system of checks and balances to assure objectivity.

We know that the Department, through the Office of Planning, has begun preliminary work on this national assessment. It is our clear intent that all that work is to be reviewed by both the Office of Planning and OERI and the outside panel before it is finalized.

In the past, the Department of Education has been very useful in providing national evaluations and studies to the Congress. We rely on those studies for factual data and sound analysis. We expect the same type of information and analysis from this new national assessment.

Other amendments in the bill were included by the other body. These amendments resolve several problems in the impact aid program, forgive an audit determination faced by a school district in Vermont, restate an authorization for the student literacy corps, and include a sense of the Senate regarding funding of Head Start and chapter 1. We urge the adoption of all these amendments.

For the information of the Members, I am including at this point a short description of the impact aid amendments which are the most complicated technically of all the other amendments:

DESCRIPTION OF THE AMENDMENTS

Section (a) of the Senate amendments to Impact Aid raises the "cap" on payments to 3(d)(2)(B) districts from $20 million to $25 million; provides for a "reserve pool" of funds (to be built during years when payments to these districts are less than $25 million) for payments in years when payments to these districts exceed $25 million; removes the "cap" if $25 million and the reserve funds are insufficient to make payments to the 3(d)(2)(B) districts; and prohibits the Secretary of Education from prorating funds for these districts.

Section (b) of the Senate amendment modifies section 3(e) of P.L. 81-874 dealing with adjustment when Federal activities are declining. The section provides that the "hold harmless" in 3(e) applies to 90 percent of funds a district received in the previous fiscal year and eliminates a provision of section 3(e) that the U.S. Department of Education apparently has interpreted to mean that a district 3(e) entitlement is based only on the number of 3(b) children enrolled in the district. Thus, the 3(e) entitlement apparently would be based on both 3(a) and 3(b) payments.

Section (c) amends section 5(a) of P.L. 81-874 to provide more flexibility in deadlines for Impact Aid applications. The Secretary would be required to accept a district's application up to 60 days after the deadline he or she is directed to establish; however, the district's payments would be reduced by 10 percent. Section (c) also specifies that States receiving Impact Aid payments must distribute all funds to the local education agencies (LEAs) providing services. Section 403(6) of current law requires that States may apply for and receive Impact Aid funds only if they provide services directly to "federally connected" children. The provision in the Senate amendment apparently deals with a problem in Alaska, which had been receiving Impact Aid funds and retaining some funds at the State level. Apparently ED had denied State funding to Alaska after FY 1988 because the State was not providing direct services. This provision of section (c) apparently would permit Alaska to apply directly for Impact Aid funds, provided that the State distribute all funds to LEAs.

Section (d) makes special dispensation for determination of payments for children residing on Hanscom Air Force Base in Massachusetts. Apparently this section requires that even those students in kindergarten through grade 8 (who are educated on the base) be counted to determine Impact Aid payments to the LEA that provides education for secondary school students who reside on the base.

Section (e) extends the deadline for applications for section 2 and section 3 payments for FY 1990 to June 29, 1990. Apparently an

unusually high number of LEAs have missed the application deadline this year.

Section (f) excludes from the definition of "local education agency" under the Act school district formed mainly to receive or to increase Impact Aid payments. Apparently some LEAs have been redistricted to attempt to qualify as 3(d)(2)(B) districts, which would greatly increase their Impact Aid payments. This provision would permit the Secretary to determine if a district had been formed for this purpose. Such districts would not qualify for any payments under the Act.

Mr. Speaker, both sides have agreed on the amendments, and I know of no opposition.

□ 1340

I think we can complete the business in just a few minutes.

Mr. GOODLING. Mr. Speaker, I rise in support of H.R. 3910, the 1992 National Assessment of Chapter 1 Act, a bill that I enjoyed the responsibility of coauthoring with my distinguished chairman, AUGUSTUS HAWKINS. This small but important bill will authorize the Secretary of Education to conduct a national assessment of the chapter 1 program. Chapter 1, the largest of the Federal elementary and secondary education programs, will expire in 1993. That may seem like a time in the distant future, but in terms of gathering and collating information, it is imperative that we begin the assessment of the program now. This assessment will help to give Members valuable information regarding the implementation of the program.

This bill passed the House of Representatives on February 27, 1990, and the Senate passed an amended version of the bill on Monday. We are now considering that amended bill. I am hopeful that we can pass the bill quickly. It is imperative that the Department be given sufficient time to conduct this study before the next reauthorization cycle.

Again, I rise in support of this bill and ask my colleagues to join me in voting in favor of its passage.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the initial request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

FINANCIAL ASSISTANCE FOR SIMON WIESENTHAL CENTER IN LOS ANGELES, CA

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2300) to provide financial assistance to the Simon Wiesenthal Center in Los Angeles, CA, for the education programs of the Museum of Tolerance, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

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

Mr. GOODLING. Mr. Speaker, reserving the right to object, and I will not object, I take this opportunity, first of all to yield to the gentleman from Montana [Mr. WILLIAMS] to tell Members about the bill.

Mr. WILLIAMS. If the gentleman will yield on his objection, as the gentleman knows, S. 2300 is a bill which would authorize expenditure for the Simon Wiesenthal Center's education program in their new Museum of Tolerance. This is legislation that is identical with one exception, and I will explain that exception, to the bill which is sponsored by the gentleman from California [Mr. WAXMAN] and cosponsored by the gentleman from Pennsylvania [Mr. GOODLING], as well as the gentleman from California [Mr. HAWKINS].

The one exception and the difference in the Senate bill, which is now at our desk and has, of course, therefore, passed the Senate, and our bill, is that our bill that is, the bill of the gentleman from California [Mr. WAXMAN], provides $7.5 million in authorization for the emergency programs proposed at the Wiesenthal Center. The legislation at the desk would authorize $5 million, $2.5 million less, I understand, an appropriate and agreed-upon amount of money.

I encourage my colleagues to support our request.

Mr. Speaker, today we are considering S. 2300, a bill that would authorize $5 million for the Simon Wiesenthal Center's education programs at its new Museum of Tolerance.

This legislation passed the Senate last week. It is identical, with one exception, to legislation that is moving through the House Education and Labor Committee. That bill, H.R. 3210, provides a $7.5 million authorization for the education programs of the Wiesenthal Center. S. 2300 provides a $5 million authorization. The House bill has been reported, without opposition, from my Subcommittee on Postsecondary Education to the full Education and Labor Committee. Its principal sponsor is Congressman WAXMAN. It is cosponsored by, among others, Mr. HAWKINS, the chair of the Education and Labor Committee and Mr. GOODLING, that committee's ranking member.

I would urge my colleagues to support the Senate passed bill. This is a very worthy project. The programs that will be supported by it will serve as a major human rights and education resources for Americans from all walks of life. The programs will not only focus on the Holocaust, but on the forms of prejudice, intolerance, and discrimination. The education program to be conducted by the Center's Museum of Tolerance will include both print and electronic materials. It will include a full range of books, bibliographies, reports and study guides on prejudice, aggression, intolerance, discrimination, antisemitism and the Holocaust. These materials will be made available to public and private schools and colleges throughout the Nation. Videos and films on these subjects will be produced at the museum or under its auspices. Teacher training seminars on these subjects will be conducted. The museum's education programs will also include a major research component. With this intensive education program, the museum will make a major contribution to educating both present and future generations about intolerance and the Holocaust.

Mr. Speaker, this is a very good bill supporting a very worthwhile program. I urge my colleagues to give it their support.

Mr. GOODLING. Mr. Speaker, further reserving my right to object, I yield to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding, and I want to congratulate the managers of this legislation for bringing it to the House floor. The project, that is, the Simon Wiesenthal Center in Los Angeles, is a very important project. The Museum of Tolerance will talk about not just the Holocaust that occurred during World War II and before that time but other examples of man's inhumanity to man.

It is important that we not forget the evil that people are capable of bringing upon others. This museum, which I think will be a resource for the whole country, will be of enormous benefit in reminding Members what has happened in the past, in making Americans more resolute to make sure we do not have these kinds of things occur in the future.

Mr. Speaker, I urge Members' support for this legislation.

Mr. GOODLING. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of this measure, Senate bill 2300, which is similar to H.R. 3210.

I want to commend the gentleman from California [Mr. WAXMAN], the chairman of the Committee on Education and Labor, Mr. HAWKINS, and the ranking minority member, the gentleman from Pennsylvania [Mr. GOODLING], for bringing this measure to the floor.

I think providing assistance to the Museum of Tolerance at the Simon Wiesenthal Center in Los Angeles is certainly a commendable and worthy objective. Simon Wiesenthal, as we all know, has been an outstanding fighter for human rights to remind the world of the history of the Holocaust, and remind scholars to tell Americans if we do not pay attention to history, we are bound to repeat the mistakes of the past.

The Wiesenthal Center and Museum of Tolerance certainly will be a lingering reminder of those horrors of World War II and of the Holocaust period. It is for that reason that I think this is a commendable effort. I urge my colleagues to support it.

Mr. GOODLING. Mr. Speaker, I withdraw my reservation of objection.

Mr. Speaker, I support taking the Senate bill, S. 2300 from the desk and passing it. This bill is the same as the House bill, H.R. 3210, with the exception of a lower authorization figure. I have consistently supported the concept of this legislation, and in fact joined Mr. WILLIAMS as an original cosponsor when the bill was introduced last year.

As ranking member on the Education and Labor Committee I recognize and appreciate the need we all have in this world to accept a wide diversity among people, to work with a broad spectrum of people, and to develop cooperation and understanding among all individuals, races, creeds, and ethnicities. Without this spirit of tolerance and understanding, we jeopardize our very existence and create unnecessary barriers to achieving our goals and full potential socially, personally, economically, and internationally. Education has a premier role to play in helping people gain greater understanding and respect for the rights and dignity of every human being.

This bill represents one example of how we can attempt to overcome prejudice and hatred in this world. Simon Wiesenthal is a survivor—a survivor of over 4 years in German concentration camps during the Second World War. Through his experience he pledged to be the voice of the victims and not allow such disregard of human rights and abuse of human dignity to occur again. The Museum of Tolerance examines the Holocaust in the context of prejudice and hatred in various societies, and in the context of who the victims and who the perpetrators were. The quality of the products of the center is clear—its media production of "Genocide" in 1982 received an Academy Award for best documentary feature.

With this bill we have the opportunity to provide support to the Wiesenthal Center and its work and education mission. It authorizes $5 million to fund 50 percent of the cost of designing and operating education programs concerning the Holocaust and the broader issues of racial, religious or ethnic tolerance. I appreciate my colleagues efforts to bring this bill before us, and I am pleased to be able to support legislation that encourages the development and maintenance of one of our more desirable traits in the hopes that through knowledge and education we will all treat each other with greater respect and dignity.

Mr. WAXMAN. Mr. Speaker, I rise today to urge my colleagues to support H.R. 3210, a bill to provide financial assistance to the Museum of Tolerance at the Simon Weisenthal Center in Los Angeles, CA. The assistance will go towards operation of education programs concerning the Holocaust to be conducted by the museum.

The Holocaust—the genocide of six million Jews in World War II Nazi Germany—shook the conscience of our Nation and the peoples of the world.

The Wiesenthal Center was founded in 1977, in Los Angeles, CA as a nonsectarian tax exempt organization for educating all sectors of society, particularly school-age children, about the events surrounding pre-Nazi Germany and the Holocaust. The Wiesenthal Center, named in honor of the legendary Nazi hunter, is world renowned for its historical vision and educational endeavors. The center's programs do not however, end with the Holocaust: they seek to provide an understanding of civil rights, justice and morality in our society and in other countries as well.

The Simon Wiesenthal Center a nonprofit institution, contains books, films, videos and computers as resources for comprehending racism and human behavior in this country and abroad. In further fulfillment of its mission, the Wiesenthal Center is currently undergoing a significant expansion, which includes the construction in Los Angeles of the Beit Hashoah: Museum of Tolerance.

In light of recent acts in our country indicating a resurgence in racism, the Wiesenthal Center will counteract intolerance. In light of the revolutions of 1989, the Wiesenthal Center Museum will work to monitor and counter antisemitism that has unfortunately accompanied many of the populist uprisings in Eastern Europe and the Soviet Union.

In addition to its exhibits and educational programs regarding the Holocaust, the Museum of Tolerance will chronicle the Nazi perseuction of other minorities during World War II and will contain exhibits addressing modern-day repression and the universal struggle for freedom—from our own civil rights movement to the fight for human dignity in other countries around the world.

The exhibits will also chart discrimination against Hispanics and Asians, and atrocities committed against native Americans. When completed, the Museum of Tolerance will serve as a major human rights and education resource center for Americans from all walks of life.

I was a strong supporter of Federal funding for a Holocaust museum in Washington, DC. Thanks to the efforts of many dedicated individuals on the Holocaust council, construction for this museum is now underway on the Mall.

I believe that the Washington museum will serve as a valuable tool for educating hundreds of thousands of visiting Americans, and local Washingtonians, about the horrors of the Holocaust and other stories of man's inhumanity to man. However, I also believe that there is equal merit in having a similarly valuable resource on the west coast.

The existence of the Wiesenthal Center's Museum of Tolerance will in no way diminish the effectiveness or impact of the Holocaust museum in Washington. For the millions of Americans that don't make it to Washington, there should be an opportunity to learn about the Holocaust in an impactful manner, through a visit to a Holocaust museum.

The funds authorized by H.R. 3210 will provide a one-time grant for Holocaust education programs at the Museum of Tolerance. This will comprise no more than 50 percent of the cost of the education programs—and no more than 20 percent of the cost of the entire museum. The total construction budget is $50 million, with over $38 million raised to date.

During my recent visit to the Wiesenthal Center, I was shown a model of the new museum. I was impressed by the museum's hands-on approach to exhibits that will challenge the public to examine prejudice and persecution.

Utilizing American history, the study of racism, and the evolution of our great democracy, the museum will confront human behavior. It will explore 20th century genocides, including the Cambodian massacres—and will address the Holocaust as man's ultimate violation of human rights and this century's watershed event. Visitors will be directly engaged with historical artifacts documents, newsreel films, photos and state-of-the-art multimedia technology, such as interactive computerized display and multimedia presentations.

I believe that my colleagues would be equally impressed by the Museum of Tolerance model. In fact, I know that some of you have been out to the Wiesenthal Center to see the exhibit for yourselves. I feel that the Museum of Tolerance will make a significant contribution toward educating Americans on extremely important and timely issues.

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

There was no objection.

The clerk read the Senate bill, as follows:

S. 2300

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

SECTION 1. GENERAL AUTHORITY.

The Secretary of Education is authorized, subject to the availability of appropriations, to pay to the Museum of Tolerance of the Simon Wiesenthal Center, located in Los Angeles, California, the Federal share of the cost of designing and operating education programs concerning the holocaust.

SEC. 2. APPLICATION REQUIRED.

No financial assistance may be provided under this Act unless an application is submitted to the Secretary of Education at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may reasonably require. Each such application shall describe the type and kind of educational materials to be developed and the steps that will be taken to ensure that age appropriate products are available to school districts and institutions of higher education across the country.

SEC. 3. FEDERAL SHARE.

The Federal share of the cost of designing and conducting education programs under this Act shall be 50 percent. The portion of costs not paid by financial assistance provided pursuant to this Act must be paid from sources other than Federal, State, or local government.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000, to carry out the provisions of this Act. Funds appropriated pursuant to this Act shall remain available until expended.

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.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous

material on S. 2300, the Senate bill just passed.

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

There was no objection.

NATIONAL DAY IN SUPPORT OF FREEDOM AND HUMAN RIGHTS IN CHINA AND TIBET

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 275) designating May 13, 1990, as the "National Day in Support of Freedom and Human Rights in China and Tibet," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

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

Mr. GILMAN. Mr. Speaker, reserving the right to object, I yield to the gentlewoman from California [Ms. PELOSI], who is the chief sponsor of House Joint Resolution 556, designating May 13, 1990, as a "National Day in Support of Freedom and Human Rights in China and Tibet."

Ms. PELOSI. Mr. Speaker, on May 13, 1989, students in Tiananmen Square decided to risk their lives for liberty. The world watched in awe as unarmed students took on one of the most repressive governments in the world.

At the same time in Tibet, monks and nuns struggled under the repressive yoke of martial law and 50 years of occupation.

In Beijing as it had in Lhasa, the regime chose to flex its muscle rather than to expand its thinking.

This weekend, students throughout the world, in Harvard Square, Red Square, Prague, Buenos Aires—and in my district of San Francisco will demonstrate in support of the freedoms denied their colleagues in China and Tibet.

I ask my colleagues in this House to demonstrate their support by voting for this resolution declaring May 13 a "National Day in Support of Freedom and Human Rights in China and Tibet." It celebrates the spirit of those young people who, echoing the words of Patrick Henry 200 years ago, said "give me liberty or give me death." It seeks to strengthen the spirit of those citizens of China and Tibet who continue to suffer in prisons and reeducation camps. And it sends a message to the Beijing regime, that we recognize the expression of courage shown in Tiananmen 1 year ago and deplore continued efforts to extinguish it.

Mr. Speaker, I urge my colleagues to support this resolution. Again, I thank my colleague for yielding to me, and I thank the gentleman from Ohio [Mr. SAWYER] for his cooperation and his leadership on this issue.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I yield to the chairman of the subcommittee, the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, we all remember 1 year ago the excitement and hope as hundreds of thousands of Chinese peacefully demonstrated for democratic change in Beijing. Unfortunately, we also remember the horror as we watched the awful events of June 4 unfold on Tiananmen Square. To appropriately note the 1-year anniversary of those dramatic days, Mr. Speaker, House Joint Resolution 556 designates May 13, 1990 as "National Day in Support of Freedom and Human Rights in China and Tibet." This small but significant gesture will show our enduring concern for the cause of freedom in China, including the ancient land of Tibet. We do so in the spirit of self-determination and liberty for all peoples and all nations. We pay tribute to the awesome courage and determination of those who sought to bring change to China, especially to those who sacrificed their lives for this cause. We also do so in the fervent hope that in the not-too-distant future, the people of China will be able to enjoy the freedoms which we hold so dear.

The proud people of Tibet must also be included in any discussion of freedom and human rights in China. We call on the Government of China to respect the right of self-determination of Tibetans. Due to a lack of media coverage, most Americans are much less familiar with the struggle in Tibet than they are with the events in Tiananmen Square last June. Mr. Speaker, their cause is no less just and no less worthy of our attention. We must do what we can in Congress to keep this issue in front of the Nation, and indeed the world. House Joint Resolution 556 is one way in which we can manifest our hopes for the people of China and Tibet.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his kind words in support of this measure.

Further reserving the right to object, Mr. Speaker, I yield myself such time as I may consume.

I am pleased to rise in support of House Joint Resolution 556, which would designate May 13 as a "National Day in Support of Freedom and Human Rights in China and Tibet."

I commend the gentlelady from California [Ms. PELOSI] for her leadership in this issue. Her untiring support for the struggle of those living under the Communist tyranny centered in Beijing is inspiring to the American people and to her colleagues on both sides of the isle.

Report after report informs us that human rights conditions in Tibet and the People's Republic of China [PRC] have gone from bad to worse. In the People's Republic of China, the relentless round-ups, imprisonments, torture and executions began in June 1989, after the hunger strike by the students in Tiananmen Square was brutally smashed.

In occupied Tibet the Chinese Army escalated its suppression of Tibetans soon after the Dalai Lama finished his visit here to the Congress in September 1987.

The leaders of the democracy and freedom movements in Tibet and the People's Republic of China have continued to advocate nonviolence. This resolution is an appropriate way of supporting their exemplary efforts and I urge its adoption.

□ 1350

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. OWENS of Utah). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 275

Whereas the United States supports the legitimate and democractic aspirations for freedom of peoples throughout the world;

Whereas student and citizen groups throughout the world have taken great risks in pursuit of reform;

Whereas on May 13, 1989, Chinese students began a hunger strike in Tiananmen Square seeking nonviolent dialogue with the Chinese Government;

Whereas the Chinese Government responded to the Chinese students with violence, killing many;

Whereas the non-violent resistance of the people of Tibet to the Chinese Government has also been met with violence;

Whereas the Chinese students and the Tibetan people follow the tradition of the Dalai Lama's and Mahatma Gandhi's doctrine of non-violence, and have inspired the world;

Whereas student organizations throughout the United States and around the world have declared May 13, 1990, as an international day of fasting in support of democratic reforms in China and Tibet; and

Whereas this effort is being undertaken in the hope of bringing the current tragedies in China and Tibet to a peaceful end, and in the hope that productive dialogue will replace an atmosphere of suspicion and reprisal: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating May 13, 1990, as the "National Day in Support of Freedom and Human Rights in China and Tibet", and calling on the people of the United States to observe such a day with appropriate ceremonies and activities.

The Senate joint resolution 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.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Joint Resolution 275, the Senate joint resolution just passed.

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

There was no objection.

DEALING WITH GLOBAL WARMING THROUGH THE TAX CODE

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

Mr. STARK. Mr. Speaker, we are facing two serious long-term crises that we must begin to address—global warming and the budget deficit. The good news is that there is one solution to achieving the twin goals of reducing global warming and the budget deficit. It is market-oriented and it works. The solution is a carbon tax.

The problem of the budget deficit is well-known and unquestioned. Headlines are filled with talk of budget summits and the need to raise billions of dollars to avoid massive disruptions in Government services. The amount of money needed to stave off dire consequences mounts relentlessly. Virtually every number dealing with the predicted size of the deficit has been underestimated.

Let's turn to global warming. Virtually every serious climate scientist says we need to act immediately to reduce carbon dioxide emissions. The major conclusion from 300 scientists and policy makers from 46 countries and the United Nations at the World Conference, Toronto, Canada, June 1988 was "Humanity is conducting an unintended, uncontrolled, globally pervasive experiment whose ultimate consequences could be second only to a global nuclear war. Far-reaching impacts will be caused by global warming and sea-level rise, which are becoming increasingly evident as a result of continued growth in atmospheric concentrations of carbon dioxide and other greenhouse gases. It is imperative to act now."

Agreeing with this call to action is the Interparliamentary Conference on the Global Environment in their May 2, 1990, declaration. Representing 42 countries, they issued a series of declarations, including calling for reductions in greenhouse gas emissions by 50 percent from 1990 levels in the year 2010. November 7, 1989, President Bush announced that "the United States has agreed with other industrialized nations that stabilization of carbon dioxide emissions should be achieved as soon as possible." The Group of 7 Summit July 16, 1989, said, "We strongly advocate common efforts to limit emissions of carbon dioxide and other greenhouse gases, which threaten to induce climate change, endangering the environment and ultimately the economy.

Mr. Speaker, heeding these calls to action, I am introducing a carbon tax. A carbon tax is an effective market-oriented tool that will benefit both the environment and the economy. My tax on chlorofluorocarbons [CFC's], which became law on January 1, 1990, has clearly led to a change in CFC use and has dramatically increased recycling of CFC's. In addition, it is contributing billions of dollars to the U.S. Treasury. A carbon tax could have the same positive effect on reducing carbon emissions while simultaneously reducing the deficit.

Advocates of a market-based approach are many. Professor of Economics at Yale University William Nordhaus said in the March/April issue of EPA Journal "Consumption of fossil fuels has many negative spillovers besides the greenhouse effect, such as local pollution, traffic congestion, and so forth. In addition to slowing global warming, carbon taxes would restrain the consumption of fossil fuels, encourage R&D on nonfossil fuels like methane, lower oil imports, reduce the trade and budget deficits, and raise the national saving rate." The Economic Report of the President, February 1990, says "a fee or a tradeable allowances scheme would lead firms and individuals to consider the social cost of greenhouse emissions in their private decisions. Because market-based approaches are flexible and provide incentives that affect decisions at all points along the production-consumption chain and across all industries, they automatically focus on those activities where emissions reductions can be achieved at the least cost."

Industry segments have expressed strong support for a carbon tax. Helen O. Petrauskas, vice president for environment and safety engineering at Ford Motor Co., appearing before a Senate subcommittee on April 4, 1990, testified "* * * Government should also consider a 'greenhouse' or carbon fee that might be applied to all fuels that emit carbon dioxide when burned * * * at whatever source." At the same hearing Dr. Marina Whitman, vice president at General Motors, said, "Wouldn't it make better sense to create incentives to induce all emitting sources to reduce their emissions rather than focus attention virtually exclusively on one particular activity in responding to the concern about global warming? Because CO_2 is a byproduct of all types of fossil fuel combustion, wouldn't a fee structure tied to the level of carbon content of various fossil fuels be the fairer approach, as well as more effective?"

President Bush, speaking before the Intergovernmental Panel on Climate Change on February 5, 1990, challenged "As we work to create policy and agreements on action, we want to encourage the most creative approaches. Wherever possible, we believe that market mechanisms should be applied—and that our policies must be consistent with economic growth and free market principles in all countries." The carbon tax meets the challenge of a free market approach. The burning of carbon currently does not pay its societal cost. The tax will ensure that it does.

Mr. Speaker, the carbon tax that I am introducing today is modest in its effort to address carbon dioxide emissions. The tax will bring about a substantial reduction in growth of U.S. carbon dioxide emissions over the next 10 years. The tax is the equivalent of putting a $25 a ton charge on carbon in fuels.

The carbon tax will be phased in over a 5-year period. The tax on coal will be $3 per ton starting in 1991, rising to $15 by 1995. The tax on petroleum will start at $.65 per barrel rising to $3.25. For natural gas, the tax starts at $.08 per MCF rising to $.40 when phased in.

The amount of money raised by the carbon tax is $6 billion in the first year. The carbon tax will rise by approximately $6 billion per year, contributing more than $30 billion per year to deficit reduction when fully implemented.

Mr. Speaker, as the global military threats fade, we must focus on the two things that threaten our national security—environmental destruction and the budget deficit. There is no doubt that a carbon tax can lead the charge in attacking the heart of both of those problems.

CONGRESSMAN ANNUNZIO SALUTES NATION'S POLICE OFFICERS

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

Mr. ANNUNZIO. Mr. Speaker, I rise to call to the attention of my colleagues in the House of Representatives that the week of May 13 through 19 will be observed as National Police Week, and I would like to take this opportunity to pay tribute to the law enforcement officers across our Nation who protect our children and our families and keep our cities and our country safe.

Once a year it is quite fitting for us to recognize these public servants who daily put their lives on the line to protect us from theft, murder, and drug-related crimes which have afflicted our Nation. Their efforts are often taken for granted and go unnoticed, and therefore the celebration of "National Police Week" gives our country a chance to say "thank you."

In 1984 when I became chairman of the House Administration Committee, one of my first actions was to move for swift passage of legislation to build the National Law Enforcement Officers Memorial. This memorial, which is now being built solely with private contributions from about one-half million individuals and 200 corporations, is testimony to the respect and admiration our society has for our law enforcement officers, who are at the front line of protecting our homes and our families. This memorial, which is being constructed at Judiciary Square, is expected to be completed in the spring of 1991 and is a stirring tribute to the men and women who have made the ultimate sacrifice for our safety.

March 15 is also the 75th anniversary of Peace Officers Memorial Day. Signed into public law by President Kennedy on October 1, 1962, this legislation pays tribute to the Federal, State, and municipal officers who have been killed or disabled in the line of duty, and recognizes the tremendous service and sacrifice given by the brave men and

women, who, night and day, stand vigilant guard to protect our society and enforce our laws.

Mr. Speaker, on the 27th occasion of National Police Week and Peace Officers Memorial Day, I am proud to salute the courageous men and women who risk their lives daily to protect the property, the physical well-being, and the lives of their fellow Americans. Their dedicated and selfless service is most appreciated and worthy of national recognition.

TRIBUTE TO REAR ADM. WILLIAM NARVA UPON HIS RETIREMENT AS ATTENDING PHYSICIAN FOR THE CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 60 minutes.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the subject of this special order.

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

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I will just make a few brief comments and then yield to some of my colleagues who are here to honor and recognize Rear Adm. William Narva. I will be brief, and then after my colleagues have spoken, I will make some further remarks.

I have taken this special order to pay tribute to my close friend—and he has many friends—Rear Adm. William Narva, who is stepping down as attending physician for the Congress. He steps down in July. He is leaving Capital Hill, and he is retiring from the U.S. Navy after 35 years of distinguished service.

Mr. Speaker, at this time I yield to the dean of the Congress, the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I thank my friend and colleague SONNY MONTGOMERY in yielding to me. I join with him in expressing my thanks and congratulations for a job well done by Adm. William Narva.

With 35 years of distinguished service in the Navy, his contributions as Capitol physician have meant much to the 435 Members of the House and the 100 Members of the Senate.

To keep the wheels turning, as he has, is a real tribute to his understanding, his professional skill, and his concern.

We join in wishing for Dr. Narva many happy and productive years in his retirement.

Mr. MONTGOMERY. Mr. Speaker, I certainly want to thank the dean of the House of Representatives for taking this time and expressing his warm feelings about Dr. Narva.

At this time, Mr. Speaker, I yield to the gentleman from California [Mr. HAWKINS], chairman of the Committee on Education and Labor.

Mr. HAWKINS. Mr. Speaker, it is with great pride, respect and admiration that I join in the tribute today for Rear Adm. William Narva who is leaving his job as attending physician for the Congress in July of this year. As many of you know, we are here today to not only pay tribute to the outstanding work Bill Narva has performed for the Congress, but also for his 35 years of distinguished service in the U.S. Navy.

I have known Bill for over 20 years. His professional résumé is indeed impressive. It includes: Heading the Dermatology Service at Bethesda Naval Hospital; directing the Office of the Surgeon General of the Navy Department and serving as vice president of the Uniformed Services University of Health Sciences at Bethesda; residing as special assistant to the Secretary of the Navy from 1981–86 and consultant to the White House physician for 20 years; and serving as consultant to the attending physician of the Congress for 20 years before taking the job himself in 1986.

Retirement is a difficult crossroad to experience. I know because I will be joining Bill in retirement at the end of my current term. It is however a time to go on to a new level. A time to experience and enjoy different facets of life. A time to pursue new goals and reflect on past accomplishments. For Bill Narva, and his lovely wife Rose, there is much they may proudly pursue.

Being the attending physician to the Congress brings new meaning to the term bipartisan. I'm not sure if Bill is a Republican or a Democrat but I can attest that the quality of his service to both competing parties has been consistent and of the highest quality. Bill has really treated a diverse bunch of people. Think about it.—Democrats, Republicans, Gypsy Moths, Boll Weevils, Liberals, Moderates, Conservatives, Northerners and Southerners, Easterners and Westerners.

With that cast of characters you have to be a top professional. You also have to maintain a sense of humor. That is why Bill would appreciate the following medical anecdote:

A man, having hurt his forehead, was advised to rub it with brandy. Some days after, being asked if he had done so, he answered, "I have tried several times, but can never get the glass higher than my mouth."

I don't think Bill would ever prescribe rum in such cases. In fact, he would be more like the doctor in Robert Louis Stevenson's Treasure Island who cut off one of his patients from drinking any rum. As you may recall, the character, Billy Bones, responds to this medical advice angrily by exclaiming that "doctors is all swabs". I think I speak for every Member in Congress in saying that we don't believe Billy Bones is accurate, especially when we reflect on the caring and compassionate medical service rendered by Dr. Narva.

I will always have special memories of Bill and his service to this institution. His modest and dedicated character remind me in many ways of my own personal view of public service:

The leadership belongs not to the loudest, not to those who beat the drums or blow the trumpets, but to those who day in and day out, in all seasons, work for the practical realization of a better world—those who have the stamina to persist and to remain dedicated. To those belong the leadership.

I wish Bill Narva and his wife Rose great happiness and joy upon embarking on a retirement richly deserved. It has been an honor and a privilege to know him during my tenure in Congress. We will all miss the gentle and caring spirit of this exceptional individual who is truly one of the nation's great Americans.

Mr. MONTGOMERY. Mr. Speaker, I want to thank the gentleman from California [Mr. HAWKINS] for his very fine remarks. Quite frankly, I do not know what party Bill Narva belongs to either. I just know that he likes the Congress, he loves the Congress, and he has been a great help to all of us.

At this time, Mr. Speaker, I yield to another gentleman from California [Mr. MCCANDLESS].

Mr. MCCANDLESS. Mr. Speaker, I thank the gentleman from Mississippi for yielding, and I, too, would like to join in honoring Rear Adm. William Narva upon his retirement.

I do not know of any physician who could have 535 more difficult patients than the attending physician of Congress. Having spent some time in the Marine Corps and experienced military medicine, I came to Congress and learned that down below here we had a clinic attended by Navy doctors and corpsmen, and I thought, well, here we have got an instant repeat of my history.

So when innoculation time came along, I thought, well, this is like going back to boot camp and experiencing other types of vaccinations I had received from the Navy. Then a small personal matter developed and I thought, well, it will be one of these referral type arrangements. But I could not have been more wrong, after seeing the sensitivity with which Dr. Narva and their staff conducted their operation as a clinic on the first floor of the Capitol.

□ 1400

Mr. Speaker, I got to know Dr. Narva after repeated visits for major things, and he came to know me, and we were both interested in the same

thing, and that is the 37th District in California. He has had a distinguished career, and his wife, Rose, in her own right has had a distinguished, and continues to have a distinguished career which brought Dr. Narva to the 37th district, and, more specifically, the Palm Springs area where her profession as a resort management type has proved fruitful, and she has now taken over the operation of the Gene Autry Motel-Hotel resort complex, which then will place Dr. Narva, if at all, if not a full-time resident, at least a part-time resident.

Mr. Speaker, with Dr. Narva retirement is just a word. In discussing with him what his plans are, he has a multitude of areas in which he is exploring and will certainly use the word "retirement" in name only, and I am very pleased to have had the opportunity to know him in his profession which has spanned 35 years at the Bethesda Naval Hospital, the Office of the Secretary of the Navy, the consultant to the White House physician and to 535 of probably the most difficult patients that one could find, the Senate and the House.

Mr. Speaker, I wish Dr. Narva and Rose the best in their next careers and look forward to having them as my constituents in the 37th Congressional District, and I thank the gentleman from Mississippi [Mr. MONTGOMERY] for taking out this special order.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from California [Mr. MCCANDLESS] for his comments. He had probably known Bill and Rose Narva more than any of us have, and I am proud to have known him for over 20 years.

I say to the gentleman from California, "I assume that when you were in the service, you were friends then."

Mr. MCCANDLESS. I did not have the pleasure of knowing him at the time. My acquaintanceship was after coming to Washington. I was relating to my previous experiences of military medicine which were not always favorable.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from California [Mr. MCCANDLESS] very much for taking the time, and I am privileged to yield to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Speaker, I want to thank my colleague, the distinguished gentleman from Mississippi [Mr. MONTGOMERY], for reserving this time for us to honor Rear Adm. William Narva who is leaving his post as attending physician for the Congress in July. We gather to pay tribute to a dedicated and committed individual who has done an outstanding job as attending physician of this institution over the past 4 years.

Many of us are familiar with Dr. Narva's distinguished record of service with the U.S. Navy, which spanned 35 years. He began his medical career at Bethesda Naval Hospital, where he interned. His other naval assignments include service on the medical staff of the Oakland and San Diego, CA Naval Hospitals; Chief of Dermatology Service at Bethesda Naval Hospital; Director of the Reserve Division, Bureau of Medicine and Surgery, Navy Department; and Director of the Office of the Surgeon General, Navy Department. Prior to his current Capitol Hill assignment, Dr. Narva served as Vice President of the Uniformed Services University of Health Sciences in Bethesda.

Adding to this list of accomplishments is Bill's collateral assignments as Staff Medical Officer, Chief of Medical Operations; Special Assistant to the Secretary of the Navy; Consultant to the White House Physician; and Chairman and Professor of Dermatology at the Uniformed Services University, School of Medicine.

Mr. Speaker, while Dr. Narva has been the House attending physician for only 4 years, he has been attending Members of Congress as a physician for many more years. I have known him for more than 20 years. He ranks among the best in his field and devotes many hours to personally overseeing the medical files of those under his care. More importantly, however, each of us have enjoyed a close friendship with Dr. Narva during his tenure on Capitol Hill. He is always cordial, quick to smile, and has a kind word for everyone. I have personally appreciated his counsel, support and warm friendship over the years.

Mr. Speaker, as the gentleman from California [Mr. MCCANDLESS] said, almost invariably anytime one went in to talk to him they knew of the great pride and love he always expressed on behalf of his wife. He has always been so proud of her achievements in the hotel field, and invariably, when I would go in and talk with him, he would always wind up having some conservation about her latest accomplishments or achievements.

So, Mr. Speaker, all of us in this institution will very dearly miss Dr. Narva as he departs Capitol Hill. We want to take this opportunity this afternoon to extend our best wishes to him, to extend to him our appreciation for the friendship he has extended to so many of us over such a long period of years, and again I want to thank the gentleman from Mississippi [Mr. MONTGOMERY] for taking this time out and permitting all of us to have this opportunity to express our concerns and best wishes to Bill Narva.

Mr. MONTGOMERY. Mr. Speaker, I certainly want to thank the gentleman from Ohio [Mr. STOKES], who is also a close friend of Bill Narva's, for taking the time to express himself so well about Dr. Narva.

I would also like to follow up and maybe repeat some of the things that have been said by the gentleman from Ohio [Mr. STOKES] about Bill Narva, but I think they need to be said again.

Mr. Speaker, I have known Bill Narva for more than 20 years. We first met when he was head of the dermatology department at Naval Bethesda. His charming wife Rose had just become general manager of the Sheraton Carlton Hotel on 16th Street, and later she was general manager of the Hay Adams and also the Jefferson Hotel, both on 16th Street here in Washington. They have one son, David, who grew up in Washington and now lives in California. They are wonderful people and have been an asset to Washington as well as to the U.S. Navy.

Admiral Narva was educated at Hofstra College and got his medical degree from Yale University School of Medicine. He went on active duty in the Navy in July 1955. His career stops include work at the Navy hospitals in Oakland and San Diego and then he came to Bethesda Naval Hospital in 1965 to become chief of the dermatology service. He held that position until 1978, when he assumed the job of Director of the Reserve Division of the Bureau of Medicine and Surgery with the Navy Department, a post he held for 2 years.

In 1982, he returned to Bethesda to become Vice President of the Uniformed Services University of Health Sciences. He stayed there until becoming attending physician for the Congress in 1986.

When he was at the Navy Department and also at the University, Bill was very helpful in working with the Congress on legislation to more clearly define who should attend the University Medical School and on other issues related to military medicine. His efforts helped improve the quality of health care offered to military personnel and their families.

Ed Derwinski, Secretary of Veterans Affairs, has recently asked Dr. Narva to serve on a 15-member blue ribbon commission to analyze our 172 veterans hospitals, 234 outpatient clinics and nursing homes around the country, to see what changes can be made to improve the delivery of health care to our veterans.

□ 1410

So I want to congratulate the Secretary of Veterans Affairs for picking a person like Admiral Narva, who knows military medicine, who knows veterans' medicine, and he certainly will do an outstanding job working on this blue ribbon commission.

During his career, Bill has also served as Staff Medical Officer for the Chief of Naval Operations from 1970-1981; was Special Assistant to the Sec-

retary of the Navy from 1981-1986; and still serves as Chairman and Professor of Dermatology for the Uniformed Services University School of Medicine. His professional honors include being named Diplomate of the American Board of Dermatology; a fellow of the American Academy of Dermatology and a fellow of the American College of Physicians.

His naval awards include the Legion of Merit, Meritorious Service Medal, Defense Superior Service Medal and the Navy Commendation Medal.

Mr. Speaker, I think he really deserves a medal for surviving 4 years as the attending physician here in the Congress of the United States.

I see my colleague, the gentleman from Alabama [Mr. DICKINSON] coming in. If the gentleman has any comments, I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, I am here on another mission, but I would like to join with my colleague, the gentleman from Mississippi in paying our highest respects and best regards to Dr. Narva. I knew him from the first day he came here, I guess. I had many opportunities to visit with him, to just chat, as well as in professional services.

He will be missed, and I hope that he will not be a stranger around here.

I want to commend the gentleman from Mississippi for taking this special order to commend an outstanding naval officer and gentleman.

Mr. MONTGOMERY. Mr. Speaker, I appreciate the gentleman from Alabama making those remarks.

Further talking about Admiral Narva, from 1966 to 1986, Bill served as a consultant to the White House physician. He has treated Presidents Lyndon Johnson, Richard Nixon, Gerald Ford, Jimmy Carter, Ronald Reagan, and is a very, very close friend of President Bush.

The attending physician's job in the Congress was also not new to Bill Narva. He had been a consultant to the House attending physician for over 20 years before taking the job himself; so he knew about the problems relating to dealing with this unusual group of people known as the U.S. Congress.

A reception will be held and sponsored by the American Dermatology Association and myself for Admiral Narva and Mrs. Narva. We will have that reception in June.

Let me close by saying, Bill and Rose Narva are great Americans. They have served us well and I am very proud to be here in the well today to honor these two.

There are other Members who would like to have been here today, but because of the adjournment of the House, they have had to get back home to their congressional districts. I have checked at the desk. There are many Members who have put their remarks at the desk that will be in the RECORD.

So thank you, Bill and Rose Narva, for a job well done. You are great Americans.

Mr. ANNUNZIO. Mr. Speaker, I rise to join with my distinguished colleague, Chairman SONNY MONTGOMERY of the House Veterans' Affairs Committee, in paying tribute to Rear Adm. William Narva, M.D., the attending physician of the U.S. Congress, who is retiring from the Navy after 35 years of dedicated service.

Bill has served our country with distinction in the U.S. Navy. Furthermore, as attending physician of the Congress, he has discharged his professional responsibilities with a devotion and commitment which has earned him the admiration and respect of all of us in the House of Representatives who have had the privilege of knowing him as a friend, and who have depended on his advice, counsel, and judgment.

Before coming to the Congress, Bill Narva served as a consultant to the White House physician and consultant to the attending physician of Congress for 20 years. He had compiled an outstanding record of achievement as head of the dermatology service at Bethesda Naval Hospital, as Director of the Office of the Surgeon General of the Navy Department, and as Vice President of the Uniformed Services University of Health Sciences at Bethesda. He also served as Special Assistant to the Secretary of the Navy.

Mr. Speaker, Dr. Narva has been a compassionate and competent physician, who has provided exemplary professional service to the Members of Congress.

I join with my colleagues in the House of Representatives in congratulating Bill on his 35 years of outstanding service to our country, and in extending to him, and his wife, Rose, my best wishes for a healthy and happy retirement.

Mr. MARTINEZ. Mr. Speaker, I rise today to pay tribute to Rear Adm. William Narva who has announced his impending retirement from the Navy and from his position as attending physician for the Congress. I salute Rear Admiral Narva not only for the invaluable service he has provided Members of Congress these past 4 years but also for his successful and exemplary career in the U.S. Navy.

Bill's naval career spans 35 years, during which time he has held such distinguished assignments as consultant to the White House physician; Vice President of the Uniformed Services University of Health Sciences at Bethesda; and Director of the Department of Navy's Office of the Surgeon General. Bill's naval awards include a Navy Commendation Medal, a Navy Meritorious Service Medal, and a Legion of Merit, which reflect his hard work and dedication to both Navy and country.

Seldom does a man stand out like Bill, a shining example to those who have the character and ability to follow in his distinguished path. I salute Bill Narva for his achievements in the U.S. Navy and for his outstanding service to his country.

Mr. ROE. Mr. Speaker, I rise to join my colleagues in paying tribute to Rear Adm. William Narva, who is the attending physician for the Congress and will soon be retiring after an illustrious career in the Navy spanning 35 years. I know he will truly be missed.

Knowing that Bill has been on the job as attending physician for the past 4 years has been a great comfort to me, personally, as I know it has been to so many of my colleagues. I have sought Bill's advice and counsel on many occasions, and I can tell you his knowledge and expertise are without equal.

Mr. Speaker, I also have great admiration for Bill for all that he accomplished before becoming the attending physician in 1986. He was the head of the dermatology service at Bethesda Naval Hospital; he directed the Office of the Surgeon General of the Navy Department, and he served as Vice President of the Uniformed Services University of Health Sciences at Bethesda. He was also a special assistant to the Secretary of the Navy from 1981 to 1986, and served as a consultant to the attending physician of Congress for 20 years before taking the job himself in 1986.

I want to wish Rear Adm. William Narva my heartiest congratulations on an outstanding career of service to our Nation, and all my best in his retirement.

Mr. RUSSO. Mr. Speaker, today we pay tribute to a man who has had a long and distinguished military career. Rear Adm. William Narva, who has served as the attending physician of the Congress since 1986, and a former consultant to the attending physician of Congress for 20 years, is retiring from the Navy.

In his 35 years of service, Bill has proved himself to be an outstanding physician, as well as a good friend to many Members of Congress. He has served as Chief of the Dermatology Service at Bethesda Naval Hospital, Director of the Reserve Division of the Bureau of Medicine and Surgery, the Director of the Navy's Office of the Surgeon General, and vice president of the Uniformed Services University of Health Sciences at Bethesda.

His collateral assignments included staff medical officer, Chief of Naval Operations; special assistant to the Secretary of the Navy; consultant to the White House physician; and chairman and professor of dermatology at the Uniformed Services University School of Medicine.

The Navy has recognized his achievements over the years by awarding him the Defense Superior Medal, the Legion of Merit, the Navy Meritorious Service Medal, and the Navy Commendation Medal.

We will miss Bill and his wife, Rose. We have relied on his advice and counsel for years. I know I speak for the House membership when I say that we wish him the very best in the years to come.

Mr. JACOBS. Mr. Speaker, one of our coworkers is going to be missing from action beginning next July.

Our affable and talented friend, Adm. William Narva is leaving us. He is also leaving us with fond memories.

We shall miss him and hope that he will not be a stranger in these quarters in the future.

We wish you Godspeed, Admiral Narva.

Mr. YATRON. Mr. Speaker, I rise today to express my most heartfelt appreciation to Rear Adm. William Narva, who is retiring from the U.S. Navy after 35 years of service to his

country. For the past 4 years, Dr. Narva has served as the attending physician for the Congress, and with his retirement there is no doubt that this institution is losing a compassionate and caring doctor and friend.

At one time or another, most Members, like myself, have had to rely on Dr. Narva for medical advice, counsel, and treatment here in Washington. Whether he was giving detailed medical advice on important matters, or dispensing medicines for colds and sore throats to help us make it through a day of meetings, hearings, debates, and speeches, Dr. Narva treated Members with the utmost of professionalism and personal concern for whatever was ailing them.

Although we will sorely miss Dr. Narva, we can join him in celebrating his retirement from Government service. After 35 years of hard work for the country—working his way up to the rank of rear admiral and serving the Congress first as consultant to the attending physician and then as attending physician—Dr. Narva has earned many times over the retirement he is embarking upon. I am certain that all Members of Congress join me in thanking Dr. Narva for his service and wishing him the best of luck and happiness during his retirement.

Mr. CLEMENT. Mr. Speaker, I would like to join the distinguished Member from Mississippi, SONNY MONTGOMERY, and my other House colleagues in honoring Rear Adm. William Narva, the attending physician for the Congress.

It has been a great pleasure for me to become acquainted with Rear Admiral Narva. His service to Members of Congress is much appreciated. I can certainly attest to the fine treatment he has provided this Member for some of the ailments that have occasionally afflicted me.

More importantly, I can attest to Rear Admiral Narva's gentle hand and positive and friendly attitude. Like some of my colleagues and fellow Americans, I have an uneasiness when it comes to visiting the doctor. But when I have visited the attending physician's office, Rear Admiral Narva immediately allays my uneasiness. He quickly and thoroughly assesses the medical condition and prescribes the necessary treatment or medication. All this he does in the friendliness of manner and with the high degree of professionalism common to an individual of his rank, experience, and ability.

I thank Rear Admiral Narva for the kindness he has extended to me over the last 2½ years and I wish him and his wife the very best on his retirement from the U.S. Navy.

Mrs. SAIKI. Mr. Speaker, aloha and congratulations to Dr. Narva upon his retirement from the U.S. Navy. Thirty-five years of dedicated service to our country is truly a momentous undertaking and deserving of this special recognition.

Many Members both past and present want to share in honoring Bill and his wife, Rose, today for Bill's 20 years as consultant to the attending physician of the Congress, as well as attending physician the last 4 years.

Bill began his tenure as the attending physician when I came to the Congress 4 years ago. He helped me initially when I was overcome with a rash, something described as "Democrat dermatitis." I have since developed some immunity to that. But seriously, I have enjoyed my years of friendship which has developed as a result of his professional care.

Bill, I hope you and Rose take the time in your retirement to do all of the things you have wanted to do for so long. We will truly miss you, your manner and expertise. And yes, we will be a little jealous of you on those nights when we burn the midnight oil. Think of us every now and then.

Aloha and may God bless you and yours.

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute and to bid farewell to a man who has served as attending physician for Congress for 4 years, Adm. William Narva. His knowledge and expertise in the field of medicine are truly outstanding, and his work is to be commended.

Admiral Narva received his bachelor of arts degree from Hofstra College in 1952, and went on to receive his doctorate in medicine from Yale University in 1956. Admiral Narva did his internship at the naval hospital in Bethesda, MD, in 1956, his specialty residency in dermatology at the naval hospital in San Diego in 1957, and went on to do his postgraduate training at the USC School of Medicine in Los Angeles, CA.

Admiral Narva's naval assignments date back to 1955, when he began active duty. He would go on to serve on the medical staff in both Oakland and San Diego's naval hospitals. Additionally, he served as Chief of Dermatology Service at the naval hospital in Bethesda, MD, and as Director of both the Reserve Division of the Bureau of Medicine and Surgery and the Office of the Surgeon General, Navy Department. From 1982 to 1986 he served as Vice President of the Uniformed Services University of Health Sciences in Bethesda, MD, and he will close another segment of his distinguished career when he steps down as attending physician for the Congress of the United States in July 1990.

His many accomplishments and efforts have been rewarded through his receipt of the Defense Superior Service Medal, the Legion of Merit Award, the Navy Meritorious Service Medal, and the Navy Commendation Medal.

Mr. Speaker, on behalf of all my colleagues and those who value a high quality of health service for our Nation, I pay honor to the tireless efforts of Adm. William M. Narva as he leaves his position as attending physician. I would like to personally thank him for his contributions to the field of medicine and wish him much success in his future endeavors.

Mr. GUARINI. Mr. Speaker, I rise today to pay tribute to a man who has given his best to Congress during his 4 years as attending physician.

I have come to know Dr. William Narva well since he first came to us 4 years ago. He is a competent, dedicated professional who helped make things easier for all us here in Congress. He has been trusted with personal problems at the very highest levels, and performed throughout his career with a spirit of decency and compassion.

Dr. Narva has always struck me as a person who loves people. He never let his impressive achievements get in the way of his enjoyment of people and commitment to helping his fellow man. It is this dedication to serving others—combined with his vast medical understanding—that has made so many of us feel comfortable, confiding with him our most private concerns.

Unlike many successful academic professionals, Dr. Narva's life reaches beyond the ivory tower of our Nation's top educational institutions. He grew up on the streets of Brooklyn, where he learned to appreciate the feelings, motivations, and dreams of the common man. It is his intuitive understanding of people and genuine desire to help them that have made him such a good doctor, and such a good friend to so many of us.

I am sure that, during his 4 years serving Congress, Admiral Narva has learned more about Congress' aches and pains, and warts than any Capitol Hill reporter. It is a tribute to his abilities that he has managed to keep all of us—the tall and the short, the young and the old, the thin and the not-so-thin—healthy and able to go on with the business of the people.

I know that I speak for all of us when I say that Bill has become a fixture here in the Capitol and that he will be sorely missed. We have all gained comfort from his guidance. I wish him well in the new challenges that await him.

Mr. SPENCE. Mr. Speaker, it is with mixed feelings that I bid farewell and bon voyage to our great friend and physician, Adm. Bill Narva. On the one hand, I am very happy that a person who has contributed so much to his country can look forward to a well-earned retirement. But, on the other hand, I am going to miss his friendship and counsel very much.

Bill Narva is a Navy man in the classic sense. He is a patriot of the first order, and his service to America should be emulated by every young man and woman who aspires to a career in the U.S. Navy.

I am particularly indebted to Bill because, during a trying period in my life when I suffered from breathing problems, his advice and counsel helped me to understand the medical situation. Not only did he provide medical advice and assistance, but he spent time locating specialists who could assist me.

The job of the attending physician is very difficult, and it demands long hours away from family and friends. In short, it requires dedication and commitment. We are all very fortunate that Rear Adm. William Narva possesses these attributes, and I can certainly testify that he is a physician and friend without equal. I will follow his future endeavors with strong support and interest.

Mr. GREEN. Mr. Speaker, along with several of my colleagues, I too rise today to recognize and thank Rear Adm. William Narva for 4 years of dedication and excellent service to the Congress throughout his tenure as attending physician.

Preceding his duty as attending physician, Dr. Narva had a celebrated career in the U.S. Navy which spanned across three decades. During that time, among other roles, he served as special assistant to the Secretary of the Navy from 1981 to 1986 and consultant to the White House physician.

At this time, I should like to wish Bill, and his wife Rose, all the best with their future endeavors.

Mr. ACKERMAN. Mr. Speaker, I want to join with my colleagues in thanking and saying good-bye to Adm. William Narva. This remarkable American has devoted 35 years of his life to the service of our country. And, within the Congress, we have been fortunate indeed to call Admiral Narva our doctor for the past 4 years.

I consider Bill Narva my friend, even though he often ordered me away from the delicious New York foods that I love the most—those with the high cholesterol count.

Many times he made a personal sacrifice and separated me from a corned beef sandwich, which he would then eat himself in order to save me.

He also certainly has been a friend to this House. As consultant to the Attending Physician to the Congress from 1966 through the assumption of that position himself in 1986, Admiral Narva has offered wise counsel and advice to all of us.

Permit me for a moment, Mr. Speaker, to touch upon just a few of Bill's other accomplishments. He holds the Defense Superior Service Medal, the Legion of Merit, the Navy Meritorious Service Medal, and the Navy Commendation Medal.

The good Doctor headed the Dermatology Service at Bethesda Naval Hospital. He was the man in charge of the Surgeon General's Office at the Navy Department. The Admiral also has served as special assistant to the Secretary of the Navy and, for two decades, he was consultant to the White House Physician.

In short, Mr. Speaker, this great American has given a great deal of talent, energy, and creativity to all of us. And, he permitted us to answer the question, "Is there a Doctor in the House?"

Goodbye, Bill. Thank you. We all wish you good luck and good health. I will miss you.

Mr. SCHEUER. Mr. Speaker, it is both a joy and a sorrow to say goodbye to Adm. William Narva. A sorrow to see a good man leave, but a joy to wish him well as he begins a new path in life.

Bill Narva has a long and distinguished career in the Navy and the health care field. He has served in the House as long as I have, and I know we all will miss his care and counsel.

I wish only the very best for Bill and his wife Rose, who has her own brilliant career as an interior designer.

It is an honor to have known them and called both of them my friends.

IN MEMORY OF LT. ALGERNON POPE GORDON, JR.

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

Mr. DICKINSON. Mr. Speaker, I have a sad thing to do today. Tuesday, a fire on board the U.S.S. *Conyngham* resulted in the death of her operations officer, and injuries to 12 others of her crew. I am deeply saddened to note that this unfortunate mishap claimed the life of a constituent of mine, Lt. Algernon Pope Gordon, Jr., of Montgomery, AL.

Serving in the military, whether in time of peace or war, is potentially dangerous duty which is recognized by all the services. Pope joined the Navy knowing the risks involved, and served his country with unselfish dedication.

News reports today say Pope acted heroically during the *Conyngham* fire, by ignoring the flames to alert sleeping crewmembers of the danger. He died a hero after saving his roommate. Accordingly, the Navy will posthumously promote Pope to the rank of lieutenant commander.

Pope's 11-year naval career included service on the U.S.S. *MacDonough*, the U.S.S. *Fidelity*, the U.S.S. *Fearless*, and as of July 1989—the U.S.S. *Conyngham*. He also spent 2 years as a Navy recruiting officer in his hometown of Montgomery.

Today, my heart goes out to Pope's wife, Shirley and his three children in their time of grief. Pope is also survived by his parents, Jean and Pope, Sr., of Montgomery.

For those lucky enough to know him and serve with him, Lt. Pope Gordon was a true friend. For Alabamians and all Americans, he is a role model of character, compassion and heroism.

THE DEFICIT CRISIS

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, I was surprised, I was actually astounded this morning to hear a commentator on one of this morning's network news programs declare that he could not see any reason for a budget summit, since the deficit was coming down anyway.

Down, Mr. Speaker? Where have the media people been? The reason for the budget summit, in case they do not understand it, is that the announced deficit numbers are so far out of touch with reality that even the business-as-usual people here in the Congress cannot fudge these numbers any longer.

The fact is, Mr. Speaker, that no real progress, none whatsoever, has been made on the deficit over the last 7 years. In 1983, the United States owed about $1.4 trillion. By the end of this year, we will owe about $3.4 trillion, or an average additional borrowing of about $250 billion a year over this period of time. This is the place to look for the real deficit numbers, Mr. Speaker, and the view is not a pretty one at all.

The only reason the announced deficit numbers even appear to look better is that Congress is now counting the annual increase in the Social Security trust fund on the revenue side, $65 billion worth this year, so you can simply add back to the announced numbers at least $65 billion, because that is not really revenue. What it really is, is an accruing liability, an obligation of the Government to pay retirement benefits in the next century that has to be there if we are going to provide a retirement for the baby boomers, if we are going to have a Social Security system that works anything like the one we have today, and we have a very fine one today indeed. That money should not be counted on the side of reducing the deficit. It is an obligation of government and an ongoing obligation.

Now, Mr. Speaker, to tell you how bad the deficit situation really is, consider this: My colleague, the gentleman from Illinois [Mr. ROSTENKOWSKI], proposed earlier this year a deficit reduction plan to bring the budget into balance over a 5-year period. The plan called for spending controls and new revenues of $500 billion over the next 5 years, one-half of a trillion dollars; but even under that plan, with its very heavy burdens, nevertheless he relied on the Social Security trust fund buildup of $350 to $400 billion additional in FICA taxes to make the numbers come out right.

So, Mr. Speaker, what is really needed to bring the deficit under control in the next 5 years is not one-half of a trillion dollars, it is closer to $1 trillion, whether it is in spending cuts or whether it is in new revenue.

That does not even include the amounts that are accruing for the S&L bailout, which is off-budget. Those are not even being counted in the figures.

If anyone out there, particularly people from the media who ought to know better, believe the deficit is coming down, Mr. Speaker, they are living in some make-believe world. The deficit problem is real.

We are making no progress. We are stealing the Social Security trust fund to make the numbers look better. Huge amounts are off-budget and not even being counted, though they add directly to the Government's huge borrowing requirements. We are heavily dependent on foreign capital to carry this enormous burden of ongoing debt and, incredibly, we blame foreign investors for our problems, when by consuming instead of savings, by running these enormous deficits, we have made it impossible to continue this consumption without their funds.

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After fudging the numbers for 7 years, Mr. Speaker, each year increasingly diverging from reality, we have reached the point of crisis, unable to paper over the deficit any longer, Mr. Speaker, and some in the media

cannot even see the problem. With this kind of perceptiveness, Mr. Speaker, it is no wonder we are where we are.

This is a serious problem for the United States of America. The people in the media have to understand it and have to tell the American people how bad it is. We have to get to grips with it and solve it, and we have to solve it soon.

FIFTY BILLION IN NO-YEAR DEFENSE MONEY: A RECIPE FOR ABUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. IRELAND] is recognized for 60 minutes.

Mr. IRELAND. Mr. Speaker, I rise to present a report on the "M" and "Merged Surplus" accounts of the Department of Defense [DOD]. Their accounts are made of no-year money. They are appropriations that have lost their "fiscal year identity" and are merged together in one big pot that remains available indefinitely or until spent.

At the present time, the balance in these two accounts is growing rapidly and now exceeds $50 billion. With no accountability, with no regular statement of accounts required, with no procedures in place for reviewing these accounts, and very little information on balances and transactions, we have created a situation ripe for abuse.

Mr. Speaker, I want to dispel one myth concerning these accounts right now. Those in the bureaucracy, who tap them, would like us to believe that this is not real money. True, there is not a big pile of cash stashed in a vault somewhere, but those accounts are drawn on to pay bills with considerable regularity. In fiscal year 1989, for example, $3,874,000,000 was paid out of the "M" account. That's a fair piece of change.

This is first of three reports I plan to present on the subject. It is the result of a 6-month study and provides a brief description of the two accounts, the underlying legal authority for their existence, growth in dollar balances in the accounts, and concerns about possible abuse.

My purpose today is to begin to shed some light on this very difficult and complex problem. Information is not readily available. What information is available is difficult to decipher and then is either misunderstood or not understood at all—even by Government financial officials responsible for such matters.

For starters, the terminology is confusing. DOD budget officials use technical terms like "lapsed budget authority" or "expired appropriations" or "surplus fund" and "merged' and "restorations" when discussing these accounts. Others call them "no-year" appropriations. Critics say it is nothing but a "slush fund." At this point, I am not sure what it is.

I hope to clear up some of the confusion.

Mr. Speaker, before I proceed with my report, I would like to make one point very clear.

The legal issues addressed in this report are drawn primarily from reports prepared by the DOD, General Accounting Office [GAO], DOD Inspector General [IG], and American Law Division of the Congressional Research Service. These conclusions are not definitive. For me, the legality of all the issues surrounding the "M" and "Merged Surplus" accounts remain open questions. Those portions of the law that need to be tightened up will be discussed in my final report.

NO-YEAR MONEY AND CONSTITUTION

Since coming to Congress in 1976, I have labored under a terrible misconception. I thought that when we appropriated money for DOD, or any other agency for that matter, it remained available for obligation for a specific period of time. I thought it had a specific life span.

Now I know better. For me, the newly found knowledge is disturbing though, since our laws seem to be at odds with our Constitution and each other.

Clearly, article I, section 8 of the Constitution places very strict limits on the availability of appropriations for the armies—Navy is not subject to limits. It states that "no appropriation of money shall be for a longer term than 2 years."

Given the strict limitations imposed by the Constitution, how is it that defense money can remain available for expenditures indefinitely or until spent or forever. No-year money is not consistent with the Constitution. Is Congress empowered to create it? Is it illegal?

ANNUAL APPROPRIATIONS BILLS

Most of the confusion concerning the life span of Federal money flows from annual appropriations bills.

Annual appropriations acts do make appropriations available for specified periods of time. Take, for example, the fiscal year 1990 DOD Appropriations Act.

Under that legislation, appropriations for military personnel and operation and maintenance remain available for obligation until September 30, 1990, or for just 1 year. Other appropriations, such as moneys for procurement or research and development, remain available for longer periods of time—most until September 30, 1991-92 or for 2 to 3 years, and in the case of Navy shipbuilding, for 5 years or longer.

The periods of availability specified in annual appropriations bills do not mean what you think they mean. Yes, they do, in fact, establish a finite period in the life of those moneys, but not the whole life. It is only the beginning of a long life.

When the deadlines in annual appropriations bills are reached, those moneys do not cease to exist or be available for expenditure. They are not returned to the Treasury and wiped off the books. No indeed. They take on a life of their own.

ESTABLISHMENT OF "M" AND SURPLUS ACCOUNTS—1956

When the authority in annual appropriations bills expires, another body of law takes control and pumps new life into so-called expired appropriations. It makes them immortal, section 1552 of title 31, United States Code takes over.

Although section 1552 applies to all agencies, it was proposed and enacted into law to meet DOD's special needs. Because of the long lead times required to procure increasingly sophisticated equipment, and to allow for "price redetermination and escalation clauses in long-term contracts," DOD wanted and got "more flexibility in the accounting for funds" to adjust obligated balances to "liquidate delayed bills."

To address those concerns, section 1552 established two separate tracks for expired appropriations: one for obligated funds and one for unobligated funds.

UNOBLIGATED BALANCES—MERGED SURPLUS ACCOUNT

After expiring, unobligated appropriations are transferred to the Treasury where they are designated as surplus authority. They then enter a 2-year transitional phase. During those 2 years, they maintain their fiscal year identity. At the end of those 2 years, however, the unobligated balances lapse and become "merged surplus authority." They are merged together with other expired appropriations.

While these are forever identified with the appropriation account from which they were originally derived, for example, Air Force aircraft procurement, line-item detail and fiscal year identity are lost. In this way, they become no-year appropriations, remaining available indefinitely.

OBLIGATED BALANCES—"M" ACCOUNT

Obligated balances, which expire, are handled in a similar fashion but go to a different compartment. After the 2-year transitional phase, they are transferred to an "M" account. Like surplus authority, after passing through the 2-year transitional phase, they too lose their fiscal year identity.

PROCEDURES GOVERNING USE OF EXPIRED MONEY

The balances in both the merged surplus and "M" accounts remain at the disposal of an agency head until expended. There are essentially no restrictions as to when lapsed moneys

drawn from those accounts can be spent, but the law—title 31—imposes strict limitations on when those funds can be obligated—section 1502—and the "documentary evidence" needed to validate contractual obligations—section 1501.

Lapsed moneys are supposed to be used to pay existing obligations or to cover adjustments to existing obligations that are chargeable against any appropriation from which the account is derived. However, use of these moneys to cover adjusted obligations does not authorize the agency to expand the scope of work for which the obligation was originally created.

CONFLICT WITH ANTIDEFICIENCY ACT

The prohibition against expanding the scope of work of old contracts is difficult to enforce with the "M" and "Merged Surplus" accounts lurking in the background. These funds are not subject to the same strict rules that limit obligations and expenditures. When appropriations expire and lose their fiscal year identity, existing legal controls become almost unenforceable.

The existence of the "M" and "Merged Surplus" accounts allows the military services to circumvent the Antideficiency Act.

The Antideficiency Act prohibits any person in Government from making or authorizing an expenditure or obligation that exceeds the amount available in an appropriation or fund from which the obligation is made or the expenditure is paid. This piece of legislation is a source of fear to those who handle Federal money, since a violation carries a criminal penalty, including a fine and/or jail sentence.

Once an appropriation balance reaches an "M" account and loses its fiscal year identity, it is no longer susceptible to violations of the Antideficiency Act. By law section 1551, an "M" account balance is available to pay any obligation attributable to any of the appropriations from which it is derived. Consequently, payments from an "M" account need not be related to specified balances of appropriations transferred to it.

LACK OF CONTROLS

Congress has little or no control over these funds. Nor does the Secretary of Defense or the Treasury. The military services decide how and when these resources are obligated and expended.

If the transaction is under $100,000, no authorization is required. A program manager can make that determination. For amounts in excess of $500,000, a comptroller must approve it. Amounts in excess of $4 million are subject to approval by the Secretary of Defense. Only transactions above $25 million are reported to Congress—a new requirement resulting from fiscal year 1990 legislation.

Since the legislation took effect, just one notification has been submitted to Congress. Dated January 24, 1990, it asks Congress to review that air force plan to take $418 million from the "M" account to fix the B-1B defensive avionics suite (ALQ-161A). The Senate Appropriations Committee balked, and now the Air Force is prepared to resubmit the request.

GROWING BALANCES

While the architects of section 1552 thought the legislation would help to reduce the carryover of unexpended balances in appropriations, it has had the opposite effect.

Initially, in the 1960's and 1970's the combined balances in these two accounts remained relatively low, but in the 1980's they experienced astronomical growth—rising from essentially nothing in the early 1970's to about $2 billion in 1979 to $17.9 billion in 1980 to $43.9 billion in 1989, according to figures for the Army, Navy, and Air Force provided by the GAO. When amounts held by the various Defense Agencies are included, DOD says the total on October 1, 1989 was $50.5 billion.

Rapid growth in the "M" and "Merged Surplus" accounts, according to the House Appropriations Committee, can be attributed to several factors, including: First, excessive obligations for contingent liabilities that never materialize; second, shift to long-term investments that obligate over a longer period; third, reluctance to eliminate invalid contractual obligations; and fourth, inclusion of retirement and severance pay for foreign national civilian employees.

I think there may be one additional reason for the rapid growth in these accounts in the 1980's. Congress appropriated more money than DOD could possibly spend. It's simple as that.

POTENTIAL ABUSES

In adopting section 1552, Congress insisted that restorations, or transactions in and out of these accounts be held to a minimum, and to preclude abuse of the authority, a proviso was added in 1956, requiring agencies to report each transaction to the Appropriations Committees, the Comptroller General, and Bureau of the Budget, but this reporting requirement was later repealed.

With $50 billion in no-year appropriations floating around coupled with an apparent laxity at the Pentagon in enforcing "scope of work" limitations, the potential for abuse exists—and abuses have occurred. The temptation is to use the funds for purposes not originally intended by Congress. We know of at least two instances of documented abuse, which I will discuss in my next report, and abuses may have occurred about which we know nothing.

Mr. Speaker, in my mind there is ample reason to be concerned about the management of these accounts. The GAO and DOD IG have issued a number of reports on the problems, which pinpoint areas where the greatest deficiencies exist. Both seem to have arrived at the same conclusion—a vast majority of sums in the "M" account are obligated against invalid contracts:

Poor accounting practices make it very difficult to reconcile records:

"M" accounts are inflated by invalid balances that should be deobligated;

"M" accounts include obligation for contracts that have been completed—items delivered—but have not been closed out due to a backlog of contract audits;

Failure to maintain detailed line item accounting in "M" accounts makes them susceptible to duplicate and erroneous payments.

Account management, procedures, and controls for the "M" and Merged Surplus Accounts are weak. They are atrocious. They are ripe for abuse. We have a responsibility to address these issues legislatively.

In addition, use of the "M" account as a retirement fund for foreign nationals is clearly an unacceptable practice. Payments to foreign nationals from the DOD continues to be a sensitive political issue. For that reason, those costs need greater visibility and scrutiny. A special fund should be established to budget and account for those expenses.

Mr. Speaker, I place at this point, a short report in the RECORD prepared at my request by the General Accounting Office. It is dated April 9, 1990. It provides an excellent overview of DOD's expired and lapsed budget authority balances.

The GAO report is a good starting point for discussion.

In the near future, I will present my next report. It will focus on several documented cases of abuse and possible circumvention of the Antideficiency Act. The final report will propose legislation to reinject some accountability and attempt to restore control over $50 billion in no-year money.

U.S. GENERAL ACCOUNTING OFFICE,
NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, April 9, 1990.

As you requested, this letter summarizes the information we discussed with you during our meeting on March 7, 1990, and in subsequent discussions concerning our review of the Department of Defense's use of expired and lapsed budget authority balances.

BACKGROUND

In 1956, Congress established the "M" and Merged Surplus Authority (MSA) accounts for the purpose of streamlining the method by which agencies pay obligations resulting from prior year activities. In our opinion, Congress did not expect these accounts to accumulate large balances. However, our historical analysis of these accounts has shown considerable growth since their creation. Further, the Congress has repeatedly

expressed concern over the growth of the "M" and the MSA accounts and more recently over their possible misuse.

"M" accounts are accounts maintained by the agencies by appropriation into which unliquidated obligated balances are transferred. The balances in these accounts have lost fiscal year identity and are merged with other balances from appropriation accounts for the same general purposes e.g., Air Force aircraft procurement. "M" account balances are used for the payment of valid, previously incurred obligations. MSA accounts are Treasury accounts maintained by the agencies into which unobligated and deobligated balances have been withdrawn. The balances in these accounts also lose fiscal year identity and are merged with other amounts from appropriation accounts for the same general purpose. The MSA account balances can be restored to the "M" accounts for the payment of a valid upward adjustment to prior obligations which were previously incurred by an agency.

PERTINENT LEGISLATION

In 1956, Congress enacted Public Law 84-798, dated July 25, 1956. This law, among other things: created the "M" and what is now known as the MSA accounts; transferred the responsibility for the payment of unliquidated obligations from GAO to the agencies incurring the obligation; made the "M" accounts balances available for the payment of previously incurred obligations and made the MSA balances available for restoration to the "M" account; and allowed all appropriations to remain in an expired state for two fiscal years before lapsing into the "M" and MSA accounts.

In addition, the law states that once these appropriations expire, they are no longer available for new obligations. However, since 1984, legislation has followed shipbuilding to incur new obligations for final ship construction, engineering, tests and evaluations after expiration of the appropriation.

DOD'S "M" AND MSA BALANCES

The Army, Navy, and Air Force's "M" account balances totalled about $18 billion at the end of fiscal year 1989. At September 30, 1989 the services' MSA account totalled $25 billion. Figure 2 shows the various balances in DOD's "M" and MSA accounts between fiscal years 1980 and 1989. It is important to note that the balances in these accounts do not represent cash actually set aside by the Treasury. If an agency decides to use these accounts, the Treasury would then have to provide the means to finance the proposed action.

Figure 2: Army, Navy, and Air Force's Lapsed Authority From Fiscal Year Ending September 30, 1980 Through September 30, 1989:

[In thousands of dollars]

Fiscal year	M	MSA
1980	2,741,706	15,184,989
1981	3,367,883	15,278,549
1982	3,349,629	16,262,746
1983	4,205,433	18,422,910
1984	5,016,975	18,292,124
1985	6,744,759	19,817,631
1986	9,571,045	21,299,887
1987	12,366,323	22,797,271
1988	15,032,101	24,367,680
1989	18,498,882	25,394,462

RECENT LEGISLATION PERTAINING TO USE OF LAPSED AUTHORITY

As a result of the congressional interest generated by the Air Force's use of expired and lapsed authority, Congress has recently placed limitations on the services' ability to restore these funds. The National Defense Authorization Act for fiscal years 1990 and 1991, P.L. 101-189, dated November 29, 1989, requires the Secretary of Defense to approve a restoration from the MSA account which would cause the total amount of restorations for a program, project or activity to exceed $4 million within a fiscal year. Under the same conditions, a restoration causing the total amount of restoration to exceed $25 million in a fiscal year would require a 30-day advance notification to the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing, stating the intent to restore such funds, together with a description of the legal basis and policy reasons for the proposed action.

The information discussed above is being developed as part of our review of the Department of Defense's use of expired and lapsed authority. As you know, this review is being conducted at the request of the Senate Committee on Appropriations, Subcommittee on Defense. The objectives of the review are to determine (1) what legislation, regulations, policies, and procedures govern the use of expired and lapsed authority; (2) how the balances in the expired and lapsed authority accounts have grown; (3) how the expired and lapsed authority has been used; and (4) what the process is for approving/denying the use of expired and lapsed authority.

We plan to provide you with a copy of our report when it is released. Also, we will make every attempt to keep you informed of the results of our work as it progresses. We hope this information meets your current needs. If you have any questions, please contact me on 275-4262 or Pathelia Batchelor, Evaluator-in-Charge on 275-0224.

Sincerely,

STEVEN F. KUHTA,
Assistant Director, Air Force Issues.

□ 1440

The SPEAKER pro tempore (Mr. JOHNSON of South Dakota). Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

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. MCCANDLESS) to revise and extend their remarks and include extraneous material:)

Mr. PETRI, for 60 minutes, on May 17.

Mr. GINGRICH, for 60 minutes each day, on May 14, 15, 16, and 17.

Mr. WOLF, for 30 minutes each day, on today and May 14.

Mr. PORTER, for 5 minutes, today.

Mr. MCEWEN, for 60 minutes, today.

(The following Members (at the request of Ms. PELOSI) to revise and extend their remarks and include extraneous material:)

Mr. CARPER, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GLICKMAN, for 60 minutes, on May 14.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MCCANDLESS) and to include extraneous matter:)

Mr. BOEHLERT.
Mr. BEREUTER.
Mr. SCHUETTE.
Mr. DORNAN of California.
Mr. RINALDO.
Mr. MACHTLEY.
Mr. ARMEY.
Mr. PORTER.
Mr. MICHEL.

(The following Members (at the request of Ms. PELOSI) and to include extraneous matter:)

Mr. FASCELL in three instances.
Mr. FALEOMAVAEGA.
Mr. DONNELLY.
Mr. MATSUI.
Mr. NELSON of Florida.
Mr. KOSTMAYER.
Mr. MILLER of California.
Mr. LAFALCE.
Mr. WILLIAMS.
Mr. STARK in three instances.

SENATE JOINT RESOLUTION

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 286. Joint resolution to designate the week beginning May 6, 1990, as "National Correctional Officers Week"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mr. IRELAND. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 40 minutes p.m.), under its previous order, the House adjourned until Monday, May 14, 1990, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3157. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of the price availability report for the quarter ending 31 March 1990, pursuant to 22 U.S.C. 2768; to the Committee on Foreign Affairs.

3158. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original reports of po-

litical contributions by Joseph Edward Lake, of Texas and William Bodde, Jr., of Maryland, ambassadors designate and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3159. A letter from the Chairman, National Transportation Safety Board, transmitting the inspector general's audit of fiscal year 1989 personnel and payroll, time and attendance, and procurement activities, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3160. A letter from the Attorney General, transmitting a draft of proposed legislation to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States; to the Committee on the Judiciary.

3161. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize the Secretary of Commerce to assess fees at fair market value to special beneficiaries of National Oceanic and Atmospheric Administration data and information, and for other purposes; to the Committee on Science, Space, and Technology.

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. GEJDENSON: Committee on Foreign Affairs. H.R. 4653. A bill to reauthorize the Export Administration Act of 1979, and for other purposes; with an amendment (Rept. 101-482). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. ROE: Committee on Science, Space, and Technology. H.R. 4329. A bill to enhance the position of U.S. industry through application of the results of Federal research and development, and for other purposes; with an amendment; referred to the Committee on the Judiciary for a period ending not later than June 11, 1990, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(m), Rule X (Rept. 101-481, Pt. 1). Ordered to be printed.

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. BEREUTER:

H.R. 4782. A bill to establish an environmental restoration program in the Department of Agriculture to provide for the cleanup of releases of hazardous substances, including groundwater contaminants, from facilities owned or formerly owned by the Department of Agriculture (including grain storage facilities), and for other purposes; jointly, to the Committee on Agriculture; Energy and Commerce; and Science, Space, and Technology.

By Mr. BEREUTER (for himself, Mr. HALL of Ohio, Mr. PENNY, and Mr. GILMAN):

H.R. 4783. A bill to amend the Agricultural Trade Development and Assistance Act of 1954 to authorize the P.L. 480 Food for Peace Program for fiscal years 1991 to 1995 in order to combat world hunger, promote economic development, expand international trade, develop and expand agricultural export markets for U.S. agricultural commodities, and foster private enterprise and democratic development in the world; jointly, to the Committee on Agriculture and Foreign Affairs.

By Mr. CAMPBELL of California:

H.R. 4784. A bill to ensure that the status of musicians as either employees or independent contractors under the National Labor Relations Act is determined under the same criteria as are applied to other workers; to the Committee on Education and Labor.

By Mr. WAXMAN:

H.R. 4785. A bill to amend the Public Health Service Act to establish a program of grants to provide preventive health services with respect to acquired immune deficiency syndrome, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DEFAZIO:

H.R. 4786. A bill to amend section 5547 of title 5, United States Code, to include certain employees of the Department of Commerce within the definition of the term "forest firefighter"; to the Committee on Post Office and Civil Service.

By Mr. DIXON:

H.R. 4787. A bill to correct the tariff classification of monoculars; to the Committee on Ways and Means.

By Mr. DONNELLY (for himself, Mr. DURBIN, Mr. HERTEL, Mr. RUSSO, Mr. WOLPE, Mr. GEJDENSON, and Mrs. KENNELLY):

H.R. 4788. A bill to protect the status of certain nationals of Lithuania in the United States; to the Committee on the Judiciary.

By Mr. ECKART (for himself and Mr. FEIGHAN):

H.R. 4789. A bill to provide authority to railroad police officers to cross jurisdictional boundaries for the protection of interstate commerce and the security of the U.S. railway system; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. WAXMAN (for himself, Mr. MADIGAN, Mr. DINGELL, Mr. LENT, Mrs. SCHROEDER, Ms. SNOWE, Mr. SCHEUER, Mr. TAUKE, Mr. MARKEY, Mr. WHITTAKER, Mr. WALGREN, Mr. BILIRAKIS, Mrs. COLLINS, Mr. NIELSON of Utah, Mr. SYNAR, Mr. WYDEN, Mr. ECKART, Mr. RICHARDSON, Mr. SIKORSKI, Mr. BRYANT, Mr. BATES, Mr. BOUCHER, Mr. COOPER, Mr. BRUCE, Mr. ROWLAND of Georgia, Mr. MANTON, Mr. TOWNS, Ms. SLAUGHTER of New York, Ms. OAKAR, Ms. SCHNEIDER, Ms. PELOSI, Mrs. LOWEY of New York, Mrs. SAIKI, Mrs. UNSOELD, Mrs. MORELLA, Mrs. BOGGS, Ms. LONG, Ms. KAPTUR, Mrs. KENNELLY, Mrs. MARTIN of Illinois, Mrs. PATTERSON, Mrs. BOXER, Mrs. VUCANOVICH, Mrs. JOHNSON of Connecticut, Mrs. MEYERS of Kansas, Mr. YATES, Mr. STOKES, and Mr. ROE):

H.R. 4790. A bill to amend the Public Health Service Act to establish a program of grants for the prevention and control of breast and cervical cancer; to the Committee on Energy and Commerce.

By Mr. FRENZEL:

H.R. 4791. A bill to reduce temporarily the duty on flurbiprofen; to the Committee on Ways and Means.

By Mr. HORTON (for himself, Mr. MINETA, Mr. HUNTER, Mr. FALEOMAVAEGA, Mrs. SAIKI, and Mr. DE LUGO):

H.R. 4792. A bill to amend Public Law 95-419 to make Asian/Pacific American Heritage Month an annually recurring commemoration; to the Committee on Post Office and Civil Service.

By Mr. LAFALCE (for himself and Mr. SMITH of Iowa):

H.R. 4793. A bill to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes; to the Committee on Small Business.

By Mr. MAVROULES (for himself and Mr. HOPKINS) (both by request):

H.R. 4794. A bill to amend various provisions of law that affect the operations and management of the Department of Defense, particularly in the areas of military personnel, acquisition reform, civilian personnel management, and for real property; jointly, to the Committees on Armed Services, Government Operations, Education and Labor, and Post Office and Civil Service.

By Mr. MILLER of California (for himself, Mr. SCHUMER, Mr. CAMPBELL of Colorado, Mr. BEILENSON, Mr. BATES, Mr. DEFAZIO, Mr. PENNY, Mr. SMITH of Florida, Mr. RANGEL, Mr. PANETTA, Mr. THOMAS A. LUKEN, Mr. MORRISON of Connecticut, Mrs. BOXER, Mr. SCHEUER, Mr. TRAFICANT, Mr. ATKINS, Mr. OWENS of New York, Mr. FAUNTROY, Mr. COYNE, Mr. FUSTER, Mr. JACOBS, Mr. DWYER of New Jersey, Mr. STARK, Mr. BERMAN, Mr. FORD of Michigan, Mr. LANCASTER, Mr. WAXMAN, and Mr. RUSSO):

H.R. 4795. A bill to amend title 18, United States Code, to provide an additional sanction against certain Federal contractors committing Federal offenses in connection with those contracts, and for other purposes; to the Committee on the Judiciary.

By Mr. MINETA:

H.R. 4796. A bill to allow legal aliens to work as masters and pilots aboard commercial fishing vessels and to allow U.S. businesses owned by legal aliens to operate such vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. MURPHY (for himself, Mr. BROOKS, and Mr. KASTENMEIER):

H.R. 4797. A bill to amend titles II and XVI of the Social Security Act to ensure compliance by the Social Security Administration with decisions by U.S. courts of appeals; to the Committee on Ways and Means.

By Mr. NEAL of Massachusetts:

H.R. 4798. A bill to authorize grants to assist mathematics and science teachers in secondary schools in repaying Federal guaranteed student loans; to the Committee on Education and Labor.

By Mr. OWENS of New York:

H.R. 4799. A bill to amend the National Labor Relations Act to improve the procedure for appointing members to the National Labor Relations Board; to the Committee on Education and Labor.

H.R. 4800. A bill to amend the National Labor Relations Act to provide for fair and expeditious representation elections; to the Committee on Education and Labor.

By Mr. PALLONE:

H.R. 4801. A bill to require the Secretary of Energy, in close consultation with the Administrator of the Environmental Protection Agency and the Director of the National Institute of Environmental Health Sciences, to develop and implement a comprehensive study of the potential human health effects of electric and magnetic fields, to evaluate whether improved engineering designs of electricity delivery systems to residences and workplaces will reduce potential health risks posed by electric and magnetic fields, and to establish a comprehensive public information dissemination program on issues related to electric and magnetic fields; jointly, to the Committees on Energy and Commerce and Science, Space, and Technology.

By Mr. RAHALL:

H.R. 4802. A bill to establish the Shawnee Parkway as a unit of the National Park System within the State of West Virginia, and for other purposes; jointly, to the Committees on Public Works and Transportation and Interior and Insular Affairs.

By Mr. ROE (by request):

H.R. 4803. A bill to amend title II of the Marine Protection, Research, and Sanctuaries Act of 1972 as amended, to authorize appropriations for fiscal years 1991 and 1992; jointly, to the Committees on Merchant Marine and Fisheries, and Science, Space, and Technology.

By Mrs. SAIKI (for herself and Mr. BLAZ):

H.R. 4804. A bill to provide for the establishment of a program to prevent the spread of, and ultimately eradicate, the brown tree snake from American Pacific islands; jointly, to the Committees on Merchant Marine and Fisheries and Interior and Insular Affairs.

By Mr. STARK:

H.R. 4805. A bill to amend the Internal Revenue Code of 1986 to reduce emissions of carbon dioxide by imposing a tax on certain fuels based on their carbon content; to the Committee on Ways and Means.

By Mr. WILLIAMS (for himself and Mr. GOODLING):

H.R. 4806. A bill to amend the National Summit Conference on Education Act of 1984; to the Committee on Education and Labor.

By Mr. DREIER of California (for himself, Mr. WILSON, and Mr. RITTER):

H. Con. Res. 326. Concurrent resolution to express the sense of the Congress that weapons and other military equipment removed from Europe should not be transferred to areas of armed conflict in the developing world; to the Committee on Foreign Affairs.

By Mr. GREEN:

H. Con. Res. 327. Concurrent resolution regarding the protection and promotion of basic human rights in Malawi; to the Committee on Foreign Affairs.

By Mr. NIELSON of Utah (for himself, Mr. MADIGAN, Mr. HANSEN, Mr. BATEMAN, Mr. BARTON of Texas, Mr. HARRIS, Mr. DANNEMEYER, Mr. STALLINGS, Mr. BURTON of Indiana, and Mr. DORNAN of California, and Mr. DYMALLY):

H. Con. Res. 328. Concurrent resolution expressing the sense of the Congress that the music and music videotape industries should develop and use a uniform warning and disclosure system regarding violence and obscenity for the guidance of potential purchasers and parents; to the Committee on Energy and Commerce.

By Mr. DORGAN of North Dakota (for himself and Mr. RUSSO):

H. Res. 390. Resolution to establish the Select Committee on Waste, Fraud, and Abuse in Federal Agencies; to the Committee on Rules.

By Mr. STENHOLM (for himself, Mr. CRAIG, Mr. CARPER, Mr. ROBERT F. SMITH, and Mr. BARTON of Texas):

H. Res. 391. Resolution providing for the consideration of the joint resolution (H.J. Res. 268) proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. LENT.

H.R. 446: Mr. BATES and Mr. MCCRERY.

H.R. 677: Mr. DARDEN, Mr. OWENS of New York, Mr. ROSE, Mr. BILBRAY, Mr. MCDERMOTT, and Mr. CAMPBELL of Colorado.

H.R. 1003: Mr. SCHUETTE.

H.R. 1141: Mr. BUECHNER.

H.R. 1268: Mr. SERRANO, Mr. MARKEY, Mr. DWYER of New Jersey, Mr. POSHARD, Mr. HUCKABY, Mr. MANTON, Mr. WALSH, Mr. BILBRAY, and Mr. LANCASTER.

H.R. 1565: Mr. HUNTER.

H.R. 1730: Mr. ANNUNZIO and Mr. WOLPE.

H.R. 2322: Mr. SCHUETTE.

H.R. 2353: Mr. LEACH of Iowa.

H.R. 2460: Mr. LEWIS of Florida and Mr. HUGHES.

H.R. 2900: Mr. PORTER.

H.R. 2926: Mr. GOSS, Mr. SAVAGE, Mr. BEVILL, Mr. GORDON, Mr. GILMAN, Mr. FORD of Michigan, Mr. THOMAS of Georgia, Mr. BONIOR, Mr. PORTER, Mr. JONTZ, Mr. NEAL of Massachusetts, and Mr. CROCKETT.

H.R. 3004: Mr. JAMES, Mr. KENNEDY, and Mr. LEVINE of California.

H.R. 3123: Mr. LEWIS of Georgia, Mr. SOLOMON, and Mr. HALL of Texas.

H.R. 3131: Mr. MORRISON of Washington, Mr. HAYES of Louisiana, and Mr. CHANDLER.

H.R. 3243: Mr. SHAW, Mr. LEACH of Iowa, and Mr. FLAKE.

H.R. 3401: Mr. COLEMAN of Missouri, Mr. DEWINE, and Mr. PORTER.

H.R. 3440: Mr. DELAY.

H.R. 3500: Mr. PETRI and Mr. FISH.

H.R. 3643: Mr. DICKINSON.

H.R. 3677: Mr. MARTINEZ, Mr. MAZZOLI, Mrs. LLOYD, Mr. UDALL, Ms. KAPTUR, Mr. RANGEL, Mr. MURPHY, Mr. RITTER, Mr. NEAL of North Carolina, Mr. BOUCHER, Mr. STUDDS, Mr. HUBBARD, Mr. SANGMEISTER, Mr. KANJORSKI, and Mr. PALLONE.

H.R. 3732: Mr. MORRISON of Connecticut, Mr. BORSKI, Mr. THOMAS of Wyoming, Mr. LIGHTFOOT, Ms. KAPTUR, and Mr. ECKART.

H.R. 3751: Mr. DIXON, Mr. SAVAGE, Mr. TORRES, and Mr. BILIRAKIS.

H.R. 3800: Mr. SMITH of New Jersey, Mrs. MEYERS of Kansas, Mr. HUTTO, Mr. HARRIS, Mr. BUECHNER, Mr. HUBBARD, Mr. KLECZKA, Mr. CLINGER, Mr. BENNETT, Mr. MONTGOMERY, Mr. MATSUI, and Mr. CAMPBELL of California.

H.R. 3880: Mr. JAMES.

H.R. 3930: Mr. SCHEUER, Mr. PALLONE, Mr. POSHARD, Mr. MOLLOHAN, and Mr. DWYER of New Jersey.

H.R. 3970: Mr. CONTE, Mr. DAVIS, and Mr. EMERSON.

H.R. 3985: Mr. LEACH of Iowa.

H.R. 3986: Mr. GINGRICH, Mr. VOLKMER, Mr. MFUME, Mr. BUNNING, Mr. JACOBS, Mr. MARTINEZ, Mr. MCCRERY, Ms. ROS-LEHTINEN, Mrs. VUCANOVICH, Mr. DELLUMS, Mr. LEVINE of California, Mr. WISE, Mr. HAYES of Illinois, Mr. MANTON, Mrs. UNSOELD, and Mr. HANCOCK.

H.R. 4003: Mrs. BOXER.

H.R. 4026: Mr. BROOKS and Mr. BUSTAMANTE.

H.R. 4043: Mr. BLILEY and Mr. COUGHLIN.

H.R. 4110: Mr. OWENS of New York, Mr. GEJDENSON, Mrs. UNSOELD, Mr. EDWARDS of California, Mrs. KENNELLY, Mr. CONTE, Mrs. SCHROEDER, Mr. DEFAZIO, Mr. LANCASTER, Mr. BEVILL and Mr. TORRES.

H.R. 4118: Mr. DELLUMS and Mr. WOLPE.

H.R. 4242: Mr. HAYES of Illinois.

H.R. 4300: Mr. MANTON, Mrs. JOHNSON of Connecticut, and Mr. MAZZOLI.

H.R. 4334: Mr. OBEY and Mr. SMITH of Florida.

H.R. 4338: Mr. BONIOR.

H.R. 4427: Mr. CRAIG, Mr. DENNY SMITH, Mr. DE LA GARZA, Mr. HYDE, Mr. CAMPBELL of Colorado, Mr. HEFLEY and Mr. PACKARD.

H.R. 4460: Mr. HARRIS, Mr. CLINGER, Mr. TRAFICANT, Mr. FOGLIETTA, Mr. JACOBS, Mr. MOLLOHAN and Mr. WILLIAMS.

H.R. 4481: Mr. STAGGERS, Mr. CLINGER, Mr. AUCOIN, Mr. MURPHY, Mr. CRAIG, Mr. BEREUTER, Mr. BROWN of Colorado, Mr. PAYNE of Virginia, Mr. DERRICK, and Mr. BOUCHER.

H.R. 4483: Mr. AKAKA.

H.R. 4484: Mr. CONDIT.

H.R. 4485: Mr. KOLTER, Mr. SKEEN, Mr. SIKORSKI, and Mr. POSHARD.

H.R. 4488: Mr. BUSTAMANTE.

H.R. 4589: Mr. EMERSON.

H.R. 4592: Mr. LIGHTFOOT.

H.R. 4611: Mr. MINETA, Mr. CAMPBELL of California, Mr. FEIGHAN, Mr. SMITH of Florida, Mr. HUGHES, Mrs. SCHROEDER, Mr. STAGGERS, and Mr. GLICKMAN.

H.R. 4612: Mr. FEIGHAN, Mr. SMITH of Florida, Mr. STAGGERS, Mrs. SCHROEDER, and Mr. EDWARDS of California.

H.R. 4653: Mr. HAMILTON, Mr. MINETA, Mr. FRENZEL, Mr. LANTOS, Mr. PAYNE of New Jersey, Mr. GOSS, Mr. BOSCO, Mr. DYMALLY, Mr. SMITH of Florida, Mrs. MEYERS of Kansas, Mr. BERMAN, Mr. MCCLOSKEY, Mr. OWENS of Utah, Mr. WEISS, Mr. DONALD E. LUKENS, and Mr. ACKERMAN.

H.R. 4669: Mr. DEFAZIO, Mr. DELLUMS, Mr. DWYER of New Jersey, Mr. EVANS, Mr. FUSTER, Ms. KAPTUR, Mr. PARRIS, and Mr. PAYNE of New Jersey.

H.R. 4683: Mr. GALLEGLY, Mr. HENRY, Mr. SKEEN, Mr. COMBEST, Mr. OXLEY, Mr. MCEWEN, Mr. BARTON of Texas, Mr. MILLER of Ohio, Mr. LEWIS of Florida, Mr. LENT, Mr. JAMES, Mr. SMITH of Texas, Mr. LIGHTFOOT, Mr. PETRI, Mr. HUCKABY, Mr. VANDER JAGT, Mr. ARCHER, Mr. STUMP, Mr. HAYES of Louisiana, Mr. HARRIS, Mr. MONTGOMERY, Mr. BATEMAN, and Mr. BAKER.

H.R. 4716: Mr. RIDGE.

H.R. 4761: Mr. MARLENEE.

H.J. Res. 121: Mr. QUILLEN, Mr. HARRIS, and Mr. LANTOS.

H.J. Res. 214: Mr. LANCASTER, Mr. MOODY, and Mr. STUDDS.

H.J. Res. 374: Mr. INHOFE, Mr. ROWLAND of Connecticut, Mr. DWYER of New Jersey, and Mr. HUGHES.

H.J. Res. 487: Mr. FAUNTROY and Mr. HAMILTON.

H.J. Res. 510: Mr. EMERSON, Mrs. BENTLEY, Mr. HUGHES, and Mr. BLILEY.

H.J. Res. 527: Mr. HUGHES.

H.J. Res. 533: Mr. TRAXLER, Mr. ANDERSON, Mr. QUILLEN, Mr. WAXMAN, Mrs. LOWEY of New York, Mr. WHEAT, Mr. ASPIN, Mr. ANNUNZIO, Mr. GEJDENSON, Mrs. BOXER, Mr. BRENNAN, Mr. MCHUGH, Mr. SOLARZ, Mr.

BROWN of Colorado, Mr. CONDIT, Mr. RUSSO, Mr. MOODY, Mr. SABO, Mr. OBERSTAR, Mr. JONES of Georgia, Mr. VISCLOSKY, Mr. BRUCE, Mrs. KENNELLY, Mr. LEATH of Texas, Mr. GEPHARDT, Mr. SISISKY, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. BONIOR, Mr. KOSTMAYER, Mr. TAYLOR, Mr. SAVAGE, Mr. SPRATT, Mr. EVANS, Mr. RAHALL, Mr. CLINGER, Mr. STENHOLM, Mr. SMITH of New Jersey, Mr. STANGELAND, Mr. BATEMAN, Mr. HYDE, Mr. DOUGLAS, Ms. MOLINARI, Ms. SNOWE, Mr. TAUKE, Mr. GREEN, Mr. SMITH of New Hampshire, Mr. PAXON, Mr. GALLEGLY, Mr. WELDON, Mr. HASTERT, Mr. COBLE, and Mr. WOLF.

H.J. Res. 554: Mr. COSTELLO, Mr. TRAXLER, Mr. WEBER, Ms. PELOSI, and Mr. SLATTERY.

H.J. Res. 556: Mr. KASTENMEIER, Mr. DYSON, Mr. LIPINSKI, Mr. BILIRAKIS, Mr. MOLLOHAN, Mr. OBERSTAR, Mr. POSHARD, Mr. SAXTON, Mr. SAWYER, Mr. MORRISON of Connecticut, Mr. JACOBS, Mr. FASCELL, Mr. CRANE, Mr. ESPY, Mr. GRAY, Mr. COSTELLO, Mr. YATRON, Mr. CONTE, Mr. TAUZIN, Mr. STEARNS, Mr. SANGMEISTER, and Mr. PEASE.

H. Con. Res. 280: Mr. COUGHLIN, Mr. BENTLEY, Mrs. COLLINS, Mr. DARDEN, Mr. HEFNER, Mr. HASTERT, Mr. CLAY, Mr. BERMAN, Mr. HUTTO, Mr. KLECZKA, Mr. TANNER, Mr. GRANT, Mr. BONIOR, Mr. WYDEN, Mr. MRAZEK, Mr. CARR, Mr. LANTOS, Mr. WILLIAMS, Mr. MCCLOSKEY, Mr. LEWIS of California, Mr. OBEY, Mr. HAYES of Illinois, Mr. MURPHY, Mr. GAYDOS, Ms. PELOSI, Mr. MCGRATH, and Mr. ENGEL.

H. Con. Res. 287: Mr. HUGHES, Mr. MRAZEK, Mrs. KENNELLY, Ms. SLAUGHTER of New York, Mr. CAMPBELL of California, and Ms. SCHNEIDER.

H. Con. Res. 298: Mr. GORDON.

H. Con. Res. 304: Mr. PENNY, Mr. HOCHBRUECKNER, Ms. SCHNEIDER, Mr. MCDERMOTT, Mr. STUDDS, Mr. SAXTON, Mr. SMITH of Florida, Mrs. PATTERSON, Mr. DYMALLY, Mr. POSHARD, Ms. KAPTUR, Mr. HORTON, Mr. DELLUMS, Mr. SABO, Mr. PEASE, Mr. RAVENEL, Mr. PALLONE, Mr. DEFAZIO, Mr. EVANS, Mr. MACHTLEY, Mr. JAMES, Mr. JONTZ, Mr. BRYANT, Mr. HARRIS, Mr. LANCASTER, Mr. BUSTAMANTE, Mr. GEJDENSON, and Ms. PELOSI.

H. Res. 240: Mr. HAYES of Illinois, Mr. JAMES, Mr. KOLTER, Mr. SCHEUER, Mr. GALLEGLY, Mr. PORTER, Mr. SCHUETTE, and Mr. MRAZEK.

H. Res. 312: Mr. MOLLOHAN, Mr. RAVENEL, Mr. DEWINE, Mr. MCCLOSKEY, Mr. HEFNER, Mr. CHAPMAN, and Mr. COSTELLO.

H. Res. 380: Mr. STEARNS, Mrs. MORELLA, Mr. PACKARD, and Mr. LANCASTER.

H. Res. 381: Mr. BATES, Mr. LANCASTER, and Mr. TORRICELLI.

H. Res. 387: Mr. MACHTLEY, Mr. IRELAND, Mrs. VUCANOVICH, Mr. RHODES, and Ms. LONG.