HOUSE OF REPRESENTATIVES—Thursday, May 17, 1990

The House met at 10 a.m.

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

Gracious God, help us to take heart and gain purpose from the moral standards of our history. From the commandments of Moses to the traditions of our own families we have received direction to how life should be lived and the values that we ought hold dear. Give us, O God, a greater appreciation and allegiance for the ideas and values that have shaped our consciences, so that we may live in our time with harmony and peace. In Your name we pray. Amen.

THE JOURNAL

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

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

Mr. HASTERT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

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

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

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 285, nays 103, not voting 44, as follows:

[Roll No. 112]

YEAS—285

Ackerman	Bosco	Conte
Anderson	Boucher	Cooper
Andrews	Boxer	Costello
Annunzio	Brennan	Crockett
Anthony	Brooks	Darden
Applegate	Broomfield	Davis
Archer	Browder	DeFazio
Aspin	Brown (CA)	Dellums
Atkins	Bruce	Derrick
AuCoin	Bryant	Dicks
Barnard	Byron	Dingell
Bartlett	Callahan	Donnelly
Bateman	Campbell (CO)	Downey
Bates	Cardin	Duncan
Beilenson	Carper	Durbin
Bennett	Chapman	Dwyer
Berman	Clarke	Dymally
Bevill	Clement	Dyson
Bilbray	Clinger	Early
Boggs	Coleman (TX)	Eckart
Bonior	Combest	Edwards (CA)
Borski	Condit	Emerson
Engel	Livingston	Rowland (CT)
English	Lloyd	Rowland (GA)
Erdreich	Long	Roybal
Espy	Lowey (NY)	Russo
Evans	Luken, Thomas	Sabo
Fascell	Manton	Sangmeister
Fazio	Markey	Sarpalius
Feighan	Martin (NY)	Savage
Flake	Martinez	Sawyer
Foglietta	Matsui	Saxton
Frank	Mavroules	Scheuer
Frost	Mazzoli	Schiff
Gallo	McCloskey	Schneider
Gejdenson	McCollum	Schumer
Gephardt	McCrery	Serrano
Geren	McCurdy	Sharp
Gibbons	McDermott	Shaw
Gillmor	McEwen	Shumway
Gilman	McHugh	Shuster
Glickman	McMillan (NC)	Sisisky
Gonzalez	McMillen (MD)	Skaggs
Gordon	McNulty	Skeen
Gradison	Meyers	Slattery
Grant	Mfume	Slaughter (NY)
Green	Mineta	Smith (FL)
Guarini	Moakley	Smith (IA)
Hall (OH)	Mollohan	Smith (NE)
Hall (TX)	Montgomery	Smith (NJ)
Hamilton	Moody	Smith (VT)
Hansen	Morella	Snowe
Harris	Morrison (CT)	Solarz
Hatcher	Morrison (WA)	Spence
Hayes (IL)	Mrazek	Spratt
Hayes (LA)	Murtha	Staggers
Hefner	Myers	Stallings
Hertel	Nagle	Stark
Hoagland	Natcher	Stenholm
Hochbrueckner	Neal (MA)	Stokes
Horton	Nielson	Studds
Houghton	Nowak	Swift
Hoyer	Obey	Synar
Hubbard	Olin	Tallon
Huckaby	Ortiz	Tanner
Hughes	Owens (NY)	Tauzin
Hutto	Owens (UT)	Taylor
Jenkins	Oxley	Thomas (GA)
Johnson (CT)	Packard	Thomas (WY)
Johnson (SD)	Pallone	Torres
Johnston	Panetta	Torricelli
Jones (GA)	Parker	Towns
Jones (NC)	Patterson	Traficant
Jontz	Payne (NJ)	Traxler
Kanjorski	Payne (VA)	Udall
Kaptur	Pease	Unsoeld
Kasich	Pelosi	Valentine
Kastenmeier	Penny	Vander Jagt
Kennedy	Perkins	Vento
Kennelly	Petri	Visclosky
Kildee	Pickett	Volkmer
Kolter	Pickle	Walgren
Kostmayer	Poshard	Walsh
LaFalce	Price	Washington
Lancaster	Pursell	Watkins
Lantos	Rahall	Waxman
Laughlin	Ravenel	Weiss
Leath (TX)	Ray	Weldon
Lehman (CA)	Richardson	Wheat
Lehman (FL)	Rinaldo	Wise
Lent	Roe	Wolpe
Levin (MI)	Rohrabacher	Wyden
Levine (CA)	Rose	Wylie
Lewis (GA)	Rostenkowski	Yates
Lipinski	Roth	Yatron

NAYS—103

Armey	Buechner	DeLay
Baker	Bunning	DeWine
Ballenger	Burton	Dickinson
Barton	Campbell (CA)	Dornan (CA)
Bentley	Chandler	Douglas
Bereuter	Coble	Dreier
Bilirakis	Coleman (MO)	Edwards (OK)
Bliley	Coughlin	Fawell
Boehlert	Cox	Fields
Brown (CO)	Dannemeyer	Frenzel
Gallegly	Machtley	Schroeder
Gingrich	Madigan	Sensenbrenner
Goodling	Marlenee	Shays
Goss	Martin (IL)	Sikorski
Grandy	McCandless	Smith (TX)
Hancock	McDade	Smith, Denny (OR)
Hastert	McGrath	Smith, Robert (NH)
Hefley	Michel	Smith, Robert (OR)
Henry	Miller (OH)	Stangeland
Herger	Miller (WA)	Stearns
Hiler	Molinari	Stump
Holloway	Moorhead	Sundquist
Hopkins	Murphy	Tauke
Hyde	Parris	Thomas (CA)
Inhofe	Pashayan	Upton
Ireland	Paxon	Vucanovich
Jacobs	Porter	Walker
James	Quillen	Weber
Kolbe	Regula	Whittaker
Kyl	Rhodes	Wolf
Lagomarsino	Ridge	Young (AK)
Leach (IA)	Ritter	
Lewis (CA)	Roberts	
Lewis (FL)	Rogers	
Lightfoot	Ros-Lehtinen	
Lukens, Donald	Schaefer	

NOT VOTING—44

Alexander	Ford (MI)	Oberstar
Bustamante	Ford (TN)	Rangel
Carr	Gaydos	Robinson
Clay	Gekas	Roukema
Collins	Gray	Saiki
Conyers	Gunderson	Schuette
Courter	Hammerschmidt	Schulze
Coyne	Hawkins	Skelton
Craig	Hunter	Slaughter (VA)
Crane	Kleczka	Solomon
de la Garza	Lowery (CA)	Whitten
Dixon	Miller (CA)	Williams
Dorgan (ND)	Neal (NC)	Wilson
Fish	Nelson	Young (FL)
Flippo	Oakar	

□ 1023

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Tennessee [Mr. GORDON] will please come forward and lead the House in the Pledge of Allegiance.

Mr. GORDON 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 had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 87. Concurrent resolution concerning Iranian persecution of the Baha'is.

The message also announced that the Senate had passed a joint resolution of the following title, in which

the concurrence of the Hosue is requested.

S.J. Res. 264. Joint resolution to commemorate the 50th anniversary of the National Sheriffs' Association.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. By previous announcement, the Chair will not receive 1-minute requests.

PROVIDING FOR CONSIDERATION OF H.R. 2273, AMERICANS WITH DISABILITIES ACT OF 1990

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 394 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 394

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2273) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed two hours, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Energy and Commerce, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text printed in part one of the report of the Committee on Rules accompanying this resolution as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against the amendments printed in the report are hereby waived. No amendment to said substitute shall be in order except those printed in part two of the report of the Committee on Rules accompanying this resolution. Said amendment shall be considered in the order and manner specified in the report, shall be considered as having been read, shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with instructions, if offered by Representative Michel of Illinois or his designee, or without instructions. After passage of H.R. 2273, it shall be in order to take from the Speaker's table the bill S. 933 and to consider said bill in the House, and it shall then be in order to move to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions contained in H.R. 2273 as passed by the House, and all points of order against said motion are hereby waived.

The SPEAKER pro tempore (Mr. THOMAS A. LUKEN). The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from Illinois [Mrs. MARTIN], and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 394 is a modified open rule providing for consideration of the bill, H.R. 2273, the Americans With Disability Act.

The rule provides for 2 hours of general debate with one-half hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor; one-half hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; one-half hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation; and the final one-half hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

Mr. Speaker, all points of order against consideration of the bill are waived. The rule makes in order the amendment in the nature of a substitute now printed in part 1 of the report accompanying this resolution as original text for the purpose of amendment, to be considered as having been read.

All points of order against the substitute are waived.

Mr. Speaker, the rule further provides that no amendment to the bill is in order except the amendments printed in part 2 of the report accompanying this resolution in the order and the manner specified.

Debate time is allocated to each amendment and that time is to be equally divided and controlled by the proponent of the amendment and a Member opposed thereto.

The amendments are not subject to amendment except as specified in the report and all points of order against the amendments in the report are waived.

Mr. Speaker, the following amendments are made in order by the rule:

Mr. CAMPBELL or Mr. LAFALCE for 20 minutes.

Mr. MCCOLLUM for 20 minutes;

Mr. OLIN for 30 minutes;

Mr. HANSEN for 20 minutes;

Mr. CHAPMAN for 30 minutes;

Mr. LIPINSKI for 40 minutes;

Mr. SHUSTER for 40 minutes; and

Mr. SENSENBRENNER for 1 hour.

Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions, if offered by Representative MICHEL of Illinois, or his designee.

After passage of H.R. 2273, the rule makes it in order to take S. 933 from the Speaker's table and to consider the bill in the House.

The rule then provides for a motion to strike out all after the enacting clause of S. 933 and insert the text of H.R. 2273, as passed the House. All points of order against the motion are waived.

Mr. Speaker, the Americans With Disability Act is a reasonable and responsible bill which will ensure that Americans with disabilities have equal access to jobs, public accommodations, public services, transportation, and telecommunications.

Furthermore, the bill balances the concerns and costs of business and the rights of the disabled.

This critical legislation has enjoyed bipartisan support through every phase of the legislative process.

This bill has 249 cosponsors and passed the Senate with strong bipartisan support by a vote 76 to 8.

Moreover, this bill has passed in the four committees with jurisdiction by a combined vote of 155 to 11.

The rule we have drafted for this bill is very fair providing 2 full hours of debate, equally divided between the committees with jurisdiction.

The rule also provides for four Republican Members to offer amendments and four Democratic Members to offer amendments.

Finally, Mr. Speaker, this bill has been endorsed by the Bush administration and Members of both the Democratic and Republican leadership in the House.

I urge the membership to join me in adopting House Resolution 394 so that we may proceed with consideratoin of this truly historic legislation.

□ 1030

Mrs. MARTIN of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 394 is a modified closed rule providing for

the consideration of H.R. 2273, the Americans with Disabilities Act of 1989. The rule waives all points of order against the bill and against its consideration. As far as I know, the only violation involved is of the 3-day layover rule for reports. Three of the four reports were filed just 2 days ago.

The rule provides for 2 hours of general debate divided equally among the four committees of jurisdiction and their chairmen and ranking minority members. Following general debate, the rule makes in order as original text for amendment purposes the consideration of an amendment in the nature of a substitute printed in part one of the Rules Committee report on this rule, and all points of order are waived against the substitute. Mr. Speaker, the substitute is a bipartisan compromise between the four versions, and is a slight modification of H.R. 4807 introduced by Mr. HOYER.

One of the modifications made by the new substitute is in section 509 relating to congressional inclusion. It applies all the provisions of the disabilities bill to the House and the Senate, and establishes internal rulemaking and enforcement procedures. I will comment further on these congressional inclusion provisions later in my remarks.

Mr. Speaker, the rule makes in order only those amendments printed in the report of the Rules Committee on this resolution, if offered in the order and manner specified. They are not subject to amendment and are debatable according to the debate time prescribed in the report.

Make no mistake about it, Mr. Speaker, this is a very restrictive rule with a capital R. While the authority may euphemistically refer to this as a "modified open" rule, it is in truth a modified closed rule. Only 8 amendments may be offered under the rule even though some 45 amendments were submitted to the Rules Committee by last Monday's 6 p.m. deadline, and we heard from 23 witnesses on Tuesday.

Mr. Speaker, after sitting through all that testimony, I concluded that most of the amendments were sincerely motivated, well-intentioned, and raised important issues that are worthy of debate and a vote by this House. I didn't personally agree with all of the amendments presented; but I don't think that should entitle me to deprive the rest of the House of deciding those issues for itself.

I am always struck by the paradox that this House finds it necessary on important civil rights bills such as this to deny the duly elected Members of this body their basic rights to fully and freely debate, amend and vote on all the important issues raised by such bills. Look at it this way: 427 House Members, each representing over a half a million people, may not offer amendments under this rule.

Mr. Speaker, we are not a newly emerging democracy that cannot be trusted to get our feet wet in a free-wheeling deliberative process. We've been here for 200 years, and used to be far more democratic. Just 12 years ago only 15 percent of our rules were restrictive; today they comprise 45 percent.

Mr. Speaker, what we are talking about here is the simple principle of majority rule. This House is capable of managing this bill and the amendment process in a rational and responsible manner without these artificial constraints being imposed on the process.

Mr. Speaker, yesterday in the Rules Committee I offered an open rule during our committee markup on this rule. Not surprisingly, that motion was defeated on a straight party line vote. Now I have been the first to admit there are times when restrictive rules are appropriate, such as when we have a bipartisan leadership agreement on the rule, or when we are under severe time constraints or emergency situations.

Neither condition applies today. We certainly have not been doing a lot of heavy lifting around here lately. Any delays in getting this bill to the floor have been occasioned by disarray on the other side of the aisle, not on this side. Yesterday, for instance, the House concluded its legislative business around 2 p.m. I just don't buy the argument that somehow we have been pressed for time around this House.

Mr. Speaker, to conclude my summary of this rule, it does permit a motion to recommit with instructions if offered by the Republican leader or his designee. And it does provide for taking the Senate-passed companion bill, S. 933 from the Speaker's table, striking the Senate language, and inserting instead the House-passed language. All points of order are waived against that motion.

Mr. Speaker, despite the procedural constraints of this rule, I think we should at least take heart that the bill it makes in order is the product of a rather remarkable bipartisan achievement by the four committees of jurisdiction. This is evident in the overwhelming, bipartisan majority by which it was reported from each. I want to commend all those on boths sides of the aisle who worked so long and hard to bring us this monumental and landmark legislation to protect Americans with disabilities against discrimination.

Mr. Speaker, this legislation is important because it builds on the prohibitions against such discrimination which we enacted for recipients of Federal funds in the 1973 Rehabilitation Act. This bill extends those protections throughout the private sector in employment, public services and transportation, public accommodations and telecommunications. And the bill and various amendments made in order by this rule take into account the special problems and expenses that will have to be borne by the various entities to which it applies. We should be especially mindful of the practical and economic problems posed to small business as we proceed with this bill.

And yes, Mr. Speaker, the provisions of the bill even cover the Congress where for too long we have exempted ourselves from laws we impose on others. Thomas Jefferson, in his Manual of Parliamentary Practice spoke to this issue when he wrote, and I quote:

> The framers of our Constitution, in their care to provide that the laws shall bind equally on all, and especially that those who make them shall not exempt themselves, from their operation have narrowly limited the privileges of Members of Congress.

Section 509 of this bill makes all of its provisions applicable to Congress, but subject to our own internal rules and enforcement.

Mr. Speaker, I am sure Mr. Jefferson and the framers would be just as opposed to using our rules as a shield against compliance with the laws we pass as they were against granting us broad constitutional privileges. We already have rules against discriminating on the basis of handicap in our Code of Official Conduct and the Fair Employment Practices Resolution. This bill further enforces the use of our new Fair Employment Office with respect to the employment provisions of the disability act, and specifies other means for establishing remedies and procedures for the other aspects of the bill.

I hope we can demonstrate that we are sincere about making those mechanisms work effectively for the benefit of all. If, on the other hand, we use our rules only to circumvent those laws, then we should move to some more formal, external enforcement means such as I have suggested in H.R. 3276, the Congressional and Judicial Equal Employment Opportunity Act of 1989.

In conclusion, Mr. Speaker, I am pleased that we are moving forward with the Americans with Disabilities Act of 1989, even though I am less than delighted with this restrictive rule. I, therefore, urge a "No" vote on the rule so that we might have an open amendment process on this historic piece of legislation.

OPEN VERSUS RESTRICTIVE RULES, 95TH–101ST CONGRESSES

Congress (years)	Total rules granted [1]	Open rules [2]		Restrictive rules [3]	
		Number	Percent	Number	Percent
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	62	34	55	28	45

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the *initial* consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rules, and rules providing for consideration in the House as opposed to the Committee of the Whole.

Note.—The above data differs slightly from that published in previous Congresses because it is based on a rule-by-rule examination and not just on summary tables from committee surveys for the 95th–99th Congresses as was previously done. Moreover, appropriations rules (which only provide for waivers) and original jurisdiction measures are no longer counted.—Prepared by the Minority Counsel, Subcommittee on the Legislative Process, Committee on Rules.

Sources: "Rules Committee Calendar and Surveys of Activities," 95th–100th Congresses; "Notices of Action Taken," Committee on Rules, 101st Congress, as of May 16, 1990.

RULES GRANTED IN THE 101ST CONG.

[Providing for the initial consideration of legislation]

Rule number—H. Res.	Date granted	Rule. type	Bill number and subject
108	3–14–89	MO	H.R. 1231: Emergency Strike Board.
111	3–21–89	O	H.R. 1369: Mansfield Business Center.
112	3–21–89	MC	H.R. 2: Minimum Wage.
117	4–4–89	O	H.R. 18: Uniform Voting Time.
126	4–11–89	MO	H.R. 1487: State Dept. Authorization.
127	4–12–89	C	H.R. 1750: Contra Aid.
135	4–25–89	O	H.R. 2072: Supplemental Appropriations.
138	4–25–89	O	H.R. 1486: Maritime Adm. Authorization.
143	5–2–89	O	H.R. 7: Voc. Ed. Act Extension.
145	5–2–89	MC	H.Con. Res. 106: Budget Resolution.
155	5–16–89	O	H.R. 643: Oil Shale Claims.
160	5–23–89	C	H.R. 2442: SDI for Drugs Transfer.
161	5–23–89	O	H.R. 2392: Oil Shale Claims.
165	6–1–89	MC	S.J. Res. 113: FSX Agreement.
173	6–13–89	MC	H.R. 1278: Financial Institutions Reform.
179	6–20–89	MO	H.R. 2655: Foreign Aid Authorization.
195	7–11–89	O	H.R. 2022: Soviet & Indochinese Refugees.
196	7–11–89	O	H.R. 989: Tongass Timber Reform Act.
198	7–13–89	O	H.R. 1549: NRC Authorization.
199	7–13–89	O	H.R. 1484: Park System Review Board.
200	7–13–89	O	H.R. 828: BLM Authorization.
202	7–17–89	O	H.R. 1056: Federal Waste Disposal.
211	7–21–89	MO	H.R. 2461: DoD Authorization.
217	7–28–89	C	H.R. 3024: Debt Limit Increase.
224	8–4–89	O	H.R. 1668: NOAA-Coastal Authorization.
228	8–4–89	C	H.R. 1594: MFN Status for Hungary.
230	8–4–89	O	H.R. 2427: NOAA-Satellite Authorization.
234	9–7–89	O	H.R. 1759: NASA Authorization.
235	9–7–89	O	H.R. 2869: Commodity Futures Improvements.
236	9–7–89	O	H.R. 1659: Aviation Security Act.
245	9–21–89		H.R. 3299: Budget Reconciliation.
249	9–26–89	MC	
246	9–25–89	C	H.J. Res. 407: Continuing Appropriations.
254	10–3–89	O	H.R. 2748: Intelligence Authorization.
255	10–3–89	O	H.R. 1495: Arms Control Authorization.
256	10–3–89	C	H.R. 3385: Nicaragua Election Assistance.
266	10–17–89	O	H.R. 3402: Polish/Hungarian Initiative.
267	10–17–89	O	H.R. 2494: International Development.
270	10–19–89	O	H.R. 2459: Coast Guard Authorization.
271	10–23–89	MC	H.J Res. 432: Continuing Appropriations.
273	10–24–89	C	H.R. 45: Central American Studies.
275	10–26–89	O	H.R. 3443: Airline Acquisition Review.
277	10–31–89	O	H.R. 1465: Oil Spill Liability.
278	10–31–89	C	H.R. 2710: Minimum Wage.
289	11–13–89	O	S. 974: Nevada Wilderness
290	11–15–89	C	H.R. 3660: Ethics Reform Act.
295	11–19–89	MC	H.R. 3743: Foreign Assistance Approps.
309	1–30–90	MC	H.R. 2190: Voter Registration Act.
338	2–20–90	O	H.R. 2570: Arizona Wilderness Act.
355	3–7–90	MO	H.R. 3581: Rural Economic Development.
360	3–20–90	O	H.R. 644: Wild & Scenic Rivers Amends.
364	3–22–90	MC	H.R. 3847: Dept. of Environ. Protect.
366	3–27–90	O	H.R. 1463: Capital Metrorail System.
368	3–28–90	MC	H.R. 3: Childhood Ed. & Develop.
372	4–3–90	O	H.R. 2015: Economic Development Act.
373	4–3–90	O	H.R. 1236: Price Fixing Prevention.
378	4–18–90	O	H.R. 3848: Money Laundering Amendments.
379	4–18–90	O	H.R. 4380: Super Collider Authorization.
382	4–25–90	MC	H.Con. Res. 310: Budget Resolution.

RULES GRANTED IN THE 101ST CONG.—Continued

[Providing for the initial consideration of legislation]

Rule number—H. Res.	Date granted	Rule. type	Bill number and subject
388	5–9–90	MC	H.R. 770: Family & Medical Leave Act.
392	5–15–90	O	H.R. 4151: Human Services Authorization.
394	5–16–90	MC	H.R. 2273: Americans with Disabilities.
395	5–16–90	MC	H.R. 4636: Supp. Foreign Aid Authoriz.

Code: A completely open amendment process is provided by an open rule (O). Restrictive rules are those which provide for less than a completely open amendment process and include: closed rules (C), modified closed rules (MC), and modified open rules (MO).

□ 1040

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

This is an unusual bill, as the gentlewoman from Illinois [Mrs. MARTIN] has pointed out. It is unusual in, I think, two regards. It is certainly unusual in the substantive sense. This is landmark legislation. It is unusual in the procedural sense, unusual in that we have such a bipartisan agreement on any legislation. Not only is this legislation supported by the President, but also by the leadership of both parties. It has 249 cosponsors, passed overwhelmingly in the Senate. So it is unusual in its bipartisan nature.

It is also unusual in the enormous amount of time and effort that has gone into crafting this legislation. Let me point out just a few things. There have been 11 hearings held in the House on this bill, 7 subcommittees and full committee markups, 6 subcommittees had jurisdiction and considered the bill, 4 full committees had jurisdiction and considered the bill. The Committee on the Judiciary marked the bill up for 2 full days, and the Committee on Public Works and Transportation marked it up for another full day. The Committee on Education and Labor passed this legislation last year by 35 to 0. The Committee on Energy and Commerce passed it by 40 to 3. The Committee on Public Works and Transportation passed this bill by 45 to 5. The Committee on the Judiciary passed the bill by a vote of 32 to 3.

So with all the votes in the subcommittees and committees, this bill has passed by a total of 152 votes, which is an enormous amount of, I believe, consensus on any kind of bill.

To talk about having an open rule on the floor now, after all this kind of earlier scrutiny of the bill, would make a mockery of the whole committee system. That is why through a bipartisan effort there was an effort made to find four amendments offered by Republican, four amendments offered by Democrats, trying to find a wide breadth of amendments, amendments that would not duplicate each other, and also give this body a chance to talk about the serious matters that still face the committee. So I think this is a very good rule. It is a bill that has been given a great amount of scrutiny. I look forward to moving and getting this bill passed into law.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, totalitarians operate in interesting ways. They try to do good things for their society, but the tend to use a process that is both brutal and undemocratic.

Now in this case, what we have before Members today, is a totalitarian rule, because what it is attempting to do is bring to the floor a bill which is a good idea. It is good in intent. However, it is using a process which is both undemocratic and, I think truly sad.

Why can we not vote on a number of amendments? There are amendments that should be brought to this floor today that this House should have a chance to act on. Some 35 people went to the Committee on Rules to ask for amendments. We got about seven made in order. Let me talk to Members about one of those amendments.

One of those amendments was from our colleague, the gentleman from New Hampshire [Mr. DOUGLAS]. Mr. DOUGLAS wanted to make certain that the psychological disorder section of the bill did not include the necessity to hire psychopaths in police departments. What he was doing was suggesting that maybe we ought to allow police departments to prescreen people, so they did not give guns and badges to psychopaths, and send them out on the streets. It seems to me that makes eminent good sense. I do not think the American people want Members passing legislation that puts psychopathic killers on the police force, and yet the gentleman from New Hampshire [Mr. DOUGLAS] was denied the opportunity to offer his amendment.

Why can we not have the Douglas amendment out here, vote on it, and decide whether or not this House wants to have that kind of provision added to this bill? My guess is, and once described to the people, this House will decide to do that.

We ought to allow the debate. Under this rule we cannot have a debate. The gentleman from New Hampshire [Mr. DOUGLAS] will not be able to offer the amendment. We will be put in a position on final passage of voting for a bill that could potentially ask police departments to take in psychopathic killers on the street with guns and a badge. We ought to have open debate on this. I hope we have an open rule, and defeat this in order to allow the gentleman from New Hampshire [Mr. DOUGLAS] and others to bring this debate to the floor.

Mr. GORDON. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I rise in strong support of House Resolution 394, the rule for the consideration of H.R. 2273, the Americans with Disabilities Act. With four committees of jurisdiction involved, the various provisions of the bill have received extensive and lengthy consideration. A tremendous amount of effort has also gone into the coordination of these differing legislative provisions, as reported by the committees. I believe that this rule reflects these best efforts at compromise and fairness and I urge its adoption.

The Americans with Disabilities Act, or ADA, is a far-reaching and important piece of legislation which will permit individuals with disabilities to more fully participate in the mainstream of our society. H.R. 2273 is a good bill in the best tradition of America.

The Committee on Public Works and Transportation reported H.R. 2273 with amendments, almost all of which have been substantially incorporated into the new version of the ADA, H.R. 4807, which this rule makes in order for our consideration today.

The specific provisions of the bill which lie within our committee's jurisdiction are primarily embodied by titles II and III, dealing with publicly and privately provided transportation services. With regard to publicly provided transportation services, the bill requires the purchase of accessible transit vehicles for use on fixed route systems. The bill also requires the provision of paratransit services for those individuals whose disabilities preclude their use of the fixed route system.

With regard to privately provided transportation services, which do not receive the high levels of Federal subsidies that publicly provided services enjoy the requirements of the bill vary according to the size and type of vehicle, as well as according to the type of system on which the vehicle will operate.

Nonetheless, in all cases, this bill provides strong guarantees that individuals with disabilities will be treated with respect and dignity while using transportation services. These provisions must remain strong since a lack of adequate transportation is often cited as one of the greatest barriers to the full and equal enjoyment of life by individuals with disabilities.

Among many others, the rule makes in order two amendments directly related to the transportation provisions of the bill. The first, which failed passage in our committee, would allow the Secretary of Transportation to waive certain of the wheelchair accessibility requirements of the ADA. The second, dealing with commuter rail vehicles, prevailed in committee but was dropped from the combined bill because of a jurisdictional ruling affecing our committee and the Committee on Energy and Commerce. This amendment also waives certain wheelchair accessibility requirements of the bill under certain conditions.

Although I opposed both of these amendments in our committee, I cite them now as examples of the fairness of this rule, which will make in order a vote on each of them. I intend to oppose each of these amendments a second time when they are brought to the floor; nonetheless, I believe that, by allowing these amendments, the rule balances the need to move forward with the ADA with the right of members to be heard on their amendments.

I strongly urge the adoption of the rule.

□ 1050

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DELAY], who has the rather unique, though unfortunate, characteristic of having offered in good faith 11 amendments in the Rules Committee but not having received the courtesy of having even 1 made in order.

Mr. DELAY. Mr. Speaker, I thank the gentlewoman for that comment, because that is so true.

This bill has a laudable goal, but it lacks fairness. We are pitting one group of Americans against another group of Americans when we could bring them both together and create a situation that would make it accommodating for both. But with this bill, without the ability to amend the rule, we are not able to bring fairness into this bill and try to make everyone happy.

To give a couple examples of amendments that were denied, on the question of lack of fairness, a business owner or employer just wants to know how to comply with the bill. Yet in the definition section we do not know who the disabled are, because in the definition section they talk about anyone that has a relationship or an association with one who is disabled. That is all of us. Anyone is disabled. When someone comes in for a job, the business owner does not know whether that person is disabled or not. In that section that is so vague and ambiguous, a business owner does not know what an "undue hardship" is or "reasonable accessibility" is or what "essential functions" are. He wants to know.

Just give us an answer. Put it in the bill. We had amendments to do that, but the proponents of the bill in their testimony testified that we will, let the courts decide.

We are abrogating our responsibility in this body by not legislating and allowing amendments to come to this floor. We do not even allow tax credits. We do not allow an amendment for a tax credit. We are mandating an incredible cost. The proponents say it does not cost much. If it does not cost much, why not give a tax credit?

Senator KENNEDY in the other body said in the Fair Housing Amendments of 1988 that new construction of apartments will only cost $27 a unit. Yet we have found in just 1 short year that the average cost of making those units accessible is $4,000. Yet we will not allow a tax credit.

And this is the ultimate in fairness: We exempt private clubs from this bill. So a country club does not have to comply with the mandates in this bill. Yet we will not exempt the churches of this Nation from this bill. On the one hand, we exempt private country clubs, and then we will not accept an amendment to exempt churches.

Mr. Speaker, I ask the Members to vote against the rule so we can bring back a rule that allows us to bring fairness to this bill.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I rise in support of the Americans With Disabilities Act. It is a compassionate and useful tool to bring into the mainstream of life many who otherwise must suffer on the edges or in the shadows of real life. I congratulate all who have helped to shape its terms and to bring it to the floor for enactment.

More than two decades ago, a new Federal building was built in my hometown of Jacksonville, FL. Though it was built on the flat shore of the St. Johns River, the building was designed so that its front door entrance could only be reached by the public climbing 15 steps in the open. I looked up at the 15 steps, looked down at the two canes I have been walking with since contracting polio as a guerrilla fighter in World War II and became distressed by the inaccessibility of the building. From that experience I introduced and helped pass the law which required that, when Federal tax moneys are involved in the construction or alteration of a building, it must be made accessible to people with disabilities. The measure before us now expands that philosophy much further; and we all welcome the benign provisions which it includes.

For instance, this bill extends to disabled Americans the same protections afforded other minorities in the civil rights bill. It protects the disabled from discrimination by any who maintain public accommodations such as hotels and transportation.

Helping the disabled cope with obstacles is not a simple matter. For what may assist some people down a slope in a wheelchair may be an obstacle to someone like myself where steps of reasonable dimensions are a breeze

compared with the constant unlocking of my knees and falling, which slopes induce. And escalators, such a blessing to some disabled, can be a source of terror to others. Falling down an escalator is not something I would recommend to the faint of heart. My good friend, Florida's fine State legislator, George Crady, has recently published a poem on this unique problem. It reads:

THE PERFECT LAW

We knocked the street curbs down, you know,
And passed the perfect law.
The Legislator's dream, come true,
A law without a flaw

For who could now complain against,
The smoothing of a curb.
It passed with only best intents,
No feelings to perturb.

The handicapped in wheelchairs and,
Those crippled with disease.
Could cross from street to sidewalk with
A fundamental ease.

But one Group now has come to mind,
With thoughts that now disturb.
Disabled? Yes. We call them Blind,
Who cannot find the curb.

Some of you may know that I have voted 16,892 times since I have been in Congress and I believe that is an all-time record in Congress, although not as important a record as that of Representative NATCHER who, in his decades of service here, has never missed a vote or a quorum call. My record came about because when I came here fresh from World War II, I walked very hesitantly with two canes, and almost immediately fell and badly broke a leg and missed a bunch of votes. My resolve to put that failure behind me led to my corrective efforts to miss no more votes.

Being disabled has some good things to it. Every day is an adventure. In fact every hour brings a challenge and, meeting the challenge, a victory. That's one thing about being disabled, but how some people respond to help the disabled is downright inspiring. I remember once when I sought new tips for my canes in a cold, windy and wet winter night here in Washington. I found myself caught helpless in the midst of a busy city street. A small, beautifully spirited, elderly black woman came to me, a complete stranger. She grabbed my arm and escorted me across the wet street while waving down the traffic with her umbrella. Once curbside, she slipped away in the dark, but not before I gave her a grateful hug. So experiencing disabilities can bring out the sweetness of human nature in uncommon ways.

Perhaps it is my experience in the great Depression which makes me look at employment as being one of the really great blessings of life. It is also one of the great needs of the disabled. This bill before us will help in that. But more is needed. We need a program to help those who are so unfortunate or so disabled that they really cannot compete for jobs in the ordinary marketplace. I have introduced such a bill, H.R. 2789, to make grants available to States to provide employment opportunities for impaired or deprived individuals. I hope Congress can address this need early in the next Congress, if not before.

As I conclude my remarks, I want to thank you all, on behalf of all disabled people, for your passing this legislation. It is a kindly and thoughtful thing to do. Thank you. Thank you.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I very, very much support legislation for civil rights for those who are disabled and handicapped, but this rule is an abomination.

First of all, this is a very complex bill. It is a bill that has been through four of our major committees of the House, and yet we are only allowing 2 hours of total debate, one-half hour in general debate to each of those committees. That is not nearly enough time for a full discussion of this legislation in the kind of detail we ought to have on this House floor.

In the second place, we have many amendments that were denied by the Rules Committee, amendments that are very valid in the sense that the Members should have been allowed to consider them. And there is no reason, in my judgment, for that, considering the fact that we have not been out here on Fridays or Mondays or hardly any time this year, or even regular days doing business. So there is no reason not to set aside the time necessary for a day or two to consider this bill.

Having a rule that is this narrow is ridiculous, and there is no reason not to provide for these amendments. I have one amendment that has been allowed, and I do not have a complaint about that. Another amendment I would have offered, had I been allowed it—and I think I should have been—is equally important. There is no reason why it should not have been allowed.

□ 1100

There are three different ways under this legislation that somebody can seek relief, a person who is mentally or physically disabled, somebody who is considered to be that, and anybody associated with somebody who is.

I think that is pretty vague and I wanted to offer an amendment to try to define what "association" meant. Very simple. I was not allowed to do it.

I know the gentleman from North Carolina [Mr. LANCASTER] wanted to offer one that would require the disabled to participate in deciding what the public accommodation really was before it got already done by the employer and the expense accomplished. It is something that should have been debated. Maybe it would not have gotten an agreement.

Again, there is no sense in having such a time restraint as there is on this bill, considering the few hours we have worked this year and the few days that we have.

A rule like this is entirely wrong and it ought to be voted down. I urge my colleagues to vote no on the rule, whatever you think about this legislation, and let us have the kind of time we need for this subject, which is probably as important as any that will come before the House this Congress.

Mr. GORDON. Mr. Speaker, I reserve the balance of my time, pending completion of the recess.

Mrs. MARTIN of Illinois. Mr. Speaker, I reserve the balance of my time, pending our return from the recess.

RECESS

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the order of the House of Thursday, May 10, 1990, the House will stand in recess subject to the call of the Chair to receive the former Members of Congress.

Accordingly (at 11 o'clock and 1 minute a.m.), the House stood in recess subject to the call of the Chair.

RECEPTION OF FORMER MEMBERS OF CONGRESS

The Speaker of the House presided.

The SPEAKER. On behalf of the Chair and this Chamber, I consider it a high honor and distinct personal pleasure to have the opportunity of welcoming so many of our former Members and colleagues as may be present here on this occasion.

I think we should all especially greet the distinguished former Speaker of the House, Thomas P. O'Neill, Jr., and the distinguished former Speaker of the House, Jim Wright; but to them and to all our former colleagues, we welcome you and we would like at this time to extend our greetings to you.

The Chair recognizes the Republican leader of the House, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Thank you, Mr. Speaker.

Mr. Speaker, Mr. Leader and our former colleagues, welcome back to your old home, those of you who obviously who served over in the other body, yes, we are happy to have you back again, too, in our own body here.

It is always a pleasure for me to see my former colleagues, but I think there is another dimension, too, particularly today since we are honoring, or you are honoring my former colleague from Illinois, Mr. Derwinski, who I see attired in his usual array.

Then one maybe brief observation, and that is the Speaker and I during the course of the last several months have been extraordinarily privileged to meet with candidates for the legislature from bodies in the countries of Eastern Europe. Your organization has done a marvelous job in scheduling trips, information-wise, educational-wise, not only for the benefit of your Members, but I think for the good relationship of our country aboard.

The Speaker and I have been privileged to welcome candidates from, oh, Poland, Czechoslovakia, East Germany. As a matter of fact, 2 days ago I had a contingent from Bulgaria who want to represent the minority party, or the opposition party in Bulgaria, in their upcoming elections.

It is very interesting to visit with these individuals, all yearning to learn more about how does our system work. And, of course, for this particular Member, what is the function of the minority? Are they anybody? Of course, it is pretty difficult. I can tell them about it in spades, being in my 34th consecutive year as a Member of the minority party, but it has been kind of a stimulating experience to be a part of what indirectly is happening over there in Eastern Europe.

So again, I applaud you all for coming back and renewing old acquaintances. I hope we can continue to do it.

Those of us who cannot be that far off from joining your ranks always hope that we can build a very cordial relationship for the advent of that particular time, whenever it comes.

Thanks for coming back.

The SPEAKER. The Chair recognizes the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, Members, and former Members, it is a great honor for me to stand before you today and to welcome you back to the Chamber.

I want to echo and second all of the words of our minority leader, Mr. MICHEL, in welcoming you back and thanking you for all your efforts with us and with other citizens with regard to Eastern Europe and other efforts that have been made through the years.

We enter this week, actually it started last week, but we entered into a very, very important deliberation and enterprise on the reduction of the Federal deficit. As we begin that, we miss you very much. I know that all of you would love to be here for that deliberation. We may need your votes later in the week or later in the month as we begin to vote on hoped-for solutions to the deficit. Some of you may be alarmed at the volume of the numbers. I forget what the deficit was a few years ago, but indeed it has increased; but all of you have been helpful in many ways.

As I look around the room I see people who have been involved in many of our efforts on specific subjects. We have had commissions on the deficit. Some of you have been involved in that and have been extremely helpful.

A former Member, Mr. Bolling, is sitting over here. He has come back in the last few days and given us some help that we needed on that and other subjects. So for that we are deeply grateful.

For many of you, you may have left us physically, but some of you are helping us day by day and we are deeply appreciative of it. These problems are bigger than all of us put together.

I am constantly impressed, as I am sure you were when you were here, that we serve on a committee of 535 that is trying together to lead the Nation, along with the President and the other members of the executive branch. It is a daunting task. It is a task that most countries have never taken.

Winston Churchill said it right when he said, "Democracy is the worst form of government on the face of the earth, except for all the others."

Our forefathers and mothers were jealous of power. We did not want it put in any one place, and we succeeded beyond our wildest dreams in making sure it was dispersed. That gives us a special responsibility, and as we meet that responsibility we cannot do it just alone. We need your help, your continued good wishes and your continued work.

□ 1110

So in these difficult days ahead, we are going to be calling on many of you to help us find our way through probably the toughest challenges that our country has ever faced.

Thank you, and God bless all of you.

The SPEAKER. At this time the Chair would like to invite the incoming chairman of the Former Members Association and the distinguished former Republican leader of the House, John Rhodes of Arizona, to assume the chair.

Mr. RHODES (presiding). Mr. Speaker, my former colleagues, sitting Members of the House, it is a great honor for me to be in this position. As Tip O'Neill used to say, I had my eye on this chair for some time, and then he would add, and that is all you are going to get on this chair as long as I have anything to say about it.

But the experience which we have all had in this Chamber and across the building is an experience that none of us will ever forget, and it is indeed a wonderful thing that we can come back and reminisce and maybe lie to each other a little bit, and live the good days which we spent in this milieu.

The Chair directs the Clerk to call the roll of Members of Congress.

The Clerk called the roll of former Members of Congress, and the following Members answered to their names:

ROLLCALL OF FORMER MEMBERS OF CONGRESS ATTENDING ANNUAL SPRING MEETING, MAY 17, 1990

T. Dale Alford of Arkansas;
William H. Ayres of Ohio;
Robert E. Badham of California;
John A. Blatnik of Minnesota;
Richard Bolling of Missouri;
David R. Bowen of Mississippi;
Donald G. Brotzman of Colorado;
Clarence J. Brown of Ohio;
Garry E. Brown of Michigan;
John H. Buchanan, Jr. of Alabama;
Elford A. Cederberg of Michigan;
Charles E. Chamberlain of Michigan;
Jeffrey Cohelan of California;
Albert M. Cole of Kansas;
David L. Cornwell of Indiana;
James K. Coyne of Pennsylvania;
Paul W. Cronin of Massachusetts;
Edward J. Derwinski of Illinois;
Michael A. Feighan of Ohio;
John R. Foley of Maryland;
Nick Galifianakis of North Carolina;
Robert N. Giaimo of Connecticut;
William J. Green of Louisiana;
Gilbert Gude of Maryland;
James M. Hanley of New York;
Robert P. Hanrahan of Illinois;
Wm. D. Hathaway of Maine;
Jeffrey P. Hillelson of Missouri;
A. Oakley Hunter of California;
Jed Johnson, Jr. of Oklahoma;
Walter H. Judd of Minnesota;
Hastings Keith of Massachusetts;
David S. King of Utah;
Horace R. Kornegay of North Carolina;
Kenneth B. Kramer of Colorado;
Peter N. Kyros of Maine;
Paul N. McCloskey, Jr. of California;
John Y. McCollister of Nebraska;
Clark MacGregor of Minnesota;
Andrew Maguire of New Jersey;
John O. Marsh, Jr. of Virginia;
George Meader of Michigan;
Lloyd Meeds of Washington;
D. Bailey Merrill of Indiana;
Abner J. Mikva of Illinois;
John S. Monagan of Connecticut;
Frank E. Moss of Utah;
Thomas P. O'Neill, Jr. of Massachusetts;
Howard W. Pollock of Alaska;
Richardson Preyer of North Carolina;
Robert D. Price of Texas;
James M. Quigley of Pennsylvania;
Thomas Railsback of Illinois;
John J. Rhodes of Arizona;
John H. Rousselot of California;
Harold M. Ryan of Michigan;
Ronald A. Sarasin of Connecticut;
Harold S. Sawyer of Michigan;
Fred D. Schwengel of Iowa;
Garner E. Shriver of Kansas;

Carlton R. Sickles of Maryland;
Alfred D. Sieminski of New Jersey;
Henry P. Smith III of New York;
Robert T. Stafford of Vermont;
James W. Symington of Missouri;
John H. Terry of New York;
Andrew Jackson Transue of Michigan;
Charles A. Vanik of Ohio;
Charles W. Whalen, Jr. of Ohio;
Larry Winn, Jr. of Kansas;
Lester L. Wolff of New York;
James C. Wright, Jr. of Texas; and
Leo C. Zeferetti of New York.

Mr. RHODES (presiding). The Chair announces that 71 former Members of Congress have responded to their names.

The Chair now recognizes the distinguished president of the Association of Former Members of Congress, Judge Abner J. Mikva, for whatever purpose he chooses to address us and to yield to those who asked to be yielded to.

Mr. MIKVA. Mr. Speaker, the generation of men and women sitting in the Chamber this morning either have done something very right or something very wrong. I say that because we clearly have been destined to live in parlous times. Most of us have participated in or at least witnessed a war that changed the shape of the world in every which way. We are now seeing a spate of revolutions in Eastern Europe, some velvet, some bloody, some still in process, which are still again changing the geopolitical shape of the turf. The map of Eastern Europe may well resemble the shape it was in just before World War I, if all the ethnicians have their way. It may have political subdivisions that even the late Philip Burton could not have conjured. Whatever the final outcome, the ferment is real, very exciting, and very fraught with hope and danger.

Last year I commented on the difference between the way Congress is perceived at home and the way it is perceived abroad. That fact has been driven home this past year as the Eastern European politicians have descended on Washington for help in establishing a free market in politics. While they are interested in all our institutions, they are most interested in the Congress. How do we develop such an institution, they ask, an institution that can tell a President to go jump in the lake, an institution that can provide a talking forum for all the different points of view present in our huge and diverse country. Our visitors envy the staff, the equipment, the access that Members of Congress have to agencies and Cabinet officials and the executive branch generally. It is not easy to replicate the 200-plus glorious years that the Congress has functioned as an institution of the people. Even more difficult than explaining to our European visitors how the Congress works is trying to explain to our own citizens that it does work.

Toward that end, the Association last year continued and expanded its Campus Fellows Program. Since its inception, 224 visits have been made by 68 former Members of Congress to 158 campuses in 49 States. The programs have been warmly received and have given a substantial number of our college students an opportunity to hear about the real Congress and talk with one of the people who has been there.

We are now in the process of beginning to enlarge the concept. This past year, we have started a pilot project to send former Members to high schools on a program similar to the Campus Fellows. I am delighted to report that in the first week of May, our colleague John Anderson of Illinois had an immensely successful visit to a high school in Ohio. The school principal reported that the day after John left, all of the social studies teachers came into his office and were so excited about John's visit that they wanted to make certain visits by other former Members of Congress would be scheduled. John's reaction to the visit was equally positive; he said it "was wonderful and that high school students were not only ready for visits from former Members of Congress, but presented a challenge and an opportunity that should not be missed."

We're aware that many young Americans don't vote and all too few of them become personally active in the political process. Now we have an opportunity to change things. We know the political process—we have lived it. We now can go and meet with young Americans and personally demonstrate that for our democratic system, which is unique in this world, to succeed, requires that they participate. So, we hope to expand the program in this coming year and you can expect to hear more about it.

□ 1120

Mr. Speaker, I ask at this time permission to insert in the RECORD the list of fellows and institutions who have participated in the Campus Fellows Program.

Mr. RHODES (presiding). Without objection, so ordered.

The list referred to follows:

COLLEGES, UNIVERSITIES AND HIGH SCHOOL VISITED UNDER THE CAMPUS FELLOWS PROGRAM

COLLEGE/UNIVERSITY/HIGH SCHOOL, LOCATION, AND FELLOW

Alaska Pacific University, Alaska, William S. Mailliard (California).
Albion College, Michigan, David S. King (Utah).
Albion College, Michigan, Ted Kupferman (New York).
Albion College, Michigan, Martha Keys (Kansas).
Alfred University, New York, Frank E. Moss (Utah).
American College in Paris, France, David S. King (Utah).
American College in Paris, France, Byron L. Johnson (Colorado).
Arizona State University, Arizona, Gale W. McGee (Wyoming).
Arizona State University, Arizona,[1] Jacques Soustelle (France).
Assumption College, Massachusetts, Gale W. McGee (Wyoming).
Auburn University, Alabama, William L. Hungate (Missouri).
Auburn University,[1] Alabama, Alan Lee Williams (United Kingdom).
Avila College,[1] Kansas, Karin Hafstad (Norway).
Bainbridge Jr. College, Georgia, Gilbert Gude (Maryland).
Baylor University, Texas, James Roosevelt, (California).
Baylor University,[1] Texas, Peter von der Heydt (Germany).
Bowling Green State U., Ohio, Robert P. Hanrahan (Illinois).
Bradley University, Illinois, Charles W. Whalen, Jr. (Ohio).
Brandeis University, Massachusetts, Abner J. Mikva (Illinois).
Brandeis University, Massachusetts, L. Richardson Preyer (North Carolina).
Brenau College, Georgia, Ralph W. Yarborouth (Texas).
Brigham Young University,[1] Utah, Jaques Soustelle (France).
California Poly. State, San Luis Obispo, California, John B. Anderson (Illinois).
California Poly. State, San Luis Obispo, California, Frank E. Evans (Colorado).
California Poly. State, San Luis Obbispo, California, Robert N. Giaimo (Connecticut).
California Poly. State, San Luis Obispo, California, John R. Schmidhauser (Iowa).
California Poly. State, San Luis Obispo, California, Ralph W. Yarborough (Texas).
California Poly. State, Pomona, California, Robert R. Barry (New York).
Cameron University, Oklahoma, William D. Hathaway (Maine).
Cameron University, Oklahoma, William L. Hungate (Missouri).
Cameron University, Oklahoma, Dick Clark (Iowa).
Carleton College, Minnesota, William S. Mailliard (California).
Carroll College, Montana, Ralph W. Yarborough (Texas).
Chaminade College, Hawaii, Catherine May Bedell (Washington).
Chatham College, Pennsylvania, Catherine May Bedell (Washington).
Chatham College, Pennsylvania, Martha Keys (Kansas).
Charleston College,[1] South Carolina, John M. Reid (Canada).
Clarke College, Georgia, William L. Hungate (Missouri).
Clarke College, Georgia, William S. Mailliard (California).
Colgate University, New York, William S. Mailliard (California).
College of Sequoias, California, Gale W. McGee (Wyoming).
Colorado State University,[1] Colorado, Alastair Gillespie (Canada).
Columbia College, South Carolina, Catherine May Bedell (Washington).
Columbia College, South Carolina, Martha Keys (Kansas).
Columbia College, South Carolina, James M. Quigley (Pennsylvania).
Columbia College,[1] South Carolina, John M. Reid (Canada).
Columbia College, South Carolina, Henry S. Reuss (Wisconsin).
Columbia College, South Carolina, Nick Galifianakis (North Carolina).
Concordia College, Michigan, Walter H. Moeller (Ohio).

Connecticut College, Connecticut, Ralph W. Yarborough (Texas).
Converse College, South Carolina, Jed Johnson, Jr. (Oklahoma).
Dartmouth College, New Hampshire, John O. Marsh, Jr. (Virginia).
Dartmouth College, New Hampshire, William S. Mailliard (California).
Davis & Elkins College, West Virginia, Frank E. Moss (Utah).
Davis & Elkins College, West Virginia, J. Glenn Beall, Jr. (Maryland).
Denison University, Ohio, Frank E. Moss (Utah).
DePauw University, Indiana, Hugh Scott (Pennsylvania).
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225 visits—68 Fellows.

[1] International project funded by the Ford and Rockefeller Foundations for visit of Parliamentarians from the United Kingdom, Germany, France, Canada, Brazil and Norway.

Mr. MIKVA. Mr. Speaker, our Congressional Fellows Program, in which we bring staff members of the Japanese Diet to Washington for 60-day fellowships, continued successfully this year. Mr. Kazuhiko Matsui from the House of Councillors and Ms. Suzuyo Kojima from the House of Representatives visited Washington from September 18 to November 16, 1989, and had excellent experiences in offices of several Senators and Representatives and meetings with staff of congressional support service offices. After the two fellows returned to Japan, we received letters from the Secretary Generals of the House of Councillors and the House of Representatives praising the program and strongly requesting that it be continued. This project has been funded by the Japan-United States Friendship Commission.

In the spring of 1989, the United States Ambassador to Hungary, Mark Palmer, suggested that the Association become involved in Hungary to assist the emerging democratic movement. In November 1989, the Association sponsored the visit of a delegation of representatives of Hungarian democratic opposition groups to observe the Virginia gubernatorial and the New York City mayoral elections. The delegation's visit was arranged at the suggestion of Dr. Bela Kiraly, the general who led the Hungarian Revolution in 1956, and was funded jointly by the Soros Foundation and the United States Information Agency. A Capitol Hill program was arranged to inform the delegation about the legislative process and included indepth meetings with several Members of Congress.

At the invitation of the United States Embassy in Budapest, a delegation of former Members of Congress went to Hungary in March as observers of the first democratic parliamentary elections in more than 40 years. We are in the process of developing a program to bring parliamentarians from Hungary, Czechoslovakia, and Poland to the United States as part of a Democracy Institute to help the emerging democratic parliaments of Eastern Europe.

In 1984, the Association began a project to host distinguished international visitors at the Capitol under a grant from the Ford Foundation. This pilot project has proved to be extremely valuable and to date the Association has arranged more than 200 events at the Capitol for distinguished visitors from 79 separate countries.

Mr. Speaker, all these programs cost money and at this point I want to insert in the RECORD the list of our donors who make our programs possible.

Mr. RHODES. Without objection, it is so ordered.

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Mr. MIKVA. Mr. Speaker, this not only marks the 20th anniversary of the U.S. Association of Former Members of Congress but also the 10th anniversary of the founding of the association's program of exchanges between the United States Congress and the German Bundestag to promote German-American friendship and cooperation. A strong cooperative relationship has been developed between our association and the Association of Former Members of the Bundestag, and we are delighted that two members of our counterpart organization in Germany are here to join us in these celebrations. We are also delighted to welcome representatives from the Association of Former Members of Parliament of Australia and the Association of Former Members of the Parliament of Canada.

I would like at this time to acknowledge the presence of: Hon. David Daubney, former member of the Canadian Parliament; Hon. Rembert von Delden, former member of the German Bundestag; Hon. Uwe Looft, former member of the German Bundestag; Honorable and Mrs. David Vigor, former member of the Australian Parliament. (Applause.)

The sad part of this occasion is our duty to recollect the names of our deceased colleagues who have passed away since our report last spring.

LIST OF DECEASED MEMBERS

Hugh Q. Alexander of North Carolina;
Joseph S. Clark of Pennsylvania;
James M. Collins of Texas;
Laurence Curtis of Maine;
Hadwen C. Fuller of New York;
Charles H. Griffin of Mississippi;
John E. Hunt of New Jersey;
Edouard V.M. Izac of California;
Eugene J. Keogh of New York;
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Earl B. Ruth of North Carolina;
Edward J. Stack of Florida;
J. Kenneth Robinson of Virginia;
Frank Thompson, Jr. of New Jersey;
Elizabeth G. Van Exem of South Carolina;
Otha D. Wearin of Iowa;
Philip H. Weaver of Nebraska;
J. Ernest Wharton of New York

I ask for a moment of silence in their memory.

Mr. Speaker, this association will start its second score of years under very able leadership. The former minority leader of this House, the Honorable John Rhodes of Arizona, will assume the presidency of this organization at the end of next month. He will be ably assisted by the gentleman from Maine, the Honorable William Hathaway, who will move up to vice president of the Association.

Each year, we present the Association's Distinguished Service Award to a person who has offered his or her talents and skills to our Republic over the years. The list is a most impressive one, beginning in 1974 with Gerald R. Ford and continuing with John W. McCormack, Lewis Deschler, Sam Ervin, Jr., Nelson Rockefeller, George H. Mahon, Clare Boothe Luce, Edmund S. Muskie, Hugh Scott, Richard Bolling, Jacob K. Javits, J. William Fulbright, Walter H. Judd, Thomas P. O'Neill, Jr., John J. Rhodes, and Edward Boland.

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The tradition continues with this year's recipient, a man who has not only had a distinguished career in the first branch of government, but now lends his enormous skills and talents to the Executive Branch. I refer to the first Secretary of Veterans Affairs, Edward J. Derwinski. Ed, if you will come up here I would like to present you first with a book of letters from many of your colleagues, past and present, telling you how much they agree with our choice of awardee.

Then on behalf of the association I would like to present to you this award and say how proud we are for all you have done for all of us. Congratulations.

(Applause.)

Mr. DERWINSKI. Thank you, Abner.

I will be brief, of course.

But more than that, I always enjoyed speaking from this microphone when I was in the House because somehow more votes seemed to come to a position when you spoke from this side.

But Abner and I served together 34 years ago in the Illinois House of Representatives. I never thought I would see the day 34 years later we were still working together in Washington, I as a humble Cabinet officer with my budget torn to shreds by the Congress, and Abner on the other hand as an exalted Federal judge floating on cloud nine as only Federal judges do. But it is a pleasure, Abner. Thank you so much.

It is great to look back at our friendship over the years. I was always proud of my service in the House and have been proud of my association with the Association of Former Members of Congress.

There is one thing about becoming a senior statesman, as most of you are, somehow you become remarkably objective and you become remarkably free of political instincts and you become true statesmen. That has been the history of the Association of Former Members. That is why the group is so effective in training and in inspiring the new wave of legislators developing in Eastern Europe and in other emerging countries of the world.

So I think it is most appropriate that in the completely bipartisan spirit with the great experience that we have all gathered over the years, that the Association of Former Members still plays a very, very dramatic role in the spread of democracy around the world.

So as I accept this award, I do not accept it for myself. I am in the Cabinet because 22 years ago there was a freshman Republican Congressman by the name of George Bush. I ran into him in the cloakroom. I did not know him, he didn't know me. He said, "By the way, where's the mens room?" I said, "It is two doors down to the left." And he was forever grateful for that assistance.

That is how you get to the Cabinet, fellows:

I want you to know that this association is thriving, a thriving force, it is a great force. I thank the Speaker and BOB MICHEL for allowing us to return for this annual visit. I thank all of you for your friendship and comradeship over the years.

Abner, I just thank you for the fact that I, in a small way, have helped make this a good organization.

Thank you all.

(Applause.)

Mr. MIKVA. Mr. Speaker, on that upbeat note and difficult as it would be for you to give up all that power, I move we adjourn.

Mr. RHODES (presiding). Prior to putting the question, the Chair would like to take the prerogative of the Chair and thank the gentleman from Illinois, Judge Mikva, for a wonderful term as president of this association.

(Applause.)

He has done an outstanding job, and he leaves the association in just as good, if not better, care than it was when he found it.

I also want to take the prerogative and thank Jed Johnson, our hard-working executive secretary, executive director. He runs the place, and he does a good job of it.

(Applause.)

And, of course, my former colleague and good friend, Ed Derwinski, it is a real pleasure for me to preside over a meeting where you have been honored, because if anybody ever deserved that honor you do. You have been a real stalwart member of the association as well as a wonderful American through the years, and I salute you.

(Applause.)

The association thanks the Speaker of the House and the sitting Members of the House for giving us the opportunity of meeting here today as we have and as we have in previous years.

Before terminating the proceedings, I would like to have any Member whose presence has not been noted to come forward and give his name to the Clerk after we adjourn so that your presence may be recorded. We want to have everybody's presence recorded.

So now I announce on behalf of the Speaker that the House will be in session in 15 minutes, which looks to me to be about 10 minutes until 12.

So we will govern ourselves accordingly.

We will now put the question: Is there any further business to transact?

If not, the Chair declares this meeting of the Association of Former Members of Congress adjourned.

Accordingly (at 11 o'clock and 36 minutes a.m.), the House continued in recess until approximately 11 o'clock and 50 minutes a.m.

□ 1155

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. MONTGOMERY) at 11 o'clock and 55 minutes a.m.

AMERICANS WITH DISABILITIES ACT OF 1990

The SPEAKER pro tempore. When the House recessed earlier today, there were 31 minutes remaining in debate on House Resolution 394. The gentleman from Tennessee [Mr. GORDON] has 14 minutes remaining in the debate, and the gentlewoman from Illinois [Mrs. MARTIN] has 17 minutes remaining in debate.

The Chair recognizes the gentleman from Tennessee [Mr. GORDON].

Mr. GORDON. Mr. Speaker, I have no requests for time at this moment, and I reserve the balance of my time.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield four minutes to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Speaker, it pains me greatly to come on the floor of the House to speak against a rule crafted by the Democratic majority on the Rules Committee. In my career in Congress, I have almost routinely voted for the rules crafted by the committee and have never spoken against a rule, but I believe this is an unusual circumstance that requires that I speak out against a rule that I think has been unreasonably crafted in regard to an amendment which I offered in good faith.

As a member of the North Carolina General Assembly, I was the chief sponsor and chairman of the Judiciary Committee that crafted a disability act very much like the one that is before us here, so I have been a friend of the disability community. I worked hard for the passage of that legislation, and it was in that spirit of cooperation and in good faith that I offered an amendment that I think was very reasonable and should have been made in order. In fact, I believe, after having talked to my friends on the Rules Committee, that my amendment enjoyed the strong support of that committee except for the strong opposition of the gentleman from Maryland [Mr. HOYER], who opposed the amendment and asked that it not be made in order.

This amendment is very reasonable. The legislation that is before us has in it extensive provisions on how employers and potential disabled employees should work together to reach accommodation so that those employees can be in fact accommodated in the work place. However, in the public accommodations title of the bill there is no such language, and in fact the disability community can, though I do not think they would do so very often, go into an establishment and find that their disability is not accommodated and can immediately seek injunctive relief against the owner.

The gentleman from Maryland [Mr. HOYER] argues that there is a good faith requirement in the bill which will take care of that, and that good faith requirement may in fact result in court dismissing the law suit, but nonetheless the businessman may have the expense of going to court to defend himself against such a suit.

What my amendment provided, as I said, is very reasonable. It simply said that when a disabled person came into a place of public accommodation, whether that is a store, a restaurant, or anything else, he would then make his disability known, and if it was not being accommodated, the owner of the public facility would then accommodate that request in reasonable ways.

That is all it did. This is not anything that would impede in any way the work of the disability community to attain compliance fully with this law. It simply is a reasonableness test, allowing the disabled person and the owner of the public facility to work together to find a reasonable solution that will accommodate the disability and make it possible for them to fully utilize that public accommodation.

Mr. Speaker, I believe that this amendment should have been made in order, and because it was not, I must reluctantly oppose the rule and hope that my colleagues will join me in doing so.

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

Mr. LANCASTER. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, first of all, I want to say to the gentleman in the well how much I respect the sincerity of his position. I understand his position, and I know he has been a strong supporter and leader in North Carolina and the legislature in North Carolina on behalf of the disabled.

As to his amendment, he and I have a difference of opinion, as he has stated accurately, with respect to the scope of the amendment. The amendment is certainly, as the gentleman has said, absolutely well meaning, whether we have a disagreement relative to his prospective amendment. As he knows, I believe sincerely that the way the language is structured, the provision is adequate, although he is very concerned about those disabilities that perhaps a businessman operating in good faith could not anticipate. We believe, of course, that the bill tries to cover that, and we know that it is a significant concern.

Mr. Speaker, I thank the gentleman from North Carolina for his comments.

□ 1200

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, let me, first of all, say that I am delighted that we are able to bring the Americans With Disabilities Act to the floor. I want to particularly commend the gentleman from Maryland [Mr.

HOYER] on the Democratic side, who has spent so many hours reaching far beyond any reasonable obligation in doing what was necessary to work out a series of agreements and a series of understandings, and I think that on a bipartisan basis a great deal has been done to improve this bill.

I am very saddened, therefore, that on the particular question of the rule, as distinct from the bill in general, that I have to be disappointed, and I have to be willing to vote no. And I am going to ask my colleagues to vote no, both on the previous question and on the rule. Let me explain for a second.

Mr. Speaker, this is a very, very important bill. This is a bill which will affect, not only Americans with disabilities, but all Americans. It will affect the entire American economy, and it is very important that we make it possible for small businesses to make the transition, that we want to maximize the ability to keep jobs, and to keep the economy growing and to have better opportunities for all Americans, and there are some places in the bill where some of our colleagues, who have sincerely and very thoroughly looked at the bill, have asked for the right to walk through a series of amendments.

The gentleman from Florida [Mr. MCCOLLUM] has an amendment which was not made in order. The gentleman from North Carolina [Mr. LANCASTER], who just spoke, has an amendment which was not made in order. The gentleman from California [Mr. CAMPBELL] has an amendment which was not made in order. The gentleman from New Hampshire [Mr. DOUGLAS] has several amendments which were not made in order. The gentleman from Washington [Mr. CHANDLER] has an amendment which was not made in order. The gentleman from California [Mr. DANNEMEYER] has two amendments which were not made in order. The gentleman from Indiana [Mr. BURTON] has a series of seven amendments which were not made in order. The gentleman from Texas [Mr. DELAY] has a series of 11 amendments which were not made in order. The gentleman from Michigan [Mr. UPTON] has a very important amendment which was not made in order.

So, Mr. Speaker, I would urge, first of all, that my colleagues vote no on the previous question, and, if we win that vote, we would move to make all of the amendments in order that were offered to the Committee on Rules so that everyone would have an opportunity to legitimately seek to make the best possible Americans With Disabilities Act that the House could work its will in a series of steps.

If that fails, I would then very reluctantly have to urge a no vote on the rule. Although I want to bring up the bill, I want to bring up the bill in a way which lets us get to the best possible Americans With Disabilities Act.

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

Mr. GINGRICH. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I want to make it clear on behalf of the coordination of the Americans with disabilities bill that the amendment of the gentleman from Michigan [Mr. UPTON], which has broad bipartisan support, was not opposed to be made in order by me. As a matter of fact, I specifically represented to the committee that I thought that we had no objection to it being made in order.

As the gentleman from Georgia [Mr. GINGRICH] knows, the Committee on Ways and Means perceives that rightfully to be within their jurisdiction and objected to that, but I understand the gentleman from Michigan [Mr. UPTON] will be involved in a colloquy and that the committee does intend to pursue the tax credit for small business.

Mr. GINGRICH. Sure, and I think the point is well made.

Mr. Speaker, I think the point is well made. I look forward to the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means, in that colloquy. It is an important step.

All I am suggesting is that on a bipartisan basis there is a number of Democrats and Republicans who have legitimate amendments that are worthy of being attended to on the floor. This is an extraordinarily important bill, and I think that it is important we take it up.

Let me also in closing make one other comment just for my colleagues in the House. I am not sure what the schedule will be on Monday. I am certain that until we have an agreement on a waiver for aid to Nicaragua and Panama, and until we have an agreement on passing the appropriation on Nicaragua and Panama, that it will be very difficult procedurally for the next few days.

I do want to pass the Americans With Disabilities Act. I do want to pass the clean air bill. But frankly, Mr. Speaker, after 4 months of being, I think, embarrassingly incompetent, the Congress has an obligation to Nicaragua and Panama, and I agree with the President, that we should not go home for the Memorial Day recess until we have passed an appropriation with a waiver, and I am constrained to make procedural difficulties until we can get that agreement worked out.

Mr. Speaker, I just hope my colleagues will bear with me.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, and Members, one of the major issues that needs to be debated by the Congress that this rule does not permit to be debated is whether or not, as a matter of policy, this Nation will say that included within the definition of a disabled person is somebody with a communicable disease.

Mr. Speaker, this concept came into our culture, not by an act of Congress, but it came as a result of a decision of the U.S. Supreme Court several years ago in the Arline decision by a split decision interpreting an act passed by Congress in 1973, namely disability, that such term did include somebody with a communicable disease.

Mr. Speaker, that has enormous consequences for our society. Admittedly, this bill says that an employer is not required to hire somebody who has a communicable disease that places a coworker at risk healthwise. But, for goodness sakes, should we put that burden on an employer, that that employer is going to have to run the risk of exposing coworkers to a disease that is designed or identified as a communicable disease?

In my State of California there are 58 diseases on the list that are reportable called communicable diseases: tuberculosis, meningitis, hepatitis, and HIV is one of them. With this bill, in the form that it is now to be considered by the House, if it is adopted, every HIV carrier in the country immediately comes within the definition of a disabled person. Why? Because they have a communicable disease. They are a carrier of a fatal virus that causes death.

Is that sound public policy? And since 70 percent of those people in this country who are HIV carriers are male homosexuals, we are going to witness an attempt or an utterance on the part of the homosexual community that, when this bill is passed, it will be identified by the homosexual community as their bill of rights.

Mr. Speaker, we need to debate this as a policy question because I am sure the American public is prepared to make that step that we would identify persons who are HIV carriers within this definition.

What the consequences of this act will be are as follows:

For instance, if a school district has applied, or an applicant for a job in a school district represents his status of being both a homosexual and also an HIV carrier, and the school district turns him down because he is a homosexual, that HIV carrier is going to take that school district to court and say, "You cannot discriminate against me because Congress says I'm a disabled person. I'm an HIV carrier." Similarly with Georgetown University here, if a person applies for a job there. That matter be in litigation on the basis that an HIV carrier cannot be discriminated against. Similarly a person who applies to be a supervisor

in a youth group. If he is an HIV carrier, he cannot be discriminated against.

If we are going to do this as a matter of policy, at least we should debate it on the floor of the Congress so that by a vote we will have a chance to establish public policy, not do it by denying this Member an opportunity of presenting this issue to the House in consideration of the bill.

Mr. Speaker, I ask for a no vote on the bill.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I do not think there is a person in this body that is not concerned about the plight of the handicapped in this Nation. We all want to do everything we can to assist them in leading a normal, healthy life, and toward that end the ADA is well motivated.

The problem in the bill has some major, major problems that are going to lead to chaos, I think, in some areas down the road.

Mr. Speaker, I had four amendments before the Committee on Rules that I think were extremely important. There has been litigation involving health care workers with the AIDS virus and other communicable diseases who have won large suits because they lost their jobs or were removed from their jobs because they might infect somebody else, and they won those suits. There have been food handlers who, likewise, have handled food, who have had communicable diseases, and have been removed from those positions, and I maintain that without proper amendments to this legislation we are going to have a litany of lawsuits in the area of health care and food handling that we are not going to believe because we are not addressing those issues adequately by amendments in this bill.

I think it is extremely important that we protect the public health of this Nation. If someone has a communicable disease, tuberculosis, AIDS, or something else, do my colleagues want them preparing their food or handling their food? If someone has a communicable disease, AIDS, or tuberculosis or something else, do my colleagues want them working with them in a room after they have had major surgery?

□ 1210

I think not, and this legislation, make no mistake about it, does not adequately address those dangers to the health of this Nation. For that reason alone, this rule should be defeated, because you would not allow those amendments to at least be discussed or debated on this floor.

We may have lost those amendments, but at least if we believe it is going to jeopardize the health of this Nation deserve the right to be heard and debate those issues on this floor.

This rule is a very bad rule and it should be defeated.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, this should not be a debate about homosexuals or AIDS or HIV drug users. This is a debate about civil rights for the disabled.

In the early sixties, this was the beginning of the civil rights movement. Society began to recognize that discrimination in the workplace and public accommodations were no longer acceptable, that each of us is a human being with feelings and deserves to be treated as such. As a result, the Civil Rights Act of 1964 was enacted, which prohibited the discrimination of an individual based on race, gender, or religion.

The Americans With Disabilities Act carries the civil rights movement a step further. This act is a civil rights bill for the disabled. The bill assures the many Americans who are disabled that they are going to be able to participate in all aspects of society.

Let us face it. We have shunted them aside. We have mistreated them. Through this legislation, disabled individuals are going to be able to lead more productive lives. That means they are going to have access to education, jobs, public accommodations, public services, and public transportation.

Is this not fair?

Additionally, all members of our society will have the opportunity to learn and benefit from the skills and talents of these individuals whom we have long shunted aside.

I am aware of the concerns that this legislation has received from organizations and businesses across America, but I think Members of the leadership and the relevant committees have worked diligently to ensure this bill guarantees the necessary rights of the disabled, without penalizing businesses, without hurting communities.

I think this bill is fair to everybody, to businesses, to the disabled, but it is also a bill that should be very clear. We should act in the best conscience of this country, and it is important that this legislation be passed immediately.

Mr. Speaker, I rise today to express my strong support for the Americans with Disabilities Act.

Mr. Speaker, the early 1960's were the beginning of the civil rights movement. Society began to recognize that discrimination in the workplace and public accommodations were no longer acceptable; that each of us is a human being with feelings and deserves to be treated as such. As a result, the Civil Rights Act of 1964 was enacted which prohibited the discrimination of an individual based on race, gender, or religion.

The Americans With Disabilities Act carries the civil rights movement a step further. This act is the civil rights bill for the disabled. This bill assures the many Americans who are disabled that they will be able to participate in all aspects of society. Through this legislation disabled individuals will be able to lead more productive lives. That means they will have access to education, jobs, public accommodations, public services, and public transportation. Additionally, all members of our society, will have the opportunity to benefit and learn from the skills and talents of these individuals, whom we have too long shunted aside.

I am aware of the concerns this legislation has received from organizations and businesses across America. However, we have worked diligently to ensure that this bill will guarantee the necessary rights of the disabled without penalizing businesses and communities. I believe this bill is fair to everyone.

Mr. Speaker, we need continued leadership in the area of civil rights. Everyone in America deserves to be treated equally, that is their right. I am pleased to express my strong support for this historic piece of legislation and I hope my colleagues will move to pass the Americans With Disabilities Act promptly and without weakening amendments.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BARTLETT], who has been very active on this bill.

Mr. BARTLETT. Mr. Speaker, I do support this legislation in its current form. I was not one of those who supported the legislation as it was originally introduced or even as it came out of the Senate, but in its current form as it has been amended by the committees, I do support it; but I do not support the closed rule that we are today considering.

I have been one of those who has advocated from the very first day on this bill that this bill should be fully and fairly considered by, first, each of the committees of jurisdiction in the House; and secondly by the House of Representatives as a body sitting in legislative decisionmaking to consider a full and fair debate on each of the amendments, on all of the aspects of the bill and its effect on this country over the course of the next 100 years.

Mr. Speaker, there is absolutely no reason that this rule should be closed. There is nothing to fear here other than open and fair legislative debate.

The fact is we have spent more time, more time has been consumed in watching the Rules Committee try to find ways to limit debate on this bill than would have been consumed had we simply brought the bill up under an open rule, allowed all germane amendments to be fully and fairly debated, voted on them, had those that had a majority vote pass, and those that did not have a majority vote be defeated.

I have heard earlier from my good friend, the gentleman from Tennessee, a reference to the committee system, mentioning that somehow a full and fair debate on the House floor makes, in his words, a mockery of the committee system. The fact is that would be laughable if it were not so tragic. What is tragic is a closed rule on landmark legislation makes a mockery of the legislative system, and indeed makes a mockey of the House of Representatives sitting as a body.

This rule excludes a number of amendments that should have been considered on their own merits, amendments by the gentleman from Washington [Mr. CHANDLER], the gentleman from North Carolina [Mr. LANCASTER], and the gentleman from Florida [Mr. MCCOLLUM]. Those amendments and others could have been considered, debated, argued, and determined by this body. Some amendments have been made in order. As the amendments come up, I will share with my colleagues which amendments I support and which amendments I oppose. They will be debated on their own merits.

It does seem to me that after the fight on the procedure and after we have dispensed with the fight on the procedure, this bill will be brought to the floor. We will debate some, most of the substantive amendments, although not all, and at the end of this legislative session we will pass the Americans With Disabilities Act. It is landmark legislation. It is long overdue. It has been substantially improved to meet the tests of the current law of section 504 that has been in the law since 1973.

It is a good bill on the whole. It can be improved. I hope we improve it through the amendment process.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the distinguished gentleman from Tennessee [Mr. GORDON] from the Rules Committee who has worked so long and so hard on fashioning a rule that the committee felt was fair and will provide for debate on the significant issues that remain with respect to this bill. All of those issues have obviously already been argued in committee. There have been four committees.

This bill has had an unusually broad and I think indepth consideration.

I will congratulate the gentleman from Texas [Mr. BARTLETT] in the future, but I also want to thank him at the outset for his diligent, knowledgeable and sensitive advocacy of the positions that he felt were important to change in the Senate bill. He has been I think very successful in that effort and I have enjoyed working with him and, frankly, will enjoy working with him over the next 2 days that we will be considering this legislation. He has truly immersed himself and understands this bill as well as anybody on this floor, and I want to thank him for his work with me.

Mr. Speaker, this bill has had the full light of day. It came from the Senate with much criticism that it had not been fully considered, that there has not been sufficient time to consider it. I do not necessarily agree with that criticism. The Senate held hearings.

This bill was introduced in the 100th Congress. It is now in the 101st Congress.

I will refer to this bill in the future and will refer to it now as the Coelho bill. Tony Coelho, our former majority whip, of course, has been the principal sponsor and remains the principal sponsor of H.R. 2273.

In the Education and Labor Committee, and in particular the gentleman from Wisconsin [Mr. GUNDERSON] as well and members of that committee brought to our attention many, many amendments. We talked about them literally for days and the committee considered those amendments and ultimately voted out the bill 35 to 0, as the distinguished gentlewoman from Illinois has indicated, obviously recognizing a bipartisan commitment to an historic piece of legislation, opening up our society to the disabled.

In the Committee on Energy and Commerce, it was 40 to 3, again overwhelming bipartisan participation in the fashioning of that bill.

I might say that minority and the majority counsels, the staff members, spent inordinate amounts of time and commitment to fashioning a bill that could receive, as it did, overwhelming support by the Energy and Commerce Committee.

The Public Works and Transportation Committee also worked in a bipartisan fashion, and we had almost every amendment that could be thought about introduced and considered, either in the fashioning of the legislation that was passed by the Public Works Committee, or in the consideration by the Public Works Committee itself, and that bill passed 35 to 5.

□ 1220

The last committee to consider it was the Committee on the Judiciary. Almost every amendment, as a matter of fact, I cannot think of an amendment that was offered in the Committee on Rules that was not, in fact, debated in at least the Committee on the Judiciary and at least one other committee.

So Members ought to know that all of the amendments that were offered had been considered in the committee system by over 160 Members of this body. Fully approximately one-third of the Members of the House have considered this bill in committee. So there has been very full debate.

I previously talked about the amendment of the gentleman from North Carolina. There are others. We believe that many of them are duplicative, so the number of amendments that were offered is really not as many as one would think, because they obviously had to get them to the committee. They did not have time to consult with others, so many of them were duplicate amendments.

The Committee on Rules picked out many amendments that I will oppose vigorously on this floor. I do not agree with some of the amendments that are going to be offered. But they do, in fact, raise major, significant issues that ought to be considered by the House, and the Committee on Rules has made them in order.

With respect to two amendments offered by the gentleman from New Hampshire [Mr. DOUGLAS], both of those amendments, of course, were considered in the Committee on the Judiciary, and I might say as a result of discussions with the gentleman from New Hampshire I spent substantial time in talking to the New York Police Department, the Los Angeles Police Department, my own police department in Prince Georges County, which has over 1,000 uniformed officers, to determine whether or not there was anything in this bill that would undermine the way they process applicants for public safety jobs.

I think the gentleman from New Hampshire [Mr. DOUGLAS] is correct. Obviously we want to make sure that we have psychological testing. In point of fact, every police agency told me they do that very late in the process. They do it late in the process because they want to screen out first because it is an expensive process and they want to make sure that the applicant really is somebody they want to offer a job to before they go to that expense of psychological testing.

This bill does not preclude that, so I think the concern of the gentleman, a legitimate concern, is in fact protected.

I would urge the Members of this House to strongly support this rule. The bill that comes to this House has been worked upon probably more extensively than any piece of legislation that will be reported to this House this year. The rule provides for the significant amendments. I would urge us to oppose what will simply be a motion to defeat the previous question, which will delay this bill moving forward.

I was hopeful that the bill would be on the floor yesterday. it was not because of the concern that the gentleman from Georgia [Mr. GINGRICH] has expressed about El Salvador. I understand that. It was not related to the

ADA. But notwithstanding that, there may have been other Members who were going to object to unanimous consent as well.

But in any event, it is now time for us to move forward. Let us pass the previous question, and let us pass the rule, and let us move on to discuss what everybody has referred to as an historic opening up of America to the disabled of America, of which there are 43 million, who want, as all of us want, and I will reference and others will reference in general debate, the full opportunity to exercise their talents and their commitment as every other American expects to do.

I support the rule and support the previous question.

Mrs. MARTIN of Illinois. Mr. Speaker, although I am supportive of the bill, we would hope for an open rule, and I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

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

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 251, nays 162, not voting 19, as follows:

[Roll No. 113]

YEAS—251

Anderson	Clement	Feighan
Andrews	Collins	Flake
Annunzio	Condit	Foglietta
Anthony	Conte	Ford (MI)
Applegate	Conyers	Ford (TN)
Aspin	Cooper	Frank
Atkins	Costello	Frost
AuCoin	Coyne	Gaydos
Barnard	Darden	Gejdenson
Bates	de la Garza	Gephardt
Beilenson	DeFazio	Geren
Bennett	Dellums	Gibbons
Berman	Derrick	Gilman
Bevill	Dicks	Glickman
Bilbray	Dingell	Gonzalez
Boggs	Dixon	Gordon
Bonior	Donnelly	Gray
Borski	Dorgan (ND)	Guarini
Bosco	Downey	Hall (OH)
Boucher	Durbin	Hall (TX)
Boxer	Dwyer	Hamilton
Brennan	Dymally	Harris
Brooks	Dyson	Hatcher
Browder	Early	Hawkins
Bruce	Eckart	Hayes (IL)
Bryant	Edwards (CA)	Hayes (LA)
Byron	Engel	Hefner
Campbell (CO)	English	Hertel
Cardin	Erdreich	Hoagland
Carper	Espy	Hochbrueckner
Chapman	Evans	Hoyer
Clarke	Fascell	Hubbard
Clay	Fazio	Huckaby
Hughes	Morella	Schumer
Hutto	Morrison (CT)	Serrano
Jenkins	Mrazek	Sharp
Johnson (SD)	Murphy	Sikorski
Johnston	Murtha	Sisisky
Jones (GA)	Nagle	Skaggs
Jones (NC)	Natcher	Skelton
Jontz	Neal (MA)	Slattery
Kanjorski	Neal (NC)	Slaughter (NY)
Kaptur	Nowak	Smith (FL)
Kastenmeier	Oakar	Smith (IA)
Kennedy	Oberstar	Solarz
Kennelly	Obey	Spratt
Kildee	Olin	Staggers
Kleczka	Ortiz	Stallings
Kolter	Owens (NY)	Stark
Kostmayer	Owens (UT)	Stenholm
LaFalce	Pallone	Stokes
Lantos	Panetta	Studds
Laughlin	Parker	Swift
Leath (TX)	Patterson	Synar
Lehman (CA)	Payne (NJ)	Tallon
Lehman (FL)	Payne (VA)	Tanner
Levin (MI)	Pease	Tauzin
Levine (CA)	Pelosi	Taylor
Lewis (GA)	Penny	Thomas (GA)
Lipinski	Perkins	Torres
Lloyd	Pickett	Torricelli
Long	Pickle	Towns
Lowey (NY)	Poshard	Traficant
Luken, Thomas	Price	Traxler
Manton	Rahall	Udall
Markey	Rangel	Unsoeld
Martinez	Ravenel	Valentine
Matsui	Ray	Vento
Mavroules	Richardson	Visclosky
Mazzoli	Rinaldo	Volkmer
McCloskey	Roe	Walgren
McCrery	Rose	Washington
McCurdy	Rostenkowski	Watkins
McDermott	Rowland (CT)	Waxman
McHugh	Rowland (GA)	Weiss
McMillen (MD)	Roybal	Wheat
McNulty	Russo	Whitten
Mfume	Sabo	Williams
Miller (CA)	Sangmeister	Wilson
Mineta	Sarpalius	Wise
Moakley	Savage	Wyden
Mollohan	Sawyer	Yates
Montgomery	Scheuer	Yatron
Moody	Schroeder	

NAYS—162

Archer	Gekas	Martin (IL)
Armey	Gillmor	Martin (NY)
Baker	Gingrich	McCandless
Ballenger	Goss	McCollum
Bartlett	Gradison	McDade
Barton	Grandy	McEwen
Bateman	Grant	McGrath
Bentley	Green	McMillan (NC)
Bereuter	Gunderson	Meyers
Bilirakis	Hancock	Michel
Bliley	Hansen	Miller (OH)
Boehlert	Hastert	Miller (WA)
Broomfield	Hefley	Molinari
Brown (CO)	Henry	Moorhead
Buechner	Herger	Morrison (WA)
Bunning	Hiler	Myers
Burton	Holloway	Nielson
Callahan	Hopkins	Oxley
Campbell (CA)	Horton	Packard
Chandler	Houghton	Parris
Coble	Hunter	Pashayan
Coleman (MO)	Hyde	Paxon
Combest	Inhofe	Petri
Coughlin	Ireland	Porter
Cox	James	Pursell
Crane	Johnson (CT)	Quillen
Dannemeyer	Kasich	Regula
DeLay	Kolbe	Rhodes
DeWine	Kyl	Ridge
Dickinson	Lagomarsino	Ritter
Dornan (CA)	Lancaster	Roberts
Douglas	Leach (IA)	Rogers
Dreier	Lent	Rohrabacher
Duncan	Lewis (CA)	Ros-Lehtinen
Edwards (OK)	Lewis (FL)	Roth
Emerson	Lightfoot	Roukema
Fawell	Livingston	Saiki
Fields	Lowery (CA)	Saxton
Fish	Lukens, Donald	Schaefer
Frenzel	Machtley	Schiff
Gallegly	Madigan	Schneider
Gallo	Marlenee	Sensenbrenner
Shaw	Smith, Robert (OR)	Vander Jagt
Shays	Snowe	Vucanovich
Shumway	Solomon	Walker
Shuster	Spence	Walsh
Skeen	Stangeland	Weber
Slaughter (VA)	Stearns	Weldon
Smith (NE)	Stump	Whittaker
Smith (NJ)	Sundquist	Wolf
Smith (TX)	Tauke	Wolpe
Smith (VT)	Thomas (CA)	Wylie
Smith, Denny (OR)	Thomas (WY)	Young (AK)
Smith, Robert (NH)	Upton	Young (FL)

NOT VOTING—19

Ackerman	Courter	Jacobs
Alexander	Craig	Nelson
Brown (CA)	Crockett	Robinson
Bustamante	Davis	Schuette
Carr	Flippo	Schulze
Clinger	Goodling	
Coleman (TX)	Hammerschmidt	

□ 1243

The Clerk announced the following pairs:

On this vote:

Mr. Nelson of Florida for, with Mr. Schulze against.

Mr. Bustamante for, with Mr. Craig against.

Mr. GILMAN and Mr. HUTTO changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

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

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

Mrs. MARTIN of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 237, nays 172, not voting 23, as follows:

[Roll No. 114]

YEAS—237

Ackerman	Clay	Feighan
Anderson	Clement	Foglietta
Andrews	Collins	Ford (MI)
Annunzio	Condit	Ford (TN)
Anthony	Conte	Frank
Applegate	Conyers	Frost
Aspin	Costello	Gaydos
Atkins	Coyne	Gejdenson
Barnard	Darden	Gephardt
Bates	de la Garza	Gibbons
Beilenson	DeFazio	Gilman
Bennett	Dellums	Glickman
Berman	Derrick	Gonzalez
Bevill	Dicks	Goodling
Bilbray	Dingell	Gordon
Bilirakis	Dixon	Gray
Boggs	Donnelly	Guarini
Bonior	Dorgan (ND)	Hall (OH)
Borski	Downey	Hamilton
Bosco	Durbin	Hansen
Boucher	Dwyer	Harris
Boxer	Dymally	Hatcher
Brennan	Dyson	Hawkins
Brooks	Early	Hayes (IL)
Browder	Eckart	Hayes (LA)
Bruce	Edwards (CA)	Hertel
Bryant	Engel	Hoagland
Byron	Erdreich	Hochbrueckner
Campbell (CO)	Espy	Horton
Cardin	Evans	Hoyer
Carper	Fascell	Hubbard
Chapman	Fazio	Huckaby

Hughes	Montgomery	Schumer
Jacobs	Moody	Serrano
Jenkins	Morella	Sharp
Johnson (SD)	Morrison (CT)	Sikorski
Johnston	Mrazek	Skaggs
Jones (GA)	Murphy	Skelton
Jones (NC)	Nagle	Slattery
Jontz	Natcher	Smith (FL)
Kanjorski	Neal (MA)	Smith (IA)
Kaptur	Nowak	Smith (NJ)
Kastenmeier	Oakar	Solarz
Kennedy	Oberstar	Spence
Kennelly	Obey	Spratt
Kildee	Olin	Staggers
Kleczka	Ortiz	Stallings
Kolter	Owens (NY)	Stark
Kostmayer	Owens (UT)	Stenholm
LaFalce	Pallone	Stokes
Lantos	Panetta	Studds
Laughlin	Patterson	Swift
Lehman (CA)	Payne (NJ)	Synar
Lehman (FL)	Pease	Tallon
Levin (MI)	Pelosi	Thomas (GA)
Levine (CA)	Penny	Torres
Lewis (GA)	Perkins	Torricelli
Lipinski	Pickett	Towns
Lloyd	Pickle	Traficant
Long	Poshard	Traxler
Lowey (NY)	Rahall	Unsoeld
Luken, Thomas	Rangel	Vento
Manton	Ravenel	Visclosky
Markey	Ray	Volkmer
Martinez	Richardson	Walgren
Matsui	Rinaldo	Walsh
Mavroules	Roe	Washington
Mazzoli	Rose	Watkins
McCloskey	Rostenkowski	Waxman
McCurdy	Rowland (CT)	Weiss
McDermott	Rowland (GA)	Wheat
McHugh	Roybal	Whitten
McMillen (MD)	Russo	Williams
McNulty	Sabo	Wilson
Mfume	Sangmeister	Wise
Miller (CA)	Sarpalius	Wyden
Mineta	Savage	Yates
Moakley	Sawyer	Yatron
Mollohan	Schroeder	Young (AK)

NAYS—172

Archer	Geren	McCrery
Armey	Gillmor	McDade
Baker	Gingrich	McEwen
Ballenger	Goss	McGrath
Bartlett	Gradison	McMillan (NC)
Barton	Grandy	Meyers
Bateman	Grant	Michel
Bentley	Green	Miller (OH)
Bereuter	Gunderson	Miller (WA)
Bliley	Hall (TX)	Molinari
Boehlert	Hancock	Moorhead
Broomfield	Hastert	Morrison (WA)
Brown (CO)	Hefley	Myers
Buechner	Hefner	Neal (NC)
Bunning	Henry	Nielson
Burton	Herger	Oxley
Callahan	Hiler	Packard
Campbell (CA)	Holloway	Parker
Chandler	Hopkins	Parris
Clarke	Houghton	Pashayan
Coble	Hunter	Paxon
Coleman (MO)	Hutto	Payne (VA)
Combest	Hyde	Petri
Cooper	Inhofe	Porter
Coughlin	Ireland	Price
Cox	James	Pursell
Crane	Kasich	Quillen
Dannemeyer	Kolbe	Regula
Davis	Kyl	Rhodes
DeLay	Lagomarsino	Ridge
DeWine	Lancaster	Ritter
Dickinson	Leach (IA)	Roberts
Dornan (CA)	Lent	Rogers
Douglas	Lewis (CA)	Rohrabacher
Dreier	Lewis (FL)	Ros-Lehtinen
Duncan	Lightfoot	Roth
Edwards (OK)	Livingston	Roukema
Emerson	Lowery (CA)	Saiki
English	Lukens, Donald	Saxton
Fawell	Machtley	Schaefer
Fields	Madigan	Schiff
Fish	Marlenee	Schneider
Frenzel	Martin (IL)	Sensenbrenner
Gallegly	Martin (NY)	Shaw
Gallo	McCandless	Shays
Gekas	McCollum	Shumway
Shuster	Snowe	Valentine
Sisisky	Solomon	Vander Jagt
Skeen	Stangeland	Vucanovich
Slaughter (VA)	Stearns	Walker
Smith (NE)	Stump	Weber
Smith (TX)	Sundquist	Weldon
Smith (VT)	Tanner	Whittaker
Smith, Denny (OR)	Tauke	Wolf
	Tauzin	Wolpe
Smith, Robert (NH)	Taylor	Wylie
	Thomas (CA)	Young (FL)
Smith, Robert (OR)	Thomas (WY)	
	Upton	

NOT VOTING—23

Alexander	Craig	Nelson
AuCoin	Crockett	Robinson
Brown (CA)	Flake	Scheuer
Bustamante	Flippo	Schuette
Carr	Hammerschmidt	Schulze
Clinger	Johnson (CT)	Slaughter (NY)
Coleman (TX)	Leath (TX)	Udall
Courter	Murtha	

□ 1301

The Clerk announced the following pairs:

On this vote:

Mr. Nelson of Florida for, with Mr. Schulze against.

Mr. Bustamante for, with Mr. Craig against.

Mr. AuCoin for, with Mrs. Johnson of Connecticut against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. SLAUGHTER of New York. Mr. Speaker, I was unable to be present for rollcall 114 earlier today. Had I been present, I would have voted yes.

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 394 and rule XXIII, the Chair declares the House in the Committee of the Whole for the consideration of the bill, H.R. 2273.

□ 1303

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2273) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New York [Mr. OWENS] will be recognized for 15 minutes, the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 15 minutes, the gentleman from Michigan [Mr. DINGELL] will be recognized for 15 minutes, the gentleman from New York [Mr. LENT] will be recognized for 15 minutes, the gentleman from California [Mr. ANDERSON] will be recognized for 15 minutes, the gentleman from Pennsylvania [Mr. SHUSTER] will be recognized for 15 minutes, the gentleman from Texas [Mr. BROOKS] will be recognized for 15 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 15 minutes.

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

Mr. OWENS of New York. Mr. Chairman, I yield 5 minutes to the lead sponsor of the bill, the gentleman from Maryland [Mr. HOYER], Chairman of the Democratic Caucus and the gentleman who has worked so hard and put forth such a Herculean effort to bring this bill to the floor.

PARLIAMENTARY INQUIRY

Mr. DELAY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DELAY. Mr. Chairman, would the Chair inform the Members as to how this is going to operate? Is the Chair going to call on one committee's representatives in order, or is everyone vying for time at once?

The CHAIRMAN. The Chair would prefer that each committee would use its time.

Mr. DELAY. So the Chair would call on the Education and Labor Committee first, the Energy and Commerce Committee second, and then the other committees in order as they appear in the rule?

The CHAIRMAN. The gentleman is correct.

Mr. DELAY. I thank the Chair.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, first of all, I thank the gentleman from New York [Mr. OWENS] for yielding me the time and for his kind words.

This bill is truly the product of thousands and thousands and thousands of people. It is a bipartisan bill. It is a bill whose time is too late but whose time has certainly come.

Mr. Chairman, 25 years ago this week, President Lyndon Johnson told a group of school administrators in the Rose Garden of the White House that "we work night and day to help men conquer old hatreds and old prejudices with new hope. We work night and day to help men remove old fears with new faith, and to bring old conflicts to an end—in new cooperation."

Those words came at the beginning of a great era in America, shortly after the adoption of the Civil Rights Act of 1964, when we began to recognize that although the Declaration of Independence said that "all men are created equal," there was a long way to go before our society truly recognized all as equal.

Much has been done, and many people have been working night and day, since then. Racial minorities, women, young and old, and many others have received specific rights

and protections in the Federal Code and in society as a whole.

We have recognized the need to ensure that minorities in America have a right to recognition and support.

But in those 25 years since President Johnson said those stirring words, we have not remembered all minorities.

Imagine living in a world where every curb is a barrier; where nearly every telephone is useless and where most stores and businesses are unavailable to you. Where you and your family's tax dollars go to fund buses you cannot use, trains you cannot ride on, Government programs you cannot get to and jobs you cannot have.

A world where you want to be included just like all your friends and relatives. Where you are frustrated at receiving a check from the Government every month, a check that effectively serves as compensation for all this discrimination. And where you want desperately to challenge your mind and your body in the day-to-day world of work and in the world at large that everyone else takes for granted.

That is the world of most Americans with disabilities.

A world they want to participate in, but one in which the barriers—some physical, others barriers of the mind—prevent them from joining.

But the costs of discrimination are tallied from both sides. By discrimination against the disabled, we lose the productive talents and imaginations of millions of able-disabled Americans. Our Nation spends almost $170 billion a year on maintaining the dependency of the disabled; more than $75 billion of that comes directly from the Federal Government. Yet these people want to work.

Although two-thirds of all disabled Americans between the age of 16 and 64 are unemployed, 66 percent of those who aren't working say they want to work. Furthermore, 82 percent of people with disabilities say they would relinquish their Government benefits in favor of a full-time job.

In the last year, walls have come down—physical walls and imaginary walls—in Eastern Europe and throughout the world. Time and time again, we have heard the people as they look to America for advice and guidance, as the shining example of democracy and freedom that we are.

Now, governments around the world are looking to us again. Many in the last year have come to Washington to find out about this landmark, nearly unprecedented legislation we are considering. Many have asked, why are we doing this for the disabled?

My answer is twofold. As Americans, our inherent belief is that there is a place for everyone in our society, and that place is as a full participant, not a bystander.

The second answer is less lofty. It is steeped in the reality of the world as we know it today.

If, as we all suspect, the next great world competition will be in the marketplace rather than the battlefield, we need the help of every American. By the year 2000, it is estimated that our Nation will have a net shortage of labor. In some areas of the country, this is already a fact.

We cannot afford to ignore millions of Americans who want to contribute.

And despite the impression of some, this legislation ensures that the backbone of the American system, business, is protected, too.

When the Americans With Disabilities Act came over from the other body last fall, we heard from many corners of the business community about concerns they had over this bill. We have worked closely with them, and adopted numerous amendments, to ensure that American business can work with the ADA.

We have ensured that business knows what is expected of it, and how it can be accomplished.

This bill does not guarantee a job—or anything else. It guarantees a level playing field: the qualified individuals won't be discriminated against because of their disability.

Whenever possible, we have used terms of art from the 1964 Civil Rights Act and from the Rehabilitation Act of 1973 phrases already interpreted in courts throughout this land so that business can know exactly what we mean.

In one case, we had to develop a new definition. This was done to ensure that business has leeway that is reasonable.

Let me quote from this bill's definition of "readily achievable": "easily accomplishable without much difficulty or expense."

This language is clearly intended to ensure that what is expected of business is reasonable and proper, and that businesses are not threatened by this legislation.

But they are expected to do what is reasonable and possible. Because American history and justice, from the Declaration of Independence through today, has been founded on the principle that all Americans are created equal, regardless of their race, sex, age, ethnicity or any other factor. The principle assumes that society will do what is necessary and possible to ensure that equality of opportunity.

No greater example of what we have in mind is our own former colleague, Tony Coelho, who is the original father of this bill in this House and who is here with us today. As we all know, Tony's original career plans were stalled because of discrimination against persons with epilepsy. In the end, this was a blessing to the Nation and this House, for he might not have ended up here. But no one in this Nation has proven more than Tony Coelho that someone with a disability can be one of the most able people our Nation has ever seen.

Mr. Chairman, we are sent here by our constituents to change the world for the better. And today we have the opportunity to do that.

When we first think of seeking high office, we think not of power and persuasion, but of our ability to do good and make it a better place for our fellow citizens.

But when we get here, we learn how infrequent are our chances to effect real change.

Change is incremental, and slow-moving, and it is often frustrating. There are so many problems, so much injustice, and so few tools to fight them with.

Today is what our hopes, our dreams, and our imagination are all about. For today, each of us with our vote can make life better for our fellow Americans. To the millions who have literally been locked out of the mainstream of society, we can open the door, clear the passageway, and bring them in. We can, as Lyndon Johnson said, work night and day to help men and women remove old fears with new faith.

By this vote, we can say yes, every American has the inalienable right to life, liberty, and the pursuit of justice. Because we will be granting simple justice to 43 million of our fellow citizens: we will be ensuring that Americans among us with disabilities, and their children, will live in a world with more opportunity. And a world that goes out of its way, makes the necessary effort, to ensure that they are included.

To be a part of this day is a special privilege. Today, we make history.

We have talked a great deal about the 43 million people who will be affected by this bill. But now, let me talk about just one.

Alicia Epstein is 10 years old, and she is deaf.

Last fall, she wrote to me, urging me to be certain that this bill passed the House and became law.

"I really want to have a good future," Alicia wrote, "as well as equal rights for all handicapped people. When I was 2 years younger than I am now, I began to worry about my future. I want to have a good future."

Today, we can assure that Alicia and all of her friends get that good future. I urge you to vote for this bill.

□ 1310

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

Mr. GOODLING. Mr. Chairman, we are here today to consider, and to pass, an historic piece of legislation—

legislation that will mark an appropriate, major expansion of our Nation's civil rights laws to include coverage of the disabled.

In some ways it seems that this legislation, as it slowly progressed its way through four committees in the House, was a long time in coming; yet, in reality, it is now nearing final passage in remarkable time. This legislation is an initiative with a broad sweep and one which imposes many novel requirements on those entities of the private sector which have not been Federal contractors or have not received Federal financial assistance. It certainly has not been without controversy; but, nevertheless, we are here today, less than 13 months since the bill's introduction, to take the final steps in enacting it into law.

Mr. Chairman, I think I can sincerely say that the expedited consideration of this legislation is in large part due to the bipartisanship which has characterized the debate. There has never been a question as to whether there would be a bill, or even what its basic framework would be. Yes, there have been disagreements, but these, to a great degree, have been worked out between majority and minority, with the cooperation of the disability and business communities. I think I can say that the bill, while not without problems, is considerably improved over that which was passed by the Senate.

Of course, it was the Senate-passed bill—a product of negotiations and agreements between the administration, the disability community and the business communities—which formed the basis for further consideration in the House. Indeed, the Education and Labor Committee took up the Senate bill, with some modifications, as a substitute to the House bill. Mr. Chairman, I want to emphasize that the primary agreement which led to passage of the Senate bill was an agreement to delete punitive and compensatory damages from the legislation as it was originally introduced, and that this was the basis upon which the bill was considered and passed in the Education and Labor Committee. Had those damages been included, I suspect the vote count may have been much different. But I know we will have considerable discussion of this issue later in the context of the amendment to be offered by Mr. SENSENBRENNER.

Mr. Chairman, I would hope that the same bipartisanship which has characterized the past debate on the Americans with Disabilities Act would also characterize our discussions and deliberations today. While the legislation is improved, problems remain which deserve a thorough debate on the House floor.

While I will not review here all of the amendments which will be offered, I believe all of them—given the magnitude of this legislation—deserve considerable consideration by all Members. Anything less would be contrary to the whole spirit of cooperation which has led us to this day.

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

Mr. OWENS of New York. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I rise in strong support of this legislation. Today is a very special day for 43 million Americans with disabilities; 26 years after the passage of the Civil Rights Act of 1964 established civil rights for minority groups and women, many of our citizens with disabilities stand on the threshold of independence. The Americans with Disabilities Act of 1990 is an opportunity bill which will provide parallel protections for people with disabilities as have long existed for other minority groups and women.

None of the fundamental concepts in this legislation are new. Rather, they are derived largely from section 504 of the Rehabilitation Act of 1973 and its implementing regulations, and the Civil Rights Act of 1964. As such, there is a history of experience in implementing the concepts in this bill which will greatly facilitate the task of informing those with rights and responsibilities under this legislation as to what its provisions mean.

This bill has received exhaustive consideration and scrutiny in four House committees, and has received overwhelming bipartisan support. The reason for that is very simple—it is a sound bill which fully merits the overwhelming support of the members of this body.

For people with disabilities, this bill offers opportunity to enter the mainstream of society, to compete for jobs on the basis of their ability rather than be arbitrarily kept out of the workforce by their disability, to avail themselves of the kinds of pleasures which most of us take for granted, to communicate with a friend via a telephone if they are hearing impaired, to be free from the demeaning treatment which makes it so difficult for so many of our fellow citizens to live their lives with basic dignity.

For the taxpayers of this country, this bill represents a net savings in that qualified people with disabilities who want to work, but cannot find jobs irrespective of their actual abilities, will not be able to enter the work force and become taxpayers.

And for the business community, learning how to employ and retain people with disabilities, as many businesses have already done with outstanding results, effectively opens up a source of qualified employees who have long been underemployed.

The degree of poverty and unemployment experienced by people with disabilities is staggering. According to a recent Louis Harris poll, "not working" is perhaps the truest definition of what it means to be disabled in America. Two-thirds of all disabled Americans between the age of 16 of 64 are not working at all; yet, a large majority of those not working say they want to work. In 1984, 50 percent of all adults with disabilities had household incomes of $15,000 or less. Among nondisabled persons, only 25 percent had household incomes in this wage bracket. The Harris poll also found that large majorities of top managers (72 percent), equal opportunity officers (76 percent), and department heads or line managers (80 percent) believe that individuals with disabilities often encounter job discrimination from employers and that discrimination by employers remains an inexcusable barrier to increased employment of disabled people.

Our Nation's most precious resource is our people. To the extent that the changes in practice and attitudes brought about by implementation of the act ultimately assists people with disabilities in becoming more productive and independent members of society, both they and our entire society will benefit. Discrimination negates the billions of dollars we invest each year to educate our children and youth with disabilities and train and rehabilitate adults with disabilities. This bill is the best antidote that I know of to age-old societal attitudes which cause some to see disabled people, especially those with severe or visible disabilities, as natural dependents. The Americans with Disabilities Act will serve to reduce the external barriers that rob people with disabilities of the opportunity to pursue their dreams and rob our society of the contributions to our economy and to our public life which people with disabilities know they can make and want to make.

The Greeks defined happiness as the full use of one's powers along the lines of excellence. For over 200 years, we in America have taken the ringing words of the declaration of independence as defining the inalienable rights of man; life, liberty, and the pursuit of happiness. Thousands of people with disabilities and able-bodied advocates for people with disabilities all across the land, many of whom are present in this chamber today, remind us that even as they see no more, they demand no less. Today, we, in the House, have an opportunity to uphold our Nation's highest ideals and finest traditions of protecting the freedom of all individuals from arbitrary or unjust treatment, and of extending the opportunity to participate fully in American society to the previously dispossessed. In these special times, we in the United States are witnessing a remarkable and unprecedented outpouring of sentiment for, and commitment

to, freedom and democracy all over the world. A "yes" vote on the Americans With Disabilities Act of 1990 constitutes both an affirmation of our Nation's once and future commitment to full inclusion in the mainstream of our society for all of our citizens, and a testament to the vitality, vigor and capacity for renewal of our democracy.

Four House committees have done excellent work perfecting this legislation. And yet today, and next week, we will be presented with a number of weakening amendments which threaten to undo much of the good work that has been done. I urge my colleagues to firmly reject weakening amendments and pass this bill with an overwhelming "yes" vote. This legislation richly deserves your support.

□ 1320

Mr. GOODLING. Mr. Speaker, I yield 6 minutes to the gentleman from Texas [Mr. BARTLETT], who had a great deal to do with getting this bill in the order it is in. He and the staff are to be commended for their efforts.

Mr. BARTLETT. Mr. Chairman, I would inquire, is the gentleman from Maryland prepared for a colloquy at this time on "direct threat"?

Mr. HOYER. Mr. Chairman, if the gentleman will yield, yes.

Mr. BARTLETT. Mr. Chairman, I would like to ask the gentleman from Maryland [Mr. HOYER] for some clarification concerning the meaning of the term qualification standards as it appears in section 103(b) of the bill. That standard, as modified by the Judiciary Committee, permits a requirement that an individual with a disability not pose a direct threat to the health or safety of other individuals in the workplace if reasonable accommodation will not eliminate the direct threat. Direct threat is defined in section 101 of the bill to mean significant risk. As I understand it, this qualification standard is intended to spell out clearly the right of an employer to take action to protect the right of its employees and other individuals in the workplace, including not assigning an individual to a job if such assignment would pose a direct threat to those individuals. Is my understanding correct?

Mr. HOYER. Mr. Chairman, if the gentleman will yield, the gentleman's understanding is correct, assuming the employer cannot eliminate the direct threat by making reasonable accommodation.

Mr. BARTLETT. If I may further inquire of the gentleman, it is also my understanding that in determining what constitutes a significant risk, the employer may take into consideration factors such as the magnitude, severity, or likelihood of the risk to other individuals in the workplace, again assuming that such factors could not be eliminated by reasonable accommodation. I yield to the gentleman.

Mr. HOYER. The gentleman's understanding is correct. Of course, the burden will be on the employer to show the relevance of such factors in relying on the qualification standard.

Mr. BARTLETT. I thank the gentleman.

Mr. Chairman, I rise in support of H.R. 2273, the Americans with Disabilities Act of 1990 [ADA]. This is an historic occasion. When the ADA is enacted, full civil rights will be extended and available to those with disabilities in every community in this country, in employment, public services and transportation, public accommodations, and telecommunications. The ADA provides many of the same rights to individuals with disabilities that have been available to others because of their race, national origin, sex, and age through earlier civil rights laws.

The ADA is based on sections 503 and 504 of the Rehabilitation Act of 1973, which require that Federal grantees or contractors not discriminate against an individual because of his or her disability. This prohibition applies in services, opportunities, and employment. Thus, there are many people out there—in State and local government, educational institutions, big and small businesses with government contracts—that have experience with designing programs and opportunities so that individuals with disabilities can participate.

I acknowledge that there are just as many, perhaps more, people that have little or no experience with providing accommodation and access to individuals with disabilities. We must make a commitment, starting today with this debate, to help everyone develop an understanding about how the ADA would apply. We must share resources, experience, and expertise about how to respond effectively and appropriately to the challenges the ADA will bring. As a starting point, we should support floor amendments that will reduce litigation, provide incentives for involvement with those with disabilities, and ensure that Congress, like everyone else in the private sector, will respond to the civil rights of Americans with disabilities.

The reason is simple. The world is changing rapidly. Because of medical technology, individuals, who 10 years ago would not have survived severe traffic accidents, are now living and functioning in their communities. Because of rehabilitation technology, and most recently the Technology-Related Assistance for Individuals with Disabilities Act, severe limits in basic functions are being overcome at home and in the workplace. Finally, because of the labor shortage, employers will be looking to unused and under used populations, like those with disabilities. The ADA will help us to directly address our changing world and prepare for the future.

By the year 2,000, we will need specific percentage increases in key occupations: a 24 percent increase in specialty professional occupations like engineers, natural scientists, medical doctors, teachers, and lawyers; a 12 percent increase in managerial and administrative personnel; and a 23 percent increase in service populations. Where will these needed workers come from? From those unused and under used resources—like the 66 percent of the individuals with disabilities, between 16 and 64, who are unemployed and want to work. With the aging of our population, the slow growth rate of our population, and with the projected shortages in the work force, hiring those with disabilities will make economic, as well as moral sense.

In the time allotted to me today I would like to comment on two things. First, how the ADA would work in practical situations. Second, improvements we have made in the employment and public accommodations provisions in the ADA.

The key concepts in the ADA are reasonable accommodation, undue hardship, and readily achievable. It is easiest to explain these terms through some practical, real-life questions and answers raised by some in the business community.

What does the term "undue hardship" mean? Would hiring a reader at $6 per hour to accommodate a $5 per hour blind clerk be considered an undue hardship?

The hypothetical posed would clearly be an undue hardship, assuming the question is a continuous reading requirement. On the other hand, hiring a $6 per hour reader for 1 hour per year would not be an undue hardship.

The factors to be considered in determing whether an action would be an undue hardship—defined as an action requiring significant difficulty or expense—are both the financial resources of the site and the resources of the parent company. Both factors would be involved in a reasonable test. Within this context, the overall size of the business; the number, type, and location of its facilities; and the type of operation, including the composition, functions, and structure of the work force, would also be considered. Since 1973, the essential judgment in determining an undue hardship has been determining what is reasonable. The ADA would not change that.

What is meant by readily achievable? Is the cost of an accommodation measured in relation to the financial resources of the commercial enterprise—parent company—or of the particular establishment—store or facility?

In terms of the question posed, both the resources of the parent company

and the specific facility would be considered.

Readily achievable means easily accomplishable and able to be carried out with little difficulty or expense. It is a lesser standard than undue hardship.

In determining whether an action is readily achievable, factors to be considered include: the overall size of the business with respect to the number of its employees; the number, type, and location of its facilities; the overall financial resources of the business and the financial resources of that facility; the type of operations maintained by the company, including functions of the work force, geographic separateness and administrative relationship to each other.

If the employee lounge or rest room is on a lower or upper floor, must an employer provide an equal facility on the main floor for a mobility-impaired employee?

Only if the cost is not significant and thus is not an undue hardship. Options like reallocating the use of space and moving furniture or redesignating who could use a rest room—male, female—on the floor on which the disabled employee worked, likely would not be an undue hardship. Constructing an entirely new rest room likely would be an undue hardship.

Must all the aisles in a store be widened to accommodate wheelchairs?

No. The ADA does not require that aisles be widened. It does require access to shopping services, if making such services accessible is readily achievable; that is, easily accomplishable and able to be carried out without much difficulty or expense. Thus, widening aisles is one way of providing access, but there are others: reorganizing the placement of frenquently purchased items at the front or front end of aisles; making customer assistants willing to retrieve items for those with disabilities; taking phone orders for mailing or pick up at curb side, and providing catalogs and flyers.

Now I will move on to my second point, improvements. The ADA was referred to four House Committees: Education and Labor, Energy and Commerce, Public Works and Transportation, and Judiciary. All four committees made improvements in H.R. 2273 (4807), building on the version adopted by the other body, (S. 933).

Our committee made significant improvements in the bill, especially in clarifying the obligations of those who must respond to the accommodation and access needs of the disabled. For example in the areas of employment and public accommodations the following improvements were made:

Undue hardship and readily achievable: Site specific factors and parent company factors must be considered when determining if a reasonable accommodation for a disabled employee is an undue hardship—significant difficulty or expense—or a barrier removal for a disabled customer is readily achievable—easily accomplishable without much difficulty or expense.

Anticipatory discrimination: Such discrimination claims are limited to new construction.

Drugs: Current users of illegal drugs are not protected by the ADA or the Rehabilitation Act of 1973.

Contract liability: Employers and public accommodations are only liable for discriminatory actions against their own employees or customers, not such actions taken by one of their contractors against other individuals.

Damages: In pattern and practice cases brought by the Attorney General, when the Attorney General asks for monetary damages, such damages cannot include punitive damages.

Finally, I would like to review some possible floor amendments, offer a context in which they should be considered, and indicate why they should be supported.

Use of the courts. First, I urge your positive consideration of amendments that would decrease litigation. The intended effects of the ADA will be ensured if the courts are used primarily to remedy discrimination through injunctive relief. Injunctive relief, in disability discrimination cases, has precedent and is fair, practical, and educational. Moreover, such relief should result in proactive efforts on the part of the private sector to respond to the accommodation and access needs of those with disabilities.

If on the other hand, the ADA remains unamended in several areas, the courts will become the place where important terms become clarified, where protected classes are established, and where lawyers, but not people with disabilities, receive strong incentives for being there. Under such a scenario negative outcomes are likely. It will take many years to establish consistent meanings for terms and limits on protected classes. This will place the civil rights of some with disabilities and some good faith efforts by the private sector in suspension. And, if the potential costs of litigation include jury trials and danages, the private sector will devote time insulating itself from those with disabilities.

Therefore, I urge you to consider supporting amendments that would: clarify remedies available for employment; and clarify employer discretion related to: positions involving food handling and essential functions of job.

Finally Mr. Chairman, I wish to return to one of my first points. The ADA is complicated legislation with far-reaching implications. For it to work well we must work together to achieve effective implementation.

There are many resources available to the business community that could help in responding to the access and accommodation needs of the disabled; for example: State vocational rehabilitation agencies, that since 1920, have been assisting individuals with disabilities enter and reenter the workforce; Centers for Independent Living, that help such individuals prepare for employment, find housing and transportation; the President's Committee on Employment of Individuals with Disabilities and its Job Accommodation Network, that helps employers with specific accommodation inquiries, as well as seminars and training programs; the Washington Business Group on Health, that provides expertise on how to return disabled employees to work quickly and safely, and on the cost benefits involved; Projects with Industry, that promote employment of those with disabilities in the work force; the National Council on Disability, who had the vision and courage to propose an ADA in 1987.

The 140-plus organizations that have endorsed the ADA are additional resources. The best resource, however, are individuals with disabilities—they know what they need and what they don't need to level the playing field—simply ask them.

Since joining Congress in 1983, I have had a sustained interest in legislation that increased opportunities for and independence of individuals with disabilities. The ADA will positively affect the environemnt encountered by the disabled, and make a direct difference in what they can do for themselves and for others. I would hope too, that the ADA will have a positive effect on what we think about and do to promote accessibility. The ADA should reach every community and reshape attitudes toward disability, so that differences among us become more a question of interest than bias.

Finally, I would like to thank my friend from Maryland, Mr. Hoyer, for working in a fair and bipartisan manner to address concerns and changes related to the ADA; and I would like to recognize the efforts of the Republican Leadership for urging and coordinating education on the ADA.

Mr. OWENS of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

□ 1330

Mr. MURPHY. Mr. Chairman, I commend the gentleman from New York [Mr. OWENS] for the tremendous work he has done during the past months in drafting this legislation, as well as the gentleman from Maryland [Mr. HOYER], who has worked tirelessly for this measure.

As was previously pointed out, many Members have struggled for many, many years, before those of us who

are here today arrived in Congress, to seek equality for every American and to provide every American and in fact every person with a total right to our society and to our democratic way of life. This bill takes a giant step in that direction.

Mr. Chairman, I commend the four committees who have worked on this. We worked on amendments. We tried to make the bill accommodating to small business people. We reached out to the business community, to the individual communities, and tried to make this bill palatable to all.

I know that when the final committee finished last week, we had a bill that we felt could be acceptable to all and still accomplish the goals of serving those Americans who suffer physical disabilities.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. MURPHY. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I want to congratulate the gentleman from Pennsylvania [Mr. MURPHY]. He worked very diligently and conscientiously on trying to make sure that in small towns in particular we had site-specific language so we did not put an onerous burden on stores that may be subsidiaries of large parents who have deep pockets, but who themselves are marginal stores but serve a very, very important constituency, both the disabled, and, of course, the able.

I want to congratulate and thank the gentleman from Pennsylvania [Mr. MURPHY] for his very sincere and effective efforts in work on behalf of this bill.

Mr. MURPHY. Mr. Chairman, I thank the gentleman from Maryland [Mr. HOYER], and yield back the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Chairman, today we will vote on the Americans With Disabilities Act, one of the noblest initiatives of this Congress. I urge everyone here to support the act.

As I stand here today, I can't help noting the struggles this great country has endured to secure freedom for our citizens. From the patriots at Boston Harbor to the freedom marchers in Selma, we've fought for equality and justice for all our citizens.

While our struggle for freedom is unmatched, it's also incomplete. As Vaclav Havel said a few months ago, we can simply approach a true democracy. The ADA will bring us a lot closer.

This bill is a declaration of independence for 43 million disabled Americans. After years of being in the shadows, they're on the threshold of a new and exciting era. An era where their civil rights are guaranteed by the laws of this great land.

Just a few weeks ago, disabled advocates rallied in front of the Capitol, calling for justice and expressing their dreams for the future. Their message was clear and concise—the rights of the disabled cannot, must not be ignored.

The ADA responds to the pleas of the disabled. It guarantees every American with a disability, freedom from job discrimination, use of public transport and public accommodations, and opportunities to use modern telecommunications.

The guarantee won't be cheap or easy; but the gains will be worth the cost.

The ADA has many practical benefits, for both the disabled and the entire Nation.

For example, without entryway access ramps, people in wheelchairs can't compete for jobs—and employers can't hire good workers. Hearing or speech impaired persons can use telecommunications relay service to call ambulances, save victims, and avert medical emergencies.

ADA is also worth the investment in a moral sense. It acknowledges, for the first time, that discrimination—on the basis of disability—is as shameful as all the other types of discrimination now illegal under the Constitution and existing civil rights laws.

Millions of disabled Americans are currently shut out of jobs they can easily perform.

And the lives of many others are limited to inaccessible public transportation or facilities. All are prevented from contributing to our country's future. Consequently all of us lose in the process.

By saying that if a disability doesn't stop someone, neither should discrimination, the ADA changes everything.

Under the act, employers must provide reasonable accommodation to disabled employees if it is not an undue hardship.

Plus it requires many public and private facilities to make readily achievable changes in order to be more accessible to disabled persons. The bill will serve as a guide for everyone—people with disabilities, private employers, and the Federal Government—as we all work to overcome years of ignorance and prejudice.

The Americans With Disabilities Act if fair and just. It has been amply reviewed both here and in the Senate.

The investment it represents will yield tremendous outcomes by allowing millions of American citizens to work, compete, and contribute to our country in ways they never have before. We all win with ADA.

I urge my colleagues to support H.R. 2273 and oppose any weakening amendments.

Mr. OWENS of New York. Mr. Chairman, I yield 30 seconds to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, in the Judiciary Committee an amendment I offered was adopted which encourages the use of alternatives means of dispute resolution where appropriate and to the extent already authorized by law to resolve disputes arising under the Americans with Disabilities Act. This would not create anything new, but would encourage consensual resolution of the kinds of problems that come up under this act.

I want to make it very clear that the use of alternative dispute resolution procedures, such as settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is completely voluntary. Just to clear up any confusion there might be, under no condition would an arbitration clause in a collective bargaining agreement or employment contract prevent an individual from pursuing their rights under the ADA.

This provision should serve as a reminder that rights and litigation are not one in the same. There are better ways to achieve the goals of the ADA than litigation and we should encourage cooperation in achieving those goals, not confrontation.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, let me begin by giving a special salute to the gentleman from Maryland [Mr. HOYER] and our good friend and colleague, the gentleman from Texas [Mr. BARTLETT], and in particular to my Republican colleague, the gentleman from Texas [Mr. BARTLETT], let it be known in the 8 years he has been here, I really believe this is his finest hour. He has done yeoman's work on this to make sure we could have a bipartisan bill in front of us.

The 43 million disabled people in this country that can do everything we can do under this law will now be allowed to do just that. This legislation, historic civil rights legislation, will guarantee that we will no longer allow an American society at a time when every mind is the most precious resource we have to discriminate against anybody simply based on their disability. Whether it be in employment, whether it be in telecommunications, public accommodations, or public transportation, today we say that in America all people must be created equal.

In particular, I want to call attention to title IV. Because of my work with the hearing impaired and deaf community I am especially pleased that in title IV of this legislation we will within 1 year guarantee that all Americans who have any hearing or speech disability will be able to com-

municate with any other American. They will be able to order a pizza, they will be able to schedule an appointment, just like you and I do, through a national relay program.

In addition, they will have the same access that we have through the 911 system. Today, unfortunately, because of discrimination, the disabled person earns 36 percent less than a person of similar skills without that disability. For American society, the cost of excluding the disabled is $300 billion a year. Today we change all that.

Mr. Chairman, the Americans With Disabilities Act gives new hope to millions of disabled Americans for increased opportunities in all walks of life. Among other things, title IV of the ADA will finally offer deaf and hard of hearing people equal access to the telephone network—access which they have been denied for so long.

Few of us can picture a single day without using the telephone. We take it for granted; yet we could not imagine life without it. The telephone has become an integral part of our work conducting our personal affairs and enjoying all aspects of our social lives. But there are millions of deaf, hard of hearing, and speech impaired Americans who have not been able to join us in having equal access to our telephone system. In most of the country, these Americans are unable to call their doctor's office to set up an appointment. They cannot make a call to reserve a table at a restaurant. They are without the means to call a potential employer to set up a job interview.

By requiring nationwide relay services, title IV of the ADA will finally offer to deaf Americans the ease of calling a doctor's office, a pizza parlor, or a service store to which the rest of us are so accustomed. Relay services will enable any deaf person who uses a TDD to call any voice telephone user through a relay operator.

Title IV affords great flexibility to both common carriers and the States which set up relay systems. Carriers may provide these services individually, jointly, through designees, or through a competitive bidder. It is the intent of Congress that the common carrier remains ultimately responsible to ensure compliance with the requirements of this section after the specific relay provider has been selected. States that already have relay systems in place may continue to operate their own systems, so long as they receive certification from the FCC to do so.

Title IV requires the Federal Communications Commission to issue regulations implementing the relay section of the ADA within one year of the act's passage. The FCC's regulations must set forth standards to ensure that relay services provide telephone services for TDD users which are functionally equivalent to voice telephone services. The FCC should consult and obtain advice from individuals who will be relying on relay systems. Toward this end, it is our intent that the FCC should establish an advisory committee to include deaf, hard of hearing and speech impaired individuals, which would provide formal input to the Commission in the development of the regulations and the ongoing operations of the relay systems.

It is also our intent that deaf, hard hearing and speech impaired individuals have access to 911 emergency centers. While this may be done through relay systems, title II of the ADA also requires direct access to 911 services. Without such access, individuals with hearing and speech impairments remain at risk in the event of fire, medical, and other kinds of emergencies. Only with complete access to all voice telephone numbers, including those accessing 911 centers, can disabled Americans receive functionally equivalent telephone service.

By guaranteeing telephone access, title IV will vastly expand the opportunities available to deaf individuals in employment, education, and recreation. Title IV also will require all public service announcements [PSA's] which are funded or produced by the Federal Government to be closed captioned. The vital information contained in these PSA's must now be accessible on television to deaf Americans. By requiring both relay services and PSA closed captioning we will be taking a giant step toward achieving equality in the telecommunications network for hearing impaired and speech impaired individuals.

The CHAIRMAN. The Chair would inform the gentleman from New York [Mr. OWENS] and the gentleman from Pennsylvania [Mr. GOODLING] that they each have 1 minute remaining.

Mr. OWENS of New York. Mr. Chairman, I reserve my 1 minute for the purpose of closing debate.

□ 1340

Mr. GOODLING. Mr. Chairman, I yield back the balance of my time.

Mr. OWENS of New York. Mr. Chairman, I yield myself my remaining time.

Mr. Chairman, in closing, I would like to pay tribute to Tony Coelho, the former whip of the House, who initiated this process. I would like to again thank the gentleman from Maryland [Mr. HOYER], the gentleman from Texas [Mr. BARTLETT], and all of the members of the Education and Labor Committee who passed this bill 35 to 0 and initiated the process last fall.

I also would like to thank all of the members of the community of people with disabilities, who 43 million strong raised their voices across the Nation, and it was their push, their sense of empowerment that has brought us to where we are.

This is just a beginning. It is a historic piece of legislation. I assure Members it is just the beginning. The people with disabilities will guarantee that we will not falter in the implementation of this legislation. Empowerment for their civil rights has been their goal, and they have gone a great step forward on that goal.

I congratulate the people in the community with disabilities.

The CHAIRMAN. All time for debate controlled by the Committee on Education and Labor has expired.

The gentleman from Ohio [Mr. THOMAS A. LUKEN] will be recognized for 15 minutes, and the gentleman from Kansas [Mr. WHITTAKER] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr. Chairman, first I yield such time as he may consume to the distinguished gentleman from Michigan [Mr. DINGELL], the chairman of the Energy and Commerce Committee.

Mr. DINGELL. Mr. Chairman, I rise in support of H.R. 2273, the Americans With Disabilities Act, in the form made in order under the rule. As my colleagues are aware, this legislation is the product of more than a year of effort by the bill's sponsors and supporters.

Many Members on both sides of the aisle played important roles in crafting this measure, and they deserve our commendation for the contributions they have made.

I would like specifically to pay tribute to our former colleague and former whip, my dear friend, Mr. Coelho, for the work he has done on this bill; my dear friend and colleague, the senior Republican member of our committee, the gentleman from New York [Mr. LENT]; the chairman of the Transportation and Hazardous Materials Subcommittee, the gentleman from Ohio [Mr. LUKEN]; and also the ranking minority member of that subcommittee, the gentleman from Kansas [Mr. WHITTAKER], for the outstanding contributions they have made.

Special congratulations are also in order for the chairman of the Telecommunications and Finance Subcommittee, the gentleman from Massachusetts [Mr. MARKEY] and the ranking Republican member of that subcommittee, the gentleman from New Jersey [Mr. RINALDO]. And of course, I went to recognize the extraordinary efforts of our good friend and colleague, the gentleman from Maryland [Mr. HOYER], without whose personal and diligent involvement this legislation would not have reached this point.

As my colleagues know, I had serious reservations about the original bill and the version of it passed by the other body. In particular, I was concerned about the effect the legislation would have on matters of special interest to the Committee on Energy and Commerce—namely, passenger railroad service and telecommunications.

Through an extensive process of discussion and negotiation with the disabilities community, we improved the bill subtantially. As a result, I was pleased to lend my name earlier this week as a cosponsor of H.R. 4807, which has been made in order under the rule as original text for H.R. 2273.

I also want to express my appreciation to the leadership, to the chairman of the Rules Committee [Mr. MOAK-

LEY], and to Mr. HOYER for the fair and proper manner in which the railroad jurisdiction issue has been handled in this process. The resolution of this issue—inclusion of the Energy and Commerce text in H.R. 4807—recognizes the Energy and Commerce Committee's jurisdiction and indicates the leadership's determination that our position on this matter was correct. For this we are most appreciative.

The Energy and Commerce Committee amendment to the ADA—as reflected in H.R. 4807 and this floor text—requires that within 5 years, Amtrak and all commuter authorities have at least one car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

It also requires that, with certain specified exceptions, all new rail passenger cars purchased or leased for intercity and commuter rail transportation be fully accessible to all disabled individuals. Wheelchair accessibility is not required in all cases for certain types of new Amtrak rail cars, including single-level passenger coaches. However, Amtrak must take various steps specified in the bill to accommodate individuals who use wheelchairs by other means.

The legislation also requires that Amtrak stations and key commuter stations, within 20 years and 3 years respectively, be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. A waiver procedure is provided in the case of certain extraordinarily expensive structural changes, permitting an extension of up to 20 years to accomplish these changes at key commuter stations.

The bill also requires that any new Amtrak or commuter stations be constructed so as to be accessble to disabled individuals. It improves current law by clearly delineating the legal responsibility of Amtrak, commuter authorities, other public owners, and private owners for making stations accessible.

Title IV of the amendment concerns telecommunications for the disabled. The title requires telephone common carriers to make available relay services for speech- and hearing-impaired subscribers, and ensure that the goal of universal telephone service is extended to include disabled Americans.

The committee provision made several changes in the legislation that was adopted by the Senate. The result, I think it's fair to say, is a substantially improved provision. It is clearer than the Senate provision, and our friends in the telephone industry and in the disabled community both believe it is better and stronger.

The committee provision deletes the Senate's prohibition on end user charges. It is the committee's intention that the FCC have substantial flexibility to structure guidelines for the establishment of relay services, and for the recovery of costs associated with providing relay services.

The amendment adopted by the committee also ensures that all users of telephone service contribute to the cost of providing relay services. This includes private line users. This is an important change, which will ensure that the burden of paying will be equitably shared and will be a nominal amount.

In addition, the committee added a provison requiring any television public service announcement produced or funded in whole or in part by any Federal agency or instrumentality to include closed captioning for the hearing impaired.

Mr. Chairman, I am proud of the changes made in the committee. I would like to take this opportunity to thank my good friend and colleague, Mr. LENT, for working with me to fathom the provisions contained in the committee amendment. Mr. MARKEY, chairman of the subcommittee on Telecommunications and Finance, was equally helpful in crafting the substitute, as was Mr. RINALDO, the ranking minority member. I thank them all.

I would also like to thank representatives of the speech- and hearing-impaired community, and in particular Ms. Karen Strauss, I am very grateful for her dedication and willingness to work with the committee. Finally, I'd like to thank the representatives of the telephone industry, who were most cooperative.

Mr. Chairman, I know that there are some Members who are concerned about various provisions of the bill. I believe that most of those concerns have been appropriately dealt with in the committee process. Many months of effort have gone into negotiating a bill that is acceptable to both sides of the aisle, both Houses of Congress, the administration, and the disabilities community. For this reason, I urge my colleagues to reject unfriendly amendments.

This is a good bill and a necessary bill. I am pleased that we in the House were given a full opportunity to make it a workable and sound bill. As a result of the deliberations of the four committees of jurisdiction, the legislation now holds the promise of truly bringing disabled Americans into the mainstream of American life. This is a worthy objective, which the House should support.

Mr. WHITTAKER. Mr. Chairman, I yield one half minute to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I wonder if the gentleman from Maryland [Mr. HOYER] will take the floor for the purpose of a colloquy.

QUESTION CONCERNING THE AMERICANS WITH DISABILITIES ACT

Mr. Chairman, I have read with interest the report of the Committee on Education and Labor. I was most pleased to see that the committee specifically recognized the unique issues involved in applying the requirements of this legislation to historic buildings and facilities. The addition of section 504(c) will provide reasonable flexibility in making historic buildings accessible to persons with disabilities when alterations are made to those buildings. The committee was obviously concerned that such alterations should not threaten or destroy the historic significance of qualified historic buildings.

My question is how the provisions in section 504(c) will affect the requirements set out in section 302(b)(2)(a)(iv) of the legislation. Section 302(b)(2)(a)(iv) requires that architectural barriers should be removed from buildings when such removal is readily achievable. Readily achievable is defined as "easily accomplishable and able to be carried out without much difficulty or expense." It is my understanding that the same historic preservation concerns the committee had with respect to alterations of qualified historic buildings and facilities also apply to the removal of architectural barriers from historic buildings and facilities. Is that correct?

Mr. HOYER. Mr. Chairman, if the gentleman will yield, he is correct.

Mr. BATEMAN. I thank the gentleman from Maryland.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Americans With Disabilities Act is perhaps the most important civil rights bill for the disabled that has ever been considered by the Congress. The bill seeks to end discrimination against the 43 million Americans who suffer from some disability, in such critical areas as employment, transportation, public and private accommodations, and communications.

The premise of the bill is unassailable. The results of discrimination against disabled Americans—whether they suffer from mobility or sensory impairments, mental retardation, disease, or other physican and mental impairments—are insidious and potentially devastating. Discrimination, whether produced by overt actions or thoughtless attitudes, produces segregation, exclusion, impoverishment, and denial of equal and meaningful opportunities. By denying the benefits of equal treatment and participation to millions of disabled Americans, our country suffers.

The bill before us will help to ensure equal rights and opportunities for disabled Americans. This bill will allow

greater productivity and responsibility for disabled individuals. This bill will help to remove the barriers which have impeded disabled persons from being more productive members of American society. In short, this bill will help our country use an immense amount of talent, intelligence, and other human resources which heretofore have been underestimated, underdeveloped, and underutilized.

Our subcommittee's jurisdiction of this bill focused on transportation provisions primarily relating to Amtrak and commuter railroads. All of us recognize the crucial role transportation plays in our lives. It is the veritable lifeline which enables all persons to enjoy the full economic and social benefits which our country offers. To be denied effective transportation is to be denied the full benefits of employment, public and private services, and other basic opportunities.

The amendment which our committee adopted requires Amtrak and commuter railroads to be accessible to disabled persons. Under this bill, all of Amtrak's 500 stations will be fully accessible within the next 20 years. Within the next 3 years, key commuter rail stations will be made accessible. Under the bill, Amtrak and commuter railroads will be required to purchase accessible new passenger cars, to make good faith efforts to lease or purchase accessible used cars, and to ensure accessibility on rail passenger cars which are remanufactured. Under the bill, equivalent dining services will be provided to disabled riders on Amtrak. In short, the bill offers a realistic and defined set of rules for assuring disabled persons access to rail transportation services.

Testimony at our subcommittee's hearing last fall indicated that Amtrak and many commuter railroads already do a fairly good job of serving disabled persons. This is not to say that there are not some problems. But the discussions and negotiations on this bill, at a minimum, have raised the level of awareness for the legitimate concerns that exist on all sides of the fence, and have improved communication between the parties. I believe that opening up and continuing that dialog may be as important as the changes made in this bill.

I wish to commend my friend and colleague, Mr. DINGELL, the distinguished chairman of the full committee; Mr. LENT, the ranking minority member of the full committee; and Mr. WHITTAKER, the ranking minority member of our subcommittee; for their leadership and untiring efforts on these important issues. We spent a good deal of time over the past few months negotiating with representatives of the disabled community, Amtrak, commuter railroads, and other affected parties. The bill before us represents the combined and cooperative efforts of all affected interests.

I strongly urge my colleagues to support the bill and I reserve the balance of my time.

□ 1350

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

Mr. Chairman, this important legislation we are considering today is a key element in President Bush's efforts to assure that disabled Americans are brought into the mainstream of American economic and social life. Two parts of the Americans With Disabilities Act are within the specialized jurisdiction of the Energy and Commerce Committee: telecommunications and railroad transportation. These elements of the ADA are absolutely vital to assuring that disabled Americans have the means to utilize the sinews of communication and transport that bind our society together.

With respect to the rail transportation title, I want to especially commend our committee chairman, Mr. DINGELL, for his efforts to fashion a more readily understandable version of this bill, one that gives more usable guidance to the individuals and organizations governed by the requirements of the ADA. The chairman of the Subcommittee on Transportation and Hazardous Materials, Mr. LUKEN, should also be commended for the hard work he did in developing this title.

The revised Amtrak provisions are a classic example of mutual gain through compromise. Under the bill, disabled passengers will be assured of a firm timetable for Amtrak to reach specified targets of accessible seating capacity. At the same time, Amtrak will be given greater flexibility in how it achieves these targets, by being able to cluster some accessible seating and thus reduce the cost of acquiring or modifying rail cars to meet the target level of seating capacity. In a similar fashion, we have been able to give more specific, and more flexible, guidance to commuter rail operations than was offerd by the original version of the bill as referred to our committee.

Negotiating revisions to the telecommunications title of the ADA was even more smooth and harmonious than revising the transportation provisions.

For that, thanks go again to the chairman of the full committee [Mr. DINGELL], as well as the chairman and ranking Republican member of the Telecommunications Subcommittee, Mr. MARKEY and Mr. RINALDO. Their work in the subcommittee resolved most of the contentious issues, and made it possible for Chairman DINGELL and the ranking member of the full committee, Mr. LENT, to resolve the few telephone issues. We did so with the full cooperation of the deaf community and the telephone industry. I thank them for their hard work.

Our joint efforts are contained in the bill before the House today. They provide the framework for a nationwide relay network for the deaf and hearing-impaired which is essential for their full participation in society.

The FCC is directed to fill in the details and implement that relay service as quickly as possible.

With the improvements we made on the other body's work, the telecommunications title of the Disabilities Act will achieve the goal shared by every Member of the House: to make telephone services equally available to all, including our deaf and hearing-impaired citizens.

While I believe that we have made important strides toward a more workable and understandable bill in the areas of rail transportation and communications, I do not want to leave my colleagues with the impression that I am approaching the consideration of this bill on the premise that it is already perfectly drafted.

On the contrary, precisely because of the immense complexity of this legislation—and the need to merge into a single bill the product of four different committees' deliberations—I have urged that considerable latitude be given Members who feel obligated to offer clarifying and improving amendments on the floor. None of us can claim to know it all, and there are bound to be areas where the unassailable intent of this bill—to bring disabled Americans into the mainstream of American life as full and equal participants—can be carried out in a more efficient or more clearly defined way. For that reason, I look forward to hearing the proposals of my colleagues for possible improvements to the Americans With Disabilities Act.

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

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, enactment of the Americans With Disabilities Act is long overdue. For far too long, some 43 million Americans with physical or mental disabilities have been denied the protections of the civil rights that the rest of us take for granted.

Discrimination against the handicapped, be it unintentional or deliberate, has the same impact. It is cruel and serves to segregate, exclude, and deny the opportunity to fully participate in programs and activities. We should also remember that it is not just the handicapped who suffer because of such discrimination, but all of us, for those denied employment or access to marketplace are a waste of

human resources—a waste of those who have something to contribute.

A number of those who have spoken in opposition to this legislation have expressed the concern that enactment of the ADA is going to create an unreasonable burden on small business, drive up the cost of operation, and ultimately threaten the very survivability of some businesses. My own State of Washington has proven the fallacy of this fear. For over 10 years Washington State has had similar statutes on the books, yet I have found no evidence of even one business being forced out of operation by having to accommodate or hire the handicapped.

Discrimination in employment was outlawed in Washington State in 1973. In 1976, legislation was enacted requiring that all new building construction or major remodeling projects make structures accessible or barrier-free for the handicapped. Then in 1979, Washington State law was amended to prohibit discrimination against the handicapped in housing and public accommodation.

While the Washington State statutes have not ended discrimination in the State, they have provided an opportunity to seek redress to those handicapped persons denied their rights. It is time for the House to follow the lead of Washington State and of our colleagues in the Senate in passing this important legislation to protect the disabled all across America.

□ 1400

Mr. THOMAS A. LUKEN. Mr. Chairman, for the purpose of colloquy, I yield to the gentleman from Maryland [Mr. HOYER], chairman of the subcommittee.

Mr. HOYER. Mr. Chairman, I am concerned about a provision contained in the report filed by the Committee on Energy and Commerce which states: "It is not the function of this legislation to facilitiate access to audiotext services." Is it the gentleman's understanding that this bill precludes such access?

Mr. THOMAS A. LUKEN. The gentleman raises a good question. While the legislation does not require access to audiotext services at this time, if future technology can make these services available utilizing a relay service, it is our intent to ensure such access.

Mr. HOYER. Mr. Chairman, if the gentleman will continue to yield, does the gentleman anticipate that the FCC's regulation will require common carriers to facilitate access to the telephone numbers for relay services?

Mr. THOMAS A. LUKEN. The gentleman is correct.

Mr. HOYER. Mr. Chairman, if the gentleman will continue to yield, the bill calls for relay services to be functionally equivalent to ordinary voice telephone services. How, exactly, is functionally equivalent service to be achieved?

Mr. THOMAS A. LUKEN. Title IV requires the FCC to establish certain minimum standards and criteria, which will define functional equivalence for all relay providers.

Mr. HOYER. If the gentleman will continue to yield, where can the FCC turn for guidance in developing these standards?

Mr. THOMAS A. LUKEN. The FCC already issued serveral notices during the development of several interstate relay systems. Consumers and individuals have urged the FCC to create a Federal advisory committee to assist the Commission in setting up such a system. It is our intent that the FCC turn to such a committee, which could be made up of relay consumers, telephone companies, and other interested parties, to develop standards for functionally equivalents for both an intrastate and interstate relay system.

Mr. HOYER. If the gentleman will continue to yield, the success or failure of relay services will depend to a great extent on the competence of the operators who will act as translators for those using the system. Does the gentleman anticipate that the FCC's regulations will require that the operators employed by the common carriers be trained to respond effectively to the special communication needs of hearing and speech-impaired users?

Mr. THOMAS A. LUKEN. The gentleman is correct. The committee expects the regulation will require the appropriate training for relay operators, including typing, grammar, spelling, and other training necessary to ensure that operators contribute to the success of the service.

Mr. HOYER. Chairman, I thank the gentleman for yielding, and clarifying these questions.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I congratulate the gentleman from Ohio [Mr. THOMAS A. LUKEN] for his leadership on this issue. I would like, at this time, to publicly compliment the work of the gentleman from Maryland [Mr. HOYER], who has personally shepherded this piece of legislation through the Congress. I very rarely have seen a commitment and dedication to a piece of legislation that I have witnessed in terms of the commitment which the gentleman has made to this bill. The contribution here is going to be enormous, and historic.

I would also like to compliment the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], the gentleman from New York [Mr. LENT], the gentleman from New Jersey [Mr. RINALDO], and all the members of the Subcommittee on Telecommunications and Finance in terms of the telecommunications piece which we are inserting here.

What I thought I would do for a minute or so is just to explain why this is so important. Right now, we have millions of Americans with a very serious problem, which is that it is difficult for them to use the phone system of our country since they are hearing-impaired, since they are deaf. It is difficult for them to be able to talk to other people in the country, not only for social services, for family interaction, but to conduct business. How do these people who have intelligence which is the same as any other person, participate in our economic system, using the primary means of communications in our society? Well, right now for the most part they are walled out. What this legislation will do is it will require that telephone companies create a new core of operators and technologies: telephone telecommunication devices for the deaf. These devices will allow for a person who has a hearing problem to type their conversation to an operator who will then take the conversation and read it to the person, that the person who is hearing impaired is seeking to communicate with. In turn, that person will be able to talk back to the operator, and the operator will then type the answer to the person who is hearing impaired. In that way, a conversation can, in fact, be engaged in that will result in that person who is hearing-impaired or deaf to be able to engage in an economic activity, in our society, which will help our country's economy. It will be able to help families communicate better and to give people a better sense of participation in a modern America, in a modern economy, in a modern society.

This particular provision is one which breaks down a barrier which has taken one of the most central technologies in our society that is in 98 percent of all homes, every business in the country, and it enfranchises those who have been walled out. At Galludet University, Karen Strauss has helped tremendously in putting this legislation together. I compliment the gentleman from Maryland [Mr. HOYER] and all those who participated in making this possible.

Mr. WHITTAKER. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I am proud to rise in strong support of the Americans With Disabilities Act. This is a historic occasion. There are 43 million disabled individuals throughout this Nation who want to contribute to their country. They want to be fully participating members of our society. They want the opportunity to work, and they want to enjoy the same rights and

privileges that other citizens now enjoy. They want to have full access to the life, liberty, and pursuit of happiness envisioned for all Americans by our Founding Fathers.

This bill will help the disabled help themselves. It will protect them from discrimination in employment, public accommodations, transportation and communications. It will provide them with an equal opportunity to succeed in American life.

For too long, the disabled have been a forgotten segment of our society. For too long, they have not shared the opportunities that other Americans enjoy. As our Nation has responded to the needs of others who have been denied equal opportunity because of prejudice and ignorance, so must our Nation respond to disabled Americans. This legislation will help make them a part of mainstream American life.

I urge all of my colleagues to join with President Bush and the bipartisan sponsors of this bill in strongly supporting this compelling landmark legislation.

Mr. MFUME. The Chairman would advise the gentleman from Ohio [Mr. THOMAS A. LUKEN] that he has no time remaining.

Mr. WHITTAKER. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I wanted to rise, and I did not do this on the Committee on Education and Labor section of the general debate, but I wish I had. I will certainly, at some point in time, reiterate my thoughts that I will express here.

It has been mentioned that this is a complicated piece of legislation with many, many areas of our society affected, and many, many committees' jurisdiction affected. I would be remiss if I did not rise and thank the chairman and ranking member of the committee, as well. However, I would be very remiss if I did not mention the extraordinarily able and committed efforts of the staff of the Committee on Energy and Commerce on both sides of the aisle. Mr. Alan Roth, Mr. Glenn Scammel, Mr. David Tittsworth, Mr. David Leach, Mr. Jerry Salemme, Mr. Rob Mooney. All of them and many more I know in their staff who I have not named spent countless hours to try to make sure that what they wanted to do was, in fact, to incorporate into the legislation, and they demonstrated a great depth of knowledge of their subject matter and a dedication for assisting the legislative process so that the legislation was in a form that was proper and that articulated effectively the intent of Congress.

I want to thank them, and I want to thank their Members for allowing them to spend so much time with me and with others in working on this legislation.

□ 1410

Mr. WHITTAKER. Mr. Chairman, I yield back the balance of our time.

The CHAIRMAN. The Chair will announce that all time for general debate controlled by the Committee on Energy and Commerce has expired.

Pursuant to the rule, the Chair will recognize the distinguished gentleman from California [Mr. ANDERSON], Chairman of the Committee on Public Works and Transportation, for 15 minutes and the Chair will also recognize the gentleman from Pennsylvania [Mr. SHUSTER], the ranking member of the Subcommittee on Surface Transportation, for 15 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

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

Mr. Chairman, by considering the Americans With Disabilities Act today this body is making a long-delayed acknowledgement of the civil right of disabled Americans to the full and equal enjoyment of transportation services. For too long, many in this country have taken a view of individuals with disabilities particularly distasteful to me—that their disabilities render them unable to fully participate in our society. Yet, often all it takes is an understanding of the need for—and then providing—some transportation accommodation to bring the disabled fully into the mainstream of society.

Far too often, it is society, and not the individual's impairment, which handicaps our disabled citizens. This legislation will help cure what ails this society, and in so doing; by allowing our disabled to live up to their full potential, it will make this Nation better and stronger for each of us.

The principal provisions of this bill which I can proudly say lie within the jurisdiction of the Committee on Public Works and Transportation are embodied by titles II and III, dealing with publicly and privately provided transportation services. With regard to publicly provided transportation services, the bill requires the purchase of accessible transit vehicles for use on fixed route systems. The bill also requires the provision of paratransit services for those individuals whose disabilities preclude their use of the fixed route system.

We have already made much progress in the provision of public transit services—35 percent of America's transit buses are currently accessible. As more and more transit authorities make the commitment to provide fully accessible bus service, the percentage of new bus purchases which are accessible has grown to more than 50 percent annually. By the mid-1990's many of our cities will have completely accessible fixed route systems. Furthermore, many of the transit systems in America already provide some type of paratransit services to the disabled. So, the passage of the ADA will not—as some have charged—break sharply with existing transit policy. It will simply extend our past successes to even more cities, so that we can continue to make progress in providing much needed transit services for the disabled.

With regard to privately provided transportation services, which do not receive the high levels of Federal subsidies that publicly provided services enjoy, the requirements of the bill vary according to the size and type of vehicle, as well as according to the type of system on which the vehicle will operate.

Many Members are also aware that over-the-road buses have received special attention in the committee bill. Because of the unique nature of their construction and the uncertain financial stability of the intercity bus industry, over-the-road buses will be subject to a special 3-year study to determine a method for making them accessible.

Nonetheless, in all cases, this bill provides strong guarantees that individuals with disabilities will be treated with respect and dignity while using transportation services. These provisions must remain strong since a lack of adequate transportation is often cited as one of the greatest barriers to the full and equal enjoyment of life by individuals with disabilities.

I want to commend the distinguished chair of the Subcommittee on Surface Transportation, Mr. MINETA, for his tireless efforts in getting this bill before us today. Mr. HOYER deserves our thanks for his tremendous efforts in support of this bill.

In closing, Mr. Chairman, I urge all of my colleagues to view the Americans With Disabilities Act as I do—as a civil rights bill. If our history is rich with examples of diversity triumphing over discrimination, it is not so rich that we can afford to fail in our efforts today, with that in mind, I urge all of you to join me in extending an invitation to all Americans, including those with disabilities, to participate fully in the mainstream of society. I urge passage of this landmark legislation.

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

The CHAIRMAN. The Chair recognizes the distinguished gentleman from Pennsylvania [Mr. SHUSTER].

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

Mr. Chairman, I bring a very personal and in fact passionate interest to this subject because my dear mother was a double amputee in a wheelchair, and I skinned my knuckles more times than I can count trying to jiggle her wheelchair through a door that should

have been wider than it was or trying to lug a wheelchair up a set of stairs where there should have been a ramp but there was not. So I believe very deeply that we must do everything in our power to give reasonable access to the disabled in this country of ours.

Having said that, I must reluctantly state that I have serious problems with certain provisions of this legislation. First and foremost, there is not one penny in this bill to implement the tremendous costs of the various mandates and provisions which we are laying on the American people, on public transit systems, for example, across America. And indeed during the 1980's the Federal commitment to public transit in real dollars has been reduced by 50 percent. So here we are today talking about mandates on the American people which are going to add up to several billions of dollars. In fact, the American Public Transit Association says that over the next two decades the increased cost of just the transportation provisions in this legislation on public transit will be at least $7.8 billion on rail and fixed route buses and $13 billion on paratransit. So we are looking at a $20 billion price tag that we are laying on the American people and not providing one penny to pay for it. I say that is wrong.

Indeed we are setting ourselves up to put into place what might be called the law of unintended consequences. We mean to do right, we mean to do good, and yet we find ourselves addressing this issue without a willingness to pay for any of these new requirements that we are putting on the American people.

Let me discuss just one such mandate, and that is the lift mandate. We are saying that we must put on every public transit bus in America a lift. Now, the cost of that lift will increase the cost of that bus by $10,000 to $15,000, a 10- to 15-percent increase in the cost of the bus. We are telling that to our transit operators, to our communities across America, and we are not giving them a penny. We are telling them they must do it.

Yet what has been our experience with the lift thus far? In Seattle, WA, where about 80 percent of the buses have been lift-equipped for the last couple of years, they find that they only have one user of that lift every other day per bus. In New York City, which is about 50 percent lift-equipped, they have discovered that they only have one user each day for every 19 buses.

So here we are in Washington, DC, laying a mandate on public transit operators and on communities across these United States when indeed in my view we should be giving them some flexibility. We should be saying, "Yes, we want you to provide accessibility for the disabled, but we want you to do it in the manner that you feel is best in consultation with the disabled in your local communities."

Beyond that, let us consider the implications of paratransit, paratransit being the small buses, the door-to-door service that we provide to thousands of disabled across America. By saying we are going to mandate that every transit bus have a lift and by not providing one penny to do it and then saying, "We also expect you to provide paratransit, door-to-door transportation," but putting a loophole in there saying that they do not have to do this if they have an undue financial burden, what are we logically doing? We are saying, "If you have got to cut somewhere, you can't cut on the lift requirement, so you are going to have to cut on paratransit or you are going to have to cut on your general service to your community."

□ 1420

Mr. Chairman, that is what we are setting up here to force communities to do, and it is wrong, and it is unnecessary.

Mr. Chairman, we should be very clear on this point, that 100 percent lift accessibility is zero accessibility for hundreds of thousands of disabled Americans who cannot get to the bus stop, hundreds of thousands of disabled Americans who must have door-to-door service.

So, if we are saying we are going to have 100 percent lift accessibility by creating a situation where we are going to force a reduction in service to paratransit and to general service, we are setting up a situation of the law of unintended consequence, a situation where we are going to hurt many citizens, both able and disabled, and most particualrly in rural America and small cities because here the cost of the lift is the same, but of course the ridership is much lower.

So, my colleagues and Mr. Chairman, it seems to me we have an opportunity here to pass a good piece of legislation, if indeed we can deal with some of these serious problems. We will have an opportunity over the next several days to correct some of these problems, and I would urge all of us to seriously consider the amendments which are going to be offered because we want to do good, but we want to do good in a way that we are not injuring other people in an unintended fashion.

So, Mr. Chairman, I urge all my colleagues to seriously consider the amendments which we are bringing before us, so that we can clean up this bill, so that indeed we can provide better transportation accessibility, not only for the disabled across America, but for all Americans.

Mr. ANDERSON. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I would say, "Of course we will give careful consideration to amendments that will be offered," however one of the things I want to point out, and I know the chairman will speak to this, and I am sure the subcommittee chairman will speak to it as well, is in 1973 we adopted a bill which spoke to the rights of the disabled, the Rehabilitation Act of 1973, and the purpose of that bill was to make sure that the disabled were, in fact, accommodated in our society.

Indeed, Mr. Chairman, the mother of the gentleman from Pennsylvania [Mr. SHUSTER] would be accommodated, and those doors would be wider, and ramps would be available.

The sensitivity of the gentleman from Pennsylvania [Mr. SHUSTER] is clear, and his understanding is obviously deep-seated and from experience.

The 1973 legislation said what we are going to do for transportation. The regulations that are now pending also require that, that this administration has issued, and, if they go into effect, what H.R. 2273 requires will already be required so that they will be complementary, not additive, so that the additional cost to which the gentleman refers in attempting to make accessible transportation to the disabled, who will not be able to get to work, who will not be able to participate in public accommodations, if in fact they cannot get there from here, will not be, I think, what the gentleman projects them to be.

Let me say that we will obviously debate that at the time the amendment of the gentleman from Pennsylvania [Mr. SHUSTER] is proposed when we get to the amendment process.

Let me now, Mr. Chairman, if I can, thank the chairman of the committee and particularly say how pleased I was to have the opportunity of working closely with this gentleman from California [Mr. ANDERSON]. He and his staff have been outstanding. And then the gentleman from California [Mr. MINETA], who has not only been the chairman of the subcommittee that has worked so hard on this bill, but who has also been the person that has worked so closely with me in coordinating the activities of all these committees in attempting to bring this bill to the floor today. He has performed heroic service, and it was not only his deep understanding the legislation and the needs and challenges of the disabled, but his commitment to its passage. This gentleman from California has been instrumental in fashioning this legislation, and I congratulate him for his significant leadership on this bill. In addition, Mr. Chairman, during the last committee's consideration I mentioned the staff. Too often the Members stand and speak on the issues and explain the various provi-

sions of the bills, but all of us know that the staff provide the absolutely essential expertise and commitment to get us to this point. The staff of the Committee on Public Works and Transportation on both sides of the aisle has been excellent, and I would like to thank them for their help. In particular I would like to thank Paul Schlesinger, Roger Slagle, Sante Esposito, Phyllis Guss, and Ken House, all of whom have participated so much on a day-to-day, week-to-week, and for months, in fact, in fashioning this legislation so that it is fair, effective, and accomplishes the purposes which we have set out to do, and that is to make sure that the disabled have transportation that is accessible to and usable by them so again they can fully participate in the opportunities available in this great country.

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

Mr. Chairman, one particular point that I would like to cover is the issue of calling this a civil rights bill.

Abraham Lincoln used to like to tell the story of how he was walking down the street with a friend of his, and they saw a dog, and the dog had a long tail, and Abraham Lincoln turned to his friend and said, "See that dog? Now, if I told you that that dog's tail was a leg, how many legs would that dog have?"

Mr. Chairman, Abraham Lincoln's friend looked at him and said, "Five."

Abraham Lincoln said, "No, I'm afraid you're wrong, my friend. Just by calling a tail a leg doesn't make it a leg."

Likewise, Mr. Chairman, by calling this a civil rights bill, that does not make it a civil rights bill except that I suppose we can do anything we want to do in this Congress in terms of passing laws, using whatever words we choose to use. However, if my colleagues look at the logic of this bill, there are numerous exceptions in it.

Civil rights cover all Americans, and yet in this bill we have exempted the elderly. The elderly are not eligible for paratransit. We have exempted the poor. The poor are not eligible for paratransit. We have provided historic exemption in New York and San Francisco. They are exempted, and indeed we have exempted several stations. In fact, in New York City only 38 of the 465 subway stations are required to have accessibility. So, in New York City the people who get on and off subways at 427 different stations do not have accessibility. So, if this is a civil rights bill, they are being denied their civil rights.

So, Mr. Chairman, my colleagues may call it a civil rights bill, if they will, but logically it really is not, and it is one more example, I think, of our trying to do the right thing, trying to pass feel-good legislation when we really are not providing the wherewithal to make it happen, to make it come true. That is one more reason why I think we should want to support this legislation, but cautiously and carefully with the necessary amendments to make it workable.

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

Mr. ANDERSON. Mr. Chairman, how much debate time is remaining?

The CHAIRMAN. The Chair would advise the gentleman from Pennsylvania [Mr. SHUSTER] that he has 6 minutes remaining, and the gentleman from California [Mr. ANDERSON] has 5 minutes remaining.

□ 1430

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. DELAY].

Mr. ANDERSON. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MINETA], the distinguished chairman of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation.

Mr. SHUSTER. Mr. Chairman, I believe the gentleman from California wants to close; he has the right to close. I do have a further statement to make.

How much time do we have left on this side?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. SHUSTER] has 3 minutes remaining.

Mr. SHUSTER. So to accommodate the gentleman, Mr. Chairman, I will be pleased to speak first.

Mr. ANDERSON. Mr. Chairman, I thank the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, first I ask unanimous consent that a colloquy between myself and the gentleman from Texas [Mr. BARTLETT] be entered into the RECORD which describes the limits of the amendment which is going to be offered in the next few days concerning the 200,000 or less waiver.

The CHAIRMAN. The Chair will advise the gentleman from Pennsylvania that he cannot insert a colloquy.

Mr. SHUSTER. Then I would say, Mr. Chairman, the gentleman from Texas [Mr. BARTLETT] has expressed concern over the question would the amendment which I am going to offer allow a community with a population of less than 200,000 if located within an urbanized area to apply for a waiver.

The answer to that is no. Any community that is within an urbanized area that operates a fixed route system would not be eligible for waiver, and I think it is important to clarify that.

The final point I would make in closing, Mr. Chairman, is that there are many good provisions in this legislation. I certainly heartedly endorse the provisions which we worked out in committee, a compromise on the private bus industry which requires the private bus industry, over-the-road buses, to be accessible, but does not require any structural changes in the bus and leaves it up to the Department of Transportation, after a study of the issues is completed, to deal with this issue.

So in closing, Mr. Chairman, there are many good provisions in this legislation. It is my hope that through the amendment process we will be able to include this bill and improve it to the point that all of us can support it.

Mr. ANDERSON. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, it is with a great deal of pride that I have this opportunity to stand before my colleagues to speak on this bill, the Americans With Disabilities Act.

I would first like to thank Chairman GLENN M. ANDERSON of my own committee, the Committee on Public Works and Transportation, for allowing this gentleman from California the time, support and the encouragement that he has given on this subject.

I would also like to thank especially two people, Phyllis Guss and Roger Slagle from our subcommittee staff, and Suzanne Sullivan, from my personal staff for the enormous amount of effort and time they have put into this bill.

Mr. Chairman, I rise in very strong support of the Americans With Disabilities Act. I want to commend the fine gentleman from Maryland [Mr. HOYER] for his untiring efforts in bringing this legislation together from all the committees in the House and bringing it to the floor at this point. I want to also extend this gratitude to the work of his staff person, Melissa Schulman.

Ending discrimination against disabled citizens, citizens often stripped of their independence by neglect and insensitivity by the majority communities, must now be chief among our priorities.

Discrimination toward any group hurts every group. For making this a public policy issue whose time has come, I want to point out that if it were not for our close friend and former colleague from California, Mr. Coelho, we would not be at this place.

So Mr. Chairman, today the House of Representatives has the opportunity to open a door which has been shut tight for too many years. This door, to which we have the key, will lead to an accessible society for the more than 43 million Americans with disabilities. Opening this door is a goal that we can, should, and must achieve.

We must insure that the Americans With Disabilities Act passes, and does so without any weakening amendments.

Mr. Chairman, disabled Americans are ready, willing and able, to use their talents, skills and energy in communities across the country; but today many wait for full access to our transportation systems. These Americans should have to wait no longer.

Tremendous technological strides have been made in recent years which make it increasingly easy for persons with disabilities to function in the workplace. Expertise in the construction of accessible housing and transportation systems is increasingly widespread. The Americans With Disabilities Act will help knock down the remaining barriers that disabled Americans confront in their efforts to be self-reliant and productive members of our society.

The act will also provide basic civil rights protections to our disabled friends, neighbors, and colleagues. For make no mistake about it, this Americans With Disabilities Act is first and foremost a matter of civil rights.

In truth, the provisions of this bill are modest and have been drafted to accommodate the concerns that have been raised by the business community; however, when all is said and done, the ADA legislation remains true to this one principle, and that is, our Nation has responded to the needs of other segments of our population which have been denied equal opportunity, and we must now address the needs of disabled Americans who are currently denied the opportunity to be full participants in our communities.

We must oppose any attempts to dilute the requirements for a wheelchair lift on every public transit bus. We must turn back any efforts to reduce the accessibility requirements for commuter rail systems.

□ 1440

Sure, there are costs associated with this bill, but these costs are manageable. But the cost of not allowing disabled Americans to be full participants in our society will be much greater.

"Separate but equal" is not civil rights. So we must turn back those amendments that may provide that kind of "separate but equal" treatment.

Today, as I said, we are witnessing the beginning of a great new world. Many people no longer fear the cold war, but they do fear being left out in the cold by societies which place a higher value on expedience than they do on excellence. We must not become one of those societies.

The ability to lead an independent life is a basic human right. When we acknowledge and honor that right, we are true to ourselves as Americans, and we all benefit.

The nations around the world which are only now tasting freedom have many imperatives ahead on the way to a new order. But here in the United States, our imperative must be to honor through our actions our foresight, our sensitivity, and our dedication to the spirit of our Constitution.

The Americans With Disabilities Act is one vehicle on the road to this new world of ours, and with the help of the Members of this body, it will be a world of which we can all be very proud.

The CHAIRMAN. The time of the gentleman from California [Mr. ANDERSON] has expired.

The Chair will announce that all time for general debate controlled by the Committee on Public Works and Transportation has expired. Pursuant to the rule, the Chair will announce that the gentleman from Texas [Mr. BROOKS], chairman of the Committee on the Judiciary, will be recognized for 15 minutes, and that the gentleman from Wisconsin [Mr. SENSENBRENNER], the ranking minority member of the Subcommittee on Civil and Constitutional Rights, will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield 7 minutes to the gentleman from California [Mr. EDWARDS], the distinguished chairman of the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary that handled this legislation.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman from Texas [Mr. BROOKS] for yielding time to the Subcommittee on Civil and Constitutional Rights, and I thank the gentleman for being so helpful and creative in the consideration of this bill. He has bent over backwards to do everything exactly right, as is his usual habit.

Mr. Chairman, the Americans With Disabilities Act [ADA] represents a major effort to provide comprehensive antidiscrimination protections for persons with disabilities. Comparable in scope to the great Civil Rights Act of 1964, the ADA prohibits discrimination on the basis of disability in employment, public services, public accommodations, transportation, and telecommunications. Finally, persons with disabilities, some 43 million Americans, will have protections parallel to those provided to persons based on race, color, religion, sex, and national origin.

Congress first provided some antidiscrimination protection for persons with disabilities in the Rehabilitation Act of 1973, and the ADA is wisely modeled after that law, learning from the lessons of the past 17 years.

The Judiciary Committee, which approved the bill 32 to 3, dealt with the employment, public services and public accommodation portions of the bill.

Briefly, let me explain how these provisions work.

EMPLOYMENT

The ADA prohibits discrimination against a qualified individual with a disability in all parts of the employment process. A qualified individual with a disability is one who can perform the essential functions of a job, with or without reasonable accommodation.

Like other civil rights laws, the ADA does not require employers to hire unqualified persons, nor does it require employers to give preference to persons with disabilities. The ADA simply states that a person's disability should not be an adverse factor in the employment process.

An employer is required to provide a reasonable accommodation to allow an employee to do the job, unless it will result in an undue hardship to the employer, that is, an action requiring significant difficulty or expense. These are the same standards used and understood since 1973 under the Rehabilitation Act.

The employment protections use the same enforcement procedures and provide the same remedies as title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, and national origin. Under the ADA, persons with disabilities will have the same rights and remedies as minorities and women, no more and no less.

Persons with disabilities can and will be able to do the job. Let's give them a real chance with the ADA.

PUBLIC SERVICES

The ADA extends the protections of section 504 of the Rehabilitation Act, prohibiting discrimination in federally funded programs, to all programs, activities and services of State or local governments, regardless of the receipt of Federal financial assistance.

Section 504 served as the first step toward breaking down the barriers that, for too long, kept persons with disabilities out of the American mainstream. By extending section 504 to all public entities, we benefit from the successful history and lessons of the Rehabilitation Act. By enacting title II, we cover those remaining government entities who were not covered in the past.

PUBLIC ACCOMMODATIONS

The ADA prohibits discrimination by privately operated public accommodations. Public accommodations are businesses open to the public, places persons without disabilities take for granted.

Public accommodations include hotels, restaurants, theaters, stores, service providers, and privately operated public transportation. Under the ADA, a public accommodation cannot

deny participation or provide an unequal or separate benefit to a person with a disability. The service must be provided in the most integrated setting, and a person cannot be denied the opportunity to participate in a regular program.

Existing businesses must remove architectural barriers if it is readily achievable, that is, without much difficulty or expense. If it is difficult or expensive, it does not have to be done. Alterations and newly built commercial facilities must be readily accessible to and usable by persons with disabilities.

The public accommodations title uses the same enforcement and remedies scheme available to private persons under the public accommodations section of the 1964 Civil Rights Act. Remedies in a private suit are limited to equitable relief.

As with many other civil rights laws, the Attorney General may bring "pattern or practice" cases. As in the Fair Housing Act, the Attorney General may seek monetary damages for the victim and civil penalties of up to $100,000 against the violator.

Mr. Chairman, there are few of us who have not been personally touched by family or friends with a disability. We all know how persons with disabilities are rarely judged by their abilities, but instead on their disabilities.

We now have an extraordinary opportunity to bring Americans with disabilities into the mainstream of American life.

For Americans with disabilities this bill represents their best chance to join in the American dream. We should pass this bill today. Forty-three million Americans, their families and friends, deserve no less.

Mr. Chairman, I particularly want to thank the many people in the disabled community, the different organizations, Pat Wright and all of the others, for the noble assistance they have given us in the past many months, and our former colleague, Tony Coelho, that we miss so much and who was the inspriration behind this bill in the first place. The gentleman from Maryland [Mr. HOYER] picked up the cudgel left by Mr. Coelho and has carried on magnificently.

Mr. Chairman, I want to thank the gentleman from Texas [Mr. BROOKS], my chairman, and his general counsel, Bill Jones, on my staff Catherine Leroy, and Stewart Ishimaru, without whom we could not have moved ahead. As a matter of fact, all of the members on the subcommittee, the minority led by the gentleman from Wisconsin [Mr. SENSENBRENNER], all deserve a great deal of credit.

□ 1450

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I would like to take a moment to engage in a brief colloquy with the distinguished chairman of the Committee on Ways and Means, Mr. ROSTENKOWSKI.

For the past several months, I've headed up a bipartisan effort with Mr. MFUME to provide a tax credit mechanism to help small businesses comply with the nondiscriminatory access mandates of Americans with Disabilities Act. We now have 200 cosponsors for the proposal, H.R. 3500.

Although the rule does not provide for its consideration as part of the ADA bill itself, it is my hope that the Committee on Ways and Means will include such a provision, drafted on a revenue neutral, pay-as-you-go basis, in an appropriate legislative vehicle later this year.

I include a copy of a letter to me from the White House indicating support as well.

Mr. ROSTENKOWSKI. Mr. Chairman, if the gentleman will yield. I share the concerns of the gentleman from Michigan about the financial ability of our Nation's small employers to comply with the ADA bill's provisions, and I commend him and Mr. MFUME for his outstanding efforts to encourage strong bipartisan support for his proposal.

His revenue natural tax credit concept has a great deal of merit, and I will be glad to work with Mr. UPTON, Mr. MFUME, and members of our committee to consider such a credit as we develop legislation this year.

Mr. UPTON. Mr. Chairman, I thank the gentleman from Illinois.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. UPTON. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I want to congratulate the gentleman from Michigan and my colleague, the gentleman from Maryland [Mr. MFUME], for their work on this issue, and congratulate the chairman of the Committee on Ways and Means for his response.

We believe, of course, as we have said throughout the course of this debate, and will do so in the future, that this bill requires minimal costs, readily achievable costs, a cost that does not create either an undue burden or an undue hardship on the private sector. But nevertheless, to the extent that there are costs, and to the extent that we can accommodate them, we certainly want to work with the gentleman from Michigan and the gentleman from Maryland in seeing if we can do that.

Mr. UPTON. I appreciate the gentleman's support, and I thank him for his fairness in allowing us to proceed as we have.

THE WHITE HOUSE,
Washington, DC, May 14, 1990.

Hon. FREDERICK UPTON,
House Office Building, Washington, DC.

DEAR CONGRESSMAN UPTON: Thank you very much for your inquiry regarding the Administration's position on changes in the tax treatment of business expenses incurred to provide acccess to the handicapped. At present, Section 190 of the Internal Revenue Code allows firms to deduct up to $35,000 of the costs of removing architectural barriers to the handicapped. Additional costs are depreciable in the same manner as other construction expenses.

Concern has been expressed that the construction costs required for businesses to comply with the Act for Disabled Americans now under consideration by the Congress will not be limited to expenses covered by Section 190. The Administration fully appreciates the argument that other business capital expenditures necessary to comply with the Act are as deserving of some form of favorable treatment as expenses which are currently covered.

Therefore, the Administration does not oppose changes in the tax treatment of business construction activities which are necessary to comply with the Act, as long as such changes are revenue neutral. There are a number of ways to achieve such revenue neutrality. For example, a plan could be structured in the following manner:

Allow deductibility of qualified expenses up to $22,500.

Provide the alternative of a 50% credit on the first $10,000 of qualified expenses in excess of $250 in addition to the option of deductibility.

Expenditures which do not qualify for either the deduction or the credit could be depreciated as under current law.

We share your goal of achieving the legislation's goal of access for all Americans while protecting small and medium businesses from any undue hardship. A revenue neutral change in Section 190 treatment of qualified expenses would go far in accomplishing these twin objectives. I look forward to working with you in the future on this and other issues.

Warmest regards,

ROGER B. PORTER,
Assistant to the President for Economic and Domestic Policy.

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. FISH], the distinguished ranking member of the full Committee on the Judiciary.

Mr. FISH. Mr. Chairman, I thank my colleague for yielding time to me.

Mr. Chairman, this is a proud moment in the history of our Nation. Two hundred years ago our Declaration of Independence declared and our Bill of Rights guaranteed that all Americans are created equal. Today, more than 25 years since the passage of the 1964 Civil Rights Act, we will be passing the Americans With Disabilities Act. We will thus ensure that persons with disabilities are finally granted the same equal protection of the laws enjoyed by all other Americans.

This action by the Congress is long over due. The discrimination which

disabled Americans and their families historically have faced has resulted in shattered dreams of untold numbers of people.

Yes, discrimination. The Supreme Court, in the 1985 Alexander versus Choate decision, said:

> Discrimination against the handicapped was perceived by Congress to be most often the product not of invidious animus, but rather of thoughtlessness, indifference and of benign neglect.

It is not the malicious, violent, ugly discrimination experienced on account of one's race, national origin or religion. But the barriers society has erected and our tolerance of them has resulted in denial of opportunities the rest of us take for granted, and the types of discrimination faced by disabled people are pervasive—more pervasive and extensive than I could have imagined.

We take for granted activities of daily living denied many disabled Americans. Imagine living every day of your life not being able to get out of your home because of steps; not being able to go to the bathroom alone because the door is too narrow; not being able to call a friend because you are deaf and there is no relay service; not being able to operate an elevator because the floors were not marked in braille; not being able to go to stores for fear of being denied entrance because you have cerebral palsy; not being able to get on a bus because it is not accessible; being afraid to apply for a job because you have experienced discrimination but had no way of redressing it.

The Americans With Disabilities Act acknowledges that these denials of opportunities have been unjust and must no longer be tolerated.

Today more than 66 percent of working age persons with disabilities in our country are unemployed. They are unemployed for many reasons: Inaccessible public transportation, inaccessible work facilities and pervasive job discrimination. The Americans With Disabilities Act will help put an end to this staggering unnecessary problem.

For the past year much attention has focused on the cost of meeting such standards as reasonable accommodation and readily accessible.

But what of the costs of continuing to be indifferent to the denial of opportunities experienced by 43 million disabled Americans?

We pay more than $60 billion a year to disabled people who are not working. Yet polls tell us 80 percent of persons with disabilities who are not working believe they are capable of working and want to work.

The disabled know that the obstacles they face are not inherent in their disabilities. Can the cost of any reasonable accommodation compare to what we are paying to keep qualified people unemployed?

This bill was introduced in 1988. It has passed the Senate and gone through four committee hearings on the House side. This bill has been debated exhaustively. The President and his staff have worked toward the passage of this monumental piece of legislation. The civil rights community, labor, women's organizations, the religious community, disabled people, their friends, families and advocates have fought for the passage of this bill. Leaders on both sides of the aisle have worked long and hard on the provisions of this legislation. The Americans With Disabilities Act deserves to pass. It will rectify many of the wrongs that have been committed against Americans with disabilities. It will at long last enable people to become contributory members of our society. ADA will also help to end the fears people have of becoming disabled. We will finally see that it is not disability which limits one's ability to participate in life, but it is societal barriers.

This bill aims at opening up opportunities for all persons with disabilities. At the same time the bill does not put an undue burden on employers, businesses or the community at large. It strikes a balance. I understand that there are concerns from the business community that the bill goes too far and from the disabled community that the bill does not go far enough. The responsibility of the Congress is to ensure the protection of the rights of disabled people and to ensure that the community at large is not unduly financially burdened. This bill does just that. Not all will be happy but I know that we have reached a balance for justice.

Mr. Chairman, the disabled only seek the same opportunities as all other Americans. We acknowledge the barriers we have tolerated. It will take time, but full implementation of the Americans With Disabilities Act will also result in society no longer seeing the needs of persons with disabilities as special. Ramps, door width, braille will become part of all our lives. As we no longer consider accessibility as special we cannot help but increase the self-worth of the disabled.

This bill will help guarantee the rights of disabled people to live anywhere they choose in this country with the knowledge that they will be treated equally under the law. One will be able to go the movies, eat in a restaurant, shop in a store, get a job, stay in a hotel, use the telephone system, and use transportation in any State in the Union.

Disabled people will know that should fear and prejudice result in the denial of equal opportunity they will be protected.

The Americans With Disabilities Act will tell children with disabilities, young adults and seniors who acquire a disability that they should not be ashamed. They should not fear coming out of their homes and into their communities. We as a society will no longer permit actions that cause people to be treated as second-class citizens because they have a disability.

This is important for disabled people to know. This is important for our non-disabled children and adults to know. We—as Americans—will no longer tolerate discrimination—benign or overt—against persons with disabilities.

In closing, credits are due the significant efforts of the National Council on Disability which proposed the original ADA in 1987, the consistent strong support of the President, and the dedication of the gentleman from Maryland [Mr. HOYER] and the gentleman from Texas [Mr. BARTLETT] whose tireless efforts bring us to the floor today.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, the Americans With Disabilities Act is one of the most important pieces of civil rights legislation that we have considered in the last decade. This Nation has made progress, over the past several years, in protecting the rights of those with physical or mental conditions that limit their activities and their full participation in our society. We started this process in 1973 with the Rehabilitation Act, which outlaws discrimination in federally funded programs. Other important steps have been taken since that time, including the Fair Housing Act Amendments of 1988, which outlawed discrimination against the disabled in housing. The legislation before us today, the Americans With Disabilities Act of 1990, is intended as the final step necessary to accord to individuals with disabilities the same protection against discrimination that the law provides to racial minorities, religious groups, and others who in the past have been denied the chance to participate on an equal basis in our society's activities.

The Judiciary Committee, along with three other committees of this body, have put in a tremendous amount of effort over the past several months to fashion a bill that will be both effective and workable, so that those who are affected by its provisions understand just what their rights and duties are under the law.

Our efforts have been in keeping with over 200 years of history in which this country had endeavored to extend the full measure of citizenship and participation to all of our society. Step by step over the past two centuries, ours has been a process of inclusion. We have done this, not out of charity,

but because it is in our interest as a nation to enable all groups to make the maximum contribution to the greater good. With no group of Americans does this make more sense than the disabled. From the hearing impaired Thomas Edison, to the wheelchair-bound Franklin Roosevelt, to the blind and deaf Helen Keller, the disabled among us have enriched our lives and made us a better nation. In enacting the Americans With Disabilities Act, we seek to fulfill the promise of this great Nation to all its people.

I commend the bill to the Members and urge its passage.

□ 1500

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. KOLBE].

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

Mr. KOLBE. Mr. Chairman, I rise today in support of the Americans With Disabilities Act. This bill will open doors for our disabled citizens and give them the same opportunity to productively participate in our society as you and I have. This act will guarantee that the disabled of our country enjoy the same fundamental rights as the rest of our citizens. ADA will extend rights already guaranteed under section 504 in employment, public accommodations, public services, transportation, and telecommunications.

Business leaders are concerned that this bill will have a negative effect on the small business community. I believe the opposite is true. The business community will benefit from the influx of a diverse and underutilized population. Some employers are reluctant to hire disabled people because they believe that a disabled person would be a liability to the business. But, I believe that with the passage of ADA employers will realize that the disabled can be a significant asset to any business. With little or no accommodation they can do the same job as anybody else.

The ADA represents a compromise forged with the specific needs and circumstances of small businesses in mind. Both the size and nature of a business will be considered when requiring employment accommodations of a business. Public accommodations are required to make changes in existing buildings only if such changes are "readily achievable." Under ADA, businesses will have the flexibility to choose for themselves the manner in which they plan to meet the "readily achievable" standards.

Extending the basic civil rights guaranteed by ADA to the disabled is long overdue. We have heard the voice of our President, the voices of our colleagues in the Senate, and the voices of our millions of differently abled citizens. Now the time has come for us to act.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the time has come for the disabled to achieve their independence and move into the mainstream of American life. I am convinced that the Americans With Disabilities Act provides the key to employment opportunities, to commercial opportunities, and better accessability for the disabled. Thus, I strongly support the ADA.

Although the disabled have made many gains over the past decade, the fact remains that unnecessary discrimination and exclusion continues.

In August of 1988 at his acceptance speech for the Republican nomination, President Bush pledged to "do whatever it takes to make sure the disabled are included in the mainstream." Today we are in the final stages of the effort to fulfill that promise.

During the first session of this Congress, the Subcommittee on Civil and Constitutional Rights held a series of hearings on the ADA. The subcommittee received testimony from the Attorney General of the United States, the Honorable Richard Thornburgh and from numerous representatives of the business and disability community.

Since that time, I, along with numerous other colleagues, have been working to clarify the significant terms of the ADA so that those who are affected by its provisions understand their rights, duties, and responsibilities under the law. It is imperative that the money that businesses spend to comply with the ADA be used to make facilities accessible to the disabled, and not used to pay lawyers' fees as litigation is used to determine the meaning of the bill's key terms.

Briefly, the significant provisions of the bill over which the Judiciary Committee exercised jurisdiction provide as follows:

In the employment title, the ADA is similar to the law of race and sex discrimination, in that an employer cannot refuse to hire or promote an individual because of that person's disability, when the individual otherwise meets the qualifications for the position.

An employer is required to make a reasonable accommodation for a disabled person, if that accommodation will allow the person to perform the essential functions, with consideration given to the employer in determining which functions are essential. The accommodation must not impose an undue hardship on the employer which means that it cannot impose a significant difficulty or expense on the employer after taking into account the size of the business, the number of employees, the nature and cost of the accommodation and numerous other factors. The financial resources of both the specific facility and the parent company are to be considered in determining an undue hardship.

The employment provisions do not take effect until 2 years after the date of enactment for employers with 25 or greater employees. Employers with 15 or more employees will be covered 2 years later.

The public accommodations title of the ADA requires any business or individual offering services to the public to accommodate persons with disabilities unless such an accommodation would not be "readily achievable." "Readily achievable" is defined as "easily accomplishable without much difficulty or expense." Public accommodations include hotels, restaurants, theaters, stores, offices, museums, parks, social service agencies, schools, and the like.

All new construction must be accessible to the disabled unless structurally impractical. When altering an existing structure, accessibility must be implemented to the greatest extent feasible unless such imposes an undue burden. Remedies available are injunctive relief and attorneys' fees. The Attorney General is able to file pattern and practice suits and request civil fines of up to $50,000 for the first offense and $100,000 for subsequent offenses. The public accommodations title takes effect 18 months after the date of enactment. An amendment will be offered by Congressman LAFALCE and Congressman CAMPBELL to allow a phase-in for small businesses giving them additional time to educate themselves on the provisions of the ADA to ensure compliance.

I will be offering an amendment to delink the remedies for employment discrimination in the Americans with Disabilities Act from the remedies contained in title VII of the Civil Rights Act of 1964 amendments. The amendment will clarify that the ADA only calls for equitable relief as a remedy for employment discrimination. The amendment will neither expand nor contract the remedies of the ADA currently available to victims of employment discrimination. It simply provides, that if the remedies provision is to be changed, there should be a conscious debate and a conscious vote on the issue, rather than a bootstrap to the Civil Rights Act of 1990.

I am convinced that the coupling of title VII remedies in the ADA with those in the Civil Rights Act of 1964 will unnecessarily open the door for the diversion of funds into the courtroom by padding the pockets of the lawyers rather than providing access to the disabled. This amendment is supported by the Bush administration and at the appropriate time, I will ask for the support of my colleagues as well.

Mr. HOYER. Mr. Chairman, I yield myself 2 minutes for the purpose of a colloquy with the gentleman from Texas, Mr. BARTLETT.

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

Mr. HOYER. I yield to the gentleman from Texas [Mr. BARTLETT].

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

Chairman, this bill requires that the rights and protections of the ADA will be applied to the legislative branch of the Federal Government. I would like to clarify that the public accommodation requirements of the bill for the Congress will be enforced with remedies of equal force and impact to those applicable to the private sector. Does the gentleman agree with my assessment?

Mr. HOYER. I agree. This bill requires the development of procedures and remedies that will result in the ability of persons to get prompt correction of any ADA violation. Although I do not expect that a problem of recalcitrant behavior regarding public accommodations in the Congress would occur, I want to assure the gentleman that any such violation will be addressed with severity.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I am very pleased to be here today with this bill. It is a very important piece of legislation to provide for civil rights for the handicapped and disabled. It is something I have had a lot to do with in debating through our Committee on the Judiciary.

Based on the amendments we have had today and the couple that I know will be adopted today because of the general will and the agreements that have been made, I am going to be able to support this legislation very proudly. However, I do think there are some important considerations all of us should remember. The big debate over this bill has never been over the issue of providing civil rights and antidiscrimination laws to protect our disabled community in the workplace. The big issue is how do we minimize the costs to the employers while still doing that?

A lot of us had thought that many of the provisions, as initially written, were simply not tight enough, simply not in the strength they should be in order to reduce those costs and keep them to a minimum.

There are still a couple that really ought to be done. One of them I will describe when I get up here later on the essential functions, we have made a lot of improvements on in the definitional area. But one that I consider exceedingly important is that we later on down the road get that tax credit that I know has been discussed here on the floor a little earlier and that I believe the administration is now prepared to support. That will not be a part of this bill, but we must not forget it because the small businessman really needs that tax credit in order to make the accommodations and not have to close shop in some cases.

□ 1510

Going along with that, though, is the Olin amendment amendment to be offered later today. I know that is tougher for some of our Members, but it is, I think, essential for the small businessman, in particular, to have some kind of a cap, some kind of a ceiling on the amendment of the cost that might be incurred in order to make these accommodations. That amendment is going to propose that it be no greater than 10 percent of the cost—that is, of the annual salary of whoever the employee is who is being hired. It seems to me that is reasonable, and once that cost threshold is exceeded, they will get to the point where they have a presumption of undue hardship, providing a measure of protection to the employer.

It is that kind of modification that still remains and still needs to be done on this bill, and I encourage my colleagues as they listen to the amendments that are out there, the very few that were offered, that Members do make judicious consideration, they make these kinds of minor changes, that yet can be made to keep those costs down in this bill.

I do want to close by saying that there are a number of other amendments out here today that permit the same kinds of consideration. What we need is improvement in this bill. When we are all done with this process, we are going to have a very fine bill, I think, that all Members can be proud of. However, we must have those protections, and I remind Members when it is all over with, we still need to keep the pressure on to get the tax credit that should have been a part of this bill, but unfortunately is not. We still have a chance to get it.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, I rise today in support of the Americans With Disabilities Act and I urge my colleagues to support its passage with no weakening amendments. The ADA, supported by the President, and overwhelmingly approved by four House committees, is long overdue legislation remedying the separatism which now excludes 43 million disabled citizens from equal participation in American society. For far too long, physical and attitudinal barriers have prohibited individuals with disabilities from demonstrating their worth in the workplace, enjoying access to public accommodations and transportation, and utilizing telecommunications systems.

This legislation will provide this Nation's handicapped citizens with the same protections presently afforded to other minority groups. Under the ADA, an employer may not refuse to hire or promote a person with a disability merely because of that disability, when the individual is qualified to perform the job.

The measure also requires an employer to make reasonable accommodations for persons with disabilities, if those accommodations will allow the person to perform the essential functions of the job.

Under the bill's public accommodations provisions, it would be illegal to exclude or refuse to serve a person with a disability. The ADA also requires that new public transit vehicles are accessible to the disabled without requiring any retrofitting.

Title IV of the ADA will require, within 3 years, all common carriers to provide intrastate and interstate telecommunications relay services for telephone calls between uses of such devices for the deaf and users of telephones. These relay services will allow people with telecommunications devices for the deaf to communicate with persons who do not use such devices.

The Americans With Disabilities Act is patterned after section 504 of the Rehabilitation Act of 1973 which has been in effect and operating successfully for over a decade. It is a reasonable and prudent bill which strikes the proper balance between the civil rights of persons with disabilities and the legitimate concerns of both large and small businesses.

It is of exceptional significance that this bill will offer protection to the thousands of Americans with HIV disease—from those who are asymptomatic to those with fully developed AIDS. Persons living with HIV disease suffer from all the forms of discrimination found in our society.

Once the ADA becomes law, all persons with HIV disease will finally be protected in private employment. No longer will employers be able to lawfully discriminate against them as they hire, fire, promote, and set terms and conditions of employment. The range of protection is of critical importance for people with HIV disease. The ADA mandates that employers undertake "reasonable accommodations" in the hiring of disabled persons who are otherwise qualifed to work. This will ensure that persons with HIV have the right to flexible hours and time off that are crucial to help accommodate the disease.

Essential protections concerning medical examinations are offered by the ADA's employment provisions. Under the ADA, an employer may give medical examinations, but only after a conditional offer of employment is made. And then, all applicants for a specific job must be given the same exam. The results of the examination can only be used to withdraw a job offer if the applicant is found not to be qualified for the job based on the results of the exam. This protection is

the same as that provided under section 504 of the Rehabilitation Act.

The Centers for Disease Control has issued guidelines for the employment of persons with HIV disease which state that such individuals are qualified to remain in all jobs in the work force. The guidelines also state that current employees may only be required to submit to medical examinations if the examinations are job-related and consistent with business necessity. And the CDC guidelines do not require HIV testing for any type of employment in the work force.

This legislation properly reverses the indifference, discrimination, and neglect experienced by disabled individuals and will enable them to prove that being disabled does not mean "unable" or "unequal." Furthermore, it will encourage society to recognize disabled persons for their abilities and contributions and not for their physical limitations. I once again urge my colleagues to seize this opportunity to enact this historic piece of legislation without weakening amendments.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, again, as we end this general debate on this historic bill, I did not, when the Committee on Education and Labor was up here, make a comment on their staff, but I want to mention Reggie Govan, Bob Tate, Eric Jensen, Pat Morrissey, about to leave the Chamber now, and Randy Johnson of the gentleman from Texas, Mr. BARTLETT's staff, did an extraordinary job in working on this legislation. I think all the principals thank them for the extraordinary work they have done. On the Committee on the Judiciary, I would be remiss if I did not mention the outstanding work of the chairman, the gentleman from California [Mr. EDWARDS], and also the ranking members, particularly the gentleman from New York [Mr. FISH]. Also, Bill Jones, Cynthia Meadow, Katherine Hazeem, Katherine Leroy, Stuart Ishimaru, and Suzanne Sullivan, who is on the floor with the Committee on Public Works and Transportation. All of them have contributed immeasurably to the quality of this legislation. Without them, it would not be where it is, and without them, we would not have been able to pass the ADA.

I thank them on behalf of 43 million disabled Americans who they have served so well. I know their Members are very, very appreciative of them, as well.

Mr. Chairman, I yield to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I thank the gentlemen for yielding, and ask the gentleman, for the purpose of colloquy, a question which I understand the gentleman is prepared to enter into.

Mr. Chairman, I would like to ask the distinguished gentleman, and I note that I am conducting this colloquy on behalf of the gentleman from Ohio [Mr. ECKART] who originally drafted the colloquy. I would like to ask the distinguished gentleman from Maryland if he would comment on particular aspects of the bill. Sections 104 and 510 of the bill specifically refer to illegal drug use, and refer to an individual who formerly used illegal drugs within the meaning of the bill, but do not understand the bill to prohibit or combat drug use of those.

I would note for the gentleman, and I would suggest that we do this colloquy later as the copy of the colloquy that has been handed to me from the gentleman from Ohio has been marked up rather severely, and I am not exactly certain which parts he wants to have read into the RECORD, and which part he does not want to have read into the RECORD. Therefore, if the gentleman from Maryland [Mr. HOYER] would not mind, we would do this at a later time.

Mr. HOYER. Mr. Chairman, we will accommodate the gentleman from Texas [Mr. BARTLETT] and the gentleman from Ohio [Mr. ECKART].

Mr. BRENNAN. Mr. Chairman, the Americans With Disabilities Act must pass the House, in strong form. As a cosponsor of H.R. 2273, and as a Representative from Maine, which has access laws in effect that are working, and are not causing undue hardship, I urge my colleagues to enact this long overdue measure.

I ask that we seriously consider the 43 million individuals with disabilities who we represent, and ask if they should have equal access to transportation, telecommunications, and other services, just some of the time, or only on certain railway cars. Should these citizens be forced to have separate, but so-called equal access to society? To allow this would be contradictory to allowing people with disabilities the opportunity to enter the mainstream of American life.

This legislation has been considered the greatest piece of civil rights legislation since the 1964 Civil Rights Act. I urge my colleagues to resist putting various price tags on human rights and employment opportunities for people with disabilities. I believe it is important to provide businesses, particularly small businesses, with technical and financial assistance to meet the challenges of opening doors to the workplace and society for the disabled. I am a cosponsor of a separate piece of legislation that would provide this assistance, and Congress should swiftly enact that bill in addition to the ADA.

When I met this week with people from Maine who have disabilities, I could sense the value of this bill to their self-confidence, and their future opportunities. I learned of the excitement surrounding the ADA in the disabled community. And, I learned that when people from Maine with disabilities are speaking with disabled persons from other States, they feel lucky to have the equal access laws and the civil rights protections guaranteed in Maine. Civil rights should not be a function of luck.

When I asked what the ADA would mean for individuals with disabilities, the response was, "It would empower people with disabilities," and it would put in place some "fundamental" protections against discrimination.

I was told, and I believe, the ADA means giving people with disabilities a "taste of independence." Finally, and perhaps most importantly, I was reminded that "people with disabilities in Maine can get up and go to work," independently. I cannot emphasize enough what this means to an individual, to their family, and to an entire community.

The President, the Vice President, and the Attorney General have all voiced support for the ADA—76 Senators and 152 Members of Congress have already cast votes in favor of empowering Americans with disabilities with the same civil rights as other U.S. citizens. In order to guarantee opportunities for participation and success in American society, we, too, must vote for the ADA.

Mr. RANGEL. Mr. Chairman, today, we consider H.R. 2273, Americans With Disabilities Act. For the 43 million Americans with disabilities, this bill provides important protections in employment, public accommodations, transportation, and telecommunications services.

As the chairman of the House Select Committee on Narcotics, I wish to comment upon sections of the bill relating to drug abuse and drug abusers. The bill excludes from protection individuals who are current drug users and it removes protections for current drug users under the Rehabilitation Act. However, the bill explicitly retains protections for recovered persons, individuals who have successfully completed treatment, and persons currently in drug or alcohol treatment, who are not using drugs illegally. The bill also protects persons who are erroneously regarded as current illegal users of drugs, and it prohibits the denial of health care services, and other services provided in connection with rehabilitation, to persons with current drug use problems.

This bill strikes a delicate balance. It recognizes the need to protect employers, workers, and the public from persons whose current illegal drug use impairs their ability to perform a job and whose employment could result in serious harm to the lives or property of others. At the same time, the bill recognizes that treatment for those in the grips of substance abuse is not only the compassionate thing to do but an essential component of a comprehensive attack on drugs. Treatment can save the lives of individual abusers, and it can also return them to productive roles in society, which strengthens our families, our communities, our economy, and our ability to meet the competitive challenges of the growing international marketplace. By providing protections against discrimination for recovered substance abusers and those in treatment or recovery who are no longer engaged in illegal drug use, the bill provides an incentive for treatment. Under this bill, no one who seeks treatment and overcomes a drug abuse problem need fear discrimination because of past drug use.

I support passage of H.R. 2273, and I urge my colleagues to vote for this important measure.

Mr. MATSUI. Mr. Chairman, before us today stands the opportunity to take a step closer to equal treatment for all citizens of the United States. The Americans With Disabilities Act begins to correct this longstanding inequity.

Americans with disabilities are not unable to work or to contribute to society, they just have different abilities. A person's disability does not necessarily impinge upon his or her intelligence or commitment to getting a job done. It is time our laws recognize this reality.

Every day of their lives, disabled Americans are confronted with closed doors because of their condition. The doors that remains closed extend beyond not being able to go into a store or to take a job at a particular establishment because it is unaccessible. These doors take the form of stares, ridicule, and harassment, all of which stem from the ignorance of the population to the abilities of these people. While Congress cannot through legislation require people to treat their fellow citizens more humanely, we as Members of Congress can strip away discriminatory practices that confine disabled Americans from working, shopping, or traveling outside a route prescribed by accessibility.

Perhaps through enactment of the ADA, the American public will learn that disabled Americans are not unable and are not unlike you and me in their desire to be a contributing member of society. There are some 43 million disabled individuals living in America.

This bill will make the playing field a little more even for those with disabilities to compete in the workplace and in the marketplace. So many doors are now closed to these individuals, simply because their needs do not conform to the current rules of the game.

This bill focuses on several areas critical to ensuring the independence of America's disabled citizens—transportation, telecommunications, housing, employment, and education. Without access in these areas, we are condemning these individuals to a life of frustration.

I want to congratulate my colleagues who spent many hours working on this legislation. It is a comprehensive package that really will make a difference in the lives of millions of Americans. Adoption of this civil rights measure is critical, and I strongly urge my colleagues to adopt this legislation without any restricting amendments.

Mr. FORD of Tennessee. Mr. Chairman, I rise in strong support of the Americans With Disabilities Act. As a cosponsor of this bill, I firmly believe in both the principles on which this bill is founded as well as the legislation that is before this floor.

H.R. 2273 affirms the principles of the Civil Rights Act of 1964 for the America of 1990. H.R. 2273 affirms the principle that America is a nation with opportunity for all of its people. And maybe most importantly, H.R. 2273 affirms the principle that disabled Americans can and do compete and succeed in today's America.

By prohibiting discrimination against disabled Americans in employment, public accommodations, transportation, and telephone services, the Americans With Disabilities Act should not be seen as a gift to the disabled.

Rather, Mr. Chairman, H.R. 2273 will assure disabled Americans of their equal status as American citizens. This is not a gift. This is a right.

Just as the Civil Rights Act of 1964 affirmed the principle that America condemns discrimination, so does the Americans With Disabilities Act of 1990.

H.R. 2273 will open doors for qualified individuals to compete and succeed in the 1990's and the 21st century. And by clearing the way for disabled Americans to participate in our economy, we will take one more step in the eradication of discrimination in America.

Mr. Chairman, we no longer refer to disabled Americans as handicapped. This shows an evolution in America's understanding that the disabled can and do contribute to the welfare of our Nation.

By passing the Americans With Disabilities Act, this body will ensure that disabled Americans help uplift our Nation, help American companies compete in the international economy, and help improve the quality of life for all Americans, not just the disabled.

Mr. Chairman, those who oppose the Americans With Disabilities Act will begin their statements on this floor by stating their commitment to the quality of life of disabled Americans. But H.R. 2273 deserves more than our words, it deserves our vote.

The Americans With Disabilities Act deserves the support of every Member of this body, not because it will improve the quality of life for a select group of Americans, but because it will improve the quality of life for all Americans.

Mr. Chairman, I urge my colleagues to support the Americans With Disabilities Act.

Mr. KLECZKA. Mr. Chairman, the Americans With Disabilities Act, H.R. 2273, has been scrutinized at length in public hearings for nearly 3 years. We must do the right thing now—without further delay—and promptly enact this overdue measure to ban discrimination against persons with disabilities in employment, public accommodations, transportation, and telephone services.

The need for this legislation is great, for a substantial portion of our population suffers from discrimination on the basis of their disabilities. Nearly 43 million Americans are affected today by a handicap with which they were born, or acquired as the result of accidents or aging.

Individuals with disabilities in Wisconsin's Fourth Congressional District have spoken at length with me about what this profound legislation means to them. H.R. 2273 is of vital importance because it ensures the disabled will receive equality, justice, and unfettered access.

Disabled Americans reject the traditional attitude that suggests they are unable to care for themselves. Unemployment and dependence are not the inevitable result of disability. According to a recent Louis Harris poll, two-thirds of the working-age people with disabilities, who are not working, desire a job. Employers report that their disabled workers usually work harder and longer than able-bodied counterparts. However, public transportation and workplace environments are usually inaccessible to these individuals. Our society cannot afford to lock disabled Americans out of the mainstream anymore. They deserve to be judged by their abilities and not their disabilities.

The price of this legislation is minimal compared with the amount we now pay to subsidize inactivity. Excluding 10 million working-age citizens with disabilities from the workplace costs our society approximately $300 billion a year, according to the Equal Employment Opportunities Commission [EEOC]. Contrary to some claims, a 1982 study found that 51 percent of the accommodations provided to handicapped employees resulted in no additional costs, while another 30 percent resulted in costs of between $1 and $500. The bottom line is that the price of this legislation is negligible compared to the massive cost of discrimination.

Removing barriers to full participation by disabled individuals in everyday life will create direct and tangible benefits for the American economy. More disabled persons working increases earnings, lessens dependence on the Social Security system, increases spending on consumer goods, and increases revenues.

I wholeheartedly believe that Americans with disabilities are fully entitled to the same quality of life that able-bodied people enjoy.

Qualified people should not be barred from employment or public accommodations, or denied adequate public services because of a disability. Granting people with disabilities the same civil rights protection that able-bodied individuals enjoy is the right thing to do.

Mr. HAWKINS. Mr. Chairman, today, I rise in support of H.R. 2273, the Americans With Disabilities Act, which will extend to millions of our fellow citizens the civil rights we so often take for granted. It will say to millions of Americans, whose social disabilities come more from the callousness and ignorance of others than from any affliction of their own, that they are first class and equal citizens. We welcome and need their active participation in our Nation's life. With enactment of this bill, we will eliminate one of the last barriers to equal opportunity from our society.

The Committee on Education and Labor has given emphasis to those parts of H.R. 2273 which will make discrimination in employment and in the provision of public and private services illegal. This is done by clearly setting forth Federal policy and guidelines, by giving people an understanding of their rights and obligations, and by placing the weight of the Federal Government and its agencies clearly behind the disabled.

We do this because it is right. Today, there are millions of our fellow citizens who have a disability. As a group, they suffer the highest rates of unemployment and the highest rate of dependence on government services. Each day, thousands suffer the pain, rage and frustration of being unable to do things which are part of everyday life in America—go to a job, attend a show, eat out or go shopping. They are physically, emotionally and spiritually separated from their friends. They are forced into a twilight zone of existence, not because they wish it so or because they are not able to do otherwise. They are forced into this situation because of outdated stereotypes, inadequate

public accommodations and a current system which is tolerant of an unjustifiable status quo.

We also propose this legislation because we know that it is in the best interests of our Nation and its future. Unlocking the great potential of the disabled, particularly in a time of a shrinking workforce and ever increasing need, is a must if America is to remain competitive and strong. Americans with disabilities have much to give to us, as individuals and as a nation, if we will only provide the key to unlock the door of opportunity.

H.R. 2273 is that key. It is the product of years of effort on the part of hundreds of people. The version which we will consider today is the product of hours of efforts and boundless determination on the part of many Members. I want to especially recognize the efforts of Congressman MAJOR OWENS, chairman of the Subcommittee on Select Education, who has worked on this bill for 2 solid years, and without whose support it would not be before us today. I wish to recognize Congressman MARTINEZ, chairman of our Subcommittee on Employment Opportunities, for his excellent work. On the other side of the aisle, let me recognize the fine efforts of Congressman BARTLETT, Congressman GOODLING and Congressman GUNDERSON. I know that Congressman BARTLETT in particular, has devoted substantial time and effort to this cause. Finally, I must honor the leadership and efforts of Congressman STENY HOYER, whose tireless efforts on behalf of this legislation have led us to the current consensus draft we are to consider.

This bill has bipartisan and full White House approval. The leadership of both parties have worked long and hard on modifications and clarifications to the bill as introduced. These have strengthened, not weakened, the proposal.

As a result, the bill has the support of the disability community. That does not mean that unanimity has been achieved on all points. I'm not sure that is ever possible in this life. However, we have reached agreement on most issues.

I believe that all reasonable differences and points of view have been reconciled, and I ask my colleagues to weigh this carefully and join me in rejecting any amendments which would violate the spirit and substance of these accords. I am proud to be cosponsor of this measure, and I fully support it. I hope that its consideration will be swift and its passage overwhelming.

Mr. FEIGHAN. Mr. Chairman, I rise today in support of the Campbell-LaFalce amendment to the Americans With Disabilities Act. I worked with Congressman CAMPBELL to craft this compromise when the bill was before the Judiciary Committee just last week. I believe the amendment strengthens the bill by allowing small businesses adequate time to comply with the public accommodation provisions of the bill.

Today, disabled Americans are effectively barred from many public places solely because of construction plans drafted without consideration of their needs. Often only a slight change could open a whole new world for a disabled person: a ramp—braille elevator buttons—a restroom wide-enough to accommodate a wheelchair—Title 3 of the Americans With Disabilities Act guarantees to all disabled Americans the right of access to virtually all public accomodations.

I am an original cosponsor of the Americans With Disabilities Act and strongly support the public accomodations provisions. However, I am concerned that businesses—especially small businesses without legal counsel's offices to advise them—will have difficulty in determining their responsibilities under this bill. A storm of litigation will not serve any of the goals of this legislation.

In committee I worked with Congressman CAMPBELL to craft a compromise amendment to blunt the impact of the automatic 18-month effective date of title 3. The amendment we developed provided a 6- and 12-month phase-in for small businesses: 6 months for businesses that employ less than 25 workers, 6 more months—a year after the effective date—for business with 10 or fewer employees. This amendment, was defeated 20 to 15. I believe that my colleagues will consider the reasonable nature of this compromise, the effort to enhance the protections of the bill, and the benefits to disabled persons as well as small business owners, and will accept the Campbell-LaFalce amendment.

I have enjoyed working with my able colleague from California. I am pleased to see that the distinguished chairman of the Small Business Committee joins him in offering this amendment, and I urge its passage. I also want to congratulate my colleague, STENY HOYER, for the fine work he has done in shepherding the ADA bill to final passage. All Americans owe him a debt of gratitude. Without his effort, we would not be here today.

Mr. HOUGHTON. Mr. Chairman, I support this bill. The work is not done. We will work through a series of amendments said to define more precisely both the intent and requirements of the bill. I am satisfied though with the work done by the four committees which have brought it to the floor. It is well thought out.

As a point of reference, over the past 6 months I have heard from disabled people both in my district and from other parts of the country. They support the bill. Let me share with you two stories:

A young woman from Elmira, NY, along with a group of her friends, had dinner reservations at a good restaurant. It happened to be raining that evening and my constituent was not permitted to enter the restaurant because the wheels on her wheelchair were wet. They might ruin the rug. She offered to wipe the wheels dry. No deal. She could go elsewhere.

Another restaurant in my district, because of New York law, was forced to install an elevator to take disabled patrons to one of the three floors of the restaurant. The proprietor resisted the mandate but finally complied. To his surprise, he found that his business increased because of his initiative. The move helped attract the disabled to his restaurant. In addition, word got out about the elevator and as a result it attracted seniors and nondisabled people who did not want to walk those stairs. Still another plus—the waiters, since the kitchen is on the lower level, also use the elevator to take food to the upper level.

There can be concerns about the financial impact of such a Federal mandate. Yet there is another side. It can also be a plus to business.

So, Mr. Chairman, although not perfect—nothing ever is—this bill, in a nutshell, spells out to businesses, colleges, and other establishments what they should do, yet gives them—and this is important—the needed flexibility to achieve these goals. I would like to feel that this approach ought to stir the imagination of everyone affected and produce not just costs, but positive results which we could not begin to legislate.

It is time to begin. To quote President Bush, "No longer can we allow ignorance or prejudice to deny opportunities to millions of American with disabilities * * * they have waited long enough for justice."

Mr. LEVINE of California. Mr. Chairman, I hope that the 1990's will witness a civil rights movement for disabled Americans. Today, Congress is considering landmark legislation which would guarantee disabled Americans the rights and recourse codified in the Civil Rights Act of 1964. The Americans with Disabilities Act, or ADA, will extend freedom from discrimination based on race, religion, or gender to include America's largest minority, the disabled.

ADA will prohibit employers from discriminating against physically challenged and other disabled people. The bill places the burden of proof on the employer to clearly demonstrate that a person's handicap prevents him or her from meeting a reasonable standard of performance and that no modification or accommodation the employer could make would allow the person to overcome this disability. These employment provisions will eventually cover all businesses which employ a minimum of 15 personnel.

ADA will further enhance employment opportunities and independence for disabled Americans by providing equal access to public and private transportation. The act requires all newly purchased public and private transit buses to be equipped with wheelchair lifts. In addition, it requires that all new rail facilities be accessible, that all existing rail facilities be retrofitted to insure that at least one car per train is accessible within 5 years and that all commuter rail stations be accessible within 3 years.

ADA will guarantee disabled Americans equal access to public accommodations and services such as hotels, restaurants, schools, and parks. This will also be accomplished incrementally by requiring that all new buildings be accessible and that existing buildings meet the standards established as part of their normal renovation schedule. This far-reaching provision will require everything from braille menus to elevators in all high-rise structures.

This long overdue measure will mark a quantum leap forward for the millions of disabled Americans who are virtual prisoners in their homes due to the inaccessibility of adequate transportation and public accommodations. Not only will it eliminate physical barriers, but in doing so will help to break down the psychological barriers which disabled Americans face by fostering a spirit of familiarity and cooperation.

It is already un-American to discriminate on the basis of race, creed, or color. In the 1990's, we are going to make it un-American to discriminate against the disabled. I urge my colleagues to join me in support of this important legislation.

Mr. COLEMAN of Texas. Mr. Chairman, I rise today in support of H.R. 2273, the Americans With Disabilities Act. Unfortunately, a previous commitment will prevent me from casting a vote on the final passage of this bill, but I fully support the legislation being considered today. In the last two congressional sessions, I have been an original cosponsor of this legislation, believing that antidiscrimination protections available to other minority groups should also be extended to 43 million individuals with physical or mental disabilities.

It is shameful that while discrimination against the handicapped in Federal jobs and federally funded programs or activities is prohibited under the 1973 Rehabilitation Act and the Civil Rights Restoration Act of 1987, these individuals are not protected by the 1964 Civil Rights Act, which prohibits discrimination in public accommodations, private-sector employment and the provision of State and local government services, protections which this bill is intended to extend.

Disabled individuals represent the largest minority in our country, spanning all racial, religious, and ethnic boundaries, yet at this point they do not yet have the right to the same Federal civil rights protections as other members of our society.

I am heartened by the fact that nearly 200 Members of Congress joined me as cosponsors of and a large number of organizations are supporting this legislation, increasing the momentum for passage during the current congressional session. I am committed to extending civil rights protections to the disabled community, and I urge all my colleagues to support this legislation.

Mr. GALLO. Mr. Chairman, I rise in strong support of the Americans With Disabilities Act [ADA]. It is a welcome occasion when the Congress and the President work together to produce bipartisan legislation to address the fundamental needs of 43 million Americans.

For too long, Americans with mental and physical disabilities have been prevented from performing many daily activities of living and from fulfilling dreams of employment, prosperity, and full participation in our communities. Not only has this been a great loss to our communities and to our economy, it has also been an added hardship to the individuals who have struggled so valiantly to overcome the obstacles imposed by their disabilities and for their families who have been by their side all along.

With just a little effort, our communities can be made fully accessible to the disabled. While there have been some minor concerns over this legislation, there has been virtually no disagreement over the need for the protection it provides to disabled individuals.

The Americans With Disabilities Act will prohibit discrimination in both the public and private sectors. Since 1973, any agency, company or organization that receives Federal funds has been prohibited from discriminating against the disabled. So for 17 years, these protections have been successfully provided to the disabled, although on a limited basis. Now, we are removing these limitations. The ADA bill will extend these protections to cover employment, public accommodations and services, transportation, and telecommunications.

With passage of this bill in the House today and with continued leadership by the President, this legislation will open new doors of opportunity to the disabled that, until now, have been closed. For a disabled American, it means equal opportunity for employment. It means being able to use public transportation to get to work, to do their shopping or to see a movie. It means being able to use a telephone or other device to communicate with friends and family. These are just a few examples of what this bill means to the disabled; things that most of us take for granted.

The Americans With Disabilities Act, simply put, will help the disabled to help themselves. I urge strong support for this legislation.

Mr. COSTELLO. Mr. Chairman, today we are considering the Americans With Disabilities Act, legislation for all disabled citizens of this country.

The ADA will literally open the doors of America to its disabled citizens, and many of the provisions of the ADA will provide freedom of access to public transportation, employment, and public accommodations.

Disability does not distinguish among segments of American society by age, wealth, or accomplishment. The disabled members of our country are men and women, who are young and old, rich and poor. The ADA will greatly improve the lifestyles of 43 million disabled Americans from all walks of life and will integrate them into the mainstream of this Nation.

One of the organizations that has been in the forefront of legislative and advocacy efforts for passage of the ADA has been the Paralyzed Veterans of America. Members of the PVA are all veterans of military service who have suffered catastrophic spinal cord injuries or diseases of the spinal cord and are paralyzed.

Many PVA members from Illinois have been actively involved in this debate and have urged congressional approval of this bill. The ADA will ensure complete freedom of access to these dedicated Americans who have paid the price for the freedoms that we in America enjoy on a day-to-day basis.

Mr. Chairman, I urge my colleagues to support the Americans With Disabilities Act this week on the floor of the House. It is important legislation that will have a historic impact on our Nation as we meet future challenges in the workplace.

Mr. HAMMERSCHMIDT. Mr. Chairman, I am pleased to support H.R. 2273, the Americans With Disabilities Act of 1990.

Today is a landmark day in our country's history. Today, we take one giant step forward toward opening doors to opportunity and independence for millions of disabled Americans.

The Public Works and Transportation Committee has had a significant role in this effort, and after many months of deliberations, we are pleased to be able to stand here today and engage in the momentous final consideration of the bill on the floor of the House of Representatives.

I would first like to thank our distinguished chairman, Congressman GLENN ANDERSON, for his leadership in seeing that the committee dealt with the bill fairly and completely. I would also like to thank the chairman of the Surface Transportation Subcommittee, Congressman NORM MINETA, and the ranking Republican on that subcommittee, Congressman BUD SHUSTER, for their hard work on the bill.

Transportation holds the key to opportunity for millions of disabled Americans. Breaking down barriers to employment means nothing if the potential employee cannot get to the employer's place of business. This bill will go far to improve that situation. No longer will the problem of "how to get there" prevent the disabled from participating in recreational activities, running errands, visiting friends, and most of all, taking pride in a job well done. Our avenues, subways, railways, and waterways will carry the disabled all across this great Nation so that they can live normal and productive lives.

The legislation before us today represents a great effort to achieve these goals. We have worked long and hard to balance the needs of the disabled with the impacts on providers. We have tried to keep the objectives of mobility first and foremost in our minds in considering the issues raised before us. Many significant provisions of the legislation have met those goals. For example, the bill contains a well-reasoned approach to accessibility for the private over-the-road bus industry, which we believe represents a full and fair balance of the needs of the disabled and the impacts on the provider.

Though I support the ADA, I do have lingering concerns about some of the bill's provisions. The objective of the ADA is to provide mobility for all disabled Americans. The legislation before us, however, does not guarantee the best mobility for all the disabled. This is particularly true in smaller communities and rural areas where mobility needs of disabled Americans would be better served with more local flexibility to mold transportation systems to the particular transportation needs of the disabled in those communities.

Another concern is that the requirements imposed on transportation service offered by hotels and motels, private companies, and other private entities are likely to have a significant impact and will be burdensome for many.

Perhaps my greatest concern in this bill is that this legislation will end up in the courts and will really be written by the judicial branch of Government. The rights-based approach in the ADA insulates the proponents of the policies from the economic and social costs that those policies will impose on the general public. By turning the basic political question of mobility for the disabled into a question of right, Congress has, in effect, turned the issue over to the courts. When you couple the rights-based approach with the vagueness of the language in the bill, you have created a relief act for the legal community. This is an unfortunate outcome for such a significant piece of legislation.

At this point, Mr. Chairman, I would like to comment on several of the key provisions in the bill. The bill requires "comparable" serv-

ice, except with regard to response time, which is "comparable to the extent practicable." Our report states that the term "comparable" does not mean "identical." Typical service criteria that would have to meet this standard include: restrictions or priorities based on trip purpose; fares; and hours and days of service. Eligibility and service area are covered by specific requirements in the bill.

The term comparable is to be interpreted with some degree of flexibility. Comparable does not mean equivalent. For example, paratransit service is inherently more expensive. Considering the budget problems already faced by transit authorities and the additional costs imposed by this bill, transit authorities may need to charge users a higher fare than a passenger for a similar trip on a regular bus.

"Comparable to the extent practicable" implies that an even greater degree of reasonableness must enter into the determination of the response time required for paratransit. Response time is the most expensive factor in the provision of paratransit service. Costs go up sharply when less than 24 hours notice is required. Given these facts, a lesser standard for response time was agreed upon in the committee. The committee report states that "paratransit vehicle response time may not meet a standard of comparability with a fixed route system which operates vehicles at short headways." Any response time even close to headway time will not be feasible for most providers. In fact, it is possible that a 24-hour advance notice requirement could be determined as meeting the standard.

I would also like to comment on the eligibility requirements for paratransit. Our committee specifically limited eligibility to individuals who cannot board, ride, or disembark from a fixed route vehicle in order to encourage greater use of the accessible fixed route service. This language is specifically intended to exclude travel to and from the bus stop. In full committee, an amendment was added which extend eligibility to any individual, with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location. Examples of a "specific impairment-related condition" include: disabilities such as chronic fatigue, blindness, a lack of cognitive ability to remember and follow directions, or a special sensitivity to temperature. It was the intent of the committee that this be a very narrow exception to the general eligibility requirements. It is not our intent to allow any individual with a disability to successfully argue for, and be granted, paratransit service under this provision.

I am pleased the committee was able to reach a compromise on the private over-the-road bus provisions in the bill and I fully support that compromise. I would like to elaborate on two issues, however.

First, the OTA study is intended to be an objective analysis of the access needs of the disabled and cost-effective methods of providing accessibility to over-the-road buses. The study is needed in order to address questions which remain unanswered regarding accessibility to over-the-road buses. Very little experience exists currently with wheelchair lifts and other boarding assistance devices on over-the-road buses. Where lifts are in operation, use has been minimal. Most current lifts on over-the-road buses pose problems in terms of safety, compactness, reliability, and cost. Because of the high platform of an over-the-road bus, as opposed to a transit type bus, a lift must move to a greater height, posing both engineering and safety concerns. In addition, most lifts also take up substantial package express and passenger seating space, which impact revenues. The use of boarding chairs and ramps poses some problems in terms of portability and logistics. Some bus companies are meeting accessibility needs for their disabled passengers with a boarding chair and ramp system at the present time. I would expect that an analysis of the success of this method would be an important part of the study since it will be able to be reviewed in an actual service environment. In light of these facts, a thorough study of all methods of providing accessibility is necessary.

Second, in light of the fragile condition of the over-the-road bus industry, the impact of mandated accessibility requirements should receive careful consideration. We believe the disabled should be able to ride on over-the-road buses; we also believe over-the-road bus service, which for many of our Nation's smaller towns is its only form of intercity transportation, should be given every chance to survive. The study should balance both of these valuable national objectives.

Before I close, I would like to make special mention of an individual who played a great part in legislation benefiting the disabled over many years, Mr. R. Dennis Smurr. Dennis served for 9 years with the Paralyzed Veterans of America, one of the finest organizations I have had the pleasure to deal with in my congressional service. Dennis was a tireless and diligent force for the disabled. He possessed impeccable integrity, undaunted enthusiasm, mastery of issues, and a sincere commitment to bettering the lives of those with disabilities. I am happy to say that he was also a very dear friend. Before his untimely death in December, Dennis had been actively involved in the Americans With Disabilities Act. He would have been full of pride and happiness today to see this landmark legislation pass the House. This one's for you Dennis.

Despite my concerns, the Americans With Disabilities Act is legislation which we should all be proud to support. In this great body, we have our differences as to how best to achieve the goals of the bill. Some of us would have our differences as to how best to achieve the goals of the bill. Some of us would have preferred to see certain areas addressed differently. But overall, this legislation will profoundly improve many American lives and those Americans are counting on us to give them that chance today. I, for one, will vote to grant them the opportunity to live full and productive lives not hindered by barriers, whether they be of concrete or the attitudes within us. I urge my colleagues to do the same.

Mr. MILLER of California. Mr. Chairman, I rise in support of H.R. 2273, the Americans With Disabilities Act.

My esteemed colleagues on the four committees that have worked together on this legislation deserve our appreciation for bringing this measure before us for consideration today. I particularly want to thank my colleagues from the Public Works and Transportation Committee, the Education and Labor Committee, the Judiciary Committee, and the Energy and Commerce Committee for their leadership.

I also want to thank the coalition of national, State, and local disability and civil rights organizations and countless advocates for their tireless efforts on behalf of this long-overdue legislation to protect the civil rights of over 37 million Americans with disabilities. In the process, policymakers and the public have been educated to the indignities suffered by the country's largest minority, who want and deserve equal access to the American mainstream.

Twenty-six years ago, our Nation took a giant step forward to eliminate discrimination in this country by passing the Civil Rights Act of 1964. It was the historic first of several laws passed by Congress to dismantle the racist and sexist barriers that limited opportunities for minorities and women. Barring discrimination against individuals with disabilities has been addressed by Congress only once—and then only in a limited fashion. In 1973, Congress enacted section 504 of the Rehabilitation Act that protected the civil rights of disabled individuals—but only in agencies or organizations of the Federal Government or those entities supported with federal funding.

In fact, it has been our unwillingness to see all people with disabilities that has been the greatest barrier to full and meaningful equality. Society has made them invisible by shutting them away in segregated facilties, by erecting structural barriers that literally keep them out of buildings and off of public transportation, and denying them access to education and job opportunities—actions that have made it easy to ignore the needs and rights of disabled individuals.

If we continue to shut those with disabilities out, if we fail to pass this legislation now, if we continue to permit blatant discrimination, then we, as individuals, and as a society, are the ones who must bear the consequences.

We must bear the economic costs to our society when the disabled are prevented from fully participating in education, jobs, and community life. If the disabled are locked out of jobs, then society must bear the cost of maintaining these individuals and their families—families that otherwise would be self-supporting and paying taxes.

And we put unfair and needless burdens on the families who care for individuals with disabilities; care that could be shared or made less costly by eliminating discriminatory barriers.

As chairman of the Select Committee on Children, Youth, and Families, I am especially concerned about the children with disabilities in this country who face extraordinary challenges as they grow up. I am concerned about the families who face overwhelming medical expenses and emotional and physical stress while trying to care for their children at home. But in addition to these hardships, they also are confronted with the additional burden of discrimination that keeps them from doing things together as families simply because

buildings are inaccessible or there are no curb cuts in the sidewalk.

More than a decade has elapsed since the passage of landmark legislation, Public Law 94-112, the Education for the Handicapped Act, that afforded disabled children the right to a free, appropriate public education. We have come a long way since disabled children were educated in school basements or hidden away in institutions.

But we have made little progress in offering these same children equal access to playgrounds or amusement parks, sports events, or movie theaters, or to any of the day-to-day activities that comprise childhood. We have made little progress in offering these same children equal access to transportation, jobs, and housing once they leave school. In the real world, pervasive and unrelenting discrimination against individuals with disabilities is still a fact of life.

I am concerned, Mr. Chairman, about how we explain to children that their rights are protected only some of the time. How do we tell them that the principle of equality matters only while they are in school or when Federal funds are specifically engaged?

Passage of the historic legislation we are considering today will mean that more children will be able to be mainstreamed in life events that exist beyond school and beyond federally funded buildings.

Passage of this legislation will mean that children with disabilities will not be pushed aside, out of sight, and out of mind, but will be entitled to the same civil rights as all other minorities.

Passage of this legislation will mean that all children, regardless of whether they are disabled or not, and regardless of the extent of their disability, will be able to go where other children go, to play and interact with their peers.

Passage of this legislation will mean that children will have new opportunities available to them that most children now take for granted.

The select committee has heard firsthand about the positive effects of mainstreaming children with disabilities. Just this past fall, Kristie Joy Drury, and 11-year-old from Tulsa, OK, wheelchair-bound with spina bifida, told the select committee:

Ever since Kindergarten I have been mainstreamed in school and I think that is very important, because I get the chance to do most everything everyone else gets to do. (But) there are things I can't do and I would like to see some changes made. I think we need more adaptive physical education so we can have as much fun as the next guy. I also think we need more curb cuts. Whenever I go someplace with my mom and dad, we always have to lift my cart to get up to the sidewalk.

I think we need more education for teachers about our disabilities and special needs * * * Nobody knows enough about our disabilities to do anything about it. But we are going to show them what we are made of * * * You have got to make the laws better so we can live better lives and help other people understand that we are not really any different than they are.

And I will be pleased that if we pass this legislation, which President Bush has indicated his willingness to sign, we will no longer have to tell our children that their rights are protected only under certain circumstances and only in certain facilities.

This legislation will prohibit discrimination against individuals with disabilities in employment, programs or activities of a State or local government, in public accommodations, transportation, and telecommunications. It does so by providing protections that are consistent with other Federal civil rights laws long on the books. Its protections are far-reaching, yet the demands in places on compliance are modest. It initially exempts employers with fewer than 25 employees for the first 2 years, and therefore, employers with fewer than 15 employees, and it provides transportation authorities a reasonable amount of time to make appropriate accommodations.

With all the work that the select committee has done on child care, I am particularly pleased that this legislation would help open the doors to child care facilities and nursery schools. We know that good preschool opportunities can help children get off to a better start in school.

By prohibiting discrimination in public facilities, this legislation can help provide that opportunity for thousands of our children, whose parents had to forgo child care or preschool for their young disabled child, because they couldn't find a barrier-free environment or sufficiently trained child care providers who were willing to care for their children. In many cases, this has no doubt kept parents out of the labor force, placing a financial burden both on the families involved and once again, on our society as a whole.

I urge you to join with me in supporting this legislation. Join with me so that we can tell Kristie Joy Drury and the millions of children like her that we will ensure they have access to every opportunity to reach their fullest potential. Let us demolish the "Berlin Wall" that separates these children from their friends, their families, and their communities. And let us do so without any further delay.

Mr. STANGELAND. Mr. Chairman, I rise in support of H.R. 2273, the Americans With Disabilities Act. This is not perfect legislation. Some of its provisions affecting transportation and small business may have problems, leading sooner or later to excessive costs and litigation. On balance, though, this landmark legislation is long overdue and worthy of our support.

First, let me acknowledge the leadership and commitment of various committees and individuals. In particular, I'd like to thank the House Public Works and Transportation Committee. Chairman GLENN ANDERSON, ranking minority member JOHN PAUL HAMMERSCHMIDT, Surface Transportation Subcommittee Chairman NORM MINETA, and ranking minority member BUD SHUSTER, along with others, have all worked tirelessly on this bill. Perhaps most importantly, I'd like to commend all the organizations—particularly some of the disability groups—and individuals who have sacrificed untold hours to ensure passage of this legislation.

And yet, despite all its worthy provisions, I still have concerns about certain aspects.

The objective of H.R. 2273 is to provide mobility for all disabled Americans. Unfortunately, I don't believe it guarantees the best mobility for all the disabled. Those who live in smaller or rural areas may find the Americans With Disabilities Act brings them less mobility, not more.

H.R. 2273 mandates lifts on every new public transit bus. It also requires comparable paratransit, except with regard to response time, in which case the service must be comparable to the extent practicable. These are laudable goals, and we as a nation should strive to attain them. As across-the-board mandates, however, they may be unrealistic and perhaps even counterproductive—especially without opportunities for local flexibility.

The impact of both of these requirements, particularly on smaller transit systems, will be significant. In addition, in smaller areas, the disabled population may not exist in numbers great enough to justify the capital expenditure of lifts. Significant barriers to lift use exist in every city, whether it be the lack of curb cuts, hilly terrain, sheer distance from the nearest bus stop, or severe weather conditions. Very simply, an adequate paratransit system—such as the one in St. Cloud, MN—often provides better mobility to the disabled, particularly in less populated areas, than a lift-equipped fixed route system.

Therefore, I am concerned that the bill makes no allowance for flexibility so local communities can decide the best method to guarantee accessibility, mobility, and rider satisfaction. Like many of my colleagues, I believe a Federal mandate requiring one solution for all communities may be shortsighted and in the long run, counterproductive.

Mr. Chairman, I would hope throughout the remainder of the legislative process we will not lose sight of H.R. 2273's impacts upon small and rural communities, transportation officials, and the private sector. In our haste to remedy previous wrongs and prevent future discrimination, let's not create more problems for ourselves.

Having said that, though, let me reiterate my strong support for the bill as a whole. I urge my colleagues to vote in favor of the legislation while at the same time acknowledge that certain aspects should be strengthened.

Mr. ARMEY. Mr. Chairman, the intent of all civil rights legislation is to provide equal opportunity and a level playing field for everyone. The Americans With Disabilities Act intends to extend these protections to the disabled, and I fully support that intent. But the ADA as currently written may do far more than assure equal access.

The scope of this legislation is unprecedented. It defines disability so broadly that 43 million Americans, nearly one-fifth of the U.S. population, will be covered by it. That enormous number, of course, includes millions of people that most Americans would not consider disabled and in need of special protections. For example, even those with communicable diseases or serious behavior disorders would receive special privileges under this act. I cannot support a bill which extends that far beyond its original, noble objective.

Because 43 million American are covered, every business in the United States will have to interpret and carry out the provisions contained in this bill, but they should not have to read our minds. Terms found in the employ-

ment title are entirely subjective, such as undue hardship, essential functions, and reasonable accommodation. By leaving clarification up to the courts, we are inviting costly and unnecessary litigation. Without clear guidance, businesses will be uncertain about what standards to follow.

Since 1964, America has provided a means of redress for employees discriminated against in the workplace. Administrative medication and make-whole remedies found in the Civil Rights Act of 1964 such as back pay, injunctive relief, and attorney's fees have worked well for the past 25 years. But the introduction of H.R. 4000 changes the very basis of mediation in employment discrimination—H.R. 4000 would add punitive and compensatory damages.

Because ADA references title VII instead of specifying the remedies available, the Civil Rights Act of 1990 as currently written would change the assumptions made in crafting this bill. Punitive damages are counterproductive in employment disputes—they discourage medication and encourage litigation making it much harder to maintain a viable working relationship. That is, after all, the goal of title VII.

I want to make it perfectly clear that I would support a bill designed to provide the disabled with the means necessary to enter the mainstream of American society—that includes making public transportation accessible, ensuring fairness in the employment process, and encouraging modifications in public accommodations.

But the Americans With Disabilities Act goes far beyond what is needed to assure equal access to the disabled. We should be careful that in protecting one group of Americans we do not forget the rights of others. A balance must be struck between the needs of the disabled and the nearly blanket coverage that this bill provides. Fairness and equity are the cornerstones of all civil rights law—let's make it fair for everyone.

Mr. RAHALL. Mr. Chairman, I am pleased to rise in strong support of H.R. 2273, the Americans With Disabilities Act.

This bill was under the jurisdiction of four standing committees in the House, and it was my privilege to served on two of them—the Education and Labor Committee and the Public Works and Transportation Committee.

In that context, I wish to congratulate Chairman GLENN ANDERSON of the Public Works and Transportation Committee, and Surface Transportation Subcommittee Chairman NORMAN MINETA, for their strength in bring H.R. 2273 out of our committee without weakening amendments, by a vote fo 45 to 5. By the same token, I extend the same congratulations to Chairman GUS HAWKINS of the Education and Labor Committee for maintaining the same high standard of leadership with regard to the Americans With Disabilities Act, as he displays in regard to all civil rights measures, in guiding the bill through rough waters. Our committee fended off 15 weakening amendments resulting in a unanimous committee vote of 35 to 0 in reporting the bill.

While I do not serve on the Energy and Commerce and Judiciary Committees, I offer my congratulations and thanks to the chairmen of both committees for their guidance and leadership in reporting the ADA, by votes of 40 to 3 and 32 to 3, respectively.

Mr. Chairman, I think it is important for our colleagues in the House to note the above referenced committee votes, and to keep those statistics in mind as they deliberate on pending amendments to the ADA being considered on the floor today.

This bill has the support of the U.S. Attorney General, and the President of the United States, with one exceptiion, and that is whether or not punitive and/or compensatory damages ought to be allowed in cases where disabled persons are able to prove intentional discrimination.

I will oppose the so-called administration's remedy amendment to strike the compensatory damages award provisions in proven cases of intentional discrimination for the simple reason that, if no one out there is practicing discrimination against the disabled, as they should not be, they have nothing to worry about, do they?

Mr. Chairman, the ADA bill has been through the rigors of four House committees and their subcommittees of jurisdiction over employment, public accommodations, public transportation, telecommunications, and the right to be awarded compensatory damages for 43 million disabled individuals in this country. While no weakening amendments were adopted, this bill has been through a long series of clarifications and modifications, striking the proper balance between civil rights of persons with disabilities and the legitimate legislative concerns of businesses, large and small.

The definitiion of disability is the same definition that has been in effect since 1973—for 17 years section 504 of the Rehabilitation Act. Thre is nothing new with respect to identification of a person with a disability in the ADA except that it clearly excludes from the definition any person who is a current illegal user of drugs.

Quite simply, the ADA bill prohibits certain employers with 25 or more employees—when provisions go into effect in 2 years, and with 15 or more employees 2 years later—from discriminating against a qualified individual on the basis of his or her disability.

In the context of employment rights, the bill also provides that employers should provide reasonable accommodations to a disabled individual that would allow that person to perform a job, unless such acommodations would impose an undue hardship on the employer.

Public accommodations equity provided in the bill prohibits privately operated public entities, such as restaurants, hotels, and retail stores, from excluding or refusing to serve disabled individuals. It requries facilities being newly constructed to be made accessible, and provides that structural barriers in existing facilities to be removed if such removal is readily achievable.

The measure requires all telephone companies that provide voice transmission services to also provide telephone relay services to allow hearing or speech impaired individuals to place and receive calls through telephone devices to or from persons who are not impaired.

The ADA bill requires that public transit authorities, private intercity bus services, Amtrak and rapid, light, and commuter rail systems to make their systems accessible to persons with disabilities, including for persons using wheelchairs. Specific provisions are included to ease the burden that may otherwise be placed on small and rural communities.

The bill provides, consistent again with the 17-year-old section 504 coverage, protection of the American public against any individual who poses a direct threat to the health or safety of others. The bill defines direct threat as a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

As stated earlier, the bill does not include drug users as disabled persons, and further the ADA bill states clearly that homosexuality and bisexuality are not impairments or disabilities; and finally, that the term disability does not include transvestites, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders and other sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from current illegal use of drugs.

In conclusioin, Mr. Chairman, let me just say that this bill, about which so much has been said and written, very simply bars discrimination in hiring, ensures that people with disabilities can ride trains, buses and subways, and make telephone calls. If anyone denies the disabled these privileges, they can be sued.

Does that sound familar? If it does, it is only because you and I take those privileges for granted every day of our lives.

If we, as able-bodied citizens, were to be discriminated against in hiring, we would sue. If we were to be barred from our favorite restaurant, movie theater, or train, bus or subway, we would be outraged and we would demand our rights as Americans. If we were prevented from communicating with our friends, business associates or families by telephone, and God forbid, prevented from making a 911 call in a life-threatening situation, we would be appalled, and we would demand our right to the ability to communicate.

We take our rights for granted. If we want to go to a movie, or take our kids to a museum, or out to a nice restaurant for a meal, or call our mothers on Mothers' Day, we just do it. Not much planning goes into it except to decide which movie we want to see, or what we want to order from the menu.

These daily privileges that we take for granted and which, if denied us we would demand and get, are not taken for granted by the disabled. They don't know if they can even get into a movie house or a restaurant—because of stairs that wheelchairs cannot scale. Yet a simple, inexpensive ramp would give them that access.

Think of the ADA bill simply as a guide—a legal guide—to be used by business, by government, by transportation authorities for granting the same privileges to the disabled as they automatically grant to those of us who are more fortunate because we are able-bodied.

The ADA bill is an investment in our future, and the investment it requires will be repaid in full by allowing the disabled the right to work,

compete and contribute in ways they never have before.

We have the unprecedented opportunity today to provide a clear and comprehensive national mandate to end discrimination against the disabled, and to bring them into the economic mainstream of American life. I'm proud to be a part of today's deliberations, and I urge my colleagues to support H.R. 2273.

Mr. AUCOIN. Mr. Chairman, I rise in strong support of the Americans With Disabilities Act and I urge my colleagues to do the same.

We have a unique opportunity before us today—the opportunity to pass legislation which will alter dramatically the way millions of Americans go about their everyday lives.

The Americans With Disabilities Act is more than just another law, it is a declaration of independence for all Americans with physical or mental disabilities or those afflicted by disease. It says that everyone has the same right as everyone else to hold a job, to ride a bus or to stay at a hotel, without fear of discrimination.

I'd like to commend the authors of the Americans With Disabilities Act for their hard work in crafting a bill that provides both an effective means of combating discrimination and yet gives enough latitude to employers to allow them the flexibility to achieve compliance.

This is an opportunity for Congress to reaffirm its commitment to leadership which does not countenance the myths, stereotypes, and irrational fears which give rise to discrimination against people with disabilities. I urge my colleagues to support the Americans With Disabilities Act.

Mrs. COLLINS. Mr. Chairman, I rise today to express my support for the Americans With Disabilities Act, H.R. 2273. Passage of this bill is of grave importance to every person who is a citizen of this Nation.

The United States of America is more than just a name, but also a statement of ideals. This Nation offers the promise of democracy, freedom, liberty, the pursuit of happiness and most important, equality. Our Nation cannot function properly without fulfilling these goals. Our history is one of the promise and realization of economic and social success. As a result the world now looks at us as the champion for a democratic way of life. Each minority group has had to push for their inclusion into American society. In the process, laws, and even amendments to the Constitution, have been necessary to make the system fair for all. The last truly major civil rights legislation was passed in 1965. However, the act neglected to include the disabled community, which is now 43 million citizens and America's largest minority. Once again it is clear our laws need more fine tuning. Each one of us is elected to represent all portions of the American population. We cannot forget close to one-fifth of the Nation because of cost.

The Americans With Disabilities Act was developed by the National Council on the Handicapped, an independent Federal agency appointed by President Reagan to investigate the status of disabled Americans. Over the past 5 years, the council has conducted innumerable hearings and forums across this country and has reached the same inescapable conclusions again and again. It is barriers and discrimination, rather than the inherent physical or mental characteristics of persons with disabilities themselves, which are to blame for the staggering unemployment and isolation of these citizens, our Nation's largest minority. The act is written so as to end discrimination in six basic areas: employment, housing, transportation, public accommodations, public services, and communication barriers, the American population.

The bill's wide scope required it to be referred to three committees in the House. The numerous subcommittee and full committee hearings and markups were the forums of tremendous debate and change. The bill's detractors assert that the costs of compliance will impose too great a burden on American businesses. We cannot put a price on human dignity and equality.

More than two-thirds of the 43 million citizens with disabilities are unemployed. This is not a result of lack of skills but rather lack of opportunity. ADA will form the foundation for policies and programs which will remedy the current situation. It is interesting to note, however, that according to the U.S. Chamber of Commerce, workers with disabilities have demonstrated that their job performance competes with and frequently exceeds that of other workers in production, efficiency, and favorable accident and absentee rates. Disabled does not mean unable. Full participation by people with disabilities is essential as we face an increasing global economic challenge.

It is always the assumption of some, that changes in the status quo which allow a new group their equal rights will cost large sums of money, lower quality, and cause numerous incalculable problems. However, time and time again these assumptions have proved to be false.

I ask you to join me and over 250 other congressional cosponsors, the disabled community, and President Bush in the fight to end discrimination against our Nation's largest minority. Vote "yes" for the Americans With Disabilities Act, and "no" to any amendments that will weaken its power or limit its scope.

Mr. COYNE. Mr. Chairman, I rise today in support of the Americans With Disabilities Act. I would like to take this opportunity to acknowledge the four House committees that worked so hard to bring it to the floor. I also want to congratulate the bill's sponsor, STENY HOYER.

Presently, there is widespread fear and prejudice against disabled persons. It is a common fact that the disabled have a greater struggle finding employment, are more susceptible to poverty and, frequently, are involuntarily isolated because it is too difficult to get around in public places. In most cases, it is not the individual's disability that places constraint's on behavior, rather, it is the obstacles placed by society.

The Americans With Disabilities Act will remove the barriers disabled individuals experience. Further, it will provide employment and economic opportunities to a deserving population in this country. I urge my colleagues to support this measure.

Mr. HOYER. Mr. Chairman, as the general debate on the Americans With Disabilities Act draws to a close, I want to thank all of those people in and out of the Congress who helped to make this historic event possible. I would also like to submit for the RECORD a brief overview of the provisions of the bill. I will be offering a further description when the House completes debate on the proposed amendments.

There has been a number of staff in the House of Representatives who have worked on the ADA over the last year. I would like to express my deepest appreciation for their long hours and hard work. They are all true professionals who perform their jobs with tremendous talent and dedication. They are: Reggie Govan, Randy Johnson, Pat Morrissey, Maria Cuprill, Bob Tate, Eric Jensen, Paul Schlesinger, Sante Esposito, Roger Slagle, Phyllis Guss, Ken House, Bill Jones, Cynthia Meadow, Catherine Leroy, Stuart Ishimaru, Katherine Hazeem, Alan Roth, David Leach, Glenn Scammel, David Tittsworth, and Rob Mooney.

There have also been a number of dedicated citizens in the disability community who have worked tirelessly to make this day happen. I would also like to acknowledge their tremendous contribution and dedication. These include, Ralph Neas and Pat Wright; the legal team: Chai Feldblum and Arlene Mayerson, coordinators; Jim Weisman, Karen Strauss, Bob Burgdorf, Ellen Weber, Bonnie Milstein, Sy Dubow and David Capozzi. Lobbying coordinator Liz Savage and grassroots coordinator, Marilyn Golden. Technical assistance by John Wodatch, Dennis Cannon, Justin Dart, I. King Jordan, Jay Rochlin, and Harold Snider.

Also, the people who really made it happen: Gerald Baptiste, Wade Blank, Marylou Breslin, Marca Bristo, Fred Cowell, Randy Davis, Curt Decker, Alice DeMichelis, Robert DeMichelis II, Cynthia Folcarelli, Dwayne French, Lex Frieden, Karen Friedman, Michael Gibson, Eric Griffin, Judy Heumann, Ron Honberg, Ilene Horndt, Dana Jackson, Mark Johnson, Donna Ledder, Sara Lichtman, Paul Marchand, Scott Marshall, Maureen McCloskey, Kathy McInnis, Kathy Megivern, Bonnie O'Day, Becky Ogle, Lee Page, Steve Pardich, Jim Parrish, Dick Pommo, Larry Robinson, Denise Rozell, Judy Shaw, Ken South, Laurie Summers, Shelly Teed-Wargo, Jim Tuscher, Dick Verville, Fred Weiner, and Bob Williams.

A special note and thank you must go to the family of Dennis Smurr who lost his life while realizing his dream of a society free and accessible to all Americans.

Most of all, thank you to the millions of people with disabilities, their families and friends who never gave up the dream. They gave of their time and limited financial resources educating the Congress and the Bush administration and the American public on why this bill is so urgently needed.

EMPLOYMENT

Title I of the ADA specifies that an employer, employment agency, labor organization, or joint labor-management committee may not discriminate against any qualified individual with a disability in regard to any term, condition or privilege of employment. The ADA incorporates many of the standards of discrimination set out in regulations implementing section 504 of the Rehabilitation Act of 1973, including the obligation to provide reasonable

accommodations unless it would result in an undue hardship on the operation of the business.

The ADA incorporates by reference the enforcement provisions under title VII of the Civil Rights Act of 1964. Currently, remedies available under title VII include injunctive relief and back pay.

Title I goes into effect 2 years after the date of enactment. For the first 2 years after the effective date, employers with 25 or more employees are covered. Thereafter, employers with 15 or more employees are covered.

PUBLIC SERVICES, INCLUDING PUBLIC TRANSPORTATION SERVICES PROVIDED BY PUBLIC ENTITIES

Title II of the ADA specifies that no qualified individual with a disability may be discriminated against by a public entity that is, a State and local government or a department, agency, special purpose district or other instrumentality of a State or a local government, or by AMTRAK or a commuter rail authority.

In addition to a general prohibition against discrimination, title II includes specific requirements applicable to public transportation provided by public transit authorities, commuter rail authorities, and AMTRAK.

With respect to public transportation provided by public transit authorities, all new fixed route buses must be made accessible unless a transit authority can demonstrate to the Secretary of Transportation that no lifts are available from qualified manufacturers, despite the fact that good faith efforts have been made to locate such lifts, and that a further delay in purchasing new buses would significantly impair transportation services in the community served. A public transit authority must also provide paratransit for those individuals who cannot otherwise use mainline accessible transportation—and to one person associated with an individual with a disability—up to the point where the provision of such supplementary services would pose an undue financial burden on the transit authority.

With respect to AMTRAK, all new intercity vehicles must be readily accessible to and usable by individuals with disabilities. Special rules are included specifying the standards of accessibility for people using wheelchairs for each category of passenger car. With respect to new cars used by commuter rail authorities, such cars must be accessible. However, special rules are delineated explaining the meaning of "accessibility" for people who use wheelchairs.

New stations must be designed and constructed in an accessible manner. Key existing stations serving rapid rail and light rail systems must be made accessible as soon as practicable but in no more then 30 years where modifications are extraordinarily expensive—with two-thirds of the stations to be made accessible within 20 years. For key existing stations serving commuter rail, the timeframe is 20 years as it is for all stations serving Amtrak.

Title II incorporates by reference the enforcement provisions in section 505 of the Rehabilitation Act of 1973.

Title II takes effect 18 months after the date of enactment, with the exception of the obligation to ensure that new public buses are accessible, which takes effect for solicitations made 30 days after the date of enactment.

PUBLIC ACCOMMODATIONS AND SERVICES PROVIDED BY PRIVATE ENTITIES

Title III of the ADA specifies that no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations by any person who owns, leases, or leases to, or operates a place of public accommodation. Public accommodations include: restaurants, hotels, doctor's offices, pharmacies, grocery stores, shopping centers, and other similar establishments.

Existing facilities must be made accessible if the changes are readily achievable, that is, easily accomplishable without much difficulty or expense. Auxiliary aids and services must be provided unless such provision would fundamentally alter the nature of the program or cause an undue burden. New construction and major renovations must be designed and constructed to be readily accessible to and usable by people with disabilities. Elevators need not be installed if the building has less than three stories or has less than 3,000 square feet per floor except if the building is a shopping center, shopping mall, or offices for health care providers or if the Attorney General decides that other categories of buildings require the installation of elevators.

Title III also includes specific prohibitions on discrimination in public transportation services provided by private entities, including the failure to make new over-the-road buses accessible 6 years from the date of enactment for large providers and 7 years for small providers. "Accessibility" will be defined in regulations issued by the Secretary of Transportation and reflect the results of a 3-year study conducted by the Office of Technology Assessment. Lifts are not necessarily required on all new buses.

Title III incorporates enforcement provisions in private actions comparable to the applicable enforcement provisions in title II of the Civil Rights Act by the Attorney General. The Attorney General may also seek monetary—not punitive—damages on behalf of an aggrieved individual and civil penalties.

The provisions of title III became effective 18 months after the date of enactment.

TELECOMMUNICATION RELAY SERVICES

Title IV of the ADA specifies that telephone services offered to the general public must include interstate and intrastate telecommunication relay services so that such services provide individuals who use nonvoice terminal devices because of disabilities—such as deaf persons—with opportunities for communications that are equivalent to those provided to individuals able to use voice telephone services.

MISCELLANEOUS PROVISIONS

Title V of the ADA includes miscellaneous provisions, including coverage of Congress, a construction clause explaining the relationship between the provisions in the ADA and the provisions in other Federal and State laws; a construction clause explaining that the ADA does not disrupt the current nature of insurance underwriting; a prohibition against retaliation; a clear statement that States are not immune from actions in courts of competent jurisdiction for a violation of the ADA; a directive to the Architectural and Transportation Barriers Compliance Board to issue guidelines; and authority to award attorney's fees.

Mr. Speaker, I will be offering a description of the major provisions of this bill when the House votes on final passage of the ADA next Tuesday. For the moment, however, I would like to make a few comments on two amendments that will be offered here today.

First, there will be an amendment concerning the "essential functions" of the job. Under the ADA, a "qualified person with a disability" is someone who, with reasonable accommodation if necessary can perform the essential functions of the job. An amendment was added in the Judiciary Committee clarifying that consideration must be given to an employer's determination as to what job functions are essential. That provision has been incorporated in the final bill before the House today. An amendment that would have created a presumption in favor of the employer's determination of what was an essential function was rejected by the Judiciary Committee.

An employer is the one that first designates the essential functions of the job. A person with a disability, who has been rejected because he or she cannot perform one of those functions because of his or her disability, can then challenge whether that function is, indeed, essential. At that point, a court should give consideration to the employer's judgment, as well as to the evidence submitted by the plaintiff, as to whether the function is, in fact, essential. Another amendment that was offered today to the ADA provides that a court should consider as evidence of an essential function any written job description the employer may have. As with the first amendment, this provision is neutral as to the weight to be given to the evidence. A job description which is not at all tailored to the actual functions of the job will, and should, have little weight. The fact that a task is written in a job description does not, by itself, mean that it is, in fact, essential. While a court should consider the written job description as evidence, the court must ultimately decide, based on the evidence submitted by both the person with a disability and the employer, what constitutes the essential functions of the job. Because this amendment does not change the approach that currently exists under section 504, I will not oppose it.

By contrast, I will oppose another amendment that will be offered today. An amendment to the ADA that will be offered by Congressman OLIN would create a presumption that an accommodation that costs over 10 percent of an employee's annual salary constitutes a per se undue hardship and thus would not be required under the act. That provision is directly contrary to the flexible approach for determining undue hardship, which is based on over a decade of experience under the Rehabilitation Act. As noted, the Rehabilitation Act approach focuses on the resources of the employer, not on the paycheck of the employee. A 10 percent cap provision fails to protect adequately the rights of persons with disabilities to receive accommodations that would, in fact, not impose an undue hardship on an employer. For example, the provision fails to account for the fact that many accommodations, such as physical

changes to facilities and the acquisition of equipment, last for many years and are used by employees other than the employee in question, and that businesses always amortize the cost of equipment over a period of years. Morever, a 10-percent cap on accommodations based on an employee's salary would exclude the hiring or retaining of an employee who requires an accommodation that exceeds that limit, but would not truly impose an undue hardship on the employer. As Dick Drach, manager of disability programs for E.I. Dupont has stated:

A 10 percent of salary as a definition of undue hardship doesn't make any sense from the perspective of a large corporation with many sites. Example: a $3,000 accommodation may be denied using this formula for an employee who earns $20,000. Two thousand or even $3,000 is nothing to a large site.

For this reason, I will be opposing that amendment.

The CHAIRMAN. The Chair announces that all time controlled by the Committee on the Judiciary has expired.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text printed in part 1 of House Report 101-488 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 substitute made in order as original text is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Americans with Disabilities Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;

(2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(7) individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;

(8) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(9) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

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

(1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) AUXILIARY AIDS AND SERVICES.—The term "auxiliary aids and services" includes—

(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(B) qualified readers, taped texts, or other effective methods of making visually deliv-

ered materials available to individuals with visual impairments;

(C) acquisition or modification of equipment or devices; and

(D) other similar services and actions.

(2) DISABILITY.—The term "disability" means, with respect to an individual—

(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(B) a record of such an impairment; or

(C) being regarded as having such an impairment.

(3) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

TITLE I—EMPLOYMENT

SEC. 101. DEFINITIONS.

As used in this title:

(1) COMMISSION.—The term "Commission" means the Equal Employment Opportunity Commission established by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4).

(2) COVERED ENTITY.—The term "covered entity" means an employer, employment agency, labor organization, or joint labor-management committee.

(3) DIRECT THREAT.—The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

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

(5) EMPLOYER.—

(A) IN GENERAL.—The term "employer" means a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person, except that, for two years following the effective date of this title, an employer means a person engaged in an industry affecting commerce who has 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year, and any agent of such person.

(B) EXCEPTIONS.—The term "employer" does not include—

(i) the United States, a corporation wholly owned by the government of the United States, or an Indian tribe; or

(ii) a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986.

(6) ILLEGAL USE OF DRUGS.—

(A) IN GENERAL.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(B) DRUGS.—The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

(7) PERSON, ETC.—The terms "person", "labor organization", "employment agency", "commerce", and "industry affecting commerce", shall have the same meaning given such terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(8) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this title, consideration shall be given to the employer's judgment as to what functions of a job are essential.

(9) REASONABLE ACCOMMODATION.—The term "reasonable accommodation" may include—

(A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(10) UNDUE HARDSHIP.—

(A) IN GENERAL.—The term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) FACTORS TO BE CONSIDERED.—In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include—

(i) the nature and cost of the accommodation needed under this Act;

(ii) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

(iii) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(iv) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

SEC. 102. DISCRIMINATION.

(a) GENERAL RULE.—No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

(b) CONSTRUCTION.—As used in subsection (a), the term "discriminate" includes—

(1) limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

(2) participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this title (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs);

(3) utilizing standards, criteria, or methods of administration—

(A) that have the effect of discrimination on the basis of disability; or

(B) that perpetuate the discrimination of others who are subject to common administrative control;

(4) excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(5)(A) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity; or

(B) denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(6) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and

(7) failing to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

(c) MEDICAL EXAMINATIONS AND INQUIRIES.—

(1) IN GENERAL.—The prohibition against discrimination as referred to in subsection (a) shall include medical examinations and inquiries.

(2) PREEMPLOYMENT.—

(A) PROHIBITED EXAMINATION OR INQUIRY.—Except as provided in paragraph (3), a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

(B) ACCEPTABLE INQUIRY.—A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions.

(3) EMPLOYMENT ENTRANCE EXAMINATION.—A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination, if—

(A) all entering employees are subjected to such an examination regardless of disability;

(B) information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is

treated as a confidential medical record, except that—

(i) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(ii) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) government officials investigating compliance with this Act shall be provided relevant information on request; and

(C) the results of such examination are used only in accordance with this title.

(4) EXAMINATION AND INQUIRY.—

(A) PROHIBITED EXAMINATIONS AND INQUIRIES.—A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity.

(B) ACCEPTABLE EXAMINATIONS AND INQUIRIES.—A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

(C) REQUIREMENT.—Information obtained under subparagraph (B) regarding the medical condition or history of any employee are subject to the requirements of subparagraphs (B) and (C) of paragraph (3).

SEC. 103. DEFENSES.

(a) IN GENERAL.—It may be a defense to a charge of discrimination under this Act that an alleged application of qualification standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under this title.

(b) QUALIFICATION STANDARDS.—The term "qualification standards" may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

(c) RELIGIOUS ENTITIES.—

(1) IN GENERAL.—This title shall not prohibit a religious corporation, association, educational institution, or society from giving preference in employment to individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(2) RELIGIOUS TENETS REQUIREMENT.—Under this title, a religious organization may require that all applicants and employees conform to the religious tenets of such organization.

SEC. 104. ILLEGAL USE OF DRUGS AND ALCOHOL.

(a) QUALIFIED INDIVIDUAL WITH A DISABILITY.—For purposes of this title, the term "qualified individual with a disability" shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as a qualified individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs.

(c) AUTHORITY OF COVERED ENTITY.—A covered entity—

(1) may prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

(2) may require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(3) may require that employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.);

(4) may hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee; and

(5) may, with respect to Federal regulations regarding alcohol and the illegal use of drugs, require that—

(A) employees comply with the standards established in such regulations of the Department of Defense, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Defense);

(B) employees comply with the standards established in such regulations of the Nuclear Regulatory Commission, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Nuclear Regulatory Commission); and

(C) employees comply with the standards established in such regulations of the Department of Transportation, if the employees of the covered entity are employed in a transportation industry subject to such regulations, including complying with such regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Transportation).

(d) DRUG TESTING.—

(1) IN GENERAL.—For purposes of this title, a test to determine the illegal use of drugs shall not be considered a medical examination.

(2) CONSTRUCTION.—Nothing in this title shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

(e) RAIL EMPLOYEES.—Nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by railroads of authority to—

(1) test railroad employees in, and applicants for, positions involving safety-sensitive duties, as determined by the Secretary of Transportation, for the illegal use of drugs and for on-duty impairment by alcohol; and

(2) remove such persons who test positive pursuant to paragraph (1) from safety-sensitive duties in implementing subsection (c).

SEC. 105. POSTING NOTICES.

Every employer, employment agency, labor organization, or joint labor-management committee covered under this title shall post notices in an accessible format to applicants, employees, and members describing the applicable provisions of this Act, in the manner prescribed by section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-10).

SEC. 106. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Commission shall issue regulations in an accessible format to carry out this title in accordance with subchapter II of chapter 5 of title 5, United States Code.

SEC. 107. ENFORCEMENT.

(a) POWERS, REMEDIES, AND PROCEDURES.—The powers, remedies, and procedures set forth in sections 705, 706, 707, 709, and 710 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4, 2000e-5, 2000e-6, 2000e-8, and 2000e-9) shall be the powers, remedies, and procedures this title provides to the Commission, to the Attorney General, or to any person alleging discrimination on the basis of disability in violation of any provision of this Act, or regulations promulgated under section 106, concerning employment.

(b) COORDINATION.—The agencies with enforcement authority for actions which allege employment discrimination under this title and under the Rehabilitation Act of 1973 shall develop procedures to ensure that administrative complaints filed under this title and under the Rehabilitation Act of 1973 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this title and the Rehabilitation Act of 1973. Such agencies shall establish such coordinating mechanisms in the regulations implementing this title and the Rehabilitation Act of 1973.

SEC. 108. EFFECTIVE DATE.

This title shall become effective 24 months after the date of enactment.

TITLE II—PUBLIC SERVICES

Subtitle A—Prohibition Against Discrimination and Other Generally Applicable Provisions

SEC. 201. DEFINITION.

As used in this title:

(1) PUBLIC ENTITY.—The term "public entity" means—

(A) any State or local government;

(B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and

(C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act).

(2) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices,

the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

SEC. 202. DISCRIMINATION.

Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

SEC. 203. ENFORCEMENT.

The remedies, procedures, and rights set forth in section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a) shall be the remedies, procedures and rights this title provides to any person alleging discrimination on the basis of disability in violation of section 202.

SEC. 204. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall promulgate regulations in an accessible format that implement this subtitle. Such regulations shall not include any matter within the scope of the authority of the Secretary of Transportation under section 223, 229, or 244.

(b) RELATIONSHIP TO OTHER REGULATIONS.—Except for "program accessibility, existing facilities", and "communications", regulations under subsection (a) shall be consistent with this Act and with the coordination regulations under part 41 of title 28, Code of Federal Regulations (as promulgated by the Department of Health, Education, and Welfare on January 13, 1978), applicable to recipients of Federal financial assistance under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). With respect to "program accessibility, existing facilities", and "communications", such regulations shall be consistent with regulations and analysis as in part 39 of title 28 of the Code of Federal Regulations, applicable to federally conducted activities under such section 504.

(c) STANDARDS.—Regulations under subsection (a) shall include standards applicable to facilities and vehicles covered by this subtitle, other than facilities, stations, rail passenger cars, and vehicles covered by subtitle B. Such standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504(a) of this Act.

SEC. 205. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this subtitle shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Section 204 shall become effective on the date of enactment of this Act.

Subtitle B—Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory

PART I—PUBLIC TRANSPORTATION OTHER THAN BY AIRCRAFT OR CERTAIN RAIL OPERATIONS

SEC. 221. DEFINITIONS.

As used in this part:

(1) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing designated public transportation which is not a fixed route system.

(2) DESIGNATED PUBLIC TRANSPORTATION.—The term "designated public transportation" means transportation (other than public school transportation) by bus, rail, or any other conveyance (other than transportation by aircraft or intercity or commuter rail transportation (as defined in section 241)) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(3) FIXED ROUTE SYSTEM.—The term "fixed route system" means a system of providing designated public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.

(4) OPERATES.—The term "operates", as used with respect to a fixed route system or demand responsive system, includes operation of such system by a person under a contractual or other arrangement or relationship with a public entity.

(5) PUBLIC SCHOOL TRANSPORTATION.—The term "public school transportation" means transportation by schoolbus vehicles of schoolchildren, personnel, and equipment to and from a public elementary or secondary school and school-related activities.

(6) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 222. PUBLIC ENTITIES OPERATING FIXED ROUTE SYSTEMS.

(a) PURCHASE AND LEASE OF NEW VEHICLES.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease a new bus, a new rapid rail vehicle, a new light rail vehicle, or any other new vehicle to be used on such system, if the solicitation for such purchase or lease is made after the 30th day following the effective date of this subsection and if such bus, rail vehicle, or other vehicle is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) PURCHASE AND LEASE OF USED VEHICLES.—Subject to subsection (c)(1), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease, after the 30th day following the effective date of this subsection, a used vehicle for use on such system unless such entity makes demonstrated good faith efforts to purchase or lease a used vehicle for use on such system that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) REMANUFACTURED VEHICLES.—

(1) GENERAL RULE.—Except as provided in paragraph (2), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system—

(A) to remanufacture a vehicle for use on such system so as to extend its usable life for 5 years or more, which remanufacture begins (or for which the solicitation is made) after the 30th day following the effective date of this subsection; or

(B) to purchase or lease for use on such system a remanufactured vehicle which has been remanufactured so as to extend its usable life for 5 years or more, which purchase or lease occurs after such 30th day and during the period in which the usable life is extended;

unless, after remanufacture, the vehicle is, to the maximum extent feasible, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) EXCEPTION FOR HISTORIC VEHICLES.—

(A) GENERAL RULE.—If a public entity operates a fixed route system any segment of which is included on the National Register of Historic Places and if making a vehicle of historic character to be used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of paragraph (1) and which do not significantly alter the historic character of such vehicle.

(B) VEHICLES OF HISTORIC CHARACTER DEFINED BY REGULATIONS.—For purposes of this paragraph and section 228(b), a vehicle of historic character shall be defined by the regulations issued by the Secretary to carry out this subsection.

SEC. 223. PARATRANSIT AS A COMPLEMENT TO FIXED ROUTE SERVICE.

(a) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system (other than a system which provides solely commuter bus service) to fail to provide with respect to the operations of its fixed route system, in accordance with this section, paratransit and other special transportation services to individuals with disabilities, including individuals who use wheelchairs, that are sufficient to provide to such individuals a level of service (1) which is comparable to the level of designated public transportation services provided to individuals without disabilities using such system; or (2) in the case of response time, which is comparable, to the extent practicable, to the level of designated public transportation services provided to individuals without disabilities using such system.

(b) ISSUANCE OF REGULATIONS.—Not later than 1 year after the effective date of this subsection, the Secretary shall issue final regulations to carry out this section.

(c) REQUIRED CONTENTS OF REGULATIONS.—

(1) ELIGIBLE RECIPIENTS OF SERVICE.—The regulations issued under this section shall require each public entity which operates a fixed route system to provide the paratransit and other special transportation services required under this section—

(A)(i) to any individual with a disability who is unable, as a result of a physical or mental impairment (including a vision impairment) and without the assistance of another individual (except an operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities;

(ii) to any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device (and is able with such assistance) to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time (or within a reasonable period of such time) when such a vehicle is not being used to provide designated public transportation on the route; and

(iii) to any individual with a disability who has a specific impairment-related condition

which prevents such individual from traveling to a boarding location or from a disembarking location on such system; and

(B) to 1 other individual accompanying the individual with the disability.

For purposes of clauses (i) and (ii) of subparagraph (A), boarding or disembarking from a vehicle does not include travel to the boarding location or from the disembarking location.

(2) SERVICE AREA.—The regulations issued under this section shall require the provision of paratransit and special transportation services required under this section in the service area of each public entity which operates a fixed route system, other than any portion of the service area in which the public entity solely provides commuter bus service.

(3) SERVICE CRITERIA.—Subject to paragraphs (1) and (2), the regulations issued under this section shall establish minimum service criteria for determining the level of services to be required under this section.

(4) UNDUE FINANCIAL BURDEN LIMITATION.—The regulations issued under this section shall provide that, if the public entity is able to demonstrate to the satisfaction of the Secretary that the provision of paratransit and other special transportation services otherwise required under this section would impose an undue financial burden on the public entity, the public entity, notwithstanding any other provision of this section (other than paragraph (5)), shall only be required to provide such services to the extent that providing such services would not impose such a burden.

(5) ADDITIONAL SERVICES.—The regulations issued under this section shall establish circumstances under which the Secretary may require a public entity to provide, notwithstanding paragraph (4), paratransit and other special transportation services under this section beyond the level of paratransit and other special transportation services which would otherwise be required under paragraph (4).

(6) PUBLIC PARTICIPATION.—The regulations issued under this section shall require that each public entity which operates a fixed route system hold a public hearing, provide an opportunity for public comment, and consult with individuals with disabilities in preparing its plan under paragraph (7).

(7) PLANS.—The regulations issued under this section shall require that each public entity which operates a fixed route system—

(A) within 18 months after the effective date of this subsection, submit to the Secretary, and commence implementation of, a plan for providing paratransit and other special transportation services which meets the requirements of this section; and

(B) on an annual basis thereafter, submit to the Secretary, and commence implementation of, a plan for providing such services.

(8) PROVISION OF SERVICES BY OTHERS.—The regulations issued under this section shall—

(A) require that a public entity submitting a plan to the Secretary under this section identify in the plan any person or other public entity which is providing a paratransit or other special transportation service for individuals with disabilities in the service area to which the plan applies; and

(B) provide that the public entity submitting the plan does not have to provide under the plan such service for individuals with disabilities.

(9) OTHER PROVISIONS.—The regulations issued under this section shall include such other provisions and requirements as the Secretary determines are necessary to carry out the objectives of this section.

(d) REVIEW OF PLAN.—

(1) GENERAL RULE.—The Secretary shall review a plan submitted under this section for the purpose of determining whether or not such plan meets the requirements of this section, including the regulations issued under this section.

(2) DISAPPROVAL.—If the Secretary determines that a plan reviewed under this subsection fails to meet the requirements of this section, the Secretary shall disapprove the plan and notify the public entity which submitted the plan of such disapproval and the reasons therefor.

(3) MODIFICATION OF DISAPPROVED PLAN.—Not later than 90 days after the date of disapproval of a plan under this subsection, the public entity which submitted the plan shall modify the plan to meet the requirements of this section and shall submit to the Secretary, and commence implementation of, such modified plan.

(e) DISCRIMINATION DEFINED.—As used in subsection (a), the term "discrimination" includes—

(1) a failure of a public entity to which the regulations issued under this section apply to submit, or commence implementation of, a plan in accordance with subsections (c)(6) and (c)(7);

(2) a failure of such entity to submit, or commence implementation of, a modified plan in accordance with subsection (d)(3);

(3) submission to the Secretary of a modified plan under subsection (d)(3) which does not meet the requirements of this section; or

(4) a failure of such entity to provide paratransit or other special transportation services in accordance with the plan or modified plan the public entity submitted to the Secretary under this section.

(f) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as preventing a public entity—

(1) from providing paratransit or other special transportation services at a level which is greater than the level of such services which are required by this section,

(2) from providing paratransit or other special transportation services in addition to those paratransit and special transportation services required by this section, or

(3) from providing such services to individuals in addition to those individuals to whom such services are required to be provided by this section.

SEC. 224. PUBLIC ENTITY OPERATING A DEMAND RESPONSIVE SYSTEM.

If a public entity operates a demand responsive system, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for such entity to purchase or lease a new vehicle for use on such system, for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service such system provides to individuals without disabilities.

SEC. 225. TEMPORARY RELIEF WHERE LIFTS ARE UNAVAILABLE.

(a) GRANTING.—With respect to the purchase of new buses, a public entity may apply for, and the Secretary may temporarily relieve such public entity from the obligation under section 222(a) or 224 to purchase new buses that are readily accessible to and usable by individuals with disabilities if such public entity demonstrates to the satisfaction of the Secretary—

(1) that the initial solicitation for new buses made by the public entity specified that all new buses were to be lift-equipped and were to be otherwise accessible to and usable by individuals with disabilities;

(2) the unavailability from any qualified manufacturer of hydraulic, electromechanical, or other lifts for such new buses;

(3) that the public entity seeking temporary relief has made good faith efforts to locate a qualified manufacturer to supply the lifts to the manufacturer of such buses in sufficient time to comply with such solicitation; and

(4) that any further delay in purchasing new buses necessary to obtain such lifts would significantly impair transportation services in the community served by the public entity.

(b) DURATION AND NOTICE TO CONGRESS.—Any relief granted under subsection (a) shall be limited in duration by a specified date, and the appropriate committees of Congress shall be notified of any such relief granted.

(c) FRAUDULENT APPLICATION.—If, at any time, the Secretary has reasonable cause to believe that any relief granted under subsection (a) was fraudulently applied for, the Secretary shall—

(1) cancel such relief if such relief is still in effect; and

(2) take such other action as the Secretary considers appropriate.

SEC. 226. NEW FACILITIES.

For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to construct a new facility to be used in the provision of designated public transportation services unless such facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

SEC. 227. ALTERATIONS OF EXISTING FACILITIES.

(a) GENERAL RULE.—With respect to alterations of an existing facility or part thereof used in the provision of designated public transportation services that affect or could affect the usability of the facility or part thereof, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to make such alterations (or to ensure that the alterations are made) in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations. Where the public entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in

terms of cost and scope (as determined under criteria established by the Attorney General).

(b) SPECIAL RULE FOR STATIONS.—

(1) GENERAL RULE.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity that provides designated public transportation to fail, in accordance with the provisions of this subsection, to make key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) RAPID RAIL AND LIGHT RAIL KEY STATIONS.—

(A) ACCESSIBILITY.—Except as otherwise provided in this paragraph, all key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 3-year period beginning on the effective date of this paragraph.

(B) EXTENSION FOR EXTRAORDINARILY EXPENSIVE STRUCTURAL CHANGES.—The Secretary may extend the 3-year period under subparagraph (A) up to a 30-year period for key stations in a rapid rail or light rail system which stations need extraordinarily expensive structural changes to, or replacement of, existing facilities; except that by the last day of the 20th year following the date of the enactment of this Act at least ⅔ of such key stations must be readily accessible to and usable by individuals with disabilities.

(3) PLANS AND MILESTONES.—The Secretary shall require the appropriate public entity to develop and submit to the Secretary a plan for compliance with this subsection—

(A) that reflects consultation with individuals with disabilities affected by such plan and the results of a public hearing and public comments on such plan, and

(B) that establishes milestones for achievement of the requirements of this subsection.

SEC. 228. PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES AND ONE CAR PER TRAIN RULE.

(a) PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES.—

(1) IN GENERAL.—With respect to existing facilities used in the provision of designated public transportation services, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to operate a designated public transportation program or activity conducted in such facilities so that, when viewed in the entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

(2) KEY STATIONS.—Paragraph (1) shall not apply to a key station if the portion of such station providing access to the vehicle boarding or disembarking location has not been made readily accessible to and usable by individuals with disabilities who use wheelchairs at that station.

(b) ONE CAR PER TRAIN RULE.—

(1) GENERAL RULE.—Subject to paragraph (2), with respect to 2 or more vehicles operated as a train by a light or rapid rail system, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to fail to have at least 1 vehicle per train that is accessible to individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 5-year period beginning on the effective date of this section.

(2) HISTORIC TRAINS.—In order to comply with paragraph (1) with respect to the remanufacture of a vehicle of historic character which is to be used on a segment of a light or rapid rail system which is included on the National Register of Historic Places, if making such vehicle readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity which operates such system only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of section 222(c)(1) and which do not significantly alter the historic character of such vehicle.

SEC. 229. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part (other than section 223).

(b) STANDARDS.—The regulations issued under this section and section 223 shall include standards applicable to facilities and vehicles covered by this subtitle. The standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

SEC. 230. INTERIM ACCESSIBILITY REQUIREMENTS.

If final regulations have not been issued pursuant to section 229, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under sections 226 and 227, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

SEC. 231. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act. (b) EXCEPTION.—Sections 222, 223 (other than subsection (a)), 224, 225, 227(b), 228(b), and 229 shall become effective on the date of enactment of this Act.

PART II—PUBLIC TRANSPORTATION BY INTERCITY AND COMMUTER RAIL

SEC. 241. DEFINITIONS.

As used in this part:

(1) COMMUTER AUTHORITY.—The term "commuter authority" has the meaning given such term in section 103(8) of the Rail Passenger Service Act (45 U.S.C 502(8));

(2) COMMUTER RAIL TRANSPORTATION.—The term "commuter rail transportation" has the meaning given the term "commuter service" in section 103(9) of the Rail Passenger Service Act (45 U.S.C 502(9));

(3) INTERCITY RAIL TRANSPORTATION.—The term "intercity rail transportation" means transportation provided by the National Railroad Passenger Corporation;

(4) RAIL PASSENGER CAR.—The term "rail passenger car" means, with respect to intercity rail transportation, single-level and bi-level coach cars, single-level and bi-level dining cars, single-level and bi-level sleeping cars, single-level and bi-level lounge cars, and food service cars;

(5) RESPONSIBLE PERSON.—The term "responsible person" means—

(A) in the case of a station more than 50 percent of which is owned by a public entity, such public entity;

(B) in the case of a station more than 50 percent of which is owned by a private party, the persons providing intercity or commuter rail transportation to such station, as allocated on an equitable basis by regulation by the Secretary of Transportation; and

(C) in a case where no party owns more than 50 percent of a station, the persons providing intercity or commuter rail transportation to such station and the owners of the station, other than private party owners, as allocated on an equitable basis by regulation by the Secretary of Transportation; and

(6) STATION.—The term "station" means the portion of a property located appurtenant to a right-of-way on which intercity or commuter rail transportation is operated, where such portion is used by the general public and is related to the provision of such transportation, including passenger platforms, designated waiting areas, ticketing areas, restrooms, and, where a public entity providing rail transportation owns the property, concession areas, to the extent that such public entity exercises control over the selection, design, construction, or alteration of the property, but such term does not include flag stops.

SEC. 242. INTERCITY AND COMMUTER RAIL ACTIONS CONSIDERED DISCRIMINATORY.

(a) INTERCITY RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW INTERCITY CARS.—

(A) GENERAL RULE.—Except as otherwise provided in this subsection with respect to individuals who use wheelchairs, it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in intercity rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including in-

dividuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) SPECIAL RULE FOR SINGLE-LEVEL PASSENGER COACHES FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level passenger coaches shall be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, and a space to fold and store such passenger's wheelchair;

(iv) have a restroom usable by an individual who uses a wheelchair.

(3) ACCESSIBILITY OF SINGLE-LEVEL COACHES.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have on each train which includes one or more single-level rail passenger coaches—

(i) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than one-half of the number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than one-half of the number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 5 years after the date of enactment of this Act; and

(ii) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than the total number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than the total number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 10 years after the date of enactment of this Act.

(B) LOCATION.—Spaces required by subparagraph (A) shall be located in single-level rail passenger coaches or food service cars.

(C) LIMITATION.—Of the number of spaces required on a train by subparagraph (A), not more than two spaces to park and secure wheelchairs nor more than two spaces to fold and store wheelchairs shall be located in any one coach or food service car.

(D) OTHER ACCESSIBILITY FEATURES.—Single-level rail passenger coaches and food service cars on which the spaces required by subparagraph (A) are located shall have a restroom usable by an individual who uses a wheelchair and shall be able to be entered from the station platform by an individual who uses a wheelchair.

(4) FOOD SERVICE.—

(A) SINGLE-LEVEL DINING CARS.—On any train in which a single-level dining car is used to provide food service—

(i) if such single-level dining car was purchased after the date of enactment of this Act, table service in such car shall be provided to a passenger who uses a wheelchair if—

(I) the car adjacent to the end of the dining car through which a wheelchair may enter is itself accessible to a wheelchair;

(II) such passenger can exit to the platform from the car such passenger occupies, move down the platform, and enter the adjacent accessible car described in subclause (I) without the necessity of the train being moved within the station; and

(III) space to park and secure a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to remain in a wheelchair), or space to store and fold a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to transfer to a dining car seat); and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

Unless not practicable, a person providing intercity rail transportation shall place an accessible car adjacent to the end of a dining car described in clause (i) through which an individual who uses a wheelchair may enter.

(B) BI-LEVEL DINING CARS.—On any train in which a bi-level dining car is used to provide food service—

(i) if such train includes a bi-level lounge car purchased after the date of enactment of this Act, table service in such lounge car shall be provided to individuals who use wheelchairs and to other passengers; and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

(b) COMMUTER RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides commuter rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW COMMUTER RAIL CARS.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in commuter rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) ACCESSIBILITY.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), a requirement that a rail passenger car used in commuter rail transportation be accessible to or readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, shall not be construed to require—

(i) a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger;

(ii) space to fold and store a wheelchair; or

(iii) a seat to which a passenger who uses a wheelchair can transfer.

(c) USED RAIL CARS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a used rail passenger car for use in intercity or commuter rail transportation, unless such person makes demonstrated good faith efforts to purchase or lease a used rail car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(d) REMANUFACTURED RAIL CARS.—

(1) REMANUFACTURING.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to remanufacture a rail passenger car for use in intercity or commuter rail transportation so as to extend its usable life for 10 years or more, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) PURCHASE OR LEASE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a remanufactured rail passenger car for use in intercity or commuter rail transportation unless such car was remanufactured in accordance with paragraph (1).

(e) STATIONS.—

(1) NEW STATIONS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to build a new station for use in intercity or commuter rail transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) EXISTING STATIONS.—

(A) FAILURE TO MAKE READILY ACCESSIBLE.—

(i) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a responsible person to fail to make existing stations in the intercity rail transportation system, and existing key stations in commuter rail transportation systems, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(ii) PERIOD FOR COMPLIANCE.—

(I) INTERCITY RAIL.—All stations in the intercity rail transportation system shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable, but in no event later than 20 years after the date of enactment of this Act.

(II) COMMUTER RAIL.—Key stations in commuter rail transportation systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than 3 years after the date of enactment of this Act, except that the time limit may be extended

by the Secretary of Transportation up to 20 years after the date of enactment of this Act in a case where the raising of the entire passenger platform is the only means available of attaining accessibility or where other extraordinarily expensive structural changes are necessary to attain accessibility.

(iii) DESIGNATION OF KEY STATIONS.—Each commuter authority shall designate the key stations in its commuter rail transportation system, in consultation with individuals with disabilities and organizations representing such individuals, taking into consideration such factors as high ridership and whether such station serves as a transfer or feeder station. Before the final designation of key stations under this clause, a commuter authority shall hold a public hearing.

(iv) PLANS AND MILESTONES.—The Secretary of Transportation shall require the appropriate person to develop a plan for carrying out this subparagraph that reflects consultation with individuals with disabilities affected by such plan and that establishes milestones for achievement of the requirements of this subparagraph.

(B) REQUIREMENT WHEN MAKING ALTERATIONS.—

(i) GENERAL RULE.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations of an existing station or part thereof in the intercity or commuter rail transportation systems that affect or could affect the usability of the station or part thereof, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the altered portions of the station are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations.

(ii) ALTERATIONS TO A PRIMARY FUNCTION AREA.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations that affect or could affect the usability of or access to an area of the station containing a primary function, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area, and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(C) REQUIRED COOPERATION.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for an owner, or person in control, of a station governed by subparagraph (A) or (B) to fail to provide reasonable cooperation to a responsible person with respect to such station in that responsible person's efforts to comply with such subparagraph. An owner, or person in control, of a station shall be liable to a responsible person for any failure to provide reasonable cooperation as required by this subparagraph. Failure to receive reasonable cooperation required by this subparagraph shall not be a defense to a claim of discrimination under this Act.

SEC. 243. CONFORMANCE OF ACCESSIBILITY STANDARDS.

Accessibility standards included in regulations issued under this part shall be consistent with the minimum guidelines issued by the Architectural and Transportation Barriers Compliance Board under section 504(a) of this Act.

SEC. 244. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part.

SEC. 245. INTERIM ACCESSIBILITY REQUIREMENTS.

(a) STATIONS.—If final regulations have not been issued pursuant to section 244, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities as required under section 242(e), except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(b) RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to section 244, a person shall be considered to have complied with the requirements of section 242(a) through (d) that a rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such cars, to the extent that such laws and regulations are not inconsistent with this part and are in effect at the time such design is substantially completed.

SEC. 246. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Sections 242 and 244 shall become effective on the date of enactment of this Act.

TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

SEC. 301. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The term "commerce" means travel, trade, traffic, commerce, transportation, or communication—

(A) among the several States;

(B) between any foreign country or any territory or possession and any State; or

(C) between points in the same State but through another State or foreign country.

(2) COMMERCIAL FACILITIES.—The term "commercial facilities" means facilities—

(A) that are intended for nonresidential use; and

(B) whose operations will affect commerce.

Such term shall not include railroad locomotives, railroad freight cars, railroad cabooses, railroad cars described in section 242 or covered under this title, railroad rights-of-way, or facilities that are covered or expressly exempted from coverage under the Fair Housing Act of 1968 (42 U.S.C. 3601 et seq.).

(3) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing transportation of individuals by a vehicle, other than a system which is a fixed route system.

(4) FIXED ROUTE SYSTEM.—The term "fixed route system" means a system of providing transportation of individuals (other than by aircraft) on which a vehicle is operated along a prescribed route according to a fixed schedule.

(5) OVER-THE-ROAD BUS.—The term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

(6) PRIVATE ENTITY.—The term "private entity" means any entity other than a public entity (as defined in section 201(1)).

(7) PUBLIC ACCOMMODATION.—The following private entities are considered public accommodations for purposes of this title, if the operations of such entities affect commerce—

(A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(B) a restaurant, bar, or other establishment serving food or drink;

(C) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(D) an auditorium, convention center, lecture hall, or other place of public gathering;

(E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(G) a terminal, depot, or other station used for specified public transportation;

(H) a museum, library, gallery, or other place of public display or collection;

(I) a park, zoo, amusement park, or other place of recreation;

(J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

(8) RAIL AND RAILROAD.—The terms "rail" and "railroad" have the meaning given the term "railroad" in section 202(e) of the Fed-

eral Railroad Safety Act of 1970 (45 U.S.C. 431(e)).

(9) READILY ACHIEVABLE.—The term "readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include—

(A) the nature and cost of the action needed under this Act;

(B) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

(10) SPECIFIED PUBLIC TRANSPORTATION.—The term "specified public transportation" means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(11) VEHICLE.—The term "vehicle" does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or a railroad car described in section 242 or covered under this title.

SEC. 302. PROHIBITION OF DISCRIMINATION BY PUBLIC ACCOMMODATIONS.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

(b) CONSTRUCTION.—

(1) GENERAL PROHIBITION.—

(A) ACTIVITIES.—

(i) DENIAL OF PARTICIPATION.—It shall be discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

(ii) PARTICIPATION IN UNEQUAL BENEFIT.—It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(iii) SEPARATE BENEFIT.—It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(iv) INDIVIDUAL OR CLASS OF INDIVIDUALS.—For purposes of clauses (i) through (iii) of this subparagraph, the term "individual or class of individuals" refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

(B) INTEGRATED SETTINGS.—Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(C) OPPORTUNITY TO PARTICIPATE.—Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

(D) ADMINISTRATIVE METHODS.—An individual or entity shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration—

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

(E) ASSOCIATION.—It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(2) SPECIFIC PROHIBITIONS.—

(A) DISCRIMINATION.—For purposes of subsection (a), discrimination includes—

(i) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;

(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations;

(iii) a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden;

(iv) a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable; and

(v) where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

(B) FIXED ROUTE SYSTEM.—

(i) ACCESSIBILITY.—It shall be considered discrimination for a private entity which operates a fixed route system and which is not subject to section 304 to purchase or lease a vehicle with a seating capacity in excess of 16 passengers (including the driver) for use on such system, for which a solicitation is made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(ii) EQUIVALENT SERVICE.—If a private entity which operates a fixed route system and which is not subject to section 304 purchases or leases a vehicle with a seating capacity of 16 passengers or less (including the driver) for use on such system after the effective date of this subparagraph that is not readily accessible to or usable by individuals with disabilities, it shall be considered discrimination for such entity to fail to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities.

(C) DEMAND RESPONSIVE SYSTEM.—For purposes of subsection (a), discrimination includes—

(i) a failure of a private entity which operates a demand responsive system and which is not subject to section 304 to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities; and

(ii) the purchase or lease by such entity for use on such system of a vehicle with a seating capacity in excess of 16 passengers (including the driver), for which solicitations are made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities (including individuals who use wheelchairs) unless such entity can demonstrate that such system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

(D) OVER-THE-ROAD BUSES.—

(i) LIMITATION ON APPLICABILITY.—Subparagraphs (B) and (C) do not apply to over-the-road buses.

(ii) ACCESSIBILITY REQUIREMENTS.—For purposes of subsection (a), discrimination includes (I) the purchase or lease of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2) by a private entity which provides transportation of individuals and which is not primarily engaged in the business of transporting people, and (II) any other failure of such entity to comply with such regulations.

(3) SPECIFIC CONSTRUCTION.—Nothing in this title shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of

such entity where such individual poses a direct threat to the health or safety of others. The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

SEC. 303. NEW CONSTRUCTION AND ALTERATIONS IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES.

(a) APPLICATION OF TERM.—Except as provided in subsection (b), as applied to public accommodations and commercial facilities, discrimination for purposes of section 302(a) includes—

(1) a failure to design and construct facilities for first occupancy later than 30 months after the date of enactment of this Act that are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet the requirements of such subsection in accordance with standards set forth or incorporated by reference in regulations issued under this title; and

(2) with respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) ELEVATOR.—Subsection (a) shall not be construed to require the installation of an elevator for facilities that are less than three stories or have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider or unless the Attorney General determines that a particular category of such facilities requires the installation of elevators based on the usage of such facilities.

SEC. 304. PROHIBITION OF DISCRIMINATION IN SPECIFIED PUBLIC TRANSPORTATION SERVICES PROVIDED BY PRIVATE ENTITIES.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce.

(b) CONSTRUCTION.—For purposes of subsection (a), discrimination includes—

(1) the imposition or application by a entity described in subsection (a) of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully enjoying the specified public transportation services provided by the entity, unless such criteria can be shown to be necessary for the provision of the services being offered;

(2) the failure of such entity to—

(A) make reasonable modifications consistent with those required under section 302(b)(2)(A)(ii);

(B) provide auxiliary aids and services consistent with the requirements of section 302(b)(2)(A)(iii); and

(C) remove barriers consistent with the requirements of section 302(b)(2)(A) and with the requirements of section 303(a)(2);

(3) the purchase or lease by such entity of a new vehicle (other than an automobile, a van with a seating capacity of less than 8 passengers, including the driver, or an over-the-road bus) which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; except that the new vehicle need not be readily accessible to and usable by such individuals if the new vehicle is to be used solely in a demand responsive system and if the entity can demonstrate that such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(4)(A) the purchase or lease by such entity of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2); and

(B) any other failure of such entity to comply with such regulations; and

(5) the purchase or lease by such entity of a new van with a seating capacity of less than 8 passengers, including the driver, which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section that is not readily accessible to or usable by individuals with disabilities, including individuals who use wheelchairs; except that the new van need not be readily accessible to and usable by such individuals if the entity can demonstrate that the system for which the van is being purchased or leased, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(6) the purchase or lease by such entity of a new rail passenger car that is to be used to provide specified public transportation, and for which a solicitation is made later than 30 days after the effective date of this paragraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; and

(7) the remanufacture by such entity of a rail passenger car that is to be used to provide specified public transportation so as to extend its usable life for 10 years or more, or the purchase or lease by such entity of such a rail car, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) HISTORICAL OR ANTIQUATED CARS.—

(1) EXCEPTION.—To the extent that compliance with subsection (b)(2)(C) or (b)(7) would significantly alter the historic or antiquated character of a historical or antiquated rail passenger car, or a rail station served exclusively by such cars, or would result in violation of any rule, regulation, standard, or order issued by the Secretary of Transportation under the Federal Railroad Safety Act of 1970, such compliance shall not be required.

(2) DEFINITION.—As used in this subsection, the term "historical or antiquated rail passenger car" means a rail passenger car—

(A) which is not less than 30 years old at the time of its use for transporting individuals;

(B) the manufacturer of which is no longer in the business of manufacturing rail passenger cars; and

(C) which—

(i) has a consequential association with events or persons significant to the past; or

(ii) embodies, or is being restored to embody, the distinctive characteristics of a type of rail passenger car used in the past, or to represent a time period which has passed.

SEC. 305. STUDY.

(a) PURPOSES.—The Office of Technology Assessment shall undertake a study to determine—

(1) the access needs of individuals with disabilities to over-the-road buses and over-the-road bus service; and

(2) the most cost-effective methods for providing access to over-the-road buses and over-the-road bus service to individuals with disabilities, particularly individuals who use wheelchairs, through all forms of boarding options.

(b) CONTENTS.—The study shall include, at a minimum, an analysis of the following:

(1) The anticipated demand by individuals with disabilities for accessible over-the-road buses and over-the-road bus service.

(2) The degree to which such buses and service, including any service required under sections 304(b)(4) and 306(a)(2), are readily accessible to and usable by individuals with disabilities.

(3) The effectiveness of various methods of providing accessibility to such buses and service to individuals with disabilities.

(4) The cost of providing accessible over-the-road buses and bus service to individuals with disabilities, including consideration of recent technological and cost saving developments in equipment and devices.

(5) Possible design changes in over-the-road buses that could enhance accessibility, including the installation of accessible restrooms which do not result in a loss of seating capacity.

(6) The impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of such requirements on such service to rural communities.

(c) ADVISORY COMMITTEE.—In conducting the study required by subsection (a), the Office of Technology Assessment shall establish an advisory committee, which shall consist of—

(1) members selected from among private operators and manufacturers of over-the-road buses;

(2) members selected from among individuals with disabilities, particularly individuals who use wheelchairs, who are potential riders of such buses; and

(3) members selected for their technical expertise on issues included in the study, including manufacturers of boarding assistance equipment and devices.

The number of members selected under each of paragraphs (1) and (2) shall be equal, and the total number of members selected under paragraphs (1) and (2) shall exceed the number of members selected under paragraph (3).

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(d) DEADLINE.—The study required by subsection (a), along with recommendations by the Office of Technology Assessment, including any policy options for legislative action, shall be submitted to the President and Congress within 36 months after the date of the enactment of this Act. If the President determines that compliance with the regulations issued pursuant to section 306(a)(2)(B) on or before the applicable deadlines specified in section 306(a)(2)(B) will result in a significant reduction in intercity over-the-road bus service, the President shall extend each such deadline by 1 year.

(e) REVIEW.—In developing the study required by subsection (a), the Office of Technology Assessment shall provide a preliminary draft of such study to the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792). The Board shall have an opportunity to comment on such draft study, and any such comments by the Board made in writing within 120 days after the Board's receipt of the draft study shall be incorporated as part of the final study required to be submitted under subsection (d).

SEC. 306. REGULATIONS.

(a) TRANSPORTATION PROVISIONS.—

(1) GENERAL RULE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 302(b)(2)(B) and (C) and to carry out section 304 (other than subsection (b)(4)).

(2) SPECIAL RULES FOR PROVIDING ACCESS TO OVER-THE-ROAD BUSES.—

(A) INTERIM REQUIREMENTS.—

(i) ISSUANCE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require each private entity which uses an over-the-road bus to provide transportation of individuals to provide accessibility to such bus; except that such regulations shall not require any structural changes in over-the-road buses in order to provide access to individuals who use wheelchairs during the effective period of such regulations and shall not require the purchase of boarding assistance devices to provide access to such individuals.

(ii) EFFECTIVE PERIOD.—The regulations issued pursuant to this subparagraph shall be effective until the effective date of the regulations issued under subparagraph (B).

(B) FINAL REQUIREMENT.—

(i) REVIEW OF STUDY AND INTERIM REQUIREMENTS.—The Secretary shall review the study submitted under section 305 and the regulations issued pursuant to subparagraph (A).

(ii) ISSUANCE.—Not later than 1 year after the date of the submission of the study under section 305, the Secretary shall issue in an accessible format new regulations to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require, taking into account the purposes of the study under section 305 and any recommendations resulting from such study, each private entity which uses an over-the-road bus to provide transportation to individuals to provide accessibility to such bus to individuals with disabilities, including individuals who use wheelchairs.

(iii) EFFECTIVE PERIOD.—Subject to section 305(d), the regulations issued pursuant to this subparagraph shall take effect—

(I) with respect to small providers of transportation (as defined by the Secretary), 7 years after the date of the enactment of this Act; and

(II) with respect to other providers of transportation, 6 years after such date of enactment.

(C) LIMITATION ON REQUIRING INSTALLATION OF ACCESSIBLE RESTROOMS.—The regulations issued pursuant to this paragraph shall not require the installation of accessible restrooms in over-the-road buses if such installation would result in a loss of seating capacity.

(3) STANDARDS.—The regulations issued pursuant to this subsection shall include standards applicable to facilities and vehicles covered by sections 302(b)(2) and 304.

(b) OTHER PROVISIONS.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall issue regulations in an accessible format to carry out the provisions of this title not referred to in subsection (a) that include standards applicable to facilities and vehicles covered under section 302.

(c) CONSISTENCY WITH ATBCB GUIDELINES.—Standards included in regulations issued under subsections (a) and (b) shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

(d) INTERIM ACCESSIBILITY STANDARDS.—

(1) FACILITIES.—If final regulations have not been issued pursuant to this section, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under this section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under section 303, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(2) VEHICLES AND RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to this section, a private entity shall be considered to have complied with the requirements of this title, if any, that a vehicle or rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such vehicle or car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such vehicles or cars, to the extent that such laws and regulations are not inconsistent with this title and are in effect at the time such design is substantially completed.

SEC. 307. EXEMPTIONS FOR PRIVATE CLUBS AND RELIGIOUS ORGANIZATIONS.

The provisions of this title shall not apply to private clubs or establishments exempted from coverage under title II of the Civil Rights Act of 1964 (42 U.S.C. 2000-a(e)) or to religious organizations or entities controlled by religious organizations, including places of worship.

SEC. 308. ENFORCEMENT.

(a) IN GENERAL.—

(1) AVAILABILITY OF REMEDIES AND PROCEDURES.—The remedies and procedures set forth in section 204(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a-3(a)) are the remedies and procedures this title provides to any person who is being subjected to discrimination on the basis of disability in violation of this title or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 303. Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this title does not intend to comply with its provisions.

(2) INJUNCTIVE RELIEF.—In the case of violations of sections 302(b)(2)(A)(iv) and section 303(a), injunctive relief shall include an order to alter facilities to make such facilities readily accessible to and usable by individuals with disabilities to the extent required by this title. Where appropriate, injunctive relief shall also include requiring the provision of an auxiliary aid or service, modification of a policy, or provision of alternative methods, to the extent required by this title.

(b) ENFORCEMENT BY THE ATTORNEY GENERAL.—

(1) DENIAL OF RIGHTS.—

(A) DUTY TO INVESTIGATE.—

(i) IN GENERAL.—The Attorney General shall investigate alleged violations of this title, and shall undertake periodic reviews of compliance of covered entities under this title.

(ii) ATTORNEY GENERAL CERTIFICATION.—On the application of a State or local government, the Attorney General may, in consultation with the Architectural and Transportation Barriers Compliance Board, and after prior notice and a public hearing at which persons, including individuals with disabilities, are provided an opportunity to testify against such certification, certify that a State law or local building code or similar ordinance that establishes accessibility requirements meets or exceeds the minimum requirements of this Act for the accessibility and usability of covered facilities under this title. At any enforcement proceeding under this section, such certification by the Attorney General shall be rebuttable evidence that such State law or local ordinance does meet or exceed the minimum requirements of this Act.

(B) POTENTIAL VIOLATION.—If the Attorney General has reasonable cause to believe that—

(i) any person or group of persons is engaged in a pattern or practice of discrimination under this title; or

(ii) any person or group of persons has been discriminated against under this title and such discrimination raises an issue of general public importance,

the Attorney General may commence a civil action in any appropriate United States district court.

(2) AUTHORITY OF COURT.—In a civil action under paragraph (1)(B), the court—

(A) may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this title—

(i) granting temporary, preliminary, or permanent relief;

(ii) providing an auxiliary aid or service, modification of policy, practice, or procedure, or alternative method; and

(iii) making facilities readily accessible to and usable by individuals with disabilities;

(B) may award such other relief as the court considers to be appropriate, including monetary damages to persons aggrieved when requested by the Attorney General; and

(C) may, to vindicate the public interest, assess a civil penalty against the entity in an amount—

(i) not exceeding $50,000 for a first violation; and

(ii) not exceeding $100,000 for any subsequent violation.

(3) SINGLE VIOLATION.—For purposes of paragraph (2)(C), in determining whether a first or subsequent violation has occurred, a determination in a single action, by judgment or settlement, that the covered entity has engaged in more than one discriminatory act shall be counted as a single violation.

(4) PUNITIVE DAMAGES.—For purposes of subsection (b)(2)(B), the term "monetary damages" and "such other relief" does not include punitive damages.

(5) JUDICIAL CONSIDERATION.—In a civil action under paragraph (1)(B), the court, when considering what amount of civil penalty, if any, is appropriate, shall give consideration to any good faith effort or attempt to comply with this Act by the entity. In evaluating good faith, the court shall consider, among other factors it deems relevant, whether the entity could have reasonably anticipated the need for an appropriate type of auxiliary aid needed to accommodate the unique needs of a particular individual with a disability.

SEC. 309. EXAMINATIONS AND COURSES.

Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

SEC. 310. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this title shall become effective 18 months after the date of the enactment of this Act.

(b) EXCEPTION.—Sections 302(a) for purposes of section 302(b)(2)(B) and (C) only, 304(a) for purposes of section 304(b)(3) only, 304(b)(3), 305, and 306 shall take effect on the date of the enactment of this Act.

TITLE IV—TELECOMMUNICATIONS

SEC. 401. TELECOMMUNICATIONS RELAY SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

(a) TELECOMMUNICATIONS.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 225. TELECOMMUNICATIONS SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

"(a) DEFINITIONS.—As used in this section—

"(1) COMMON CARRIER OR CARRIER.—The term 'common carrier' or 'carrier' includes any common carrier engaged in interstate communication by wire or radio as defined in section 3(h) and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 2(b) and 221(b).

"(2) TDD.—The term 'TDD' means a Telecommunications Device for the Deaf, which is a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system.

"(3) TELECOMMUNICATIONS RELAY SERVICES.—The term 'telecommunications relay services' means telephone transmission services that provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device.

"(b) AVAILABILITY OF TELECOMMUNICATIONS RELAY SERVICES.—

"(1) IN GENERAL.—In order to carry out the purposes established under section 1, to make available to all individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation, the Commission shall ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.

"(2) USE OF GENERAL AUTHORITY AND REMEDIES.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to common carriers engaged in intrastate communication as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier engaged in interstate communication. Any violation of this section by any common carrier engaged in intrastate communication shall be subject to the same remedies, penalties, and procedures as are applicable to a violation of this Act by a common carrier engaged in interstate communication.

"(c) PROVISION OF SERVICES.—Each common carrier providing telephone voice transmission services shall, not later than 3 years after the date of enactment of this section, provide in compliance with the regulations prescribed under this section, within the area in which it offers service, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. A common carrier shall be considered to be in compliance with such regulations—

"(1) with respect to intrastate telecommunications relay services in any State that does not have a certified program under subsection (f) and with respect to interstate telecommunications relay services, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the Commission's regulations under subsection (d); or

"(2) with respect to intrastate telecommunications relay services in any State that has a certified program under subsection (f) for such State, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the program certified under subsection (f) for such State.

"(d) REGULATIONS.—

"(1) IN GENERAL.—The Commission shall, not later than 1 year after the date of enactment of this section, prescribe regulations to implement this section, including regulations that—

"(A) establish functional requirements, guidelines, and operations procedures for telecommunications relay services;

"(B) establish minimum standards that shall be met in carrying out subsection (c);

"(C) require that telecommunications relay services operate every day for 24 hours per day;

"(D) require that users of telecommunications relay services pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to point of termination;

"(E) prohibit relay operators from failing to fulfill the obligations of common carriers by refusing calls or limiting the length of calls that use telecommunications relay services;

"(F) prohibit relay operators from disclosing the content of any relayed conversation and from keeping records of the content of any such conversation beyond the duration of the call; and

"(G) prohibit relay operators from intentionally altering a relayed conversation.

"(2) TECHNOLOGY.—The Commission shall ensure that regulations prescribed to implement this section encourage, consistent with section 7(a) of this Act, the use of existing technology and do not discourage or impair the development of improved technology.

"(3) JURISDICTIONAL SEPARATION OF COSTS.—

"(A) IN GENERAL.—Consistent with the provisions of section 410 of this Act, the Commission shall prescribe regulations governing the jurisdictional separation of costs for the services provided pursuant to this section.

"(B) RECOVERING COSTS.—Such regulations shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction. In a State that has a certified program under subsection (f), a State commission shall permit a common carrier to recover the costs incurred in providing intrastate telecommunications relay services by a method consistent with the requirements of this section.

"(e) ENFORCEMENT.—

"(1) IN GENERAL.—Subject to subsections (f) and (g), the Commission shall enforce this section.

"(2) COMPLAINT.—The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date such complaint is filed.

"(f) CERTIFICATION.—

"(1) STATE DOCUMENTATION.—Any State desiring to establish a State program under this section shall submit documentation to the Commission that describes the program of such State for implementing intrastate telecommunications relay services and the procedures and remedies available for enforcing any requirements imposed by the State program.

"(2) REQUIREMENTS FOR CERTIFICATION.—After review of such documentation, the Commission shall certify the State program if the Commission determines that—

"(A) the program makes available to hearing-impaired and speech-impaired individuals, either directly, through designees, through a competitively selected vendor, or through regulation of intrastate common carriers, intrastate telecommunications relay services in such State in a manner that meets or exceeds the requirements of regulations prescribed by the Commission under subsection (d); and

"(B) the program makes available adequate procedures and remedies for enforcing the requirements of the State program.

"(3) METHOD OF FUNDING.—Except as provided in subsection (d), the Commission shall not refuse to certify a State program based solely on the method such State will implement for funding intrastate telecommunication relay services.

"(4) SUSPENSION OR REVOCATION OF CERTIFICATION.—The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. In a State whose program has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this section, to ensure continuity of telecommunications relay services.

"(g) COMPLAINT.—

"(1) REFERRAL OF COMPLAINT.—If a complaint to the Commission alleges a violation of this section with respect to intrastate telecommunications relay services within a State and certification of the program of such State under subsection (f) is in effect, the Commission shall refer such complaint to such State.

"(2) JURISDICTION OF COMMISSION.—After referring a complaint to a State under paragraph (1), the Commission shall exercise jurisdiction over such complaint only if—

"(A) final action under such State program has not been taken on such complaint by such State—

"(i) within 180 days after the complaint is filed with such State; or

"(ii) within a shorter period as prescribed by the regulations of such State; or

"(B) the Commission determines that such State program is no longer qualified for certification under subsection (f).".

(b) CONFORMING AMENDMENTS.—The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended—

(1) in section 2(b) (47 U.S.C. 152(b)), by striking "section 224" and inserting "sections 224 and 225"; and

(2) in section 221(b) (47 U.S.C. 221(b)), by striking "section 301" and inserting "sections 225 and 301".

SEC. 402. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

Section 711 of the Communications Act of 1934 is amended to read as follows:

"SEC. 711. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

"Any television public service announcement that is produced or funded in whole or in part by any agency or instrumentality of Federal government shall include closed captioning of the verbal content of such announcement. A television broadcast station licensee—

"(1) shall not be required to supply closed captioning for any such announcement that fails to include it; and

"(2) shall not be liable for broadcasting any such announcement without transmitting a closed caption unless the licensee intentionally fails to transmit the closed caption that was included with the announcement.".

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. CONSTRUCTION.

(a) IN GENERAL.—Except as otherwise provided in this Act, nothing in this Act shall be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.) or the regulations issued by Federal agencies pursuant to such title.

(b) RELATIONSHIP TO OTHER LAWS.—Nothing in this Act shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this Act. Nothing in this Act shall be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by title I, in transportation covered by title II or III, or in places of public accommodation covered by title III.

(c) INSURANCE.—Titles I through IV of this Act shall not be construed to prohibit or restrict—

(1) an insurer, hospital or medical service company, health maintenance organization, or any agent, or entity that administers benefit plans, or similar organizations from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(2) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(3) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that is not subject to State laws that regulate insurance.

Paragraphs (1), (2), and (3) shall not be used as a subterfuge to evade the purposes of title I and III.

(d) ACCOMMODATIONS AND SERVICES.—Nothing in this Act shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

SEC. 502. STATE IMMUNITY.

A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in Federal or State court of competent jurisdiction for a violation of this Act. In any action against a State for a violation of the requirements of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

SEC. 503. PROHIBITION AGAINST RETALIATION AND COERCION.

(a) RETALIATION.—No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(b) INTERFERENCE, COERCION, OR INTIMIDATION.—It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

(c) REMEDIES AND PROCEDURES.—The remedies and procedures available under sections 107, 203, and 308 of this Act shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to title I, title II and title III, respectively.

SEC. 504. REGULATIONS BY THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) ISSUANCE OF GUIDELINES.—Not later than 9 months after the date of enactment of this Act, the Architectural and Transportation Barriers Compliance Board shall issue minimum guidelines that shall supplement the existing Minimum Guidelines and Requirements for Accessible Design for purposes of titles II and III of this Act.

(b) CONTENTS OF GUIDELINES.—The supplemental guidelines issued under subsection (a) shall establish additional requirements, consistent with this Act, to ensure that buildings, facilities, rail passenger cars, and vehicles are accessible, in terms of architecture and design, transportation, and communication, to individuals with disabilities.

(c) QUALIFIED HISTORIC PROPERTIES.—

(1) IN GENERAL.—The supplemental guidelines issued under subsection (a) shall include procedures and requirements for alterations that will threaten or destroy the historic significance of qualified historic buildings and facilities as defined in 4.1.7(1)(a) of the Uniform Federal Accessibility Standards.

(2) SITES ELIGIBLE FOR LISTING IN NATIONAL REGISTER.—With respect to alterations of buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 et seq.), the guidelines described in paragraph (1) shall, at a minimum, maintain the procedures and requirements established in 4.1.7(1) and (2) of the Uniform Federal Accessibility Standards.

(3) OTHER SITES.—With respect to alterations of buildings or facilities designated as historic under State or local law, the guidelines described in paragraph (1) shall establish procedures equivalent to those established by 4.1.7(1)(b) and (c) of the Uniform Federal Accessibility Standards, and shall require, at a minimum, compliance with the requirements established in 4.1.7(2) of such standards.

SEC. 505. ATTORNEY'S FEES.

In any action or administrative proceeding commenced pursuant to this Act, the court or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

SEC. 506. TECHNICAL ASSISTANCE.

(a) PLAN FOR ASSISTANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Chair of the Equal Employment Opportunity Commission, the Secretary of Transportation, the Chair of the Architectural and Transportation Barriers Compliance Board, and the Chairman of the Federal Communications Commission, shall develop a plan to assist entities covered under this Act, and other Federal agencies, in understanding the responsibility of such entities and agencies under this Act.

(2) PUBLICATION OF PLAN.—The Attorney General shall publish the plan referred to in paragraph (1) for public comment in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly known as the Administrative Procedure Act).

(b) AGENCY AND PUBLIC ASSISTANCE.—The Attorney General may obtain the assistance of other Federal agencies in carrying out subsection (a), including the National Council on Disability, the President's Committee on Employment of People with Disabilities, the Small Business Administration, and the Department of Commerce.

(c) IMPLEMENTATION.—

(1) RENDERING ASSISTANCE.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act may render technical assistance to individuals and institutions that have rights or duties under the respective title or titles for which such agency has responsibility.

(2) IMPLEMENTATION OF TITLES.—

(A) TITLE I.—The Equal Employment Opportunity Commission and the Attorney General shall implement the plan for assistance developed under subsection (a), for title I.

(B) TITLE II.—

(i) SUBTITLE A.—The Attorney General shall implement such plan for assistance for subtitle A of title II.

(ii) SUBTITLE B.—The Secretary of Transportation shall implement such plan for assistance for subtitle B of title II.

(C) TITLE III.—The Attorney General, in coordination with the Secretary of Transportation and the Chair of the Architectural Transportation Barriers Compliance Board, shall implement such plan for assistance for title III, except for section 304, the plan for assistance for which shall be implemented by the Secretary of Transportation.

(D) TITLE IV.—The Chairman of the Federal Communications Commission, in coordination with the Attorney General, shall implement such plan for assistance for title IV.

(3) TECHNICAL ASSISTANCE MANUALS.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act shall, as part of its implementation responsibilities, ensure the availability and provision of appropriate technical assistance manuals to individuals or entities with rights or duties under this Act no later than six months after applicable final regulations are published under titles I, II, III, and IV.

(d) GRANTS AND CONTRACTS.—

(1) IN GENERAL.—Each Federal agency that has responsibility under subsection (c)(2) for implementing this Act may make grants or award contracts to effectuate the purposes of this section. Such grants and contracts may be awarded to individuals, institutions not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual (including educational institutions), and associations representing individuals who have rights or duties under this Act. Contracts may be awarded to entities organized for profit, but such entities may not be the recipients or grants described in this paragraph.

(2) DISSEMINATION OF INFORMATION.—Such grants and contracts, among other uses, may be designed to ensure wide dissemination of information about the rights and duties established by this Act and to provide information and technical assistance about techniques for effective compliance with this Act.

(e) FAILURE TO RECEIVE ASSISTANCE.—An employer, public accommodation, or other entity covered under this Act shall not be excused from compliance with the requirements of this Act because of any failure to receive technical assistance under this section, including any failure in the development or dissemination of any technical assistance manual authorized by this section.

SEC. 507. FEDERAL WILDERNESS AREAS.

(a) STUDY.—The National Council on Disability shall conduct a study and report on the effect that wilderness designations and wilderness land management practices have on the ability of individuals with disabilities to use and enjoy the National Wilderness Preservation System as established under the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) SUBMISSION OF REPORT.—Not later than 1 year after the enactment of this Act, the National Council on Disability shall submit the report required under subsection (a) to Congress.

SEC. 508. TRANSVESTITES.

For the purposes of this Act, the term "disabled" or "disability" shall not apply to an individual solely because that individual is a transvestite.

Strike section 509 and insert the following.:

SEC. 509. CONGRESSIONAL INCLUSION.

(a) IN GENERAL.—Notwithstanding any other provision of this Act or of law, the purposes of this Act shall, subject to subsections (b) through (d), apply in their entirety to the Senate, the House of Representatives, and all the instrumentalities of the Congress, or either House thereof.

(b) EMPLOYMENT IN THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(2) ADMINISTRATION.—

(A) In the administration of this subsection, the remedies and procedures made applicable pursuant to the resolution described in subparagraph (B) shall apply exclusively.

(B) The resolution referred to in subparagraph (A) is House Resolution 15 of the One Hundredth First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(3) EXERCISE OF RULEMAKING POWER.—The provisions of paragraph (2) of this subsection are enacted by the Congress as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) CONGRESSIONAL MATTERS OTHER THAN EMPLOYMENT.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of the Congress regarding matters other than employment.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY ARCHITECT OF THE CAPITOL.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively, after approval in accordance with paragraph (3).

(3) APPROVAL BY CONGRESSIONAL LEADERSHIP.—For purposes of paragraph (2), the Architect of the Capitol shall submit proposed remedies and procedures to the Speaker of the House of Representatives and to an appropriate officer of the Senate, as designated by the Senate. The remedies and procedures shall be effective upon the approval of the Speaker, after consultation with the House Office Building Commission, and the approval of the appropriate officer of the Senate.

(d) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

SEC. 510. ILLEGAL USE OF DRUGS.

(a) IN GENERAL.—For purposes of this Act, the term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as an individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs; however, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

(c) HEALTH AND OTHER SERVICES.—Notwithstanding subsection (a) and section 511(b)(3), an individual shall not be denied health services, or services provided in connection with drug rehabilitation, on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

(d) DEFINITION OF ILLEGAL USE OF DRUGS.—

(1) IN GENERAL.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(2) DRUGS.—The term "drug" means a controlled substance, as defined in schedules I

through V of section 202 of the Controlled Substances Act.

SEC. 511. DEFINITIONS.

(a) HOMOSEXUALITY AND BISEXUALITY.—For purposes of the definition of "disability" in section 3(2), homosexuality and bisexuality are not impairments and as such are not disabilities under this Act.

(b) CERTAIN CONDITIONS.—Under this Act, the term "disability" shall not include—

(1) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(2) compulsive gambling, kleptomania, or pyromania; or

(3) psychoactive substance use disorders resulting from current illegal use of drugs.

SEC. 512. AMENDMENTS TO THE REHABILITATION ACT.

(a) DEFINITION OF HANDICAPPED INDIVIDUAL.—Section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)) is amended by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following subparagraph:

"(C)(i) For purposes of title V, the term 'individual with handicaps' does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

"(ii) Nothing in clause (i) shall be construed to exclude as an individual with handicaps an individual who—

"(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

"(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

"(III) is erroneously regarded as engaging in such use, but is not engaging in such use,

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

"(iii) Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under titles I, II and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

"(iv) For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any handicapped student who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against nonhandicapped students. Furthermore, the due process procedures at 34 CFR 104.36 shall not apply to such disciplinary actions.

"(v) For purposes of sections 503 and 504 as such sections relate to employment, the term 'individual with handicaps" does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.".

(b) DEFINITION OF ILLEGAL DRUGS.—Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 706) is amended by adding at the end the following new paragraph:

"(22)(A) The term 'drug' means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

"(B) The term 'illegal use of drugs' means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.".

(c) CONFORMING AMENDMENTS.—Section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B)) is amended—

(1) in the first sentence, by striking "Subject to the second sentence of this subparagraph," and inserting "Subject to subparagraphs (C) and (D),"; and

(2) by striking the second sentence.

SEC. 513. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under this Act.

SEC. 514. SEVERABILITY.

Should any provision in this Act be found to be unconstitutional by a court of law, such provision shall be severed from the remainder of the Act, and such action shall not affect the enforceability of the remaining provisions of the Act.

The CHAIRMAN. No amendment to said substitute shall be in order except those amendments printed in part 2 of House Report 101-488. 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. Debate time specified for each amendment shall be equally divided and controlled by the proponent of the amendment and a Member opposed thereto.

AMENDMENT OFFERED BY MR. LA FALCE

Mr. LAFALCE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. LAFALCE: In section 310 (relating to effective dates), redesignate subsection (b) as subsection (c) and insert after subsection (a) the following new subsection:

(b) CIVIL ACTIONS.—Except for any civil action brought for a violation of section 303, no civil action shall be brought—

(1) during the first 6 months after the effective date, against businesses that employ 25 or fewer employees and have gross receipts of $1,000,000 or less; and

(2) during the first year after the effective date, against businesses that employ 10 or fewer employees and have gross receipts of $500,000 or less.

In subsection (a) of section 310, strike "subsection (b)" and insert "subsections (b) and (c)".

The CHAIRMAN. The gentleman from New York [Mr. LAFALCE] is recognized for 10 minutes.

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

Mr. Chairman, the amendment which I am sponsoring jointly with Representative TOM CAMPBELL addresses provisions of the public accommodations title of the Americans With Disabilities Act, H.R. 2273.

Our goal in offering this amendment is to ensure that the ADA is equitable and workable for all who are affected by it. As chairman of the Committee on Small Business, I held a hearing on the ADA in February during which concerns were voiced by small business owners about the potential costs and unfamiliar requirements that compliance with the ADA will entail. I do not suggest that fears of the unknown should freeze us into inaction.

Rather, we should take the time now to address legitimate concerns. Clearly, it is everyone's desire to have the rights of the disabled and the concerns of business hammered out through legislation, not litigation. It is absolutely time to integrate into the economic and social mainstream of America those among us who have felt the stigmas and discrimination a disability can mean.

On the other hand, no one wants a small business to fail because complying with or defending oneself under the ADA requires costly and time-consuming lawsuits or because regulations have not been issued informing businesses about the ADA's requirements.

Our amendment responds to these concerns without altering the scope or the substance of the ADA. Although we recognize that final regulations are often issued long after laws are in effect, we do not seek to delay the effective date of the public accommodations title or tie the effective date to the issuance of final regulations.

This means therefore that there is a strong likelihood that an element of guesswork will be involved when businesses start making the necessary accommodations and alterations in their facilities and practices.

In light of this, our amendment provides a period of protection from civil action for the smallest businesses after the title goes into effect. Small businesses deserve a period of protection—a period without fear of penalty—as they seek to come into compliance with the ADA's requirements—an entirely new aspect of doing business for many of them.

For businesses with 25 or fewer employees and gross receipts of $1 million or less, that period of protection is 6 months; for businesses with 10 or fewer employees and gross receipts of $500,000 or less, the period is 1 year. This is a moderate and fair response to legitimate concerns.

Mr. Chairman, this amendment has the support of Congressman HOYER, the principal cosponsor of the Americans With Disabilities Act; it has bipartisan support in the House; and it has the support of the business community; which wants to comply with the bill. They deserve our support in helping them comply.

I urge adoption of this amendment.

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Mr. CAMPBELL of California. Mr. Chairman, will the gentleman yield for the purpose of a very brief colloquy?

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

Mr. CAMPBELL of California. Mr. Chairman, as coauthor of the amendment, I wish to clarify the following: Whereas the amendment states that during the first 6 months after the effective date no civil action shall be brought against businesses that fit these specifications, and similarly during the first year, I think the question should be made very clear that for actions or failures to take action during that period a lawsuit could not be brought once the 6 months is over.

Mr. LAFALCE. Mr. Chairman, that is absolutely correct. No action could be brought for any action or inaction during either the 6 months or the 1-year period respectively.

Mr. CAMPBELL of California. Mr. Chairman, that is my understanding, and I thank the gentleman for yielding.

Mr. LAFALCE. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there any Member seeking recognition in opposition to the amendment?

Does the gentleman from New York [Mr. LAFALCE] wish to use the balance of his time?

Mr. LAFALCE. Yes, Mr. Chairman, There are a number of Members who want to speak on this amendment, and I assume I now have not 10 minutes but 20 minutes in toto?

The CHAIRMAN. The Chair will state that the gentleman from New York [Mr. LAFALCE] has 6 minutes remaining.

Mr. LAFALCE. But since there is no Member in opposition, would I not have the other 10 minutes?

The CHAIRMAN. The Chair would announce that the rule does not provide for that consideration.

Mr. SENSENBRENNER. Mr. Chairman, I ask unanimous consent that the 10 minutes reserved for the opposition be assigned to the gentleman from New York [Mr. LAFALCE].

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

There was no objection.

Mr. LAFALCE. Does the gentleman from California [Mr. CAMPBELL] wish me to yield time to him?

Mr. CAMPBELL of California. Mr. Chairman, I would appreciate it if the gentleman would yield me the 10 minutes so I could allocate time to Members on our side?

Mr. LAFALCE. I yield 10 minutes to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL of California. Mr. Chairman, I thank the gentleman for yielding time to me, and I rise in support of this amendment of which I am the coauthor.

Very simply stated, we are attempting to avoid a repeat of section 89. Small business should not be in doubt about what the regulations provide. Therefore, the regulations should issue first, and after the regulations have issued and after the law becomes effective by its date on the public accommodation section, there should be a period of the phasein so that the very smallest of employers, those who employ 25 or fewer, should have at least 6 months to acclimate themselves to the new condition, and similarly, for the smallest employers, those who employ 10 or fewer and have gross receipts of $500,000 or less, a grace period of 1 year would be afforded.

Mr. Chairman, small business wants to support the disabled community of America. I am proud to be a cosponsor of the Americans With Disabilities Act, and I view this amendment as consistent with that commitment. I will respond to the desires of all Members to be brief by doing so in my own case, and I shall conclude simply by saying that I am proud to be here cosponsoring this with the chairman of the committee on which I formerly served and for whom I have the highest regard, the gentleman from New York [Mr. LAFALCE].

Mr. Chairman, I reserve the remainder of my time.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I rise in support of the amendment offered by the chairman of the Committee on Small Business, Mr. LAFALCE, and the gentleman from California, Mr. CAMPBELL. This is a good amendment and one which the House should adopt.

The LaFalce/Campbell amendment would provide for the bill to become effective 18 months after the effective date but phase in civil actions against small business in title III, the public accommodations section. I am pleased that the amendment encompasses an amendment which I presented to the Rules Committee and I thank the gentlemen for their willingness to reach an accommodation in this matter.

Mr. CAMPBELL first raised the issue of a small business phase-in in the Judiciary Committee. This responds to the concerns of small business and gives them time to learn what is readily achievable and gives the smallest businesses in America a longer period to become familiar with the provisions of the act. The amendment will allow small businesses to learn from the experiences of larger business and it gives time for communities to come together, shopkeepers and disabled shoppers, to learn what each others needs are and to provide for accommodations which are readily achievable.

The bill as reported to the floor has many accommodations to the needs of small business. Existing public accommodations must only make changes which are "readily achievable." If the changes are not readily achievable, then the business can provide its services through an alternative method, if that is not burdensome or disruptive to the business.

The LaFalce/Campbell amendment allows the smallest business time to adjust to the new law and to learn what is readily achievable for that business. I believe this amendment is an excellent addition to the legislation and I appreciate the gentleman from New York and the gentleman from California for offering this amendment. I urge my colleagues to support it.

Mr. POSHARD. Mr. Chairman, I rise today in strong support of H.R. 2273, the Americans With Disabilities Act.

This is landmark action to extend the protections and opportunities of American citizenship to a population that has been too long denied.

The Americans With Disabilities Act reaches out to millions of men and women who seek a greater and more equal role in living their lives alongside the rest of society.

I represent a rural area, and believe the real impact in areas like mine will come in the employment, housing, public accommodations, and telecommunications services which this bill addresses. It makes important improvements in the access to those services for disabled Americans, in addition to the transportation improvements that may be more applicable to urban areas but still are mightily important.

The Southern Illinois Center for Independent Living is headquartered in Carbondale, IL, a city in my district. Mr. Robert Kilbury is the executive director there, and the center serves a diverse population.

One important advance in this legislation Mr. Kilbury identified, and that I agree with, is it not only makes real changes in the working and living environment, it also sends a message. It says this country is no longer willing to ignore the 43 million or more Americans who may be described as disabled, but who are so able in numerous ways that to continue to live without their contributions would be a tragedy.

Since I mentioned Carbondale, I should let you know that rural communities are making a commitment in this area. Carbondale is a city of 25,000 residents, with about an equal number of students at Southern Illinois University, which serves a sizable disabled population.

In 1986, competing against much larger cities across the country, Carbondale was selected by the National Organization on Disability for top honors in its national community awards competition.

Carbondale's commitment to expanding the participation of disabled persons in community

life is an example I encourage other communities to follow, and I am pleased to make mention of this award during the passage of this important legislation.

As we did with the Civil Rights Act of 1964, which this act is patterned after, we're saying discrimination is repulsive and must be corrected.

Of course we know that laws have no real force if we do not translate them into action. Words and deeds ultimately mean more than statutes and regulations, and unless we bind ourselves to these requirements and make them real, then we will have come up short. But I am confident that will not happen.

As in civil rights, we have made progress, but there is a great deal still to be done.

This is an opportunity to make our society more well-rounded and accessible. We are at our best when we ignore the barriers of perception and prejudice and instead embrace the contributions each of us as individuals can make. This act makes that more possible for a uniquely deserving part of our society.

I'm extremely pleased to vote for passage of the Americans With Disabilities Act, and look forward to the day when we meet again to hail the improvements it has brought to all of us who are Americans.

Mr. Chairman, I would say that we believe this amendment is a friendly amendment, a positive amendment. I would reiterate that the bill already provides for an 18-month phase-in period prior to this amendment, so there is a learning curve to occur.

Further, under title 5, it provides for the Architectural Transportation Barriers Compliance Board to issue guidelines within 9 months, that is, 9 months before the effective date of the act. It also provides for the Attorney General and the EEOC to provide technical assistance guidelines and issue manuals. So there has been an effort to educate the small business community and give them time.

Under this amendment there would be an additional time for those employers of between 10 and 25 employees, an additional 6 months, that is, 24 months after the enactment of the bill, to be subjected to any actions.

However, I want to make it clear, and I think we all do understand this, that the law itself will be in effect and they will be under an obligation, of course, to make the accommodations. Even smaller businesses, those with 10 employees and under, will have an additional 6 months after that, for a total of 30 months, in order to know exactly what they have to do and to implement those changes to the extent that they know what they are.

Of course, the bill makes provisions for an accommodation that is unknown, that is, a disability that the business community or the individual business person may know of. There is a good faith consideration for that lack of knowledge about what accommodation needs to be made.

We think this is a positive amendment, Mr. Chairman, we are prepared to accept it. We think this is an amendment, however, that ought to be voted upon because we think it is an important amendment. It is a continuing accommodation to the concerns of the small business community, and we want to indicate that the membership of this body want to accommodate those concerns.

Mr. CAMPBELL of California. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. BALLENGER].

The CHAIRMAN. Without objection, the gentleman from North Carolina [Mr. BALLENGER] is recognized for 2 minutes.

There was no objection.

Mr. BALLENGER. Mr. Chairman, I thank the gentleman from California for yielding this time to me.

Mr. Chairman, I am pleased the House is considering the Americans With Disabilities Act today. It is a well-intended bill that establishes noble goals with which few can disagree. Disabled workers are some of the most dedicated, loyal, and hard-working employees in our work force, obviously, it makes good business sense to open the doors of opportunity to enhance their employment options.

It is important to pass a bill that carries out these objectives, however, problems remain in the bill that make it difficult for many small businesses to comply with the act. Several amendments will be debated today that offer positive improvements in the current bill. One of these is the LaFalce-Campbell amendment, which I strongly support.

I offered a modified version of this amendment during debate in committee and would like to commend my colleagues for their efforts to improve the original proposal.

Businesses need time to review new Federal regulations and make alterations where needed to accommodate disabled individuals and strive to meet the letter of the law. LaFalce-Campbell provides small businesses with the means to achieve this goal—adequate time.

This amendment is fair, reasonable, and deserves your support. Join me in voting "yes" for a positive amendment that enhances the quality of the Americans With Disabilities Act.

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

Mr. LAFALCE. Mr. Chairman, I have no Members on this side who desire recognition at this time, and I reserve the balance of my time.

Mr. CAMPBELL of California. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING].

The CHAIRMAN. Without objection, the gentleman from Pennsylvania [Mr. GOODLING] is recognized for 2 minutes.

There was no objection.

Mr. GOODLING. Mr. Chairman, I am pleased to rise in strong support of this amendment. As already explained, it would simply provide, under the public accommodations title, an additional 6-month grace period from law suits for businesses with 25 or fewer employees and an additional 6 months thereafter for the smallest of businesses—those with 10 or fewer employees.

Mr. Chairman, a little historical background may prove useful here. When the Americans With Disabilities Act was first introduced, small business organizations consistently pressed for an exemption from the requirements of the public accommodation section similar to that provided for employers under title I of the act governing employment—25 or more the first 2 years; 15 or more thereafter. Frankly, Mr. Chairman, the concerns of small business were not surprising and were quite understandable. While the concepts underpinning the ADA have parallels in existing law under the Rehabilitation Act, the reach of that act had been limited to Federal contractors and those entities receiving Federal financial assistance. Thus, the requirements of the ADA were completely novel to many aspects of the private sector, most particularly small businesses. Further, let's be honest, the ADA will impose costs, sometimes substantial. In this light, the perceived need for an exemption was hardly irrational.

On the other hand, the disability community was rightfully concerned that a small business exemption would simply result in the continued denial of retail, entertainment, and other services—many of which are provided by small businesses—which led to the development of this legislation in the first place.

Mr. Chairman, I believe the amendment before us, developed on a bipartisan basis, is a reasonable and sound compromise between these two competing concerns. By providing a grace period during which no civil action could be filed against certain small businesses, there will be an adequate amount of time for these businesses to become familiar with the law—particularly through observing its implementation by the larger companies—and to adjust their operations accordingly. In effect they will be permitted to learn from the experiences of the larger companies and, hopefully, not make the same mistakes. At the same time, eventual and universal access by the disabled to all businesses remains a mandate of the law.

Mr. Chairman, I urge my colleagues to support this worthy amendment.

Mr. CAMPBELL of California. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BARTLETT].

The CHAIRMAN. Without objection, the gentleman from Texas [Mr. BARTLETT] is recognized for 2 minutes.

Mr. BARTLETT. Mr. Chairman, I rise in support of the Campbell-LaFalce amendment. I believe that it is a modest extension of time but one that will in fact make the legislation considerably better accepted in the public marketplace.

I would note that it applies only to the public accommodations section. What it does is to extend an additional 6 months' protection against civil actions for small businesses in addition to the time already provided in the bill.

□ 1530

Mr. Chairman, as the gentleman from Maryland [Mr. HOYER] has stated, the ADA already requires time for both education and compliance. We anticipate that the regulations would be issued within 6 months after enactment, and subsequent to that technical assistance manuals would be issued both for public accommodations and for employment so that 18 months after enactment the bill will go into effect for public accommodations. In 24 months after enactment the bill would go into effect for employment.

Mr. Chairman, the amendment of the gentleman from California [Mr. CAMPBELL] assures that small business will have the time to become completely educated after the bill has gone into effect prior to any civil actions being taken for public accommodations.

It is a modest amendment. It is a fair and reasonable amendment. It is fully consistent within the intent of the ADA, and I do support it and commend both the gentleman from California [Mr. CAMPBELL] and the gentleman from New York [Mr. LAFALCE] for offering the amendment.

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

Mr. LaFALCE. Mr. Chairman, I have no further requests for time.

Mr. CAMPBELL of California. Mr. Chairman, I yield back the balance of my time.

Mr. LaFALCE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. LAFALCE].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. LaFALCE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their pressure by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 115]

Ackerman	Donnelly	Jenkins
Anderson	Dorgan (ND)	Johnson (CT)
Andrews	Dornan (CA)	Johnson (SD)
Annunzio	Douglas	Johnston
Anthony	Downey	Jones (GA)
Applegate	Dreier	Jones (NC)
Archer	Duncan	Jontz
Armey	Durbin	Kanjorski
Aspin	Dwyer	Kaptur
Atkins	Dymally	Kasich
AuCoin	Dyson	Kastenmeier
Baker	Early	Kennedy
Ballenger	Eckart	Kennelly
Barnard	Edwards (CA)	Kildee
Bartlett	Edwards (OK)	Kleczka
Barton	Emerson	Kolbe
Bateman	Engel	Kolter
Bates	English	Kostmayer
Beilenson	Erdreich	Kyl
Bennett	Espy	LaFalce
Bentley	Evans	Lagomarsino
Bereuter	Fawell	Lancaster
Berman	Fazio	Lantos
Bevill	Feighan	Laughlin
Bilbray	Fields	Leach (IA)
Bliley	Fish	Leath (TX)
Boehlert	Flake	Lehman (CA)
Boggs	Foglietta	Lehman (FL)
Bonior	Ford (MI)	Lent
Borski	Ford (TN)	Levin (MI)
Bosco	Frenzel	Levine (CA)
Boucher	Frost	Lewis (CA)
Boxer	Gallegly	Lewis (GA)
Brennan	Gallo	Lightfoot
Brooks	Gaydos	Lipinski
Broomfield	Gejdenson	Livingston
Browder	Gekas	Lloyd
Brown (CA)	Geren	Long
Brown (CO)	Gibbons	Lowery (CA)
Bruce	Gillmor	Lowey (NY)
Bryant	Gilman	Luken, Thomas
Buechner	Glickman	Lukens, Donald
Bunning	Gonzalez	Machtley
Burton	Goodling	Madigan
Byron	Gordon	Manton
Callahan	Gradison	Markey
Campbell (CA)	Grandy	Marlenee
Campbell (CO)	Gray	Martin (IL)
Cardin	Green	Martinez
Carper	Guarini	Matsui
Carr	Gunderson	Mavroules
Chandler	Hall (OH)	McCandless
Chapman	Hall (TX)	McCloskey
Clarke	Hamilton	McCollum
Clay	Hancock	McCrery
Clement	Hansen	McCurdy
Clinger	Harris	McDade
Coble	Hastert	McDermott
Coleman (MO)	Hatcher	McEwen
Collins	Hawkins	McGrath
Combest	Hayes (IL)	McHugh
Condit	Hayes (LA)	McMillan (NC)
Conte	Hefley	McMillen (MD)
Conyers	Hefner	McNulty
Cooper	Henry	Meyers
Costello	Herger	Mfume
Coughlin	Hertel	Miller (CA)
Cox	Hiler	Miller (OH)
Coyne	Hoagland	Miller (WA)
Crockett	Hochbrueckner	Mineta
Dannemeyer	Holloway	Moakley
Darden	Hopkins	Molinari
de la Garza	Horton	Mollohan
DeFazio	Houghton	Montgomery
DeLay	Hoyer	Moody
Dellums	Hubbard	Moorhead
Derrick	Huckaby	Morella
DeWine	Hughes	Morrison (CT)
Dickinson	Hunter	Morrison (WA)
Dicks	Hyde	Mrazek
Dingell	Inhofe	Murphy
Dixon	Jacobs	Murtha
Myers	Roth	Stark
Nagle	Roukema	Stenholm
Natcher	Rowland (CT)	Stokes
Neal (MA)	Rowland (GA)	Studds
Neal (NC)	Roybal	Stump
Nielson	Russo	Sundquist
Nowak	Sabo	Swift
Oakar	Saiki	Synar
Oberstar	Sangmeister	Tallon
Obey	Sarpalius	Tanner
Olin	Savage	Tauke
Ortiz	Sawyer	Tauzin
Owens (NY)	Saxton	Taylor
Owens (UT)	Schaefer	Thomas (CA)
Oxley	Scheuer	Thomas (GA)
Packard	Schiff	Thomas (WY)
Pallone	Schneider	Torres
Panetta	Schroeder	Torricelli
Parker	Schumer	Towns
Parris	Sensenbrenner	Traficant
Pashayan	Serrano	Traxler
Patterson	Sharp	Udall
Paxon	Shaw	Unsoeld
Payne (NJ)	Shays	Upton
Payne (VA)	Shumway	Valentine
Pease	Sikorski	Vander Jagt
Pelosi	Sisisky	Vento
Penny	Skaggs	Visclosky
Perkins	Skeen	Volkmer
Petri	Skelton	Vucanovich
Pickett	Slattery	Walgren
Pickle	Slaughter (NY)	Walker
Porter	Slaughter (VA)	Walsh
Poshard	Smith (FL)	Washington
Price	Smith (IA)	Watkins
Quillen	Smith (NE)	Waxman
Rahall	Smith (NJ)	Weber
Rangel	Smith (TX)	Weiss
Ravenel	Smith (VT)	Weldon
Ray	Smith, Robert (NH)	Wheat
Regula	Smith, Robert (OR)	Whittaker
Rhodes	Snowe	Whitten
Richardson	Solarz	Williams
Ridge	Solomon	Wise
Rinaldo	Spence	Wolf
Ritter	Spratt	Wolpe
Roberts	Staggers	Wyden
Roe	Stallings	Wylie
Rohrabacher	Stangeland	Yates
Rose		Yatron
Rostenkowski		Young (AK)

□ 1554

The CHAIRMAN. Three hundred ninety-seven Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from New York [Mr. LAFALCE] for a recorded vote.

Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 401, noes 0, not voting 31, as follows:

[Roll No. 116]

AYES—401

Ackerman	Beilenson	Browder
Anderson	Bennett	Brown (CA)
Andrews	Bentley	Brown (CO)
Annunzio	Bereuter	Bruce
Anthony	Berman	Bryant
Applegate	Bevill	Buechner
Archer	Bilbray	Bunning
Armey	Bliley	Burton
Aspin	Boehlert	Byron
Atkins	Boggs	Callahan
AuCoin	Bonior	Campbell (CA)
Baker	Borski	Campbell (CO)
Ballenger	Bosco	Cardin
Barnard	Boucher	Carper
Bartlett	Boxer	Carr
Barton	Brennan	Chandler
Bateman	Brooks	Chapman
Bates	Broomfield	Clarke

Clay	Hertel	Murphy
Clement	Hiler	Murtha
Clinger	Hoagland	Myers
Coble	Hochbrueckner	Nagle
Coleman (MO)	Holloway	Natcher
Collins	Hopkins	Neal (MA)
Combest	Horton	Neal (NC)
Condit	Houghton	Nielson
Conte	Hoyer	Nowak
Conyers	Hubbard	Oakar
Cooper	Huckaby	Oberstar
Costello	Hughes	Obey
Coughlin	Hunter	Olin
Cox	Hyde	Ortiz
Coyne	Inhofe	Owens (NY)
Crockett	Jacobs	Owens (UT)
Dannemeyer	Jenkins	Oxley
Darden	Johnson (CT)	Packard
de la Garza	Johnson (SD)	Pallone
DeFazio	Johnston	Panetta
DeLay	Jones (GA)	Parker
Dellums	Jones (NC)	Parris
Derrick	Jontz	Pashayan
DeWine	Kanjorski	Patterson
Dickinson	Kaptur	Paxon
Dicks	Kasich	Payne (NJ)
Dingell	Kastenmeier	Payne (VA)
Dixon	Kennedy	Pease
Donnelly	Kennelly	Pelosi
Dorgan (ND)	Kildee	Penny
Dornan (CA)	Kleczka	Perkins
Douglas	Kolbe	Petri
Downey	Kolter	Pickett
Dreier	Kostmayer	Pickle
Duncan	Kyl	Porter
Durbin	LaFalce	Poshard
Dwyer	Lagomarsino	Price
Dymally	Lancaster	Quillen
Dyson	Lantos	Rahall
Early	Laughlin	Rangel
Eckart	Leach (IA)	Ravenel
Edwards (CA)	Leath (TX)	Ray
Edwards (OK)	Lehman (CA)	Regula
Emerson	Lehman (FL)	Rhodes
Engel	Lent	Richardson
English	Levin (MI)	Ridge
Erdreich	Levine (CA)	Rinaldo
Espy	Lewis (CA)	Ritter
Evans	Lewis (GA)	Roberts
Fawell	Lightfoot	Roe
Fazio	Lipinski	Rohrabacher
Feighan	Livingston	Rose
Fields	Lloyd	Rostenkowski
Fish	Long	Roth
Flake	Lowery (CA)	Roukema
Foglietta	Lowey (NY)	Rowland (CT)
Ford (MI)	Luken, Thomas	Rowland (GA)
Ford (TN)	Lukens, Donald	Roybal
Frank	Machtley	Russo
Frenzel	Madigan	Sabo
Frost	Manton	Saiki
Gallegly	Markey	Sangmeister
Gallo	Marlenee	Sarpalius
Gaydos	Martin (IL)	Savage
Gejdenson	Martin (NY)	Sawyer
Gekas	Martinez	Saxton
Gephardt	Matsui	Schaefer
Geren	Mavroules	Scheuer
Gibbons	McCandless	Schiff
Gillmor	McCloskey	Schneider
Gilman	McCollum	Schroeder
Glickman	McCrery	Schumer
Gonzalez	McCurdy	Sensenbrenner
Goodling	McDade	Serrano
Gordon	McDermott	Sharp
Gradison	McEwen	Shaw
Grandy	McGrath	Shays
Gray	McHugh	Shumway
Green	McMillan (NC)	Shuster
Guarini	McMillen (MD)	Sikorski
Gunderson	McNulty	Sisisky
Hall (OH)	Meyers	Skaggs
Hall (TX)	Mfume	Skeen
Hamilton	Miller (CA)	Skelton
Hancock	Miller (WA)	Slattery
Hansen	Mineta	Slaughter (NY)
Harris	Moakley	Slaughter (VA)
Hastert	Molinari	Smith (FL)
Hatcher	Mollohan	Smith (IA)
Hawkins	Montgomery	Smith (NE)
Hayes (IL)	Moody	Smith (NJ)
Hayes (LA)	Moorhead	Smith (TX)
Hefley	Morella	Smith (VT)
Hefner	Morrison (CT)	Smith, Robert
Henry	Morrison (WA)	(NH)
Herger	Mrazek	Smith, Robert
(OR)	Taylor	Washington
Snowe	Thomas (CA)	Watkins
Solarz	Thomas (GA)	Waxman
Solomon	Thomas (WY)	Weber
Spence	Torres	Weiss
Spratt	Torricelli	Weldon
Staggers	Towns	Wheat
Stallings	Traficant	Whittaker
Stangeland	Traxler	Whitten
Stark	Udall	Williams
Stenholm	Unsoeld	Wilson
Stokes	Upton	Wise
Studds	Valentine	Wolf
Stump	Vander Jagt	Wolpe
Sundquist	Vento	Wyden
Swift	Visclosky	Wylie
Synar	Volkmer	Yates
Tallon	Vucanovich	Yatron
Tanner	Walgren	Young (AK)
Tauke	Walker	
Tauzin	Walsh	

NOES—0

NOT VOTING—31

Alexander	Goss	Pursell
Bilirakis	Grant	Robinson
Bustamante	Hammerschmidt	Rogers
Coleman (TX)	Hutto	Ros-Lehtinen
Courter	Ireland	Schuette
Craig	James	Schulze
Crane	Lewis (FL)	Smith, Denny
Davis	Mazzoli	(OR)
Fascell	Michel	Stearns
Flippo	Miller (OH)	Young (FL)
Gingrich	Nelson	

□ 1602

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GOSS. Mr. Chairman, on rollcall No. 116, on the adoption of the LaFalce-Campbell amendment, I was at the White House meeting with the President and missed the vote. Had I been present, I would have voted aye.

PERSONAL EXPLANATION

Ms. ROS-LEHTINEN. Mr. Chairman, on rollcall No. 116, on the adoption of the LaFalce-Campbell amendment, I was at the White House meeting with the President and missed the vote. Had I been present, I would have voted aye.

PERSONAL EXPLANATION

Mr. MICHEL. Mr. Chairman, as a result of my work today with my colleagues on the budget summit, I missed rollcall No. 116, which was the vote on the amendment offered by Messrs. LAFALCE and CAMPBELL. Had I been present, I would have voted aye, because I strongly believe that this amendment strikes the appropriate balance between the goals of the Americans With Disabilities Act and the need to ensure that small businesses have an opportunity to learn what their duties are under this important legislation.

PERSONAL EXPLANATION

Mr. STEARNS. Mr. Chairman, on rollcall No. 116 on the adoption of the amendment of the gentleman from New York [Mr. LAFALCE] I was at the White House with other members of the Florida delegation briefing the President on an objection to offshore oil drilling. Had I been present, I would have voted aye.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent to strike the last word.

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

Mr. WALKER, Mr. Chairman, reserving the right to object, I would ask the gentleman from Michigan the purpose of his request.

Mr. DINGELL. Mr. Chairman, I have asked unanimous consent that I be permitted to address the House out of order for the purpose of making an announcement in concert with my friend, the gentleman from New York [Mr. LENT], regarding the filing of the report on the clean air bill.

Mr. WALKER. Reserving the right to object, Mr. Chairman, would not the normal procedure be to do that in the House rather than when we are in the committee?

The CHAIRMAN. The gentleman from Michigan is only making an announcement out of order.

Mr. WALKER. Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

PERSONAL EXPLANATION

Mr. ACKERMAN. Mr. Speaker, it has come to my attention that I was recorded as not voting when, in fact, I was present and voting in the Chamber.

On rollcall No. 113 I was recorded as "not voting" on ordering the previous question on H.R. 2273. I was present, I did insert my voting card, and I did vote "yea." My votes apparently were not recorded due to a malfunction of the voting system.

ANNOUNCEMENT OF FILING OF CLEAN AIR BILL

Mr. DINGELL. Mr. Chairman, I thank the gentleman from Pennsylvania. This is for the purpose of announcing that after long and difficult effort in terms of writing the legislation, dealing with it in the committee through the hearing process, through the markup process, and then through the process of actually drafting the legislation as ordered reported by the committee and drafting the report, which is the document which sits here before me, and I would like my colleagues to look to see the foot-high document we are filing, the Committee on Energy and Commerce has directed me to file the report on the Clean Air Act Amendments of 1990. This is the legislation which will be on the floor next week.

We have done our best to provide this service to the House with all speed. It represents the hard work of a

lot of my colleagues, the gentleman from California [Mr. WAXMAN], chairman of the subcommittee; my very dear friend and able friend, the gentleman from New York [Mr. LENT], who has worked long and hard on this matter and who has carried out his responsibilities with extraordinary competence, diligence, and decency; my colleague from Indiana [Mr. SHARP], chairman of the Subcommittee on Energy and Power; and a large number of others of our colleagues far too numerous to name in the committee in my limited time.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am delighted to yield to my dear friend, the gentleman from New York [Mr. LENT], who has worked enormously hard and with great dedication and diligence on this matter.

Mr. LENT. Mr. Chairman, I thank the gentleman from Michigan, chairman of the Committee on Energy and Commerce, for yielding. I just wanted to commend the gentleman from Michigan for the leadership that he has displayed in getting this bill through the Energy and Commerce Committee. It has been a great many years that this legislation is overdue, and I think because of the leadership displayed by Chairman DINGELL, and also because of the impetus put behind this bill by the President of the United States, who offered the original clean air reauthorization bill, H.R. 3030, we are at this point today.

I would hope that the Rules Committee will shortly be convening so that this very important measure can be brought to the floor of the House for general debate, and then for the amendment process.

Mr. DINGELL. I would observe to my colleagues that we have compromised out the difficulties which exist with regard to approximately five titles. Three titles remain to be dealt with in terms of discussion, and a half of another title remains to be dealt with. We will try during the time that remains between now and the time the measure comes to the floor to continue working and negotiating to see to it that those remaining differences are addressed so that we can bring the bill to the floor in the best possible condition.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am delighted to yield to my friend, the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, if I understand correctly, the gentleman from Michigan is prepared to file the clean air bill. Some of the committees, such as the Science, Space, and Technology Committee, would be entitled to sequential referral of the bill. I am not aware as the ranking member of that committee that we have had an opportunity at this point to deal with the legislation. Is the gentleman from Michigan aware of the situation, and how are we filing a bill without our committee getting a proper sequential referral?

Mr. DINGELL. The question of referral of these matters to other committees is not in the hands of the chairman of the Committee on Energy and Commerce. It lies elsewhere.

However, I would assure the gentleman from Pennsylvania that we are going to try to be working with our colleagues on these other committees to resolve their concerns, both substantively and jurisdictionally.

Mr. WALKER. If the gentleman will yield further, it was my understanding, for instance, that we were trying to work out something where the Committee on Science, Space, and Technology title would be placed in the bill. It is my understanding that that has not been done at the present time, and I am wondering whether or not that is going to be accommodate at some point before the bill is filed?

Mr. DINGELL. We are going to try to work with our friends on the Committee on Science, Space, and Technology so as to enable that particular title to be offered on the floor, and to be added as an amendment at this point. We are in no way hostile to recognizing the jursidiction of that committee or the Committee on Public Works and Transportation, or the Committee on Ways and Means, or the Committee on Merchant Marine and Fisheries with regard to the concerns that they have on those parts of this legislation that may fall within their jurisdictions.

Mr. WALKER. If the gentleman will yield further, so it is my understanding then we will not get sequential referral, but rather would have to bring our jurisdiction to the floor on our committee and to offer it as an amendment to the bill.

Mr. DINGELL. I will tell the gentleman that is not a decision which lies in my hands.

Mr. WALKER. I understand that, but that is the procedure as the gentleman understands it?

Mr. DINGELL. I am not able to answer the gentleman's question, because I simply do not know the answer.

Mr. WALKER. I thank the gentleman from Michigan.

Mr. DINGELL. This is not a matter which is in my power to deal with.

Mr. WALKER. I thank the gentleman from Michigan.

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

Mr. DINGELL. I am happy to yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I assume the same courtesy would be extended to the Committee on Public Works and Transportation should the Parliamentarian's office see fit to have referral?

Mr. DINGELL. Again, I have no response to my good friend. This is not in the control or the hands of the chairman of the Committee on Energy and Commerce.

Mr. MINETA. That is what I am saying, that the Parliamentarians would determine?

Mr. DINGELL. We are going to try to work with all our sister committees, including the Committee on Public Works and Transportation. I recognize their concerns. The gentleman should know that the provisions he is talking about were in the bill as sent up by the administration. We will try and work with our colleagues on the Committee on Public Works and Transportation to see to it that those concerns are dealt with.

Mr. MINETA. I appreciate the response of my colleague.

The CHAIRMAN. Pursuant to the rule, it is now in order to consider amendment No. 2 printed in House Report 101-488.

□ 1610

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment as printed in the report.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MCCOLLUM: "and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job."

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 10 minutes.

Mr. McCOLLUM. Mr. Chairman, I do not believe there is going to be any opposition to this amendment, but I would like to explain it, and if there is no opposition, I believe the gentleman from Maryland would like to have half of my time and I would be glad to yield him 5 minutes of the 10 if that be the case.

If I could do so, I will now consume 5 minutes.

The basic thrust of this amendment that I am offering today goes to the very essence of this bill.

Under the employment section the definition of what a person is covered by this and who has the right to seek redress is framed in terms of an employee, a potential employee, a handicapped person who can perform the essential functions of the job. If that person can perform the essential functions of the job and the employer can provide reasonable accommodations without undue hardship, he has got to give him a fair shake and give him a

chance at that job and consider him equally along with everybody else.

The issue that came up to us in the Committee on the Judiciary was who decides what those essential functions are. Ultimately it could be a court, it could be some regulatory agency, it could be a lot of different folks who could decide this thing in the long run.

We need to give some guidance to them as to that fact.

So in the Committee on the Judiciary, to try to get a better grip on the essential functions and give guidance to those making decisions down the road, it was placed in the bill by an agreement worked out and adopted in committee that for the purposes of this title consideration should be given to the employer's judgment as to what functions of a job are essential.

My amendment leaves that intact and it simply provides that, in addition to that, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

In my judgment, this would reduce the chances of courts arbitrarily substituting their judgment for an employer's when it comes to determing the essential functions of the job, but still allows the employee, the potential employee, the handicapped person to present his or her own evidence. It is not a binding proposition.

And furthermore, by adopting this additional protection in this bill, this additional language that I am proposing today, you protect the disabled worker from some employer giving testimony and in his testimony attempting to shape the essential functions of the job to exclude the worker if there is indeed a written description of that job already on file with the employer in his office from way back when.

So I would submit this is a very simple amendment and yet it is one that provides a measure of protection not in the bill right now to both the employer and the handicapped worker, and if we put it in the bill we may reduce the amount of litigation and the cost to the employer and the hassle to the would-be employee and make this thing work a little better in the area of essential functions, which is critical to the entire bill in terms of the employment section of the bill.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I support strongly the gentleman's amendment. It is similar to an amendment which I originally offered at the subcommittee level. Basically what it does is it allows the employer to define what the essential functions of the job are. I believe that that will considerably reduce litigation and questions over this issue.

Second, by putting the language proposed by my friend from Florida into the bill, it will prevent an employer from making up evidence after a discrimination charge has been filed.

So in this respect, it protects handicapped employees who are potential victims of discrimination.

I believe under the McCollum amendment everybody is a winner: employers, handicapped individuals who are seeking jobs as well as the judicial process which will be relieved of, hopefully, quite a few lawsuits.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the distinguished chairman, the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. I thank the gentleman for yielding.

Mr. Chairman, we thank the gentleman from Florida [Mr. McCOLLUM] and the gentleman from Wisconsin [Mr. SENSENBRENNER] for working with us on this. We did not approve of the original version. But, Mr. Chairman, we want to make it clear that we are accepting this amendment because it does not change current law or affect the burden of proof. The amendment simply states that written job descriptions shall be considered as evidence. It assigns no weight to the evidence.

The weight that evidence of a job description will be given will depend directly on how closely it is tailored to the essential duties of the actual job. Writing down discriminatory criteria certainly does not shield them.

In fact, a job description can also be used as evidence of discrimination.

My vote on this issue and our consent on this issue is based on this understanding.

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

Mr. McCOLLUM. Mr. Chairman, I yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Chairman, I do support the gentleman's amendment. I think it helps to clarify the legislation. I commend the gentleman for offering it.

The ADA provides in its current form a protected individual must be able to, with or without reasonable accommodation, perform the essential functions of the job.

This amendment makes it clear in statutory language that a court would consider the employer's written job description as evidence as to what is an essential function. As such, it would complement existing language in the bill which provides that consideration should be given to the employer's judgment as to what functions of the job are essential.

I would note that the gentleman from Florida [Mr. McCOLLUM] is the author of that language in the bill which made a significant improvement in the bill at committee.

The amendment is entirely consistent with what would likely happen in any event. It is completly reasonable. It does help the bill, it helps to clarify exactly what we have been considering, and I commend the gentleman for his amendment.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman for yielding.

Mr. Chairman, I also rise in support of that and adopt the representations made by the distinguished chairman of the subcommittee, the gentleman from California [Mr. EDWARDS].

I think what this does is we want to make sure that it is clear that in the description of the functions of the job placed upon that job by the employer are to be considered by a court. We would expect them to do that. They ought to do that. I agree with the chairman that that is not dispositive of it. Of course, the amendment does not say it is dispositive of the question.

But it seems appropriate to us for the employer's opinions as to what the essential functions of the job are to be considered by the court. We take that as what the amendment does, and we certainly will not object to it.

Mr. McCOLLUM. Mr. Chairman, I yield to the gentleman from Ohio [Mr. ECKART] for the purpose of a colloquy with the gentleman from Maryland [Mr. HOYER].

Mr. ECKART. Mr. Chairman, I would like to ask the distinguished gentleman from Maryland if he would comment on a particular aspect of the bill. Sections 104 and 510 of the bill specifically refer to illegal drug use and to individuals who formerly used illegal drugs. I have a few questions about these sections. It is my understanding that each of the professional sports leagues has a policy governing drug use by players. I believe that we in Congress should support and encourage efforts by professional sports leagues to deter drug use by players and others. I would like to know how this bill would affect the drug programs of professional sports leagues.

Mr. HOYER. I agree with the gentleman that the drug programs established by the NFL, NBA, NHL, and major league baseball are an important part of our national effort to combat drug use. I would like to emphasize for the gentleman that these policies have been reviewed and that they are consistent with this act.

Mr. ECKART. Mr. Chairman, it seems to me that our knowledge about drug use and how to deter and treat it

is constantly changing. In endorsing the current policies of the professional leagues, does this bill intend to freeze those policies in place?

Mr. HOYER. No. As the gentleman knows, the policies of the sports leagues differ in a number of significant ways and the bill does not specifically approve those and only those programs currently in place. The bill does not prohibit leagues from modifying their programs in response to changed circumstances or developments in medicine, technology, or drug or alcohol treatment.

Mr. ECKART. I thank the gentleman from Maryland [Mr. HOYER], my colleague, and the gentleman from Florida [Mr. MCCOLLUM].

Mr. HOYER. Mr. Chairman, will the gentleman continue to yield?

Mr. MCCOLLUM. I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman for yielding further.

Mr. Chairman, I commend the gentleman on his amendment and join him in its support.

Mr. MCCOLLUM. Reclaiming the balance of my time, Mr. Chairman, I just want to comment that the very essence of what we are doing here is clarifying the language so we put the responsibility clearly on the record in the statute with regard to the determination of what essential functions are.

□ 1620

We do not change, as the gentleman has stated on the other side, the basic thrust or waste of evidence, but we do clarify that the opinion as is in the bill coming before Members today of the employers giving consideration, and where there is a job description with this amendment, it is very clear that job description is admissible in evidence, in addition to the opinion of the employer being allowed into evidence.

I thank the gentleman, and with that kind of consent we should get a favorable vote. I urge the Members to vote yes to the amendment.

The CHAIRMAN. Is there a Member seeking recognition who is opposed to the amendment?

If not, the question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The amendment was agreed to.

The CHAIRMAN. Pursuant to the rule, it is now in order to consider amendment No. 3 printed in House Report 101-488.

AMENDMENT OFFERED BY MR. OLIN

Mr. OLIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OLIN: In section 101, at the end of paragraph (10) (relating to undue hardship), insert the following: "(C) EXCESSIVE COST HARDSHIP.—For the purpose of this title, it is presumed an undue hardship if an employer incurs costs in making an accommodation which exceeds 10 percent of the salary or the annualized hourly wage of the job in question."

The CHAIRMAN. The gentleman from Virginia [Mr. OLIN] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

MODIFICATION OFFERED BY MR. OLIN TO THE AMENDMENT OFFERED BY MR. OLIN

Mr. OLIN. Mr. Chairman, I ask unanimous consent to make a technical change in the amendment on line 4 to add the word "annual" before the word salary. It was a typographical error.

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

There was no objection.

The CHAIRMAN. The amendment is modified.

The text of the amendment, as modified, is as follows:

Amendment offered by Mr. OLIN: In section 101, at the end of paragraph (10) (relating to undue hardship), insert the following: "(C) EXCESSIVE COST HARDSHIP.—For the purpose of this title, it is presumed an undue hardship if an employer incurs costs in making an accommodation which exceeds 10 percent of the annual salary or the annualized hourly wage of the job in question."

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. OLIN. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, if the gentleman has no objection, we would like to rise momentarily for the purpose of the majority leader making some announcements, and go right back into Committee.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MFUME, 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. 2273) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, had come to no resolution thereon.

PROVIDING FOR CONSIDERATION OF H.R. 3030, CLEAN AIR ACT AMENDMENTS OF 1989

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that on Monday, May 21, 1990, the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3030.

I further ask unanimous consent, Mr. Speaker, that general debate shall be confined to the bill and shall not exceed 8 hours, with 6 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and with 1 hour to be equally divided and controlled by the chairman and ranking minority member of any committee receiving sequential referral of the bill.

Further, Mr. Speaker, I ask unanimous consent that at the conclusion of general debate, the Committee of the Whole shall rise without motion and any further consideration of the bill shall be determined by a subsequent order of the House.

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

There was no objection.

HOUR OF MEETING ON TUESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that on Tuesday, May 22, 1990, that the hour of meeting of the House be 10 a.m.

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

There was no objection.

REQUEST FOR WAIVER OF POINTS OF ORDER AGAINST H.R. 3030, CLEAN AIR ACT AMENDMENTS OF 1989

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that there be a waiver of points of order against consideration of H.R. 3030.

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

There was no objection.

AMERICANS WITH DISABILITIES ACT OF 1990

The SPEAKER. Pursuant to House Resolution 394 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. 2273.

□ 1625

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. 2273) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, pending was an amendment offered by the gentleman from Virginia [Mr. OLIN], as modified. The Chair recog-

nizes now the gentleman from Virginia for 15 minutes.

Is there a Member opposed to the amendment?

Mr. FISH. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from New York [Mr. FISH] will be recognized for 15 minutes also.

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

I want to say at the outset I am very much in favor of the bill we are considering today. I have some problems with it. I think we could improve the bill some, but it is a bill we need. It is well thought through, and I congratulate the gentleman from Maryland for the work he has done on it, as well as the four committees and all the Members who did work on it.

Mr. Chairman, my amendment is to title I of the bill, employment, and it deals with the accommodation of qualified disabled persons, when that person is hired by a business. The bill, as we all know, requires that the employer make reasonable accommodations for such a disabled person. The bill goes on to further explain that reasonable accommodations is further defined as something that can be done without undue hardship. Undue hardship is then further defined as an action which requires a significant difficulty or expense.

The bill makes an attempt to define what the obligation of the employer is, but really when we come right down to it, it is going to be any person's guess what really is the dividing line between a sufficient response by the employer and an insufficient response.

I just think that it is a mistake to have legislation of this nature that affects so many people, so many employers, and literally millions of disabled people, without having the further guidance that would make it possible for the employers to know what was expected of them when they have to decide whether to accommodate an employee or not.

Now, the bill offers some help in this regard, and there have been many of the committees that have words that are directed in this direction. Mr. Chairman, there are hundreds of varieties of conditions of disability. Of course, we have countless varieties of business institutions that are going to be dealing with this. I asked one of the Members working on the bill how a person could determine what degree of accommodation was required. The answer was that it will have to be decided in court. Of course, over a long period of time, it could be decided in court. Another answer was that section 504 of the Rehabilitation Act of 1972 was really the same thing, but that act dealt with people that are contracting with the Federal Government. I make the case that that is not the same thing.

My amendment says that it is presumed to be undue hardship if an employer incurs costs making accommodation of more than 10 percent of the annual salary or the annualized hourly rate of the job in question. This is a limit that is easier to administer. It is fair. It is more likely not to cause problems.

□ 1630

Some persons might think that this 10 percent is not quite the right way to express this way of limiting, and I accept the possibility that there are other ways. I believe that this bill should contain some provision in this regard that puts some kind of finite limit on what the employer's responsibility is, and I think as this bill goes into conference, other ways of interpreting this might be possible. But with no mention of this subject in the bill at all, the subject will not be put in it, and we are going to living with a bill where it is almost impossible for employers to know where they stand unless they go to court.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. OLIN. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding, and I thank the gentleman for offering this amendment.

Mr. Chairman, this amendment is very similar to one that I sponsored over in the Judiciary Committee. We were unsuccessful on it, but it is my judgment that of all the amendments we are going to be considering on the floor today, this one may be the most significant one from the standpoint of mitigating the cost to small business. That is why the National Federation of Independent Businesses so strongly supports the gentleman's effort in this regard.

We are talking in this bill about two features of cost. We are talking about the cost of making the accommodation for the handicapped worker, a cost of moving walls in some cases and making physical plant changes that take dollars out of the business, and we are talking about the cost of litigating, paying lawyers' fees to try to define some things that are not clearly defined in this bill.

Undue hardship is a nebulous thing, although there is a lot of case law on it. Every single case is going to have to be determined independently or at least potentially.

What the gentleman's amendment does is very simple. The gentleman puts a ceiling with this amendment on the cost that is going to have to be incurred by that small businessman, and the gentleman says in both cases really that we are going to help him. We have 10 percent of the annual salary of the would-be employee, the handicapped employee. Whether that is a $10,000-a-year employee or a $100,000-a-year employee, it is no more than 10 percent, and if we cross that 10 percent, then we are presumed to have an undue hardship. So the gentleman makes sure there is no greater cost than that which he is going to have to incur to make this accommodation. He does not set a floor because there is still the opportunity to have undue hardship on a case-by-case basis, but he does reduce the litigation opportunities because everybody looking at this is going to know from day one that they certainly are not going to get the employer to spend more than that 10 percent.

So I admire the gentleman from Virginia for offering his amendment. I think it is really needed here. It does not in any way hurt the intent of the bill, which is to provide job opportunities for the handicapped, but it does provide a measure in some kind of way to get a grip on the potential runaway cost otherwise under this bill in litigating every instance that comes along. It gives us a guideline and a definition.

Mr. Chairman, for the life of me, I do not know why anyone would oppose this amendment, though I know some of my colleagues do. So I thank the gentleman for yielding. I strongly urge a yes vote on the Olin amendment, and I thank the gentleman for offering it.

Mr. OLIN. Mr. Chairman, I thank the gentleman from Florida [Mr. McCOLLUM] for his comments, and I reserve the balance of my time.

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

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

Mr. Chairman, let me just say at the outset that essentially this amendment is one of several where an effort was made to negotiate with the White House in the past few weeks. They found this language unacceptable, and they strongly urge as an alternative the small business tax credit, which was the subject of the colloquy earlier and which I certainly favor very strongly. The business community is also in favor of that as a freestanding piece of legislation.

Mr. Chairman, I propose to yield half of my time to my colleague, the gentleman from New York [Mr. OWENS]. That will give the gentleman from New York 7½ minutes for him to control.

The CHAIRMAN. Without objection, the gentleman from New York [Mr. OWENS] may control that time.

There was no objection.

Mr. FISH. Pending that, Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. BARTLETT] who, along with the gentleman from Maryland [Mr. HOYER], is one of the two

midwives of this legislation and who will offer his arguments in opposition.

Mr. BARTLETT. Mr. Chairman, I appreciate the kind and colorful words of the gentleman from New York [Mr. FISH] in yielding time to me.

Mr. Chairman, I rise in very strong opposition to the amendment offered by the gentleman from Virginia [Mr. OLIN].

I have a great deal of respect for the gentleman from Virginia [Mr. OLIN]. I have a great deal of respect for those who would urge this amendment as an attempt to try to make this bill in their opinion much more easily understood. In my opinion, though, this amendment would in fact be harmful both to those who are disabled and to the employers themselves. It would be harmful to those who are disabled because it would disrupt the basics of the bill, which is the main part of a reasonable test for a reasonable accommodation, and it would replace the concept of reason with the concept of a strict monetary amount.

It would be harmful to the employer, Mr. Chairman. It would do a great deal of harm to the employer, in my opinion, because it would convert in most cases what would be a minor, much less significant expense to the employer to a much larger expense as defined by this amendment as 10 percent of the annual salary.

We have heard it said on this floor that the definition of "undue hardship" is "vague and undefined and difficult to understand." I want to bring to the attention of the Members that first of all this is the same definition that has been in public law since 1973, and the country knows exactly what it means because it has been well defined; it has been tested in every court in the land, and in fact it is very clear what "undue hardship" means.

Second, I want to remind the Members that "undue hardship" is defined in this bill in a very small set of words. "Undue hardship" is defined as "significant difficulty or expense." That is not a set of words that are difficult to understand. In fact, the gentleman's amendment would replace the concept of an employer not having to provide a reasonable accommodation if it is a significant expense, in effect requiring, although it does not say that, or inducing the employer to pay up to 10 percent of the annual salary.

We have also heard it said that this amendment is the same as the law in North Carolina. I want to say that that is not so. In North Carolina the law creates an irrefutable, absolute presumption that a percentage of salary is in fact a ceiling. This does not create an absolute or an irrefutable presumption. The amendment offered by the gentleman from Virginia in fact simply says that for purposes of this title, 10 percent would be presumed to be an undue hardship, inviting, therefore, a target for a lawsuit because it does not have to be limited to 10 percent. It is only a presumption, and the presumption is not irrefutable. In fact, the amendment before us attempts to set a ceiling on expenses, but it does not set a ceiling at all because it is not an irrefutable presumption. But it does set a floor.

Let us consider the reality. With an employee who is hired with a speech impediment, the employer makes a reasonable accommodation of no cost, of simply not requiring that employee to take his turns on the telephone in the reception area during the noon area and dividing that time among the other employees. There would be no cost to the employer, and it would be a modest, reasonable accommodation by the employees. The employee with the speech impediment gets the position and then goes to the employer and says, "Wait a minute, I earned $20,000 a year with this company. Where is my 10 percent, my $2,000 for speech therapy?"

Or we may have an employee who has cerebral palsy and a limited use of his or her hands, and the employer buys a $89.95 lazy susan for the files on that employee's desk, and the employee upon receiving it says, "Where is the other $1,500 as a percentage of my salary to provide an attendant or a different set of files, or something in addition?"

No, the fact is that a tax credit is a much better way to go. I wish a tax credit were in this bill. But I am convinced, after hearing the Chairman of the Ways and Means Committee earlier in the colloquy, that we will have a tax credit to provide for some portion of the cost for reasonable accommodation to be paid for by the taxpayers. I think that is a much better way to go. It has universal support on this House floor and in the other body.

Mr. Chairman, I ask the Members to vote no on the Olin amendment. The Olin amendment attempts to set a ceiling, but in fact it sets a floor. The Olin amendment attempts to define "reasonable," but it in fact makes "reasonable" unreasonable in many cases. The Olin amendment attempts to set a presumption, but in fact it sets a target for a lawsuit.

Mr. OLIN. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Chairman, I thank the gentleman for the opportunity to speak briefly on this important amendment. The committees of jurisdication that have worked hard on this legislation are to commended.

Having been the prime sponsor of North Carolina's disability act and chairman of the Judiciary Committee which considered that legislation in North Carolina, I know the difficulties of crafting a piece of legislation that is so complex and has so many competing interests.

□ 1640

Mr. Chairman, they have produced a good bill, but it can be made better by the adoption of the amendment of the gentleman from Virginia [Mr. OLIN].

I would simply point out that the experience in North Carolina, which is the basis for this amendment, has been very different from what the gentleman from Texas [Mr. BARTLETT] has stated. The North Carolina 5-percent rule has not served as either a floor or as a ceiling, but has, in fact, simply been providing that certainty to the business community that they need in legislation such as this.

Mr. Chairman, I believe that a 10-percent rule, such as has been crafted by the gentleman from Virginia [Mr. OLIN], does, in fact, give to the business community the certainty, gives them the guidelines that they need in determining the extent to which they will be expected to make financial commitments to accommodating the disability of the potential employee, and I certainly urge the strong support of each Member of this House for this amendment.

Mr. OWENS of New York. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Virginia [Mr. OLIN], and I yield myself 2 minutes.

Mr. Chairman, as has been stated already, there was a considerable discussion of the concept of undue hardship during the deliberations about this bill. We also have a long history of undue hardship being interpreted by the courts.

Mr. Chairman, my question to the gentleman from Virginia [Mr. OLIN], who has offered this amendment is, On what basis do we choose 10 percent? Why not 5 percent? Why not 9 percent? Why not 25 percent? On what basis do we choose 10 percent? Is there a body of evidence which leads us to conclude that 10 percent is the magic number?

Mr. Chairman, what happens is that 10 percent becomes an arbitrary and unjust figure because there is no history, there is nothing, to back it up. The gentleman's argument might hold some weight, after maybe even 5 years, and there was a body of experience, and some case law and a number of cases to base some kind of conclusion like this that he has reached, but at this point it is a very harmful amendment, as simple as it may seem.

Ten percent is a magic figure? Ten percent is handed down by the gods? How do we reach that 10 percent figure?

Mr. Chairman, what if one employee's accommodations are used for a second employee, and that employee comes on? What if several employees

are covered by one set of accommodations? How do we figure the annual salary? Do we combine the annual salaries of three employees who might be hired at the same time and might need accommodation? What about the history, changing a door here, changing a telephone there, and for 10 years it is in existence, or maybe 20 years. Would there be a capital writedown on it? And figure it on the basis of its depreciation value, or do we take the total cost of that improvement and charge it to one employee and then his annual salary?

Mr. Chairman, there are a number of complications that are raised by the introduction of this seemingly simple 10-percent rule. We leave it up to the courts. They have a long history of interpreting what undue hardship is.

The language is quite clear and quite simple already. This amendment only complicates matters a great deal despite its seeming simplicity, and I would urge a no vote on the amendment.

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

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

Mr. DELAY. Mr. Chairman, I appreciate the gentleman from Texas [Mr. BARTLETT] who got up and wanted to protect the employers by not setting a floor with this amendment, but I might point out that it is the employers that want this amendment, that the NFIB is making this a key element of their vote rating. This is very important to them, and this exemplifies the problem we have had during this whole process.

The gentleman from New York [Mr. OWENS] talks about having a long case history, a dealing with section 54 of the Rehab Act since 1973. That is case history on government entities with deep pockets. We are going from deep pockets of government industry and applying this bill to private sectors that could not have the deep pockets of government, and that is the big difference. Employers must know how they are to comply with this law.

Proponents say it will not cost a whole lot of money. I ask, Then why are you against this amendment? If this bill doesn't cost employers a whole lot of money, then accept a cap on an amount of money that the employer has to deal with telling him how to comply with the law.

Mr. Chairman, it frightens me when someone tell me that the courts will decide on this issue. If frightens me greatly. This is harmful to the employer by applying this higher expense. It is the wrong argument. The employers are willing to accept this higher expense for certainty of compliance rather than leave their fate up to the courts.

Mr. OWENS of New York. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I just rise to encourage people to oppose this amendment because I think one of the things that is so unfair about it is that, if my colleagues look at the employee's salary and use that as the measuring rod to determine whether or not there is an undue burden to try and accommodate, they really are going to discriminate among the lowest paid workers in America.

Mr. Chairman, very often we are trying to help people who have already been discriminated against, and we are now going to hit them with a double discrimination by hitting them again by saying, "Oh, well, they don't have to do this for you. You can stay at those wages because it costs too much."

I think this especially hits also women and minorities. It hits a lot of transitional and temporary employees. It hits all sorts of things.

As my colleagues know, the question then becomes, "What do you look at? If you have a part-time employee, do you look at their entire year's wages? If you project it out, you look at the part-time wage?"

There are a lot of different questions here, and I just think we do not need to do this, so I really hope we do not shoot ourselves in the foot by trying to double up the discrimination here that we are trying to undo.

Mr. Chairman, I see this amendment as doubling up discrimination that the bill is trying to undo, so I urge Members to look at this very carefully, realize what this will mean, if we have this cap per employee based on their salary, and realize how that can be very discriminatory for low-income employees.

It is great for Donald Trump. It is lousy for the person who is cleaning up after Donald Trump.

Let us be perfectly honest about this, and I think we have enough of that type of stuff in legislation, and I urge a "no" vote.

Mr. OLIN. Mr. Chairman, I want to point out to the Members that I just got word there has been some rumor that the White House was opposing this amendment, and the call that was made to them 2 minutes ago indicated that that was a false rumor, that the White House very much favors this amendment and is supporting it.

Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I also rise in strong support of the amendment of the gentleman from Virginia [Mr. OLIN], and it is not that I do not have some sympathy with the arguments just made by the gentlewoman from Colorado [Mrs. SCHROEDER].

I would, for example, be interested in possibly supporting an amendment that the gentlewoman from Colorado [Mrs. SCHROEDER] might offer that would allow the lower paid workers to have, for example, a 20-percent cutoff so that we could have some progressivity in it, whatever the number might be chosen.

The important thing though is to have certainty, certainty for the employers so that they can understand this law and plan on their own without the advice of counsel to look back through case law, through 17 years, and without relying on their local Federal judge to figure it out for them.

Mr. Chairman, the small businessman should be given a law that he or she can understand and can implement largely on their own. Many attorneys in my district do not even have access to the elaborate Federal case law that is required to understand prior acts.

We need to have a simpler act, an act with certainty, and that is what the amendment of the gentleman from Virginia [Mr. OLIN] leads us toward.

I am not saying that it could not be improved in conference, and I do want to say that I view the Olin amendment as a ceiling, and not as a floor, and I think the author of the amendment has a similar intention.

People may characterize it as they would like. The truth is that the amendment of the gentleman from Virginia [Mr. OLIN] just sets a ceiling, and I think that it is an amendment that most small businesses and most small business friends should strongly support.

I urge a yes vote on the amendment of the gentleman from Virginia [Mr. OLIN].

□ 1650

Mr. OWENS of New York. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Chairman, I rise in opposition to the Olin amendment. Congressman OLIN's amendment would create an unfair presumption that a reasonable accommodation of over 10 percent of an employee's annual salary constitutes an undue hardship and would not be required under the act.

Today, are we going to say that a company manager who earns $40,000 is entitled to a greater accommodation than the mailclerk who receives a salary of $15,000? The intent of this legislation is to provide equity where none exists. The Olin amendment would allow further discrimination by making available to employees with the lowest paying jobs a lesser accom-

modation, without consideration of the individual's skills or qualifications.

In the Education and Labor Committee, we approved amendments which clarified what would be used to consider undue hardship. This issue was also addressed in the Judiciary Committee which also took into account financial resources of the employer.

In addition, the Olin amendment fails to recognize that many accommodations such as a ramp, reader, or interpreter, last for many years and would benefit employees other than the applicant and possibly others in need of special assistance.

For example, building a ramp may cost more than 10 percent of one employee's $10,000 annual salary.

I cannot support this amendment because it would erode the flexibile approach embodied in the Rehabilitation Act and adopted by the ADA. I must also oppose this amendment because it unfairly switches the focus away from the resources of the employer and onto the annual salary of the employee.

I urge my colleagues to also vote against the Olin amendment.

Mr. OLIN. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Chairman, I rise in support of Mr. OLIN's amendment. I strongly support the purposes of the ADA bill, yet despite all the effort expended on its development, there still remain portions which provide differences in interpretation, such as the section concerned with accommodation to facilitate the employment of a disabled job applicant.

Once this bill becomes public law, it will be necessary for employees across the country to make millions of individual decisions as to how it might be implemented. "Undue hardship" and "reasonable accommodation" will be the only guidelines available to them, with no assurance or certainty that whatever they propose by way of accommodation will not lead to litigation, and subsequent lengthy judicial resolution.

I believe the Olin amendment provides defined, reasonable standards—reasonable to those who are disabled, while at the same time reasonable to the employers.

I urge our colleagues to support this amendment, and thereby facilitate the movement into the workforce of the disabled who seek employment.

Mr. OWENS of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in opposition to this amendment. I do not think this amendment is doing the business community any favors. I think if it were adopted it would be quickly regretted as creating a presumptive level of accommodation that would become a ceiling and a floor at the same time. That is not what we need in this legislation. We need flexibility, and in fact this standard of reasonable accommodation is one that has been successfully applied in federally funded programs under the 1973 Rehabilitation Act.

If we are to set this kind of arbitrary limit, we are going to fail to make reasonable accommodations that cost a little less and we are going to have litigation whether other accommodations that were done are adequate because they do not reach this 10 percent standard.

Flexibility, not a rigid formula rule, is what is needed to make this legislation effective and workable.

We also have to worry about the discretionary impact of a percentage applied as a limit. Obviously, those who are applying for lower paying jobs ought not to find themselves screened out of these opportunities, while those who are applying for higher paying jobs are successful because they fall within the 10 percent cap.

Arbitrary formula limits are not what this legislation is about. This legislation is about prudent judgments and nondiscriminatory practices in employment.

The bill as it is presented on the floor has successfully provided the necessary protections for the small business community. It has provided the kind of flexible rule that can be applied on a case-by-case basis and can avoid litigation, rather than promote litigation.

I commend those who have authored this bill for the way they have walked that line with judgment and prudence.

Mr. Chairman, I urge the House to reject this amendment.

Mr. FISH. Mr. Chairman, since I remarked something about the administration's position which had the value of being 2 weeks old, I now would like to clarify as to whether or not they oppose, favor or simply refuse to negotiate on this position earlier, and I yield such time as he may consume for that purpose to my friend, the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, in the event this is of consequence to any Member's vote on this floor, the official White House position as of a few moments ago from the Congressional Liaison Office is that the White House has no position on this amendment.

Mr. FISH. Mr. Chairman, I thank my friend.

Mr. Chairman, I yield the balance of my time to my friend, the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding his remaining time to me.

I rise in strong opposition to the Olin amendment.

I want to say to both sides of the aisle, I think this is the situation, frankly, that we have been in on many parts of this bill where we brought together differing points of view and agreed on a reasonable outcome.

I want to endorse the remarks of the gentleman from Texas [Mr. BARTLETT] 100 percent. He sets it out very, very clearly.

First, what is the standard? One need not pay for an accommodation that imposes an undue hardship. What is that? A significant difficulty or expense.

I suggest to you that a threshold, that is to say, for a small business, will obviously be a smaller number than for a larger business. Think, if you will, if a small business only has three employees and the employee is making $20,000 so that the 10 percent would be $2,000, but the gross income of that company may be very small. In fact, significant difficulty or expense may be $400, it may be $300, depending on the resources of the company.

On the other hand, let me call your attention to the remarks made just yesterday by Dick Drach, the manager of the disability program at E.I. Dupont, who said that 10 percent of salary as a definition of undue hardship does not make any sense from the perspective of a large corporation.

Furthermore, the amendment draws an artificial distinction between employees at different salary levels.

What is it, the $10,000 employee who is in a wheelchair or the $100,000 employee in a wheelchair at one site? How do you make that determination? Nobody can say that.

The other gentleman from Texas who I asked to yield was incorrect. Under section 503 we have Federal contractees. They are private sector people. Not one person has come after 16 years of experience with this kind of language and standard and said, "It has imposed on me a burden that I cannot meet."

□ 1700

Not one, not one example, after 16 years. Private sector contractors with the Federal Government have come forward and said this is unreasonable.

The gentleman from Texas [Mr. BARTLETT] is exactly correct. That is why this was adopted. This amendment is bad for business, this amendment is bad for the disabled, this amendment is bad for the Americans With Disabilities Act, and I ask Members to oppose it.

Mr. OLIN. Mr. Chairman, I would say to the gentleman from Maryland [Mr. HOYER] who just spoke, that if I were a contractor with the Federal Government, unfortunately, I would not be worried about the cost either.

But we are not talking about that. We are talking about people in private business selling to customers in competition.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I would just like to rejoin the gentleman from Virginia [Mr. OLIN] at the beginning and say how strongly I support the amendment. This is the small business amendment in this legislation. It is the amendment that the National Federation of Independent Business and other small businessmen support. They do it because it places a responsible and reasonable ceiling on the amount of costs they are going to have to incur in helping the handicapped gain employment. It is a responsible amendment. It deserves a yes vote.

Mr. Chairman, I urge Members to put mitigation in this bill and vote yes on the amendment. I very strongly support it.

Mr. OLIN. Mr. Chairman, let me read what the NFIB said about this amendment.

Your amendment will improve the bill by helping businesses understand how to best accommodate disabled employees without jeopardizing the existence of the business itself. Further, your amendment will remove the ambiguity surrounding the definition of "undue hardship," thereby reducing the number of lawsuits brought on this legal issue.

Mr. Chairman, I really do not buy the arguments that have been given by those who are sponsoring the bill. I think it is sort of a copout. Almost any number I could have used could be attacked because they like some other number. But the fact of the matter is we need something tangible. We should not be passing laws that affect almost all the businessmen in this country where the proprietor of that business does not know what he needs to do to abide by the law. It is a big mistake.

Mr. Chairman, I think it would be wise if Members of the body would vote for this amendment. If they do not like the exact number that has been picked, there is plenty of time in the conference to work that out. We need to have some kind of a tangible limit here to make this thing workable and fair.

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

Mr. FRENZEL. Mr. Chairman, today I rise in support of the Americans with Disabilities Act. Just as I became a cosponsor of this legislation with some reservations, so do I approach final passage of H.R. 2273 with reservations.

I continue to be concerned with the costs of this bill to the small business community. Because of the myriad of situations this bill attempts to cover, the extent to which businesses must accommodate persons with disabilities is unclear. The ambiguity of the terms such as "reasonable accommodation" and "undue hardship" becomes both a selling point and a point of contention in this bill. If we believe that every business will make a good faith effort to become accessible to those with disabilities then these phrases allow each business the flexibility to decide on the best way to become accessible, rather than mandating specific, costly, and sometimes unnecessary changes.

On the other hand, if we feel we need to prod business into making changes the ambiguity of such phrases is a source of trouble. How will a business be able to anticipate the changes their patrons will need? How will a business know if they have gone far enough in making accommodations to individuals with disabilities without proceeding through a lawsuit or investigation? Who will decide if a business has made a good faith effort to render their services to individuals with disabilities? What will be the procedure followed in situations where claims of reluctance in making "reasonable accommodation" are made against a business? While these questions exist, I am not wholly persuaded that a balance has been met between the needs of the disabled and the concerns of small businesses.

The costs to Federal, State, and local governments of implementing H.R. 2273 remains incalculable. In a time when Federal support to States is dwindling, I hope that the changes mandated by this bill will not cause "undue hardship" on the States and local budgets to implement remedies called for in this act.

But, I am worried that there will be many rough spots as local governments wrestle with the provisions of this bill. I have seen the difficulties and inefficiencies caused by some of the transportation regulations already put in place. I support the underlying theme of the Americans with Disabilities Act, which is to eliminate the discrimination that is felt by individuals living with disabilities in public and private sectors of life. I think the bill is overwritten but I can't find it in my heart to vote against it.

In the end, it is my hope that all businesses and governments, large and small, will make a good faith effort to accommodate individuals with disabilities, and that procedures will be established to allow for a speedy and just resolution when conflicts arise.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Virginia [Mr. OLIN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OLIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 187, noes 213, not voting 32, as follows:

[Roll No. 117]

AYES—187

Andrews	Archer	Ballenger
Anthony	Armey	Barnard
Applegate	Baker	Barton
Bateman	Hatcher	Petri
Bentley	Hayes (LA)	Pickett
Bereuter	Hefley	Porter
Bilbray	Hefner	Price
Bilirakis	Herger	Quillen
Bliley	Hiler	Ray
Bosco	Holloway	Regula
Broomfield	Hopkins	Richardson
Brown (CO)	Huckaby	Ritter
Bunning	Hutto	Roberts
Burton	Inhofe	Rohrabacher
Byron	Ireland	Ros-Lehtinen
Callahan	James	Rose
Campbell (CO)	Jenkins	Roth
Chandler	Johnson (SD)	Roukema
Chapman	Jones (GA)	Rowland (GA)
Clarke	Jones (NC)	Sarpalius
Clement	Kanjorski	Sawyer
Clinger	Kyl	Saxton
Coble	Lagomarsino	Schaefer
Coleman (MO)	Lancaster	Sensenbrenner
Combest	Leath (TX)	Shaw
Cooper	Lent	Shumway
Coughlin	Lewis (CA)	Shuster
Cox	Lightfoot	Sisisky
Dannemeyer	Lipinski	Skeen
Darden	Livingston	Skelton
de la Garza	Lloyd	Slaughter (VA)
DeLay	Long	Smith (NE)
Dickinson	Lukens, Donald	Smith (TX)
Dorgan (ND)	Madigan	Smith, Robert (NH)
Dornan (CA)	Marlenee	Smith, Robert (OR)
Douglas	Martin (IL)	Solomon
Dreier	McCandless	Spence
Duncan	McCollum	Spratt
Dyson	McCrery	Stangeland
Eckart	McCurdy	Stearns
Edwards (OK)	McDade	Stenholm
Emerson	McEwen	Stump
English	McMillan (NC)	Sundquist
Espy	McMillen (MD)	Tallon
Fawell	Michel	Tanner
Fields	Miller (OH)	Tauzin
Frenzel	Miller (WA)	Taylor
Gallegly	Molinari	Thomas (GA)
Gallo	Montgomery	Thomas (WY)
Gekas	Moorhead	Valentine
Geren	Morrison (WA)	Vander Jagt
Gillmor	Murphy	Visclosky
Gingrich	Myers	Volkmer
Goodling	Neal (NC)	Vucanovich
Gordon	Nielson	Walker
Goss	Olin	Watkins
Gradison	Oxley	Weldon
Grant	Packard	Whittaker
Hall (TX)	Parker	Wylie
Hamilton	Parris	Young (AK)
Hancock	Paxon	Young (FL)
Hansen	Payne (VA)	
Hastert	Penny	

NOES—213

Ackerman	Conyers	Gilman
Anderson	Costello	Glickman
Annunzio	Coyne	Gonzalez
Aspin	DeFazio	Gray
Atkins	Dellums	Green
AuCoin	Derrick	Guarini
Bartlett	Dicks	Gunderson
Bates	Dingell	Hall (OH)
Beilenson	Dixon	Harris
Bennett	Donnelly	Hawkins
Berman	Downey	Hayes (IL)
Bevill	Durbin	Henry
Boehlert	Dwyer	Hertel
Boggs	Dymally	Hoagland
Bonior	Early	Hochbrueckner
Borski	Edwards (CA)	Horton
Boucher	Engel	Hoyer
Boxer	Erdreich	Hughes
Brennan	Evans	Hunter
Brooks	Fascell	Hyde
Browder	Fazio	Jacobs
Brown (CA)	Feighan	Johnson (CT)
Bruce	Fish	Johnston
Bryant	Flake	Jontz
Buechner	Foglietta	Kaptur
Campbell (CA)	Ford (MI)	Kasich
Cardin	Ford (TN)	Kastenmeier
Carper	Frank	Kennedy
Carr	Frost	Kennelly
Clay	Gaydos	Kildee
Collins	Gejdenson	Kleczka
Condit	Gephardt	Kolbe
Conte	Gibbons	Kolter

Kostmayer	Obey	Slaughter (NY)
LaFalce	Ortiz	Smith (FL)
Lantos	Owens (NY)	Smith (IA)
Laughlin	Owens (UT)	Smith (NJ)
Leach (IA)	Pallone	Smith (VT)
Lehman (CA)	Panetta	Snowe
Lehman (FL)	Patterson	Staggers
Levin (MI)	Payne (NJ)	Stallings
Levine (CA)	Pease	Stark
Lewis (GA)	Pelosi	Stokes
Lowey (NY)	Perkins	Studds
Machtley	Pickle	Swift
Manton	Poshard	Synar
Markey	Rahall	Tauke
Martin (NY)	Rangel	Torres
Martinez	Ravenel	Torricelli
Mavroules	Rhodes	Towns
McCloskey	Ridge	Traficant
McDermott	Rinaldo	Traxler
McGrath	Roe	Udall
McHugh	Rowland (CT)	Unsoeld
McNulty	Roybal	Upton
Meyers	Russo	Vento
Mfume	Sabo	Walgren
Miller (CA)	Saiki	Walsh
Mineta	Sangmeister	Washington
Moakley	Savage	Waxman
Mollohan	Scheuer	Weber
Moody	Schiff	Weiss
Morella	Schneider	Wheat
Morrison (CT)	Schroeder	Whitten
Mrazek	Schumer	Williams
Murtha	Serrano	Wilson
Nagle	Sharp	Wise
Natcher	Shays	Wolf
Neal (MA)	Sikorski	Wolpe
Nowak	Skaggs	Wyden
Oakar	Slattery	Yatron

NOT VOTING—32

Alexander	Hammerschmidt	Pursell
Bustamante	Houghton	Robinson
Coleman (TX)	Hubbard	Rogers
Courter	Lewis (FL)	Rostenkowski
Craig	Lowery (CA)	Schuette
Crane	Luken, Thomas	Schulze
Crockett	Matsui	Smith, Denny (OR)
Davis	Mazzoli	Solarz
DeWine	Nelson	Thomas (CA)
Flippo	Oberstar	Yates
Grandy	Pashayan	

□ 1723

The Clerk announced the following pairs:

On this vote:

Mr. Lewis of Florida for, with Mr. Mazzoli against.

Mr. Schuette for, with Mr. Matsui against.

Mr. Craig for, with Mr. Solarz against.

Mr. Schulze for, with Mr. Houghton against.

Mr. AuCOIN and Mr. MACHTLEY changed their vote from "aye" to "no."

Mrs. SMITH of Nebraska, Mrs. ROUKEMA, Mr. ESPY, and Mr. RICHARDS changed their vote from "no" to "aye."

So the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

(By unanimous consent, Mr. MOAKLEY was allowed to speak out of order.)

ANNOUNCEMENT REGARDING THE CLEAN AIR RULE

Mr. MOAKLEY. Mr. Chairman, I want to inform Members, it is very important and I wish they would pay attention, of possible further Rules Committee action on H.R. 3030, the Clean Air Act Amendments of 1990.

The committee now is scheduled to take testimony on H.R. 3030 on Tuesday, May 22, 1990, at 10:30 a.m.

That is Tuesday, May 22 at 10:30 a.m.

Members should also be aware that, in light of the urgency of this bill, the Rules Committee is contemplating granting a rule that might limit the offering of amendments.

Therefore, all Members who have amendments to the bill should submit those amendments, together with an explanatory statement, to the Rules Committee by 6 p.m., Monday, May 21, room H-312, in the Capitol.

I would like to call Members' attention to the fact that a "Dear Colleague" letter was distributed to Members today suggesting a more expedited schedule. However, I have deferred to a request by the chairman of the Committee on Energy and Commerce and the Speaker, and this announcement supersedes any prior communication Members have received.

The CHAIRMAN. The Chair will announce that pursuant to the rule it is now in order to consider amendment No. 4 printed in House Report 101-488.

AMENDMENT OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HANSEN: In section 507 (relating to Federal wilderness areas), add at the end the following subsection:

(c) SPECIFIC WILDERNESS ACCESS.—No individual may be discriminated against with respect to entrance to wilderness areas because of a disability. A wheelchair may be used in wilderness areas by an individual whose disability requires the use of a wheelchair, not-withstanding section 4(c) of the Widerness Act.

Mr. HOYER. Mr. Chairman, I rise in opposition to the Hansen amendment in its present form.

The CHAIRMAN. The Chair will recognize the gentleman from Maryland [Mr. HOYER] for 10 minutes.

MODIFICATION OFFERED BY MR. VENTO TO THE AMENDMENT OFFERED BY MR. HANSEN

Mr. VENTO. Mr. Chairman, I offer a modification to the amendment offered by the gentleman from Utah [Mr. HANSEN].

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification offered by Mr. VENTO to the amendment offered by Mr. HANSEN: Strike the text of the amendment as printed in the Report and insert:

(c) SPECIFIC SILDERNESS ACCESS.—Congress reaffirms that nothing in the Wilderness Act is to be construed as prohibiting use of a wheelchair in a wilderness area by an individual whose disability requires use of a wheelchair, but no agency is required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use.

The CHAIRMAN. Is there objection to the modification to the amendment?

Mr. MARLENEE. Mr. Chairman, reserving the right to object, under my reservation I would ask the gentleman from Minnesota [Mr. VENTO] to answer the question that I have on the substitute that he offers under unanimous consent.

The latter portion says "but no agency is required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use." Mr. Chairman, does this mean that the areas that are now ongong by the agency accommodation, by the land agency for wheelchairs, would not go forward?

□ 1730

Mr. VENTO. If the gentleman will continue to yield, no. If there are modifications ongoing now under the law, they would not be impacted by this language. It is not intended that they be impacted.

Mr. MARLENEE. Mr. Chairman, further reserving the right to object, let me rephrase the question. Would this amendment interfere with ongoing projects that the agencies have to accommodate the handicapped, and those in wheelchairs?

Mr. VENTO. If the gentleman will continue to yield, it would not. This amendment would not require them to build such facilities, but it would not stop them from doing so.

Mr. MARLENEE. It would not stop them from doing it? It would allow them to go ahead with those special chairs that they had decided they would accommodate the handicapped in?

Mr. VENTO. If the gentleman will continue to yield, consistent with the Wilderness Act.

Mr. MARLENEE. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota [Mr. VENTO] to modify the amendment offered by the gentlemen from Utah [Mr. HANSEN].

There was no objection.

The CHAIRMAN. The amendment is so modified.

The gentleman from Utah [Mr. HANSEN] is recognized for 10 minutes.

Mr. HANSEN. Mr. Chairman, I appreciate the gentleman from Minnesota [Mr. VENTO] and if anything, I think this makes it a better amendment than we came up with originally, and I appreciate putting that in.

Mr. Chairman, it was not too long ago that I met a young man who came up to me and was in a wheelchair. He was one of our veterans from Vietnam, and he did not have any legs. He pointed out to me how he plays tennis

in a wheelchair, he plays basketball in a wheelchair, he does road races in a wheelchair, and does things most Members in here would be amazed to see somebody do. It was absolutely awesome, the things the young man could do, and he said, "Mr. Congressman, why can't I go into the Unaka Mountains and fish like when I was a kid?" The reason he cannot do that is because in 1984 myself and Senator GARN put in a bill called the wilderness. I think it is a great piece of legislation, but in that bill, and if Members have read it they will see it talks about mechanized transportation. A person cannot use mechanized transportation in a wilderness. So that particular piece of legislation prohibits a lot of our very fine people from using this.

I definitely feel and agree with the chairman that nothing should be changed as a definition of wilderness. I am really amazed, as I look at the wilderness bills that come about, how few people really even know the 1964 legal definition of the term which is very, very restrictive. "No roads, untrammelled by man as if man were never there," and I would hope that those Members on this floor would follow that.

Can they really go in? A lot of people ask the questions, and I think have been floating all over the House the last 2 or 3 days saying we do not need something like this. However, I would like to read something that happened in March 1990, and I appreciate if people would pay attention. After March 1990, the U.S. Forest Service decided to allow handicapped access to the Flat Mountain Pond area just inside the Sandwich Mountain Wilderness in New Hampshire. Appeals were filed. Here is a list of a whole group of these areas—not just one isolated instance, but many people filed these, saying they did not want people into this area. I guess they did not read it when it said "public lands." The public includes people in wheelchairs and our handicapped citizens.

Mr. Chairman, from the Congressional Research Service in the Library of Congress, they gave their interpretation of wheelchair access in wilderness areas. This is what they said: "However the Act is silent as to wheelchairs and thus implicitly would prohibit them as a form of mechanized transportation." So when people say it is not needed, I think it is needed. I appreciate the gentleman from Minnesota taking the time to take care of those people who can enjoy this. I do not think we should have to change it. These young fellows and young people who want to do this, more power to them if they have courage enough to go into it.

Mr. Chairman, due to the gentleman from Minnesota [Mr. VENTO] and his amendment, I will not continue here, but I would like to reserve the balance of my time.

Mr. HOYER. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Chairman, I thank the gentleman for yielding.

I would like to ask the gentleman from Minnesota a very brief question in colloquy. What are we talking about here in terms of a definition of "Wheelchair"?

Mr. VENTO. If the gentleman will yield, my understanding is that it is a medical device, a conventional type of wheelchair, either a wheelchair with an electric motor or a mechanically driven or physically driven type of wheelchair. I think that is the intention of the amendment. That is my intent in terms of the language that I asked unanimous consent to have substituted. I thank the gentleman for the question, and I hope that he would support this.

I know the gentleman joined me earlier along with a number of individuals. I thank him because of the narrow intention, but the board impact of the initial Hansen amendment, in my judgment, and I want to thank him for that and thank the gentleman from Utah [Mr. HANSEN] for his cooperation in this matter.

Mr. HOYER. Mr. Chairman, I yield 2 minutes to the distinguished chairman of the Subcommittee on National Parks and Public Lands, the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I want to thank on the part of the committee the gentleman from Maryland [Mr. HOYER] and the gentleman from Texas [Mr. BARTLETT] for their cooperation, as well as my fellow committee member, the gentleman from Utah [Mr. HANSEN], and the Members that have been working on this issue.

The Wilderness Act does not prohibit wheelchairs. People whose disabilities require the use of wheelchairs are not prohibited from entering wilderness areas, and agency rules and policies recognize this today. The amendment being offered now in a revised as a result of my request is in a form that assures and reaffirms the provisions of the Wilderness Act and the relonont rules and regulations of the load management agencies. Many Americans with disabilities enjoy and use wilderness areas without any special accomodation or exception to the 1964 Wilderness Act.

Witnesses in hearings before the Subcommittee on National Parks and Public Lands, which I am privileged to chair, have repeatedly testified to that fact. Mr. Chairman, I am encouraged that agencies and land managers properly recognize and are implementing such policy today concerning the wilderness law and rules and regulations, which permit people with disabilities to enjoy our 90 million acres of wilderness land. I am pleased, and think it is only appropriate in the Americans with Disabilities Act that we reaffirm and recognize such use and hope that there will not be misunderstandings with regard to the use of wheelchairs in the wilderness in the future.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman yielding, and I rise for the purpose, I believe, of supporting his amendment, if his amendment does that which I understand the amendment was originally about.

If the gentleman from Utah would yield to some questions, and let me first lay the foundation for that which concerns me. Wilderness may have a tremendous impact in the future upon sizable desertlands in the Western States. The Congress passed a bill some years ago for a planning process relative to that desert proposed wilderness examination. Literally millions of acres are involved, and I am very much concerned about the lack of access and availability of entrance for disabled people who may want to visit pristine areas that in some cases make up territory as large as an entire State—at least among our Eastern States.

□ 1740

Does the gentleman's amendment, at least in that connection, put this bill in a position where under the wilderness definition a disabled person who wanted to get access to, let us say, the Joshua Tree National Monument could at least take their wheelcahir to the edge of that wilderness and have some access even though it might be difficult to climb a mountain trail with a wheelchair.

Mr. HANSEN. Mr. Chairman, in answer to the gentleman's question, in most of our wilderness areas there is access up to them. In those that I have been to, and I have been to quite a few, there are trail heads and other areas, and they could get to that and nothing would prohibit an agency outside the wilderness area and right on the boundary of the wilderness area to build a facility if they were so inclined to do it, and which I think they would be. I think that would be something that will come about for those who have an interest in going into those wilderness areas.

Mr. LEWIS of California. Mr. Chairman, in one of my areas, not in my district any longer, but in the Eastern Sierra, there was a small airport. Some people who originally opposed the gentleman's amendment in the past supported closing down that airport, which was the only means of access for older people or disabled people

who might take wheelchairs into that wilderness. There is a concern that there are those who would like to essentially close down millions of acres to disabled people and not allow them access by way of eliminating the language in the interpretation of wilderness.

The CHAIRMAN. The time of the gentleman from California [Mr. LEWIS] has expired.

Mr. HANSEN. Mr. Chairman, I yield an additional minute to the gentleman from California [Mr. LEWIS].

Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, anything in the wilderness area, by the definition that we have gone over in the earlier part of this debate, it completely prohibited. So once this body and the other body passes it and the President signs it and puts everything in wilderness, there is no question of the limited access. It is limited now, and if this goes through, it will be limited to horses, walking on your feet, and people in wheelchairs.

Mr. LEWIS of California. Mr. Chairman, let me suggest that those people who have done such a fantastic job on this bill should focus on the fact that some people in their definition of wilderness would literally close down effective access for older Americans and disabled Americans, especially those who happen to need wheelchairs. Maybe we will have to fight that battle another day, but at least I appreciate the gentleman's attention and his response to my question.

Mr. HANSEN. Mr. Chairman, may I inquire as to how much time we have remaining?

The CHAIRMAN. The gentleman from Utah [Mr. HANSEN] has 4½ minutes remaining.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, I rise in strong support of the amendment offered by my colleague, the gentleman from Utah [Mr. HANSEN], which would remove the prohibition against using wheelchairs in wilderness areas.

The Wilderness Act of 1964 insidiously eliminated all forms of mechanical devices. This, unfortunately, included wheelchairs, which are indeed mechanical devices. It also included a prohibition against pedal bikes and baby strollers and those types of mechanical devices.

Unfortunately, the wilderness activists have strongly opposed even modest changes such as the one to accommodate wheelchairs. This amendment corrects that.

One of the groups supporting this amendment is the Disabled Veterans of America. Let us think about that. These are disabled veterans who fought to protect every acre of America, and they are forceably prohibited from enjoying our wilderness areas.

Mr. Chairman, I call for the elimination of this type of discrimination. I ask my colleagues to support the Hansen amendment and ask that all Americans be allowed the chance to fully enjoy the beauty of our abundant wildlands.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to my friend, the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding time to me, and I do rise in support of the gentleman's amendment.

Mr. Chairman, I would suggest that the gentleman from Utah [Mr. HANSEN], in consultation and in somewhat of a rare partnership here with the chairman of the subcommittee, the gentleman from Minnesota [Mr. VENTO], does in fact balance the equities involved to be certain that someone using a wheelchair in visiting a wilderness area would not be prohibited from entering that wilderness purely on account of his or her wheelchair.

I think the gentleman has done a remarkable job in balancing the equities and drafting an amendment that works. It works for the best interest of all parties and in fact does solve a problem that does exist.

The gentleman from Utah [Mr. HANSEN] is to be commended for his leadership on this issue, and I support his amendment.

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

Mr. HOYER. Mr. Chairman, we congratulate the gentleman from Minnesota [Mr. VENTO] for his leadership on this issue. We congratulate the gentleman from Utah [Mr. HANSEN] and rise in support of the amendment.

Mr. Chairman, I yield back the balance of our time.

The CHAIRMAN. The question is on the amendment as modified, offered by the gentleman from Utah [Mr. HANSEN].

The amendment, as modified, was agreed to.

The CHAIRMAN. Pursuant to the rule, it is now in order to consider amendment No. 5, as printed in House Report 101-488.

AMENDMENT OFFERED BY MR. CHAPMAN

Mr. CHAPMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CHAPMAN: In section 103 (relating to defenses), add at the end the following subsection:

(d) FOOD HANDLING JOB.—It shall not be a violation of this Act for an employer to refuse to assign or continue to assign any employee with an infectious or communicable disease of public health significance to a job involving food handling, provided that the employer shall make reasonable accommodation that would offer an alternative employment opportunity for which the employee is qualified and for which the employee would sustain no economic damage.

The CHAIRMAN. The gentleman from Texas [Mr. CHAPMAN] will be recognized for 15 minutes in support of his amendment.

Does any Member rise in opposition to the amendment?

Mr. FISH. I rise in opposition to the amendment, Mr. Chairman.

The CHAIRMAN. The gentleman from New York [Mr. FISH] will also be recognized for 15 minutes.

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

Mr. Chairman, today I offer an amendment which would allow employers to move an employee with a communicable or infectious disease of public health significance out of a food handling position while at the same time making a reasonable accommodation of an offer of reassignment to another position for which the individual is qualified and for which the employee would sustain no economic damage.

I hasten to add that I am a strong supporter of the ADA legislation. I believe that the process today has worked to improve the bill, and I look forward to voting for it on final passage.

However, the bill as currently drafted will not provide an employer the flexibility to move an employee out of food-handling position if that employee were diagnosed as having an infectious or contagious disease such as AIDS.

The reality is that many Americans would refuse to patronize any food establishment if an employee were known to have a communicable disease. Damage to the business can be severe and not only cause the owner the loss of his business but could cause the loss of all the jobs of the employees that work there and result in the loss of their livelihood.

This is not an unrealistic fear. There are real examples in the real world of how this caused a loss of business, the closing of jobs and the loss of employment.

Let me hasten to add that I am not here to say that there is any evidence that AIDS can be transferred in the process of handling food. To the contrary, the Center for Disease Control seems to say or does say that there is not a case that they can determine and document found in over 130,000 cases through April 1990 of the disease of AIDS being transmitted in this way. At the same time, however, the Center for Disease Control said as of yesterday that there are 4,428 cases of AIDS

where the cause is undetermined or unknown.

We are dealing in the real world with real people who have real businesses that create real jobs, and I think it is a very reasonable accommodation to those people that we provide that they can make a reassignment to a different job of those who have a disease that the owner and all of us in this Chamber know can bankrupt that business and cause this loss of those jobs. This is a time when tremendous emphasis is being placed on the safety of our food. These are issues we have dealt with on the floor of the House and will deal with again later this year. Every day there are articles in newspapers telling us about pesticide residues in food, nutrition content, and what is good for us and what is not good for us.

This amendment is an employee and employer protection amendment that addresses a very real and a very difficult question equity. If an employer does not have the flexibility to take some reasonable action to remove an employee with a communicable disease from handling food, not only is the business at risk but so are the employees who would lose salaries and benefits if the business closes and the community which enjoys the economic benefits of that food service establishment would also lose.

□ 1750

Mr. Chairman, let me point out that the hospitality industry, including the food service industry, is the largest employer of disabled persons in this country. They have taken the lead in providing jobs for the disabled, and many of those jobs are provided in the food service industry. We need to protect the ability of a food service operator to protect the viability of his business and the jobs that it provides.

Mr. Chairman, I urge the support of my amendment.

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

Mr. FISH. Mr. Chairman, I yield 2½ minutes to the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND of Georgia. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Texas [Mr. CHAPMAN], my friend, because I think that it is only not necessary, but I think it may create fertile ground for confusion, for controversy, and for potential litigation, and let me tell my colleagues why I say that.

Mr. Chairman, the gentleman from Texas [Mr. CHAPMAN] said in his amendment with reference to an employee, "Infectious or communicable disease are of public health significance." What does that mean? Who makes the determination about what is an infectious or communicable disease of public health significance?

Mr. Chairman, if he had put after that, "as specified by CDC," then I think the amendment would be much more acceptable, but we have no standard. We have no base there.

Let me ask my colleagues, "How many of you know whether schistosomiasis, leishmaniasis, fascitis, trigonitis, and meningococcus are infectious or contagious diseases?

Can any of you tell me that?"

Of course, Mr. Chairman, my colleagues cannot because they do not know, and they are not expected to know. Health officials are expected to know whether those diseases are communicable and whether or not they are infectious, and we should leave that decision to health professionals.

Mr. Chairman, we should not here in the Congress be making the decision about what are infectious and contagious diseases with public health significance. The fact is that most of the diseases that we get from food do not come from food handlers at all. They come from the ambiant air, bacteria settling on food. That is where it comes from.

Let us leave the decision for this with public health people who know, not here in the Congress.

Mr. CHAPMAN. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. My colleagues, I rise in support of the amendment of the gentleman from Texas [Mr. CHAPMAN], and I wish that this matter had somehow been dealt with in the bill before it came to the floor. I think it is a very difficult subject for all of us to have to deal with, and I wish we lived in a very, very perfect world where everybody understood everything that they needed to know about communicable diseases, how they were transmitted, and when they were dangerous and when they were not, not only those in the medical profession, but, once that truth and knowledge were known, I wish the public would believe it and understand it.

However, Mr. Chairman, I tell my colleagues, my friends, that the American public believes that we need the amendment of the gentleman from Texas [Mr. CHAPMAN], and, if my colleagues do not believe it, they can just wait until they go home and talk to people about what the implications of this amendment are.

Now do not ask me to risk my health, and the health of my children and the health of my family to prove how liberal and unprejudiced I am about communicable diseases.

Let me ask my colleagues, "Why do you have first aid kits in kitchens?" It is because people cut their fingers in kitchens, and they occasionally bleed. The possibilities are there for direct contamination, and why do we need to ask the American people to take that chance in this bill?

Mr. Chairman, we do not let 85-year-old pilots fly commercial airlines. They are theoretically able, and many of them do that, but we have made a decision that that is not good public policy, that they ought to be doing something else, like fishing.

I say it is bad public policy to say that people with communicable diseases can handle food in the Nation's restaurants, and we all know what we are talking about. I urge my colleagues to support the amendment of the gentleman from Texas [Mr. CHAPMAN].

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. McCLOSKEY. Mr. Chairman, I thank the distinguished gentleman from New York for yielding time to me.

Mr. Chairman, young Ryan White of Indiana courageously fought and ultimately died in a battle to bring fairness and dignity to the lives of those infected with the HIV virus.

Feelings of irrational hysteria inspiring such an amendment do his memory no honor despite tributes and statements of concern from such leaders as George Bush and Ronald Reagan.

In short, kids like Ryan would have a much harder time holding a job at the Burger Chef, McDonalds or super market under this unfortunate amendment.

It encourages people to believe that AIDS is spread in a way contrary to all medical and scientific evidence. It represents a setback for efforts of rational and informed education.

This amendment is endorsed by the restauranteurs who fear ill-founded public opinion. However 5 years ago, the National Restaurant Association in a current issues report stated:

> Workers, includng those in the food service industry should not be restricted from work or the use of facilities and equipment solely on the basis of a diagnosis of an AIDS infection—there is no record of AIDS being transmitted in the preparation or service of food—there has been no evidence that AIDS is spread by casual contact such as—through air, food or water.

This remains true today. The restauranteurs further stated government officials, as community leaders, should assist business in combating baseless public fears. Occasionally, we in the Congress should try to lead rather than follow our worst fears about public opinion.

This amendment is opposed by among others the American Medical Association and the National Council of Churches.

Let us help keep this the Americans With Disabilities Act, not the Expansion of Discrimination Act.

Mr. FISH. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, there was a time when people were fearful to be around someone with cancer because they thought they may catch it. There was a time when people thought they could not take a blood transfusion from someone of a different race because it may not settle into their body. There are wrong scientifically. They are based on fear and, therefore, prejudice.

Mr. Chairman, this amendment perpetuates the fear and prejudice that a restaurant worker can maybe transmit a disease like AIDS by simply working in that establishment. We should not cater to fear or prejudice. We should say, if there is a threat to someone, then they could be denied that work. They should not be there if they are a threat, but, if they are not a threat, do not let them be discriminated against.

Mr. CHAPMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I rise in support of this amendment. I believe the amendment is very carefully and very narrowly crafted.

However, Mr. Chairman, I will note that this is a difficult amendment to discuss. It is a difficult amendment to either support or oppose.

I would suggest that what this body needs to do is to determine that there are equities here. There are equities on both sides. There are several parties who are subject to being hurt, and the best that we can do, given today's date, given the 1990's, given the public health fears that are very, very real, is to attempt to balance the equities between the parties, which I believe the amendment of the gentleman from Texas [Mr. CHAPMAN] does.

First, Mr. Chairman, I would ask the Members of the body to read the Chapman amendment. The Chapman amendment does not allow an employer to fire anyone because of a public health disease in this case, nor to refuse to hire someone unless there is a direct threat, nor does it change the prohibition against discrimination against someone who has a disability, nor does it redefine disability from current law which does include those with contagious diseases. What this amendment does is a very reasonable and careful balancing of the equities in which the amendment would say that, if there is an infectious or communicable disease that has a public health significance, then the employer may, first, make a reasonable accommodation that would, first, offer an alternative employment opportunity for the employee, and, second, for which the employee would suffer no economic damage.

□ 1800

So all that we are permitting, all the Chapman amendment permits is a very narrow window to allow this employer in order to save his own business to transfer an employee to a different job, to a different job in which his business is not jeopardized.

Now, the fact is on this floor we need to look at reality as it exists today, not as we wish it would exist.

The fact is that the food preparation industry, the restaurant industry, is the most highly competitive industry in this country. Every day, indeed every hour in this country, there are tens of thousands or hundreds of thousands of very individualized, localized decisions made by individual customers on where and whether to go out to eat at a restaurant.

There are not 5 restaurants in this country to choose from, there are not 10 restaurants to choose from, there are 5 and 10 on every street corner. Without this amendment the fact is that every restaurant owner would in reality be in a national lottery in which if one of them has a cook who comes down with a public health disease, that restaurant is subject to be simply closed, lose all its customers, the owner loses all of his sweat equity, all the hours that he and his family put into it, loses the entirety of everything that he had invested in the past. So I urge a yes vote for the very carefully, difficult but carefully balanced and drafted amendment by the gentleman from Texas.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Chairman, I rise in opposition to the amendment.

In medical school, I was trained to protect my patients from disease, to use the best medical knowledge to protect the public health. So was the gentleman from Georgia, Dr. Rowland. If either of us believed for one second that this amendment would do anything to protect the public against any disease, we would support it.

But the amendment is not about the reality of contagious disease. It is about the fear of contagious disease. Let us be honest: It is about the fear of AIDS.

Never mind that we spend millions of dollars on public education about how AIDS is and is not transmitted. Never mind what the American Medical Association says, or Dr. Roper of CDC, or former Surgeon General Koop, or Dr. Rowland, or what everyone on this floor knows.

As long as anybody in our country remains ignorant, this amendment says, as long as anyone is still afraid, the food service industry may cater to that ignorance and fear.

But that is all right, we are told, because the infected food handler will be given another job, at the same pay, away from the food. In a restaurant, I suppose that means washing dishes or working the cash register. Then, what if someone says: "Maybe you can get AIDS from a dish, or from handling a dollar bill?" Will we have to come back and amend this act again?

And what about the airlines, and the day care centers, public school teachers, and other places where food is handled and served? Will every flight attendant and child care worker have to take an AIDS test? What about the other communicable diseases—Lyme disease, cervical cancer? How many people will this amendment catch in its net? And for what purpose?

This is what happens when you make public policy on the basis of myth, on the basis of fear and ignorance. It is one thing to make policy without knowing all the facts. This amendment asks us to make policy in spite of the facts we know, in deliberate deference to the fears and prejudices of others.

A few years ago, a school board in Indiana told Ryan White that he could not go to school with other children. It was not that the school officials thought Ryan would infect the others, they said, it was that some parents were afraid he would. That school system made a policy decision in response to fear and prejudice. By the time Ryan White died last month, everyone knew better.

The first rule of medicine is: "Above all things, do no harm." This amendment does great harm. It undermines the national effort to deal with an epidemic in this country, by giving credence to myths and prejudice.

The amendment is bad medicine, bad science, bad public policy. It is indigestible. I urge my colleagues to send it back to the kitchen.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Chairman, I rise in opposition to the Chapman amendment.

I agree that there are diseases that should disqualify food handlers from the working place. I could not agree more. People with illnesses that can be transmitted on the job, like infectious tuberculosis, hepatitis, should be disqualified from the workplace. They can be dismissed from their jobs because they pose a direct threat to public health and safety, and this bill guarantees that.

The amendment looks like it ought to make sense, but it does not. It puts Congress in charge of deciding public health issues. We should not be doing this. Our designated health officials should be doing this. The Secretary of Health and Human Services and the Center for Disease Control have both expressed their opposition to this unnecessary amendment. Let them continue to do their jobs.

It is a confusing amendment. Look at the language. I am very concerned

about how it is going to work out, how it is going to be applied.

The language, how is it going to be worked out? Who is it going to be applied to? What is a food handler?

This term could mean more than restaurant employees. It could be everyone associated with handling food, the cafeteria worker, the guy stacking the cucumbers and oranges in the supermarket, the butcher down at the store.

The amendment says communicable. Many diseases are communicable. Lyme disease is, but it is transmitted by ticks, not by food.

I am concerned about who is going to make the decision, the local health department, the social worker, the medical official, the employer? Who is going to do it? The amendment does not say this.

This amendment will provoke unnecessary fear and suspicion. I am opposed to it, Mr. Chairman.

Mr. FISH. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, this amendment was offered during the consideration of the bill by the House Judiciary Committee just 2 weeks ago and was defeated. This is the same argument, Mr. Chairman, that was made in the 1950's and 1960's when white customers would not eat in restaurants where black Americans were served. That idea was unacceptable then and it is unacceptable now.

Mr. Chairman, we urge that the amendment be defeated.

Mr. CHAPMAN. Mr. Chairman, I yield 2 minutes to the gentleman from New Hampshire [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Chairman, this is the amendment that I offered in the Judiciary Committee on behalf of the NFIB and the National Restaurant Association, because perception is reality. Every one in this room knows that. We run election campaigns on perception. It is reality for our voters.

For the 600,000 restaurants out there, all they are saying is, "We agree with you. We understand, Doctor, that you can't get AIDS because the cook cuts his finger and bleeds into the roast beef when he is preparing it," but the customers out there may not buy that, and when they all leave and the restaurant goes out of business, what have you done for the restaurants in America? Now you have put everybody that works there out of business.

So this is a very narrow amendment. The NRA, the NFIB understand that there will be no economic loss, and that is specifically in the amendment.

It recognizes that unfortunately today there is a perception and there are cases unknown as to the cause of AIDS or some other disease that could be transmitted by blood, could be done by the chef in the kitchen, and it is just a realistic way of saying we are not going to shut down our restaurants because of that perception. We are going to be fair to them, as well as fair to the folks who have the disease.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. DOUGLAS. Yes, I am glad to yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, both the gentleman from New Hampshire and my very good friend, the distinguished gentleman from Texas, have said this is a narrowly drawn amendment.

Food handlers, would a person who works in the produce department of a store be a food handler? Would a stewardess on an airplane be a food handler?

Mr. DOUGLAS. I would assume that a stewardess handling food who has an infectious or communicable disease of public health significance is a food handler, and I suppose likewise if somebody knew that that person had a disease that meets the requirements of this law, there could be a concern.

All we are saying is, reassign them to some other task or some other job. There is no economic loss to the person. They are as covered as they could be because they are not even going to lose any money. They are going to be reassigned, and I think that is a fair and reasonable task.

□ 1810

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, I rise in strong opposition to this amendment. Twenty-five years after the passage of the major civil rights legislation of the 1960's, we are still hearing the same tired arguments that were used to justify segregated restaurants. They have been dusted off and used again to defend discrimination.

I thought the rhetoric against equal access, equal housing, and equal opportunity was behind us. The Chapman amendment has proven that I was wrong.

I urge my colleagues to listen, listen to our health professionals, listen to our colleagues, the gentleman from Georgia [Mr. ROWLAND] and the gentleman from Washington [Mr. MCDERMOTT], to the statements of Secretary Sullivan, and to the American Medical Association. They will tell you that this amendment is unnecessary and inappropriate.

I urge my colleagues to listen to the health experts, not the hate experts, not the fear experts. We need legislation that seeks to unite this country, not to divide it. We need legislation to promote a sense of one America, one community, one family, the American family.

The Chapman amendment seeks to divide us, to segregate us, to discriminate against us.

This House voted to bring the American people together in 1964, with the passage of the Civil Rights Act. Congress reaffirmed that principle in 1965, with the passage of the 1965 Voting Rights Act, and in 1968, with the Fair Housing Act.

A vote against the Chapman amendment will put this body on record again against division and discrimination. Mr. Chairman, it took us a long time to learn the lesson that separate is never equal. Discrimination was wrong in 1964, it was wrong in 1965, it was wrong in 1968, and it is wrong, dead wrong, in 1990.

Mr. Chairman, I urge Members to defeat this amendment, defeat it here and now.

Mr. FISH. Mr. Chairman, I yield 30 seconds to the gentleman from Indiana [Mr. JONTZ].

Mr. JONTZ. Mr. Chairman, I represent Kokomo, IN, and the rural community adjacent to Kokomo where Ryan White lived. Everybody in this country knows the story of Ryan White. Everybody in this country knows how Ryan White was the victim of discrimination and prejudice.

Today the people in my community wish they could make things different, because they know today a lot more than they did then. Ryan White was the victim of prejudice and discrimination, but there is no reason that we need to have more victims. This is the chance to take a stand against the sort of prejudice which Ryan White faced. This is the time to take a stand for all Americans.

Mr. DYMALLY. Mr. Chairman, will the gentleman from Texas yield?

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

Mr. DYMALLY. Mr. Chairman, I rise in opposition to this amendment.

In this Nation, in this decade, there is only one way to deal with an individual who is sick. With dignity, compassion, care, confidentiality, and without discrimination.

Once disease strikes—we don't blame those who are suffering. We don't spurn the accident victim who didn't wear a seatbelt. We don't reject the cancer patient who didn't quit smoking. We try to love them and care for them and comfort them. We do not fire them, or evict them, or cancel their insurance.

Today I call on the House of Representatives to get on with the job of passing a law—as embodied in the Americans with Disabilities Act—which prohibits discrimination against those with HIV and AIDS. We're in a fight against a disease—not a fight against people. And we should not tolerate discrimination.

Mr. CHAPMAN. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, this is incredible. If Members on this side of the aisle had called this a racist issue

and referred to this as an issue that resembles the 1950's or 1960's, we would have been run out of this Chamber with hoots and howls.

This is not a racist issue. This is not sexist issue. This is a simple health issue that says that if you have an infectious or communicable disease, you can be moved to another part of your employment area. That is all it is. This is a health issue. That is just protecting the owner of the establishment, it is protecting the fellow employees of the establishment, and, most important, it is protecting the consumers of the establishment. It is not the 1960's again, and I resent the fact that some Members are implying and Red-baiting the Member that has offered this amendment as if it were a racist issue. I think it is wrong to bring Red-baiting to this floor, and I think it is wrong for Members to do so.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Chairman, I rise in opposition to this amendment. I know that my colleague and friend from Texas [Mr. CHAPMAN] did not intend it to have the impact it does. I think it is divisive. I associate myself with the remarks of the gentleman from Georgia [Mr. LEWIS] in that regard.

Mr. Chairman, I rise to call the attention of the Members to a remarkable debate on Monday of this week in the other body and to an exchange between my colleague from Utah, Senator HATCH, and the senior Senator from North Carolina, Mr. HELMS, in which Mr. HELMS attacked AIDS victims, stirring up the kind of race and sexual hatred that I think this amendment innocently would also do.

In responding to him, Senator HATCH, one of the great conservatives of that body, a leader in the conservative community, said the following: "Many of us who stand by and criticize ought to look at ourselves. We have lots of wonderful people in this body, but we are all sinners. We should cast no stones at sufferers."

Mr. Chairman, I want to associate myself with the remarks of my colleague from Utah. This is a bad amendment and should be defeated.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, I rise in opposition to the Chapman amendment. The sponsor admits there is no evidence that AIDS can be transmitted in food handling, but his amendment allows discrimination in such cases because food handling businesses may be hurt by public perception of AIDS victims.

This may be true. But this is as if businesses 40 years ago had pointed to the public perception of blacks and said our customers will not understand our hiring blacks, so allow us to discriminate against blacks.

Nonsense. This Congress should not license discrimination of any kind. We should, as President Reagan and President Bush have urged, fight ill-founded discrimination directed against people with AIDS. I urge the defeat of this amendment.

The CHAIRMAN. The Chair would advise the committee that the gentleman from Texas [Mr. CHAPMAN] has 3 minutes remaining and the gentleman from New York [Mr. FISH] has 4½ minutes remaining.

Mr. CHAPMAN. Mr. Chairman, I would ask the gentleman from New York [Mr. FISH] to proceed. May I ask the Chair who has the right to close the debate?

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. HENRY], the ranking member of the Subcommittee on Health and Safety of the Committee on Education and Labor.

Mr. HENRY. Mr. Chairman, I urge Members to oppose this amendment. The gentleman from New Hampshire summarized the dilemma before us quite honestly. He said the issue here is between perception and reality. If you want to vote perception, then support the amendment. But if you want to vote reality, and if you want to vote truthfulness as we understand it in science and the medical profession, you will oppose this amendment.

This bill as reported by the committee already allows an employer to prohibit the placing of anyone that would threaten the health and safety of the public based on communication of disease.

We have just completed a series of hearings in our OSHA Subcommittee. We have had the people from the National Institutes of Health, we have had the people from the Occupational Safety and Health Administration, we have had the people from HEW, and in no case would any of those leading scientific figures come down here and ask Members to support this amendment.

If your concern is truthfulness, you will vote no on the amendment.

□ 1820

The CHAIRMAN. For purposes of clarification, the Chair will state, regarding closing arguments, that the gentleman from New York [Mr. FISH] reserves the right to close.

Mr. CHAPMAN. Mr. Chairman, I yield 1½ minutes to the gentleman from Louisiana [Mr. HAYES].

Mr. HAYES of Louisiana. Mr. Chairman, the gentleman from Georgia who spoke earlier is my neighbor in the Cannon House Office Building. I have enormous respect for him, and it is because of that genuine respect that I can oppose him in this body and keep the opposition at the elevated level of debate on serious issues, not to be diverted into any other area.

If it is true that there are no questions about communicable diseases, then why do we budget tens of billions of dollars for research? If it is true that those issues have been settled, then why are there so many questions?

The gentleman from Texas I think has been unfairly characterized as offering an extreme position. The fact of the matter is that in a world of extremes, he has found a reasonable wording with reasonable language that allows those who are in the most highly at-risk business in the world not to be elevated to the even greater plateau of risk, that allows them to stay open and allows them to serve the public, and allows the public to have confidence.

I hope that this amendment will be successful, and I hope that it will be regarded with the merit of the debate that it deserves, and not the mischaracterization that it certainly does not.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Maryland. [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I rise in very strong opposition to this amendment. It is the most invidious amendment that we will consider during the course of this legislation.

The gentleman from Michigan [Mr. HENRY] is absolutely correct, as is the gentleman from Georgia [Mr. LEWIS]. This is the Jim Crow amendment of 1990 as it relates to 1964.

Let me read to Members from the National Restaurant Association, the National Restaurant Association's current issue report:

> Workers, including those in the food service industry, should not be restricted from work or the use of the facilities and equipment solely on the basis of a diagnosis of AIDS infection.

That, my friends, is a direct quote from the National Restaurant Association's publication.

This amendment panders to prejudice. It is not reality, and the proponents of this amendment say it is not reality.

Dr. Sullivan opposes this amendment in a letter received today:

> This amendment is not needed or justified. Policy based on fear will complicate disease control.

This is the administration's Secretary of Health.

Dr. Roper the head of the CDC, says:

> There is no epidemiological or laboratory evidence indicating that bloodborne and sexually transmitted infections such as HIV are transmitted during the preparation or serving of food or beverages.

The reality is, as the restauranteurs have said, there is no evidence. But we are going to accommodate fear and

bigotry. That is wrong. Reject this amendment.

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

The CHAIRMAN. The gentleman from Texas is recognized for 1½ minutes.

Mr. CHAPMAN. Mr. Chairman, let me make something very, very clear very quickly. The gentleman from Maryland was not quoting the position of the National Restaurant Association. He was quoting a publication of the National Restaurant Association which is quoting, in the quote he gave, the Center for Disease Control. The position of the National Restaurant Association has never been that which the gentleman from Maryland quoted. It is a reprint of a quote from the Center for Disease Control on page 2 of the publication that he demonstrated here. That is not the language of the National Restaurant Association.

With that made clear, let me take the balance of my time just to say that I believe Dr. MCDERMOTT made a very good point when he said that we should start by doing no harm. If it is written of this Congress and this body that we can with this bill enact into law legislation which will do harm, then we ought to take a second look at that legislation.

This is not new ground. CHARLIE ROSE made the comment about airline pilots. What justification is there that we not only permit the airline industry to retire a pilot at age 60, but we mandate it, a pilot who every 6 months takes an extensive physical, and we retire him? We fire him at age 60, and he may have never missed a heartbeat.

That is not right perhaps one might say, but that is a reaction, in this case, an affirmative reaction of this body to a perceived risk to public health.

There is a perceived risk from AIDS. This is a reasonable alternative that guarantees the employee his job at no economic loss. It is an amendment that ought to be supported. We should not be making health policy, but neither should we be destroying an entire industry and the jobs that it could possibly and does create.

I urge support of this amendment.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, I thank my friend for yielding.

Mr. Chairman, I rise in strong opposition to the Chapman amendment which involves food handling by persons with communicable diseases. This amendment would serve to perpetuate what its author and all other Members of this body should know is a misperception. The misperception is that the human immunodeficiency virus can be transmitted through the handling of food. The director of the Centers for Disease Control has stated that:

All epidemiologic and laboratory evidence indicates that bloodborne and sexually transmitted infections such as HIV are not transmitted during the preparation or serving of food.

The Chapman amendment is unnecessary and discriminatory against persons living with HIV infection.

There are some contagious diseases that can be transmitted through food. These include hepatitis and tuberculosis; but HIV is not one of them. The Americans With Disabilities Act explicitly excludes persons who "pose a direct threat to the health or safety of other individuals." Thus it excludes from coverage people with foodborne or airborne communicable diseases. The Chapman amendment would eliminate coverage for food handlers who pose no risk to customers or fellow employees.

The Chapman amendment flies in the face of the very purpose of the ADA. The ADA is designed to prohibit the kind of treatment of affected persons that this amendment specifically authorizes.

President Bush stated on March 29 that he would not tolerate discrimination against persons living with HIV infection. I believe the Congress should not tolerate it either. I urge my colleagues to vote against this unnecessary and discriminatory amendment.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I rise in opposition to the Chapman amendment. Passage of this amendment would contribute to the misinformation and hysteria which surrounds the AIDS tragedy.

The Chapman amendment is unnecessary. The Americans With Disabilities Act already includes a provision which clearly states that persons who pose a direct threat to the health or safety of other individuals are not covered under the act. This section of the bill permits food service operators to remove from food handling positions any individual with a disease or infection that can be transmitted to customers. This clause protects the public from diseases transmitted through food, such as hepatitis and typhoid fever.

The Center for Disease Control, the leading health research agency in this country, has concluded that the HIV virus cannot be transmitted through food handling, handshakes, coughing, sneezing or other daily contact. We must educate the public that the HIV virus is transmitted through sexual contact and the sharing of needles with infected persons.

Congress should redouble its efforts to educate the public about AIDS and continue to greatly increase prevention and treatment programs. We ought to leave no stone unturned in appropriating dollars to find a cure for AIDS and in helping those afflicted and their families.

In a recent speech, the President urged that we treat people suffering from AIDS with compassion and without discrimination. I believe that these types of statements will help end the paranoia which exists about AIDS.

Many respected health representatives, such as the American Medical Association, the American Nurses Association and the American Public Health Association, oppose the Chapman amendment. If this bill posed a threat to the health of the public, do you think these organizations would oppose the Chapman amendment? Of course not. It is very significant that these organizations, which represent medical professionals dealing with AIDS on a daily basis, oppose this amendment.

The Chapman amendment is also opposed by the leadership Conference on Civil Rights, AFL-CIO, UAW, United Food and Commercial Workers, AFSCME, National Council of Churches, American Jewish Committee, and American Civil Liberties Union.

I urge my colleagues to end the hysteria, paranoia and discrimination surrounding this tragic disease and vote against this amendment.

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

Mr. Chairman, the gentleman from Maryland [Mr. HOYER] just alluded to the letter to Speaker FOLEY from Louis Sullivan, Secretary of Health and Human Services. I will just read briefly two or three sentences.

We need to defeat discrimination rather than to submit to it. The administration is strongly committed to ensuring that all Americans with disabilities, including HIV infection, are protected from discrimination, and believe that the Americans With Disabilities Act should furnish the protection.

Mr. Chairman, the bill before us now says that a person with a disability who poses a significant risk to the health and safety of others cannot claim a right under this act that is before us.

But with the amendment before us we are asked to grant an additional benefit to employers of food handlers. If we agree, they can then deny employment to qualified workers, but it is not alleged that food handlers pose a health threat. The evidence is all to the contrary.

In short, we are asked to sanction discrimination because public misperception about the disease of AIDS will be bad for business.

Mr. Chairman, can this body, sympathetic as we are, bow to a contemporary public perception when writing law for the future?

Mr. Chairman, we know the AIDS virus is not transmitted through food handling activities. We should not make exceptions to the principle in ADA that employment decisions should not be based on myth or stereotypes.

Mr. Chairman, the Congress must not enshrine ignorance and prejudice in the law.

Ms. PELOSI. Mr. Chairman, I rise in opposition to the Chapman amendment to the Americans With Disabilities Act. This amendment would allow employers to move an employee with a communicable or infectious disease of public health significance out of a food-handling position, provided that the employer offers the employee an alternative employment opportunity for which the employee is

qualified and for which the employee would sustain no economic damage.

The ADA bill already permits a food service operator to remove from food-handling positions any individual with a disease or infection that can be transmitted to customers. There is no need for this amendment, which unfortunately fosters the same type of irrational discrimination that the ADA bill is intended to eliminate.

We cannot and must not discriminate against people with AIDS and people who do not pose a risk to the public. We cannot allow public ignorance and fear to provide a basis for discrimination. We must remember the principles and the goal of the Americans With Disabilities Act ultimate goal—to prohibit discrimination.

HIV, the virus that causes AIDS, is not foodborn or air-born. Dr. Roper, director of the Centers for Disease Control [CDC], stated in a letter that the human immunodeficiency virus cannot be transmitted through casual contact in the workplace. We have examples of 400 families, where HIV has not been transmitted between members of the family through casual contact. We should allow the health professionals to make crucial decisions regarding public health safety and also not undermine the work they have done to educate the public on AIDS.

I urge my colleagues to vote against the Chapman amendment.

Mr. MATSUI. Mr. Chairman, I am rising in strong opposition to the amendment being offered today by my colleague, Mr. Chapman. I believe this amendment is another effort to further discriminate against individuals who are suffering from AIDS.

As written, the Americans with Disabilities Act already excludes from coverage any food handler who has a communicable disease that could be transmitted through contact with the food. This amendment is duplicative and would serve only to fan the fires of hysteria that already surround people's ignorance about AIDS.

It has been proven that AIDS is not a disease that can be transmitted through casual contact. This includes the handling of food. There is no justification for this amendment.

The effect of this amendment would be further stigmatization of individuals with AIDS. I believe these people face enough battles in their lives that they certainly don't need the Congress compounding the discrimination they already experience.

While it is true we cannot sanction the public to embrace those with disabilities or those who have AIDS, our laws must reflect compassion and acceptance. We cannot force people to drop their preconceptions and stereotypes about individuals with AIDS, but we can legislate that they be treated fairly in their jobs. This is what the ADA does.

The challenge is for Congress to invest in ways of curing and treating the AIDS virus, not to spend time debating ways to further restrict the options for these people. This amendment is unconstructive and serves only to further negative stereotypes and unfair treatment of individuals who already are suffering.

I urge my colleagues to vote against the Chapman amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Texas [Mr. CHAPMAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CHAPMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 199, noes 187, not voting 46, as follows:

[Roll No. 118]

AYES—199

Andrews	Hastert	Porter
Applegate	Hatcher	Price
Archer	Hayes (LA)	Quillen
Armey	Hefley	Regula
Ballenger	Hefner	Rhodes
Barnard	Herger	Ridge
Bartlett	Hertel	Ritter
Barton	Hiler	Roberts
Bateman	Hoagland	Rohrabacher
Bennett	Holloway	Ros-Lehtinen
Bentley	Hopkins	Rose
Bereuter	Huckaby	Roth
Bevill	Hunter	Saiki
Bilirakis	Hutto	Sangmeister
Boucher	Hyde	Sarpalius
Brooks	Inhofe	Saxton
Broomfield	James	Schaefer
Browder	Jenkins	Sensenbrenner
Brown (CO)	Johnson (SD)	Shaw
Buechner	Johnston	Shumway
Bunning	Kanjorski	Shuster
Burton	Kaptur	Sisisky
Callahan	Kasich	Skeen
Chandler	Kolbe	Skelton
Chapman	Kolter	Slattery
Clement	Kyl	Slaughter (VA)
Coble	LaFalce	Smith (NE)
Coleman (MO)	Lagomarsino	Smith (VT)
Combest	Lancaster	Smith, Robert (NH)
Cox	Laughlin	Smith, Robert (OR)
Dannemeyer	Leath (TX)	Snowe
Darden	Lent	Solomon
DeLay	Lewis (CA)	Spence
Derrick	Lightfoot	Spratt
Dickinson	Lipinski	Stallings
Donnelly	Livingston	Stangeland
Dorgan (ND)	Lloyd	Stearns
Dornan (CA)	Long	Stenholm
Douglas	Madigan	Stump
Dreier	Marlenee	Sundquist
Duncan	Martin (IL)	Tallon
Dyson	McCandless	Tanner
Eckart	McCollum	Tauke
Edwards (OK)	McCurdy	Tauzin
Emerson	McDade	Taylor
English	McEwen	Thomas (GA)
Erdreich	McMillan (NC)	Thomas (WY)
Espy	Meyers	Upton
Fawell	Miller (OH)	Valentine
Fields	Molinari	Vander Jagt
Frost	Mollohan	Volkmer
Gallegly	Montgomery	Vucanovich
Gallo	Moorhead	Walgren
Gaydos	Morrison (WA)	Walker
Gekas	Murtha	Watkins
Geren	Myers	Weber
Gibbons	Neal (NC)	Weldon
Gillmor	Nielson	Whittaker
Gingrich	Olin	Whitten
Glickman	Oxley	Wilson
Goss	Parker	Wolf
Grant	Parris	Wylie
Hall (OH)	Patterson	Yatron
Hall (TX)	Paxon	Young (AK)
Hancock	Payne (VA)	Young (FL)
Hansen	Petri	
Harris	Pickett	

NOES—187

Ackerman	Aspin	Berman
Anderson	Atkins	Bilbray
Annunzio	Bates	Boehlert
Anthony	Beilenson	Boggs
Bonior	Henry	Pease
Borski	Hochbrueckner	Pelosi
Bosco	Horton	Penny
Boxer	Hoyer	Perkins
Brennan	Hughes	Pickle
Brown (CA)	Jacobs	Poshard
Bruce	Johnson (CT)	Rahall
Bryant	Jones (GA)	Rangel
Byron	Jones (NC)	Ravenel
Campbell (CA)	Jontz	Ray
Campbell (CO)	Kastenmeier	Richardson
Cardin	Kennedy	Rinaldo
Carper	Kennelly	Rowland (CT)
Carr	Kildee	Rowland (GA)
Clarke	Kleczka	Roybal
Clay	Kostmayer	Russo
Clinger	Lantos	Sabo
Condit	Leach (IA)	Savage
Conte	Lehman (CA)	Sawyer
Cooper	Lehman (FL)	Scheuer
Costello	Levin (MI)	Schiff
Coughlin	Levine (CA)	Schneider
Coyne	Lewis (GA)	Schroeder
de la Garza	Lowey (NY)	Schumer
DeFazio	Machtley	Serrano
Dellums	Manton	Sharp
Dicks	Markey	Shays
Dingell	Martin (NY)	Sikorski
Dixon	Martinez	Skaggs
Downey	Mavroules	Slaughter (NY)
Durbin	McCloskey	Smith (FL)
Dymally	McCrery	Smith (IA)
Edwards (CA)	McDermott	Smith (NJ)
Engel	McHugh	Staggers
Evans	McMillen (MD)	Stark
Fascell	McNulty	Stokes
Fazio	Mfume	Studds
Feighan	Miller (CA)	Swift
Fish	Miller (WA)	Synar
Flake	Mineta	Torres
Foglietta	Moakley	Torricelli
Ford (MI)	Moody	Towns
Ford (TN)	Morella	Traficant
Frank	Morrison (CT)	Traxler
Frenzel	Mrazek	Udall
Gejdenson	Murphy	Unsoeld
Gephardt	Nagle	Vento
Gilman	Natcher	Visclosky
Gonzalez	Neal (MA)	Walsh
Goodling	Nowak	Washington
Gordon	Oakar	Waxman
Gradison	Obey	Weiss
Grandy	Ortiz	Wheat
Gray	Owens (NY)	Williams
Green	Owens (UT)	Wise
Guarini	Packard	Wolpe
Gunderson	Pallone	Wyden
Hamilton	Panetta	
Hayes (IL)	Payne (NJ)	

NOT VOTING—46

Alexander	Flippo	Pashayan
AuCoin	Hammerschmidt	Pursell
Baker	Hawkins	Robinson
Bliley	Houghton	Roe
Bustamante	Hubbard	Rogers
Coleman (TX)	Ireland	Rostenkowski
Collins	Lewis (FL)	Roukema
Conyers	Lowery (CA)	Schuette
Courter	Luken, Thomas	Schulze
Craig	Lukens, Donald	Smith (TX)
Crane	Matsui	Smith, Denny (OR)
Crockett	Mazzoli	Solarz
Davis	McGrath	Thomas (CA)
DeWine	Michel	Yates
Dwyer	Nelson	
Early	Oberstar	

□ 1848

The Clerk announced the following pairs:

On the vote:

Mr. Pashayan for, with Mr. Matsui against.

Mr. Thomas of California for, with Mr. Yates against.

Mr. Smith of Texas for, with Mr. Mazzoli against.

Mr. Craig for, with Mr. Solarz against.

Ms. SNOWE and Mr. WHITTEN changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. LEWIS of Florida. Mr. Chairman, due to a White House briefing with President Bush concerning potential oil drilling and exploration off the Florida coastline, I was unable to cast my vote on three crucial amendments to H.R. 2273, the Americans With Disabilities Act. Had I been present, I would have voted "Aye" on the following: Rollcalls Nos. 116, 117, and 118.

Mr. HOYER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MFUME, 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. 2273) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, had come to no resolution thereon.

GENERAL LEAVE

Mr. HOYER. 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 the bill, H.R. 2273.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall No. 112, No. 116, and No. 118; "nay" on rollcall No. 117; and "present" for rollcall No. 115.

PERSONAL EXPLANATION

Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent. Had I been present, I would have voted:

"Yea" on rollcall No. 116, an amendment to H.R. 2273;

"Nay" on rollcall No. 117, an amendment to H.R. 2273; and

"Nay" on rollcall No. 118, an amendment to H.R. 2273.

PERMISSION TO HAVE UNTIL MIDNIGHT, FRIDAY, MAY 18, 1990, TO FILE CONFERENCE REPORT ON H.R. 4404, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATION, 1990

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow, Friday, May 18, 1990 to file a conference report on the bill (H.R. 4404) making dire emergency supplemental appropriations for the fiscal year ending September 30, 1990, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

□ 1850

GENERAL LEAVE

Mr. HOYER. Mr. Speaker, I ask unanimous consent that I may have 5 legislative days in which to revise and extend my remarks, and to include a description of the provisions of the bill, H.R. 2273, to appear in the RECORD following general debate.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT ON TUESDAY, MAY 22, 1990, DURING THE 5-MINUTE RULE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to sit on Tuesday, May 22, 1990, while the House is reading for amendment under the 5-minute rule.

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

There was no objection.

LEGISLATIVE PROGRAM

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

Mr. GINGRICH. Mr. Speaker, I have asked to proceed for the purpose of receiving the schedule from the distinguished Democratic whip.

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

Mr. GINGRICH. I yield to the gentleman from Pennsylvania.

Mr. GRAY. Mr. Speaker, to my distinguished colleague, the gentleman from Georgia, the minority whip, let me say that the schedule for next week would be for us to meet at 12 noon on Monday, when we will have three suspensions. Those suspensions are as follows:

S. 286, Petroglyph National Monument Establishment Act.

House Concurrent Resolution 324, regarding Burmese elections; and

House Resolution 393, concerning the first anniversary of the Tiananmen square massacre.

Mr. Speaker, the votes on those suspensions will be rolled over until Tuesday, if there are votes requested.

We will then begin general debate only on the Clean Air Act Amendments of 1989.

It would be our hope that on Tuesday we will be able to convene at 10 a.m., when the recorded votes on suspensions would take place. We would hopefully complete consideration of the Americans With Disabilities Act and then move toward the Supplemental Assistance For Emerging Democracies Act of 1990. It is our expectation that it will be a late night on Tuesday, and also on Wednesday and potentially Thursday.

On Wednesday, we have not yet come to an agreement as to the time that we will begin. The majority and minority are still talking about the possibility of coming in early because we want to avoid a Friday session. But at this time we have no agreement. On Wednesday and the balance of the week we would do the Clean Air Act Amendments of 1989 and hopefully complete consideration and then take up the conference report on the dire emergency appropriations.

It is our expectation that we will be working late Tuesday and Wednesday and potentially Thursday, if necessary, in order to complete all of this legislation.

Mr. GINGRICH. Mr. Speaker, let me ask just one or two questions.

First of all, as we look forward to the Memorial Day break and come back after the district work period, I wonder if the gentleman could enlighten the House as to whether or not there is any possibility in June, 1 year after the President sent up his crime and drug package, of the Judiciary Committee actually reporting the crime and drug package only a year later after the President's request. I wonder if the gentleman might have any information on that?

Mr. GRAY. Mr. Speaker, the distinguished majority leader has already made it clear that we are planning to have the drug and crime bill on the floor this year. Exactly whether it will be the first thing up when we return, I am not able to say, but I can assure the gentleman from Georgia that the majority leader has stated publicly that it is our expectation that we will complete consideration of that bill in this session of Congress.

Mr. GINGRICH. Mr. Speaker, we were just hoping that maybe the first anniversary would be a good date to sort of schedule an opportunity for legislation on the President's request on drugs. But that is all right. We understand that may not be a high priority for the Democratic leadership.

Let me ask this question also. Really the gentleman might check with the leadership on his side. I do not know whether he has had a chance yet to check with the Democratic leadership in the other body on the length of time they will take to pass the conference report on the dire supplemental appropriations, but one of the concerns we would have, if we wait until Thursday to deal with that, is whether or not in fact it could get through the

other body before adjournment. I would simply hope that the gentleman's leadership would be working with the Senate leadership to be sure that we would have actually passage of that legislation in both Houses before adjournment.

Mr. GRAY. Mr. Speaker, it is my understanding that the conference report has been finished today. It is our expectation that working together here in the House, we will be able to bring that up and dispose of the conference report prior to the need for any Friday session. We look forward to working with the minority side to allow the House to work its will, and we expect that the conference report will be up next week. That is why we mentioned that it is slated at this time for consideration Wednesday or the balance of the week which should be more than enough time to insure that we get it done prior to our departure for the Memorial Day break.

I think it is very clear that the Democratic leadership is very concerned about several issues in that supplemental, particularly as it relates to support of emerging democracies and the need to show that support as soon as possible.

I would also assure my colleague, the gentleman from Georgia, that the Democratic majority also wishes to see this House work its will on a strong drug and crime bill. We are deeply concerned about it, as we will be doing so in the appropriation process and as we will be doing so in the budget process, and certainly we expect, as a result of our commitment to this important issue, to debate and pass an authorization bill that reflects the appropriate strategies for dealing with drugs and crime in the Nation.

Mr. GINGRICH. Mr. Speaker, let me say in closing that we on the Republican side very much want to work in a collegial and bipartisan way with the Democratic leadership in passing upon the Clean Air Act, which we regard as a very major environmental achievement. It is one of President Bush's major commitments for 1990, and it is something that we think is a very important step to take for the country. And that is true also on the Americans With Disabilities Act. It is my hope that by working together and smoothing out the legislative process next week, while it will take long hours, we will be able by late on Thursday to have completed the process.

Mr. GRAY. Mr. Speaker, let me join the gentleman by saying that we on the majority side do believe that this schedule, although it is a full schedule and not like any we have seen in the last few weeks, is an achievable schedule. If we can work together and expedite some procedures, we will be able to deal with all this legislation and provide the House the opportunity to work its will and get to the President the necessary legislation that he is seeking, as well as move the legislative process forward. So I look forward to working with the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman from Pennsylvania.

ADJOURNMENT UNTIL MONDAY, MAY 21, 1990

Mr. GRAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

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

There was no objection.

HOUR OF MEETING ON TUESDAY, MAY 22, 1990

Mr. GRAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, May 21, 1990, it adjourn to meet at 10 a.m. on Tuesday, May 22, 1990.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GRAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday Rule be dispensed with on Wednesday next.

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

There was no objection.

□ 1900

ERIC AND LUCY MURRAY OF MISHAWAKA, IN

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

Mr. HILER. Mr. Speaker, I rise today to inform you and the rest of my colleagues of a community effort and the two people who have kept the dreams of children and the young at heart alive. These two outstanding citizens, Eric and Lucy Murray, have been inspirations to their community.

Located in my district in Mishawaka, IN, the Res encompasses 24 acres of wildlife preserve enjoyed by the community. Formerly a Boy Scout reservation, the Res has operated since entirely on private funds and the generous endeavors of local citizens like the Murrays.

When you visit the Res, you are impressed not only by the scenery, but by the visitors as well. It is refreshing to see today's youth working hard to build animal shelters, cleaning up campsites, and taking an active part in preserving nature due to the encouragement of the Murrays.

For the past 20 years, the Murrays have been the driving force behind the Res. Their commitment to the Res has been the backbone in developing this model for other communities.

The Res is not just a place, it is a spirit, a feeling you get when you are there. This spirit is embodied in Eric and Lucy Murray. Although the Murrays are retiring from their positions as park ranger and office manager, the Res will continue to be a vital part of the community thanks to their many years of service. Eric and Lucy Murray have left a lifetime of values for people to enjoy.

THE PEANUT PROGRAM MODERNIZATION ACT OF 1990

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

Mr. ARMEY. Mr. Speaker, today, the gentleman from Indiana [Mr. JACOBS] and I are introducing the Peanut Program Modernization Act of 1990. This legislation will eliminate the Peanut Program's archaic quota system and replace it with a conventional price support system similar to those covering other food crops. By so doing, it will reduce consumer food costs, correct severe distortions in the market, allow greater growth in peanut production, and make the peanut program more consistent with American principles.

MANDATORY SUPPLY CONTROLS

Mr. Speaker, peanuts have been the most tightly controlled food crop in American history. For years after the peanut program was initiated in 1941, no American farmer was allowed to grow peanuts without first receiving Government permission in the form of a quota, a Government peanut-growing license. Such mandatory supply controls were quite common during the Great Depression, but they were abandoned for virtually every other food crop over 20 years ago. Peanuts are the exception. To this day, a person cannot grow peanuts in any significant amount and sell them to his fellow citizens to eat without having a Federal license.

This Government control has led to many peculiarities. Originally, the quota licenses were given to anyone who was growing peanuts when the program began. Federal officials simply measured each farmer's peanut acreage and gave him a license to continue producing a specific amount and no more. Virtually all other peanut growing and selling was prohibited.

After that, few new quotas were issued, but the fortunate few who had them were allowed to pass them on to their descendants, who in turn were allowed to sell or rent them to others who wanted to grow peanuts, provided

only—in most cases—that the quota remained in the original county.

Consequently, in 1990, the Government controlled right to grow peanuts to be eaten in the United States is generally distributed not according to any rational plan, but based on who was growing peanuts in this country in 1941. It is quite common for a person to have a license to grow peanuts solely because he inherited it from a family member who was growing peanuts almost 50 years ago.

I believe this system violates fundamental principles in our society. It is a form of feudalism. Under the quota system, if a supposedly free American wishes to grow peanuts and sell them to his fellow citizens to eat, he has little choice but to rent a quota from one of the favored few who hold them. He must, in effect, pay a tribute to a quota lord, someone who holds a quota only because his grandfather was growing peanuts in 1941.

TWO-TIER PRICE SUPPORT

In addition to the quota system, the Peanut Program has a unique two-tier price support in which foreigners are allowed to buy American peanuts at one price, while Americans are forced to buy them for another. The result: Americans pay almost 50 percent more for their own peanuts than foreigners do.

Until 1977, the price of virtually all domestically grown peanuts was supported by the Government at a high level. This had the tragic but predictable effect of blowing American peanuts out of potential export markets overseas.

That year, Congress tried to fix the problem. It kept the price support high for all peanuts to be sold inside the United States, but it lowered it for any additional peanuts that were bound for export.

Under this two-tier price support, peanuts for export are grown and sold profitably at about market prices, while peanuts for domestic edible use are sold at prices kept artificially high by the U.S. Government. That means that Americans pay 50 percent more for American peanuts as foreigners pay for American peanuts.

THE CONSUMER IMPACT

The purpose of this system, freely admitted by its supporters, is to create an artificial scarcity of peanuts on the domestic market and drive up consumer food prices. To quote a basic USDA document, "The Federal peanut program supports the price received by farmers and raises the costs of peanuts and peanut products for consumers." The Peanut Program essentially functions like a cartel. It inflates the price of peanuts in much the same way that the OPEC cartel has inflated the price of oil—the main difference being that under the peanut program American consumers are bilked not by wealthy Arab oil sheiks, but by their own Government.

Although it is difficult to measure exactly, the size of this consumer overcharge is in the hundreds of millions of dollars. The USDA estimates that the peanut program raises consumer prices by $190 million annually. It concedes, however, that this is a conservative figure since it does not take into account the costs that the Peanut Program itself imposes on farmers. The Peanut Butter & Nut Processors Association estimates more realistically that the overcharge is $369 million at the wholesale level.

Considering that peanut butter is an important source of protein for our children, particularly children in lower income families, this is no small matter. Without the quota system, consumers could save as much as 40 cents on an 18 ounce jar of peanut butter priced at $1.79. The Federal Government should do a lot of things; forcing our citizens to pay higher prices to feed their children should not be one of them.

THE PEANUT PROGRAM MODERNIZATION ACT

Mr. Speaker, except perhaps for its sheer antiquity, there is no rational justification for continuing this program in its current, anachronistic form. Our legislation will modernize the program by doing two things:

First, it will eliminate the quota system by striking the provisions which authorized it in the Agriculture Adjustment Act of 1938 and the Agriculture Act of 1949. The two-tier price support will not be reauthorized.

Second, in place of this current program, this act will continue to protect peanut farmers by directing the Secretary of Agriculture to support the price of peanuts. The Secretary will do this using the conventional means that are used to support the price of other crops such as soybeans and corn. In setting the price support level, the legislation directs the Secretary to consider a number of factors, including the cost of peanut production and the demand for peanuts. These are factors which traditionally have been used in agriculture policy to arrive at rational levels of support.

Mr. Speaker, the Peanut Program Modernization Act would essentially bring the peanut program into the 1990's by eliminating its depression-era features and making it similar to our other farm program.

I urge my colleagues to support this long overdue reform legislation.

INTRODUCTION OF SUBSTANCE ABUSE TREATMENT CORPS LEGISLATION

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, Representatives BILL GREEN, DAN GLICKMAN, BILL GRANT and I are today introducing a bill to ensure more alcohol and drug abuse treatment personnel, who will work in underserved inner city and rural areas in exchange for Federal financial help with their educational expenses.

The bill adopts the ideas of the National Health Service Corps to address one of the most glaring gaps in our national war on drugs: the fact that six out of seven Americans who seek drug and alcohol rehab services are turned away because of a lack of facilities and qualified personnel. The lack of adequately trained personnel is particularly severe in remote rural regions and our devastated inner cities.

Therefore the legislation proposes to pay up to $20,000 per year of educational expenses for each year of drug and alcohol treatment work in an underserved area. The educational expenses would be expenses for a degree as a medical doctor, psychiatrist, clinical psychologist, physicians assistant, nurse, nurse practitioner, psychiatric nurse, marriage or family therapist, social worker, or a graduate of a school of public health. The underserved regions would be determined by the Secretary and include regions with significant incidence of alcohol and drug abuse and an inadequate availability of such services as measured by a number of criteria.

The bill authorizes $26 million for the new corps. This is a most modest figure, given the magnitude of the problem. But I believe that as the Corps gets started and proves itself, it will soon justify a larger level of support.

Mr. Speaker, study after study has shown that the best, most cost effective way to deal with the drug crisis is through antidrug education, treatment, and rehabilitation. As long as there is a large demand for drugs in our society, some poor peasant in some jungle country will be raising coca and poppies and someone will be smuggling it across our wide open borders—and all the King's men and all the King's horses won't be able to stop that flow. We must destroy the demand for drugs and the reasons for alcohol abuse. I believe the Drug Corps is one way to help dampen the demand.

We have indications of support for this idea from various groups such as the American Psychological Association, the National Association of State Alcohol & Drug Abuse Directors, the American Association for Marriage & Family Therapy, the American Society of Addiction Medicine, and the National Association of Social Workers.

I hope that it may have the early support of this House.

TRIBUTE TO HON. EDWARD J. DERWINSKI

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 congratulate our former colleague and my good friend from Illinois, the Honorable Edward J. Derwinski, Secretary of the Department of Veterans Affairs, who today received the 1990 Distinguished Service Award from the United States Association of Former Members of Congress during a ceremony held in the House Chamber.

Ed is an outstanding American who served with distinction in the House of Representatives from 1959 to 1983, and it was an honor to work with him during the 18 years we served together in Congress. He is most worthy of the recognition he has received, and this award truly reflects the highest respect and admiration with which his former colleagues regard him.

After compiling an admirable record of achievement as a Member of Congress, Ed continued his exemplary career and commitment to our Nation: as counselor of the Department of State; as Under Secretary of State for Security Assistance, Science and Technology; and presently, as the first Secretary of the Department of Veterans Affairs.

Mr. Speaker, again I congratulate Ed on receiving this Distinguished Service Award, and I

extend to him my best wishes as he continues to serve our Nation and our Nation's veterans in devotion to the highest principles.

FIT AND READY TO FIGHT

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

Mr. MONTGOMERY. Mr. Speaker, I want to continue to share with my colleagues a series of articles which appeared in the Roll Call newspaper in the April 30, 1990 edition in a special policy brief, titled "National Guard and Reserves In a Changing World." This brief was developed to describe the roles and missions of the Reserve components and to educate the readers. I wrote the lead article in hope of generating interest by the readers to learn more about the Guard and Reserve. I commend my colleagues to read these articles to gain a better appreciation of the Guard and Reserve. Today I'm sharing another in the series of articles that appeared in that April 30 Roll Call edition.

[From Roll Call, Apr. 30, 1990]

FIT AND READY TO FIGHT

(By John Marsh, Jr.)

Today's National Guard and Reserve units are composed of higher quality personnel, are being more effectively trained, and have more modern equipment than they did 15 years ago.

The Reserve components are better prepared than ever to perform their vital mission: to be ready to fight in the event of mobilization. Even with the fast-moving, highly significant changes taking place throughout the world, this mission will not change substantially in the near future.

Composed of the Army National Guard, Air Force National Guard, Army Reserve, Marine Corps Reserve, Naval Reserve, Air Force Reserve, and Coast Guard Reserve, the Reserve components' capability deters an adversary and maintains peace.

History has proven that a force that is ready to fight is less likely to have to fight.

An important challenge for civilian and military defense planners, in the face of the rapidly changing world situation, is to determine the force mix of the US Armed Forces, while maintaining the high state of readiness of the Reserve components.

At the direction of Congress, a Total Force Study Group, of which I am a member, has been created within the Department of Defense. It is composed of high-level civilian and military leaders from the DoD, Active components, and Reserve components

The findings of this group should greatly influence the force structure of the United States Armed Forces for years to come.

DoD policy is, and will continue to be, to maintain as small an Active peacetime Force as national security policy, military strategy, and overseas commitments allow.

The Active Force should be large enough to deal with low-to-mid-intensity conflicts of short duration without reliance on the Reserve components. Reserve component units and individuals should be prepared to augment active forces as required.

The Reserve components provide a cost-effective means for augmenting the Active Forces and maintaining a strong national defense. Recognizing this, budget makers are likely to try to save dollars, while maintaining capability, by transferring more missions and force structure from the Active to the Reserve components.

The Reserve components stand ready to accept additional responsibilities. However, the added missions and force structure must be adequately resourced, and must be of the type that are best supported within the parameters of Reserve component recruiting, retention, and training.

It must be remembered that Reserve component units are expected to maintain readiness in less than 20 percent of the time available to Active component units. To demand more could adversely impact recruiting and retention. To allow less would hurt readiness.

Another major concern I have about Reserve component readiness is the tendency to think in terms of "equal share" reductions when budget cuts are required. This is particularly inappropriate at a time when additional missions and force structure are being given to the Reserve components.

Reserve component budget reductions should not be made on an automatic equal share basis with the Active components, but on the basis of what best maintains total force capability.

Today's Reserve components are high quality, well equipped, well trained, and ready to fight. Continued attention must be paid to persistent problem areas. Additions to the missions and force structure of the Reserve components must be carefully considered and adequately funded.

Clearly, the Reserve components are going to have greater responsibilities for national security in the years ahead. They deserve the support of Congress in this important endeavor.

MOUNT VERNON'S FINEST

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY of New York. Mr. Speaker, May 13 through May 19 is National Police Week, and I rise today to pay particular tribute to the men and women of the Mount Vernon Police Department. Mayor Ronald A. Blackwood has designated May 18, 1990 as Police Appreciation Day in Mount Vernon, NY. This is a fitting tribute to the men and women in uniform who face danger on a daily basis to make our lives safer.

Law enforcement officers around the Nation are truly our first line of defense against crime. At a time when we are all committed to ending the scourge of drugs and restoring safety to our streets and neighborhoods, we, as a nation, should provide the support our law enforcement officers need and deserve. While we need to increase the resources available to law enforcement, as I am working to do, we also must lend our moral support to those who are working to prevent and respond to crime.

On May 18, the Mount Vernon Police Department will honor several of their members who have distinguished themselves in the performance of their duties and will also pay tribute to civilians who have been instrumental in assisting the Department. This is a most fitting recognition of their dedication and commitment. In addition, a memorial service will be held to honor those who have been struck down in the line of duty. Their lives were lost for their fellow residents whose safety they were protecting. Theirs was the ultimate sacrifice.

The officers who will be honored are:

Lt. Kevin Geberth.
Sgt. Richard Burke, Jr.
Sgt. Michael Carpentieri.
Sgt. John Roland.
Sgt. Joseph Hunce.
Sgt. John DeMascio.
Sgt. Walter Roland.
Detective Karyn Addison.
Detective Robert Caluori.
Detective Joseph Radzinski.
Detective Mario Manganiello.
Detective Davy Rhodes.
Detective Dante Barrera.
Detective Ronald DeVito.
Detective Thomas Gormley.
Detective Kevin Mandel.
Detective James Garcia.
Police officer Salvatore Ardisi.
Police Officer Douglas Beale.
Police officer Larry Bland.
Police officer Michael Gonzalez.
Police officer Thomas Campone.
Police officer Thomas Duffy.
Police officer Albert Fontecchio.
Police officer Lloyd Green.
Police officer Edward Gorman.
Police officer Steven Kelly.
Police officer Matthew Lombardo.
Police officer Robert McMenamin.
Police officer Marcel Olifiers.
Police officer Michael Olifiers.
Police officer Neil Rosenberg.
Police officer Anthony Rozzi.
Police officer Michael Rossetti.
Police officer Mark Sievertsen.
Police officer Anthony Mastrogiorgio.
Police officer Thomas Strauss.
Police officer Courtney Besley.
Police officer Joseph Clark.
Police officer Michael DeGrego.
Police officer Paul Fertig.
Police officer Arthur Glover.
Police officer Roger Bock.
Police officer John Jones.
Police officer Thomas Luisa.
Police officer Gregory Paci.
Police officer Salvatore Nargi.
Police officer Thomas Odell.
Police officer Michael Olivo.
Police officer Rocky Rosado.
Police officer Elio Rucci.
Police officer Richard Veglia.
Police officer Mario Scavelli.
Emergency service dispatcher Emma Baluvelt.
Emergency service dispatcher Richard Brenner.

CIVILIAN AWARDS

Larry Barnes.
Joseph Coniglio.
Firefighter Nicholas Ionta.
Glenory Manderson.
Joseph Mosca.

CONCERN ABOUT FAIRNESS OF ROMANIAN ELECTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from Virginia [Mr. WOLF] is recognized for 30 minutes.

Mr. WOLF. Mr. Speaker, on Sunday, the people of Romania will go to the ballot box for the first time since 1947. But as Romanians prepare to elect new leaders, serious questions are being raised about whether the election will really be as free and fair as was promised by the current leadership, the National Salvation Front [NSF].

CONCERN ABOUT FAIRNESS OF THE ELECTIONS

Former United States Ambassador to Romania David B. Funderburk, joined by several Members of this body, yesterday presented strong and convincing evidence that the upcoming elections would be anything but free and fair.

Ambassador Funderburk said yesterday, and I quote:

For months now, the NSF Communists have controlled the election process through Secret Police intimidation and even beating up opposition candidates; destruction of the only private independent newspapers * * *; monopolizing TV coverage of the elections so that the main opposition parties cannot get on television; and the continued operations of the Secret Police of Ceausescu (which taps telephones, makes threatening calls and harasses and intimidates opposition to the NSF Communists).

An editorial in yesterday's Washington Post carries a similar theme. It reads in part:

When Secretary of State James Baker was in Romania last February, he urged the NSF to disband the Ceausescu regime's notorious security force, the Securitate, and to give the non-Communist opposition parties broader access to the voting public. The NSF has done neither. While the Securitate has receded into the shadows, it is still apparently in operation. While the opposition is able to publish its own newspapers, it is having trouble getting them distributed * * * [t]he government and its supporters have evidently created an atmosphere of intimidation.

THE PRESIDENTIAL DELEGATION TO OBSERVE THE ELECTIONS IN ROMANIA

Yesterday, Mr. Speaker, the White House announced the composition of the Presidential Delegation to Observe the Elections in Romania.

Quite frankly Mr. Speaker, in light of the very serious concerns I just mentioned about the fairness of the election process in Romania, the composition of that group is a major disappointment.

It is a letdown to the people of Romania who fought for freedom in last December's popular uprising.

I have three concerns about the delegation.

COMPOSITION OF THE PRESIDENTIAL DELEGATION

Individually, I am sure that the members President Bush selected are fine members of the community, competent at what they do and I have no qualms about their being included in the Presidential delegation.

My concern is that the delegation does not reflect the balance and expertise one would expect from a delegation to monitor such an important election.

The delegation should have included widely recognized, distinguished experts who could provide balance, diversity, and expertise to complement one another.

At a minimum, any group whose purpose is to monitor an international election should be balanced with members who possess certain basic skills:

A thorough knowledge of the language, culture, politics, and history of the country whose election they are monitoring;

Experience with the electoral process and in monitoring international elections;

Expertise in the area of human rights;

Simply stated, the White House delegation does not reflect that balance. And that sends the wrong message to the people of Romania who have struggled for freedom.

What will the Romanian people think?

The young men and women who took up arms against President Ceasesescu and the Securitate, risking their lives and their families deserve better. They deserve a strong, balanced, experienced delegation.

The people of Timisora who lost family and friends standing up to the Securitate in the name of freedom. They deserve a strong, balanced, experienced delegation.

At the most critical moment in their struggle for freedom, the Romanian people will wonder why the United States delegation to monitor their elections does not reflect greater diversity. Why the members are not names they recognize. Why none are experts in human rights?

TIMING OF APPOINTMENT OF THE DELEGATION

I am also disappointed, Mr. Speaker, that the White House waited until just 4 days before the beginning of the elections to make their selections. This leaves little time for briefings and education to assist in understanding the political dynamics of the country, its language, people, and culture.

The delegation should have been appointed weeks ago so that members would have had time to thoroughly prepare for their mission.

DURATION OF MONITORING ACTIVITIES

Perhaps my most serious concern, however, Mr. Speaker, is that the United States delegation is scheduled to return to the United States before the counting of the ballots in Romania is completed.

The National Salvation Front [NSF], currently in power, has indicated it will take several days to complete counting the ballots. They had originally said it would take 6 days. They originally had said they would not count the ballots for 6 days. The U.S. delegation is set to be back in the United States on May 23.

Prior to the elections in Nicaragua, the Carter Presidential Center outlined what it considered to be the important roles for the elections there. These include:

Being present at polling sites on election day before hand to prepare for the day's election activities;

Observing the voting and counting by going in and out of the polling sites throughout the day;

Receiving copies of the vote tally sheets from randomly selected sample of sites for rapid assessment of the results;

Receiving two copies of the vote tally sheets from each of the polling places for a parallel tabulation of the results;

Conduct appropriate quick counts or paralled vote tabulations;

Exercise unimpeded access to all voting sites;

Witness all voting activities, handling of ballots, and tabulation and transmission of vote counts;

Observe and assist in the day's closing election acts.

Mr. Speaker, granted that these criteria were developed especially for the Nicaraguan election, but the same concepts apply to the Romanian election. Perhaps even more so.

Mr. Speaker, the U.S. delegation will not be able to monitor the counting of the ballots because they will not be there for the whole process. They will not be able to randomly analyze vote tally sheets. They will not be able to conduct parallel tabulations. They will not be able to witness handling of the ballots, tabulations or transmissions of vote counts. They will have already returned to the United States when these activities are completed.

The Carter Center's report concluded that lapses in duties might call into question the integrity of the election.

THE NEED FOR ELECTION MONITORING

Today's New York Times carries an article which explains many of the concerns in the world community about the upcoming Romanian elections.

Opposition party candidates are attacked regularly by unidentified assailants. I was told in a meeting this morning that many of the candidates stay in a different location every night for safety. The Liberal Party presidential candidate, Radu Campeanu, was attacked in a provincial town last week. The New York Times reports that the Peasants Party candidate, Ion Ratiu, has reported similar assaults.

The opposition parties have also had difficulty reaching the people of Romania through the mass media. I have been told that the NSF has deliberately made it difficult if not impossible for the opposition to distribute its

newspapers. First they were told no paper was available. Then no ink. Workers at the printing facility—government controlled—then refused to print the papers and the oppositon was not allowed to obtain a printing press for itself. Once they obtained the printing press electricity and water to the location were cutoff. When they tried to generate their own power, they were told that they were going have to return the building in which they were housed and find a new location.

Similar problems exist regarding access to television. Originally, each party was to have a half hour each on television on a rotating basis. Suddenly, however, overnight over 40 political parties were formed. Most were sympathetic to the NSF and many believe they were formed by the NSF to dilute the ability of the opposition parties to access the electronic media.

With the new parties sharing in available television time, opposition parties would be on the air for one-half hour every 2 months. Hardly enough to get any message across.

As yesterday's Washington Post pointed out, the opposition parties are having trouble getting their messages to the voters. That alone is enough to create concern about the integrity of the elections.

When one considers the additional fact that the NSF does not intend to count the ballots for 3 days, the level of concern grows.

Who will guard the ballots to ensure they are not tampered with? I have been told it will be the army. Does that mean the Securitate, or Romanian Intelligence Service as it is now called, will be involved? Either way, why wait to count the ballots?

CONCERN ABOUT THE PAST

Under the leadership of President Ceausescu, Romania was one of the worst violators of human rights in the world.

They persecuted different religious faiths. Bulldozed synagogues and churches—sometimes with people still in the churches. They beat up a Catholic priest who said that Christmas should be a holiday and later killed him.

They persecuted Hungarians and other minorities.

Freedom of speech, of the press, of religion were all strictly controlled.

Some of the same people who perpetrated these systematic abuses of human rights are the same people who make up the National Salvation Front which now rules Romania and which, many believe, are responsible for the many difficulties the opposition parties in Romania are experiencing.

As the New York Times reported today:

The main objection to the front is that it is filled with former communists who [have] not abandoned either the party's ideology or its old methods.

CONCLUSION

Mr. Speaker, Ambassador Funderburk may be correct when he calls the elections in Romania a sham. There are certainly many concerns being expressed by a wide divergence of sources about the integrity, fairness and openness of the coming elections.

The United States, the symbol of democracy throughout the world, has an obligation—an obligation to the people of Romania who have suffered and fought for freedom—to do what it can to help foster democracy in that country. To ensure the elections are fair and free.

The official delegation, while composed of fine individuals, is not up to that task.

Having been to Romania three times, both before and after the revolution, I feel for the Romanian people and I share in their disappointment.

Perhaps because of the disappointing U.S. response, in the future our Government will have an obligation to be more aggressive in aiding democracy and peace in Romania.

□ 1920

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LOWERY of California (at the request of Mr. MICHEL), from 4 p.m. today, on account of attending a funeral.

Mr. HAMMERSCHMIDT (at the request of Mr. MICHEL), for today, on account of representing the President at the Inauguration of President Lee Teng-Hui of the Republic of Taiwan.

SPECIAL ORDERS GRANTED

My 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. STEARNS) to revise and extend their remarks and include extraneous material:)

Mr. WOLF, for 30 minutes, today.

Mr. GINGRICH, for 60 minutes each day, on May 21, 22, 23, 24, and 25.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mrs. LOWEY, of New York, for 5 minutes, today.

Mr. SKELTON, for 30 minutes, on May 21.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MICHEL (at the request of Mr. BARTLETT) to follow rollcall No. 116, the vote of the LAFALCE amendment, on H.R. 2273, in the Committee of the Whole today.

(The following Members (at the request of Mr. STEARNS) and to include extraneous matter:)

Mr. BUECHNER.
Mr. SCHIFF.
Mr. BROOMFIELD.
Mr. GRADISON.
Mr. PORTER in two instances.
Mr. HORTON.
Mr. GREEN of New York in two instances.
Mr. MOLINARI.
Mrs. MORELLA.
Mr. STANGELAND.
Mr. BLILEY in two instances.
Mr. KYL.
Mr. MARLENEE.
Mr. BLAZ.
Mr. CONTE in four instances.
Mr. MACHTLEY.
Mr. MCEWEN.
Ms. ROS-LEHTINEN.
Mr. WELDON.
Mr. BALLENGER.
Ms. SNOWE.
Mr. LAGOMARSINO.
Mr. MICHEL.
Mr. BURTON of Indiana.
Mr. BROWN of Colorado.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. BONIOR in two instances.
Mr. RANGEL.
Mr. ACKERMAN.
Ms. OAKAR.
Mr. FASCELL in two instances.
Mr. KASTENMEIER.
Mr. STARK in two instances.
Mr. DARDEN.
Mr. SKELTON in two instances.
Mrs. COLLINS.
Mr. ROE in two instances.
Mr. TRAXLER.
Mr. GRAY.
Mr. KOSTMAYER.
Mr. EVANS.
Mr. MCMILLEN of Maryland.
Mr. ATKINS in 20 instances.
Mr. FAZIO in three instances.
Mrs. BOGGS.
Mr. MAVROULES.
Mr. NELSON of Florida.
Mr. GLICKMAN.
Mr. DORGAN of North Dakota.
Mr. BROWN of California.
Mr. STOKES.
Mr. FROST.
Mr. LAFALCE.
Mr. WEISS.
Mr. ROSTENKOWSKI.
Mr. SWIFT.
Mr. ASPIN.
Mr. TRAFICANT.
Mr. PENNY.

Mr. BRYANT.
Mr. TALLON.
Mr. TORRES.

SENATE JOINT RESOLUTION REFERRED

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. 264. Joint resolution to commemorate the 50th anniversary of the National Sheriffs' Association; to the Committee on Post Office and Civil Service.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3910. An act to require the Secretary of Education to conduct a comprehensive national assessment of programs carried out with assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

ADJOURNMENT

Mr. WOLF. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 23 minutes p.m.) under its previous order, the House adjourned until Monday, May 21, 1990, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3197. A letter from the Secretary, Interstate Commerce Commission, transmitting a notification that the Commission in Finance Docket No. 31424, "Acquisition by Tampa Bay & Western Trans., Inc., of CSX Transp., Inc., Line Between Sulphur Springs and Broco, FL" has extended the time period for issuing a final decision by 70 days, pursuant to 49 U.S.C. 11345(e); to the Committee on Energy and Commerce.

3198. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting a notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3199. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting a notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3200. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting a notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3201. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report on the impact of the proposed municipal landfill (Balefill) project on the Newark Valley Aquifer near Bartlett, IL, pursuant to Public Law 100-676, section 47(b) (102 Stat. 4042); to the Committee on Public Works and Transportation.

3202. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on Ecorse Creek Drainage Basin, Wayne County, MI, together with other pertinent reports and comments (H. Doc. No. 101-193); to the Committee on Public Works and Transportation and ordered to be printed.

3203. A letter from the Assistant Secretary of the Army (Civil Works), transmitting recommendations of the Secretary on a report dated Janaury 3, 1989, from the Chief of Engineers, on Rio de la Plata, PR, together with other pertinent reports and comments (H. Doc. No. 101-194); to the Committee on Public Works and Transportation and ordered to be printed.

3204. A letter from the General Counsel, Department of Transportation, transmitting copies of the fiscal year 1991 budget requests of the Federal Aviation Administration to the Department, including requests for "Facilities and Equipment" and "Research, Engineering, and Development," pursuant to 49 U.S.C. app. 2205(f); jointly, to the Committees on Public Works and Transportation and Science, Space, and Technology.

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. DINGELL: Committee on Energy and Commerce. H.R. 3030. A bill to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, the control of toxic air pollutants, the prevention of acid deposition, and other improvements in the quality of the Nation's air, with an amendment; referred to the Committee on Public Works and Transportation and the Committee on Ways and Means for a period ending not later than May 21, 1990, for consideration of such provisions of the bill and amendment as fall within the respective jurisdictions of those committees pursuant to clauses 1(p) and 1(v), Rule X (Rept. 101-490, 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. CONTE:

H.R. 4841. A bill making dire emergency supplemental appropriations for assistance to Panama and Nicaragua and for refugee assistance for the fiscal year ending September 30, 1990, and for other purposes; to the Committee on Appropriations.

By Mr. BRYANT:

H.R. 4842. A bill to prohibit States from participating in any betting or gambling scheme on professional or amateur sporting events; jointly, to the Committees on the Judiciary and Government Operations.

H.R. 4843. A bill to amend title 18, chapter 61, section 1307 to clarify the exemption of State-conducted lotteries; to the Committee on the Judiciary.

H.R. 4844. A bill to amend the Trademark Act of 1946 to protect the service marks of professional sports organizations from misappropriation by State lotteries; to the Committee on the Judiciary.

By Mr. ARMEY (for himself and Mr. JACOBS):

H.R. 4845. A bill to repeal the existing quota and price support program for peanuts and to authorize the Secretary of Agriculture to support the price of peanuts at a level to be determined by the Secretary; to the Committee on Agriculture.

By Mr. BLAZ:

H.R. 4846. A bill to extend the supplemental security income benefits program to residents of Guam, and for other purposes; to the Committee on Ways and Means.

By Mr. BLILEY (for himself, Mr. HOLLAWAY, and Mr. HASTERT):

H.R. 4847. A bill to amend the Public Health Service Act to establish, in the program of block grants under part B of title XIX of such act, a requirement regarding health care for infants with congenital conditions caused by the substance abuse of the mothers of the infants, and for other purposes; to the Committee on Energy and Commerce.

By Mr. COUGHLIN (for himself and Mr. HUGHES):

H.R. 4848. A bill to provide for testing for the use, without lawful authorization, of alcohol or controlled substances by the operators of aircraft, railroads, commercial motor vehicles, and mass transportation vehicles, and for other purposes; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

By Mr. EVANS (for himself, Mr. ROHRABACHER, Mr. STARK, and Mr. DYSON):

H.R. 4849. A bill to amend title 10, United States Code, to authorize the appointment of chiropractors as commissioned officers in the Armed Forces to provide chiropractic care, and to amend title 37, United States Code, to provide special pay for chiropractic officers in the Armed Forces; to the Committee on Armed Services.

By Mr. FAWELL (for himself, Mr. BLILEY, Mr. DONNELLY, Mr. HOLLOWAY, Mr. SMITH of Texas, Mr. MOLLOHAN, Mr. HASTERT, Mr. VISCLOSKY, Mr. WALSH, Mr. SMITH of Vermont, Mr. DREIER of California, Mrs. VUCANOVICH, Mr. MILLER of Washington, and Mr. CHANDLER):

H.R. 4850. A bill to amend part E of title IV of the Social Security Act to prevent abandoned babies from experiencing prolonged foster care where a permanent adoptive home is available; to the Committee on Ways and Means.

By Mr. GRADISON:

H.R. 4851. A bill to reorganize and simplify the financial institution regulatory and deposity insurance structure and provide the Secretary of the Treasury with oversight authority for banking agencies, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. JOHNSON of Connecticut (for herself, Mr. SPRATT, Mr. KASICH, Mr. GUARINI, Mrs. MARTIN of Illinois, Mr. ROWLAND of Connecticut, and Mr. SHAYS):

H.R. 4852. A bill to provide manufacturers deemed critical to the national defense with an incentive to commit capital to invest-

ment in productive equipment, and for other purposes; jointly, to the Committees on Ways and Means and Armed Services.

By Mr. LEHMAN of California (for himself, Mr. LAGOMARSINO, Mr. FAZIO, Mr. CONDIT, and Mr. PASHAYAN):

H.R. 4853. A bill to amend the Reclamation States Drought Assistance Act of 1988 to extend the period of time during which drought assistance may be provided by the Secretary of the Interior, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. LLOYD (for herself, Mr. STALLINGS, Mr. MORRISON of Washington, and Mr. FAWELL):

H.R. 4854. A bill to establish a national advanced civilian reactor research, development, and demonstration program to make available new, improved, and economical nuclear energy generation units, and to give strategic focus to existing programs in nuclear fission research at the Department of Energy; to the Committee on Science, Space, and Technology.

By Mr. PEASE:

H.R. 4855. A bill to amend the Solid Waste Disposal Act and the Toxic Substances Control Act to require the Administrator of the Environmental Protection Agency, in determining whether to issue a permit for a hazardous waste facility or to issue an approval for the incineration of polychlorinated biphenyls, to consider an applicant's record in owning or operating other hazardous waste facilities or incineration facilities; to the Committee on Energy and Commerce.

H.R. 4856. A bill to amend the Solid Waste Disposal Act to authorize the Environmental Protection Agency to award grants to groups for technical assistance to oppose the issuance of permits under that act; to the Committee on Energy and Commerce.

By Mr. PENNY (for himself, Mr. TALLON, Mr. JOHNSON of South Dakota, Mr. DORGAN of North Dakota, Mr. GRANDY, Mr. STALLINGS, and Mr. TAUKE):

H.R. 4857. A bill to amend the Consolidated Farm and Rural Development Act to provide credit assistance to qualified beginning farmers and ranchers, and for other purposes; to the Committee on Agriculture.

By Mr. RICHARDSON (for himself and Mr. TOWNS):

H.R. 4858. A bill to amend the Communications Act of 1934 to assure equal employment opportunities are afforded by radio and television broadcasting stations; to the Committee on Energy and Commerce.

By Mr. RITTER (for himself, Mr. CAMPBELL of California, Mr. DELAY, Mr. HILER, Mr. HYDE, Mr. BOEHLERT, Mr. BUECHNER, Mr. INHOFE, Mr. BARTLETT, Mr. HASTERT, Mr. PAXON, Mr. LIVINGSTON, Mr. LEWIS of California, Mr. WALKER, and Mr. LENT):

H.R. 4859. A bill to amend the Internal Revenue Code of 1986 to provide a variable capital gains deduction and to index the basis of capital assets; to the Committee on Ways and Means.

By Mr. RITTER (for himself, Mr. CAMPBELL of California, Mr. DELAY, Mr. HYDE, Mr. BOEHLERT, Mr. BUECHNER, Mr. INHOFE, Mr. BARTLETT, Mr. HASTERT, Mr. PAXON, Mr. LIVINGSTON, Mr. LEWIS of California, Mr. WALKER, and Mr. LENT):

H.R. 4860. A bill to amend the Internal Revenue Code of 1986 to encourage investments in new manufacturing equipment by allowing an investment tax credit for such investments; to the Committee on Ways and Means.

H.R. 4861. A bill to amend the Internal Revenue Code of 1986 to encourage investments in manufacturing companies by providing special treatment for losses on such investments; to the Committee on Ways and Means.

By Mr. RITTER (for himself, Mr. CAMPBELL of California, Mr. DELAY, Mr. HILER, Mr. HYDE, Mr. BOEHLERT, Mr. BUECHNER, Mr. INHOFE, Mr. BARTLETT, Mr. HASTERT, Mr. PAXON, Mr. LIVINGSTON, Mr. LEWIS of California, Mr. WALKER, and Mr. LENT):

H.R. 4862. A bill to amend the Internal Revenue Code of 1986 to provide a partial exclusion of dividends and interests received by individuals; to the Committee on Ways and Means.

By Mr. ROYBAL (for himself and Ms. OAKAR):

H.R. 4863. A bill to provide for an intensified national effort to improve the health and enhance the independence of older Americans through research, training, treatment, and other means, and for other purposes; to the Committee on Energy and Commerce.

By Ms. SNOWE (for herself, Mr. DOWNEY, Mr. DONNELLY, Mrs. JOHNSON of Connecticut, Mr. PAYNE of New Jersey, Mrs. SAIKI, Mrs. LLOYD, Mrs. SCHROEDER, Ms. LONG, Mr. RINALDO, Mrs. UNSOELD, Mr. STAGGERS, Mrs. BOXER, Ms. OAKAR, Mrs. MORELLA, and Mrs. VUCANOVICH):

H.R. 4864. A bill to amend the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders, and other purposes; to the Committee on Energy and Commerce.

By Ms. SNOWE (for herself, Mr. DONNELLY, Mr. DOWNEY, Mr. PAYNE of New Jersey, Mrs. SAIKI, Mrs. LLOYD, Mrs. SCHROEDER, Ms. LONG, Mr. RINALDO, Mrs. UNSOELD, Mr. STAGGERS, Mrs. BOXER, Ms. OAKAR, and Mrs. VUCANOVICH):

H.R. 4865. A bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certain individuals under part B of the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. SOLOMON (for himself, Mr. MARKEY, Mr. ROSE, and Mr. SCHULZE):

H.R. 4866. A bill to deny the People's Republic of China most-favored-nation trade treatment; to the Committee on Ways and Means.

By Mr. STANGELAND (by request):

H.R. 4867. A bill entitled, "Water Resources Development Act of 1990"; jointly, to the Committees on Public Works and Transportation and Ways and Means.

By Mr. STARK (for himself, Mr. GREEN, Mr. GLICKMAN, and Mr. GRANT):

H.R. 4868. A bill to amend the Public Health Service Act to establish a Substance Abuse Treatment Corps; to the Committee on Energy and Commerce.

By Mr. TAYLOR (for himself, Mr. HARRIS, Mr. MONTGOMERY, Mr. BROWDER, Mr. PARKER, Mrs. LLOYD, Mr. HALL of Texas, Mr. JONES of Georgia, Mr. WATKINS, Mr. HAYES of Louisiana, Mr. HUCKABY, Mr. PICKETT, Mrs. BYRON, Mr. LANCASTER, Mr. RAY, Mr. GEREN, Mr. DYSON, Mr. STENHOLM, Mr. LAUGHLIN, Mr. PAYNE of Virginia, Mr. TAUZIN, Mrs. UNSOELD, Mrs. PATTERSON, and Mr. BENNETT):

H.R. 4869. A bill to amend chapter 11 of title 31, United States Code, to require that the budget submitted by the President be in balance; to the Committee on Govermnent Operations.

By Mr. WILSON:

H.R. 4870. A bill to amend the Internal Revenue Code of 1986 to make it easier for tax-exempt bonds to be issued to provide electric power facilities for rural areas; to the Committee on Ways and Means.

By Mrs. COLLINS (for herself, Mrs. MORELLA, Mr. WAXMAN, Mr. MOAKLEY, Mrs. BOXER, Ms. PELOSI, Mr. WYDEN, Mr. RINALDO, Mrs. VUCANOVICH, Ms. SLAUGHTER of New York, Mr. RICHARDSON, Mr. BILIRAKIS, Mrs. UNSOELD, Mrs. SAIKI, Mr. WALGREN, Mr. FAZIO, Mrs. BOGGS, Ms. MOLINARI, Mr. MYERS of Indiana, Mr. BOSCO, Mrs. BYRON, Mrs. BENTLEY, Mr. SCHULZE, Mr. MCGRATH, Ms. OAKAR, Mrs. MARTIN of Illinois, Mr. GALLO, and Mr. CHANDLER):

H.J. Res. 570. Joint resolution designating October 1990 as "National Breast Cancer Awareness Month"; to the Committee on Post Office and Civil Service.

By Ms. OAKAR (for herself, Mr. BLILEY, Mr. HARRIS, Mr. HORTON, Mrs. JOHNSON of Connecticut, Ms. KAPTUR, Mr. LAFALCE, Mr. LEHMAN of Florida, Mr. MCNULTY, and Mr. VALENTINE):

H.J. Res. 571. Joint resolution designating 1991 as the "Year of the Lifetime Reader"; to the Committee on Post Office and Civil Service.

By Mr. RICHARDSON:

H.J. Res. 572. Joint resolution to designate May 17, 1991, as "High School Reserve Officer Training Corps Recognition Day"; to the Committee on Post Office and Civil Service.

By Mrs. MORELLA:

H. Con. Res. 331. Concurrent resolution calling for the maximum participation by the Organization for Economic Cooperation and Development in assisting the transition of Eastern European countries to free market democracies; to the Committee on Foreign Affairs.

By Mr. DORGAN of North Dakota (for himself, Mr. HALL of Ohio, Mr. MRAZEK, Mrs. MORELLA, and Mr. LEACH of Iowa):

H. Res. 396. Resolution expressing the sense of the House of Representatives that the Peace Corps should develop a business persons volunteer program for Eastern Europe to assist emerging democracies there in business and agriculture; to the Committee on Foreign Affairs.

By Mr. SCHUETTE:

H. Res. 397. Resolution to recognize the independence of Lithuania; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

391. The SPEAKER presented a memorial of the Assembly of the State of California, relative to Amerasian refugee family reunification; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. JONES of North Carolina introduced a bill (H.R. 4871) to authorize coastwise documentation for the vessel *Rough Point;* to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Mr. SERRANO.

H.R. 39: Mr. ROWLAND of Connecticut.

H.R. 66: Mr. SHARP.

H.R. 173: Mr. CRANE, Mrs. VUCANOVICH, Mrs. MARTIN of Illinois, Mr. CLARKE, Mr. HOUGHTON, Ms. PELOSI, and Mr. JONTZ.

H.R. 211: Mr. BROWDER.

H.R. 220: Mrs. BYRON, Mr. LAGOMARSINO, Mr. CROCKETT, Mr. VALENTINE, Mr. HORTON, Mrs. LLOYD, Mr. FOGLIETTA, and Mr. OWENS of Utah.

H.R. 222: Mr. LEHMAN of Florida.

H.R. 446: Mr. HUCKABY.

H.R. 467: Mr. GEPHARDT, Mr. SYNAR, and Mr. UDALL.

H.R. 796: Mr. PAYNE of Virginia, Mr. PERKINS, Mr. MRAZEK, and Mr. GOODLING.

H.R. 851: Mr. CAMPBELL of California.

H.R. 931: Mr. LEVINE of California.

H.R. 1636: Mr. CAMPBELL of California, Mr. DELAY, Mr. HILER, Mr. HYDE, Mr. BOEHLERT, Mr. BUECHNER, Mr. INHOFE, Mr. BARTLETT, Mr. HASTERT, Mr. PAXON, Mr. LIVINGSTON, Mr. LEWIS of Calfiornia, Mr. WALKER, and Mr. LENT.

H.R. 1899: Mrs. SCHROEDER, Mr. SCHEUER, Mr. PAYNE of New Jersey, and Mr. RANGEL.

H.R. 2025: Mr. FUSTER, Mr. SOLARZ, Mr. MANTON, and Mr. LANTOS.

H.R. 2168: Mr. OBERSTAR, Mr. PERKINS, and Mr. MARTINEZ.

H.R. 2174: Mr. HORTON, Mr. TOWNS, Mr. BLAZ, and Mr. MICHEL.

H.R. 2270: Mr. JAMES and Mr. MCNULTY.

H.R. 2353: Mr. PAYNE of Virginia.

H.R. 2380: Mr. HYDE.

H.R. 2418: Mr. HAMILTON and Mr. DURBIN.

H.R. 2437: Mrs. BENTLEY, Mr. GREEN, Mr. HOUGHTON, Mr. MCHUGH, Mr. JACOBS, Mr. MACHTLEY, and Mr. OWENS of New York.

H.R. 2584: Mr. KILDEE.

H.R. 2596: Mr. WILSON, Mr. WHEAT, and Mr. HORTON.

H.R. 2700: Mr. MORRISON of Washington.

H.R. 2852: Mr. SHAYS and Mr. MARKEY.

H.R. 2951: Mr. ROE and Mrs. SCHROEDER.

H.R. 2952: Mr. ROE and Mrs. SCHROEDER.

H.R. 3004: Mr. CLEMENT, Mr. MCCLOSKEY, and Mr. SCHEUER.

H.R. 3037: Mr. FAZIO.

H.R. 3098: Mr. TRAFICANT.

H.R. 3205: Mr. WOLPE.

H.R. 3243: Mr. JONES of Georgia and Mr. HARRIS.

H.R. 3280: Mr. KANJORSKI, Mr. CONDIT, Mr. FISH, Mr. CLEMENT, Mr. THOMAS of Wyoming, Mr. MILLER of Washington, Ms. OAKAR, and Mrs. SCHROEDER.

H.R. 3500: Mr. CLARKE.

H.R. 3651: Mr. FLIPPO.

H.R. 3732: Mr. DICKINSON, Mr. HOLLOWAY, Mr. BRENNAN, Mr. STENHOLM, Mr. DUNCAN, Mr. HAMMERSCHMIDT, Mr. OLIN, and Mr. SKEEN.

H.R. 3733: Mr. THOMAS A. LUKEN, Mr. COLEMAN of Texas, Mr. MARTINEZ, Mr. DYMALLY, Mr, OBERSTAR, Mr. BORSKI, Mr. MCNULTY, Mr. WEISS, Mr. DORGAN of North Dakota, and Mr. KOLTER.

H.R. 3756: Mrs. MARTIN of Illinois.

H.R. 3800: Mr. LENT, Mr. DORGAN of North Dakota, Ms. SNOWE, Mr. MCMILLEN of Maryland, Mr. MOODY, Mrs. BENTLEY, Mr. UPTON, Mr. CAMPBELL of Colorado, Mr. SAXTON, and Mr. ROWLAND of Georgia.

H.R. 3813: Mr. CAMPBELL of California, Mr. DELAY, Mr. HILER, Mr. HYDE, Mr. BOEHLERT, Mr. BUECHNER, Mr. INHOFE, Mr. BARTLETT, Mr. HASTERT, Mr. PAXON, Mr. LIVINGSTON, Mr. LEWIS of California, Mr. WALKER, and Mr. LENT.

H.R. 3836: Mrs. MARTIN of Illinois, Mr. GORDON, Mr. STALLINGS, Mr. GOODLING, Mr. JOHNSON of South Dakota, and Mrs. PATTERSON.

H.R. 3859: Mr. LEACH of Iowa.

H.R. 3880: Mr. MRAZEK.

H.R. 3914: Mr. SOLARZ, Mr. SMITH of Vermont, Mr. PETRI, Mr. BILIRAKIS. Mr. PAYNE of New Jersey, Mr. GIBBONS, Ms. SNOWE, Mr. MCCOLLUM, Mr. SKEEN, Mr. PANETTA, Mr. PERKINS, Mr. VOLKMER, and Mrs. VUCANOVICH.

H.R. 3929: Mr. VALENTINE, Mr. CHAPMAN, and Mr. PARKER.

H.R. 3932: Ms. KAPTUR, Mrs. BOXER, Mr. BEILENSON, Mr. SABO, Mr. BRYANT, Mr. KILDEE, Mr. ESPY, Mr. NOWAK, Mr. FUSTER, Mr. FAZIO, Mr. KASTENMEIER, Mr. DWYER of New Jersey, Mr. ROYBAL, Mrs. SCHROEDER, and Mr. GEJDENSON.

H.R. 3936: Mr. SKELTON, Mr. HALL of Ohio, Ms. LONG, Mr. LAFALCE, Mr. TRAXLER, Mr. BRYANT, Mr. FEIGHAN, Mr. PAYNE of New Jersey, Mr. WEISS, Mr. SERRANO, and Mr. DOWNEY.

H.R. 3973: Mr. ROHRABACHER.

H.R. 3978: Mr. VALENTINE and Mr. WAXMAN.

H.R. 3979: Mr. MFUME.

H.R. 4001: Mr. MCCOLLUM and Mr. OWENS of New York.

H.R. 4003: Mr. MILLER of Ohio.

H.R. 4059: Mr. ATKINS, Mr. THOMAS A. LUKEN, Mr. POSHARD, and Ms. SLAUGHTER of New York.

H.R. 4065: Mr. HOCHBRUECKNER.

H.R. 4079: Ms. MOLINARI and Mr. ROHRABACHER.

H.R. 4108: Mr. HEFLEY.

H.R. 4121: Mrs. PATTERSON.

H.R. 4138: Mr. LANCASTER, Mrs. BOXER, and Mr. JONTZ.

H.R. 4144: Mr. SIKORSKI, Mr. NAGLE, and Mrs. BOXER.

H.R. 4146: Mr. ROHRABACHER.

H.R. 4147: Mr. HORTON.

H.R. 4254: Mr. LANCASTER.

H.R. 4262: Mr. JENKINS.

H.R. 4286: Mr. CLINGER.

H.R. 4292: Mr. RITTER, Mr. ASPIN, Mrs. MEYERS of Kansas, Mr. SHUMWAY, Mr. BLILEY, Mrs. BOXER, and Mr. KOLBE.

H.R. 4300: Mr. FAZIO and Mr. STUDDS.

H.R. 4319: Mrs. PATTERSON, Mrs. COLLINS, Mr. TOWNS, Mr. TANNER, Mr. HORTON, Mr. SLATTERY, and Mr. WISE.

H.R. 4334: Mr. TALLON.

H.R. 4389: Mr. FLIPPO, Mr. MCGRATH, Mr. SUNDQUIST, Mr. JENKINS, and Mr. MATSUI.

H.R. 4393: Mr. RAVENEL.

H.R. 4407: Mr. BEVILL, Mr. HARRIS, Mr. FAUNTROY, Mr. HORTON, Ms. PELOSI, Mr. PALLONE, Mr. FOGLIETTA, Mr. HYDE, Mr. CONDIT, Mr. WALSH, Mr. POSHARD, Mr. KOLTER, Mr. ECKART, Mr. FROST, Mr. CAMPBELL of Colorado, Mr. FAZIO, and Mr. ROWLAND of Georgia.

H.R. 4460: Mr. CLAY, Mr. SAWYER, Mr. BOUCHER, and Mr. RIDGE.

H.R. 4462: Mr. EDWARDS of California, Mr. ANDERSON, Mr. ROYBAL, Mr. WAXMAN, Mr. BEILENSON, Mr. FAZIO, Mr. LEHMAN of Florida, Mr. PANETTA, Mr. MILLER of California, Mr. BERMAN, Ms. PELOSI, Mrs. BOXER, and Mr. FAUNTROY.

H.R. 4484: Mr. OWENS of Utah and Mr. ROE.

H.R. 4485: Mr. BLILEY, Mrs. MARTIN of Illinois, and Mrs. VUCANOVICH.

H.R. 4492: Mr. PEASE, Mr. SHAYS, Mr. MACHTLEY, Mr. WOLPE, Mr. CAMPBELL of California, Mr. SMITH of Vermont, and Mr. DURBIN.

H.R. 4494: Mr. ENGEL, Mr. BILBRAY, Mr. HANSEN, Mr. RIDGE, Mr. CALLAHAN, Mr. ROWLAND of Georgia, and Mr. SKELTON.

H.R. 4512: Mr. DORGAN of North Dakota, Mr. DE LA GARZA, and Mr. MCGRATH.

H.R. 4520: Mr. THOMAS A. LUKEN and Mr. GAYDOS.

H.R. 4563: Mr. MANTON, Mr. TRAFICANT, Mr. PENNY, Mr. RANGEL, Mr. SMITH of Vermont, Mr. SHAYS, Mr. MYERS of Indiana, Mr. CROCKETT, Mr. NEAL of North Carolina, Mr. HARRIS, Mr. GEREN, and Mr. WOLPE.

H.R. 4573: Mr. DWYER of New Jersey, Mr. EVANS, Mr. STEARNS, and Mr. LAGOMARSINO.

H.R. 4578: Mr. PENNY, Mr. TOWNS, and Mr. DIXON.

H.R. 4595: Mr. FOGLIETTA.

H.R. 4597: Mr. WILSON.

H.R. 4641: Mr. TRAFICANT, Mr. LIGHTFOOT, Mr. BUNNING, and Mr. NOWAK.

H.R. 4659: Mr. ENGEL, Mr. HENRY, Mr. JAMES, and Mr. HUGHES.

H.R. 4683: Mr. FRENZEL, Mr. STANGELAND, Mr. PACKARD, Mr. JONES of Georgia, Mr. YOUNG of Alaska, Ms. MOLINARI, Mr. SCHIFF, Mr. BILIRAKIS, Mr. GILLMOR, Mr. SCHAEFER, Mr. MACHTLEY, Mr. HANSEN, Mr. DARDEN, Mrs. VUCANOVICH, Mr. BLAZ, Mr. WILSON, Mr. SMITH of Vermont, Mr. RAVENEL, Mr. ROBERTS, Mr. MICHEL, Mr. VOLKMER, and Mr. ROWLAND of Connecticut.

H.R. 4690: Mr. THOMAS A. LUKEN, Mr. LANCASTER, Mr. PAXON, Mr. WALSH, Mr. SOLOMON, and Mr. NOWAK.

H.R. 4729: Mr. DREIER of California, Mr. DANNEMEYER, Mr. MADIGAN, Mr. LAGOMARSINO, and Mr. PACKARD.

H.R. 4795: Mr. JONTZ and Ms. PELOSI.

H.R. 4810: Mr. MADIGAN, Mr. TAUKE, and Mr. MANTON.

H.R. 4816: Mr. SMITH of Iowa, Mr. LANCASTER, Mr. BAKER, Mr. NEAL of Massachusetts, and Mr. OLIN.

H.J. Res. 452: Mrs. MORELLA, Mr. MILLER of Ohio, Mr. DYMALLY, Mr. YOUNG of Alaska, Mr. SCHAEFER, Mr. PURSELL, Mr. DIXON, Mrs. UNSOELD, Mr. WEISS, Mr. FEIGHAN, Mr. MURPHY, Mr. SARPALIUS, and Mr. PAYNE of New Jersey.

H.J. Res. 464: Mr. RICHARDSON.

H.J. Res. 467: Mr. HOCHBRUECKNER, Mr. ECKART, Mr. SCHAEFER, and Mr. MOORHEAD.

H.J. Res. 493: Mr. BOSCO, Mr. DIXON, Mr. GALLEGLY, Mr. LAGOMARSINO, Mr. MOORHEAD, Mr. MORRISON of Connecticut, Mr. BILIRAKIS, Mr. GRANT, Mr. ANNUNZIO, Mr. FAWELL, Mr. HYDE, Mr. RUSSO, Mr. JONTZ, Mrs. BENTLEY, Mr. DAVIS, Mr. PURSELL, Mr. VANDER JAGT, Mr. SMITH of New Hampshire, Mr. DWYER of New Jersey, Mr. RINALDO, Mr. DANNEMEYER, Mr. DORNAN of California, Mr. HUNTER, Mr. LEVINE of California, Mrs. JOHNSON of Connecticut, Mr. FAUNTROY, Mr. GOSS, Mr. MCCOLLUM, Mr. CRANE, Mr. HASTERT, Mrs. MARTIN of Illinois, Mr. JACOBS, Ms. SNOWE, Mr. FRANK, Mr. FORD of Michigan, Mr. TRAXLER, Mr. WEBER, Mr. COURTER, Mr. PAYNE of New Jersey, Mr. SAXTON, Mr. TORRICELLI, Mr. MCHUGH, Mr. MANTON, Mr. MRAZEK, Mr. NEAL of North Carolina, Mr. KASICH, Mr. SYNAR, Mr. QUILLEN, Mr. SISISKY, Mr. BATEMAN, Mr. SCHEUER, Mr. BUSTAMANTE, Mr. ACKERMAN, Mr. ANDERSON, Mr.

BENNETT, Mr. BORSKI, Mrs. BOXER, Mr. ECKART, Mr. KENNEDY, Mr. BROOMFIELD, Mr. HORTON, Mr. MCNULTY, Mr. MARTIN of New York, Mr. WALSH, Mr. DEWINE, Mr. WYLIE, Mr. COUGHLIN, Mr. BLILEY, Mr. MILLER of Washington, Mr. ENGEL, Mr. STARK, Mr. MARTINEZ, Mr. APPLEGATE, Mr. COX, Mr. FROST, Mr. MORRISON of Washington, Mr. WOLF, Mr. MICHEL, Mr. GORDON, Mr. WOLPE, Mr. KLECZKA, Mr. EVANS, Mr. MOAKLEY, Mr. HILER, Mr. DURBIN, Mr. FUSTER, Mr. ROWLAND of Connecticut, Mr. BATES, Mr. DINGELL, Mr. INHOFE, Mr. KOSTMAYER, Mr. TOWNS, Mr. PANETTA, Mr. MOODY, Mr. PRICE, Mr. HENRY, Mr. CARR, Mrs. ROUKEMA, Mr. NOWAK, Mr. CONYERS, Mr. HAWKINS, Mr. KILDEE, Mr. YATRON, Mr. MCDADE, Mr. BROWDER, Mr. SMITH of New Jersey, Mr. BRENNAN, Mr. DONNELLY, Mr. HAYES of Illinois, Mr. HARRIS, Mr. PACKARD, Mr. SCHAEFER, Mr. GEKAS, Mr. DARDEN, Ms. OAKAR, Mr. OWENS of New York, Mr. ROE, Mr. JONES of North Carolina, Mr. DORGAN of North Dakota, Mr. GALLO, Mr. SAWYER, Mr. GILMAN, Mr. VENTO, Mr. TAUKE, Mr. ANTHONY, and Mr. FALEOMAVAEGA.

H.J. Res. 517: Mr. SPRATT, Mrs. BOGGS, Mr. DEWINE, Mr. BATES, Mr. DIXON, Mr. CRAIG, Mr. BUNNING, Mr. CRANE, Mr. FIELDS, Mr. CALLAHAN, Mr. GALLEGLY, Mr. ARCHER, Mr. DONALD E. LUKENS, Mr. MADIGAN, Mr. MYERS of Indiana, Mr. PARRIS, Mr. PERKINS, Mr. LENT, and Mrs. VUCANOVICH.

H.J. Res. 519: Mr. WAXMAN.

H.J. Res. 523: Mr. KASTENMEIER and Mr. WOLPE.

H.J. Res. 530: Ms. LONG, Mrs. COLLINS, Mr. FORD of Tennessee, Mr. STOKES, Mr. HUCKABY, Mr. BERMAN, Mr. MRAZEK, Mr. APPLEGATE, Mr. FROST, Mr. GUARINI, Mr. RAHALL, Mr. MARTINEZ, Mr. JONTZ, Mr. DWYER of New Jersey, Mr. SPENCE, Mr. PICKETT, Mr. SAWYER, Mrs. PATTERSON, Mr. MFUME, Ms. KAPTUR, Mr. HERTEL, Mr. PRICE, Ms. PELOSI, Mr. LEVINE of California, Mr. HAMMERSCHMIDT, Mr. BOSCO, Mr. BOUCHER, Mr. BROOKS, Mr. CARDIN, Mr. CARPER, Mr. CARR, Mr. CLARKE, Mr. CLAY, Mr. CLEMENT, Mr. CONYERS, Mr. COOPER, Mr. COURTER, Mr. CROCKETT, Mr. DARDEN, Mr. DIXON, Mr. EMERSON, Mr. ESPY, Mr. FALEOMAVAEGA, Mr. FUSTER, Mr. GORDON, Mr. HAMILTON, Mr. HEFNER, Mr. HOCHBRUECKNER, Mr. HUTTO, Mr. HYDE, Mr. JACOBS, Mr. KILDEE, Mr. LEHMAN of Florida, Mr. LEVIN of Michigan, Mr. LIPINSKI, Mrs. LOWEY of New York, Mr. MATSUI, Mr. MCEWEN, Mr. MCNULTY, Mr. MILLER of California, Mrs. MORELLA, Mr. MURPHY, Mr. OBERSTAR, Mr. OWENS of Utah, Mr. PALLONE, Mr. PAYNE of Virginia, Mr. POSHARD, Mr. RAVENEL, Mr. RINALDO, Mr. ROBINSON, Mr. ROSE, Mr. SANGMEISTER, Mr. SARPALIUS, Mr. SAVAGE, Mrs. UNSOELD, Mr. WASHINGTON, Mr. DELLUMS, Mr. DYMALLY, Mr. FLAKE, Mr. GRAY, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. LEWIS of Georgia, Mr. TOWNS, Mr. SERRANO, Mr. WHEAT, Mr. WOLPE, Mr. BROWDER, Mr. MONTGOMERY, Mr. PERKINS, Mr. FLIPPO, Mr. TRAFICANT, Mr. STAGGERS, Mr. DE LUGO, Mr. ECKART, Ms. SLAUGHTER of New York, Mr. MORRISON of Washington, Mr. DENNY SMITH, Mr. TORRICELLI, Mr. ENGEL, Mr. KENNEDY, Mr. BATES, Mr. SISISKY, Mr. TALLON, Mr. DERRICK, Mr. LAFALCE, Mr. RICHARDSON, Mr. CHANDLER, Mr. LANCASTER, Mr. GINGRICH, Mr. WALSH, and Mr. GONZALEZ.

H.J. Res. 533: Mr. POSHARD, Mrs. MORELLA, Mr. CONYERS, Mrs. BYRON, Mr. APPLEGATE, Mr. PICKETT, Mr. JONES of North Carolina, and Mr. EDWARDS of California.

H.J. Res. 534: Mr. ESPY and Mrs. COLLINS.

H.J. Res. 536: Mr. CRANE.

H.J. Res. 540: Mr. RAVENEL, Mr. VOLKMER, Mr. JONES of North Carolina, Mr. SCHAEFER, and Mr. OWENS of New York.

H.J. Res. 554: Mr. RAY, Mr. HAYES of Louisiana, Mr. FOGLIETTA, Mr. CHAPMAN, Mr. STALLINGS, Mr. PAYNE of New Jersey, and Mr. LANTOS.

H.J. Res. 560: Mr. HANCOCK and Mr. WILSON.

H.J. Res. 561: Mr. MACHTLEY, Ms. OAKAR, and Mr. VALENTINE.

H.J. Res. 566: Mr. MACHTLEY, Mr. HUGHES, Mr. BLAZ, Mr. DIXON, Mr. HUTTO, Mr. LANCASTER, Mrs. BOXER, Mr. HYDE, Mr. EVANS, Mr. SCHAEFER, Mr. PARKER, and Mr. BUSTAMANTE.

H. Con. Res. 172: Mr. ROE and Mrs. SCHROEDER.

H. Con. Res. 178: Mr. BERMAN, Mr. BRYANT, Mr. GEJDENSON, Mr. SPENCE, and Mr. KOSTMAYER.

H. Con. Res. 247: Mrs. BENTLEY, Mr. BRYANT, Mr. COURTER, Mr. DORNAN of California, Mr. FAUNTROY, Mr. FAZIO, Mr. FOGLIETTA, Mr. GOSS, Mr. GRANT, Mr. HORTON, Mr. JAMES, Mr. LENT, Mr. LEWIS of Florida, Mrs. LLOYD, Mr. MCNULTY, Mr. PAYNE of New Jersey, Mr. PENNY, and Mr. SENSENBRENNER.

H. Con. Res. 252: Mr. GIBBONS.

H. Con. Res. 265: Mr. BAKER and Mr. ECKART.

H. Con. Res. 276: Mrs. COLLINS, Mr. SCHEUER, Mr. GOODLING, Mr. NEAL of North Carolina, Mrs. JOHNSON of Connecticut, Mr. HAYES of Louisiana, Mr. ATKINS, Mr. SKELTON, Mr. EVANS, Mr. CLEMENT, Mr. VALENTINE, Mr. MCHUGH, and Mrs. VUCANOVICH.

H. Con. Res. 280: Mr. SAXTON, Mr. GOSS, Mr. YATRON, Ms. SCHNEIDER, Mr. SMITH of Florida, Mr. SANGMEISTER, Ms. LONG, Mr. EVANS, Mr. JOHNSTON of Florida, Mr. RINALDO, Mr. MOAKLEY, Mrs. SCHROEDER, Mr. CARPER, Mr. SCHAEFER, Mr. CRANE, and Mr. WEISS.

H. Con. Res. 291: Mr. CAMPBELL of California, Mr. BUECHNER, Mr. MACHTLEY, and Mr. MARTIN of New York.

H. Con. Res. 315: Mr. BOEHLERT, Mr. FAUNTROY, Mr. RAHALL, Mr. DYMALLY, Mr. FORD of Tennessee, Mr. KILDEE, Mr. CARPER, Mr. CROCKETT, and Mr. HAWKINS.

H. Con. Res. 316: Mr. LANTOS, Mr. ALEXANDER, Mr. ASPIN, Mr. STOKES, Mr. JONTZ, Mr. DORGAN of North Dakota, Mr. KLECZKA, and Mr. CONYERS.

H. Con. Res. 325: Mr. GILMAN and Mr. BURTON of Indiana.

H. Res. 41: Mr. GEREN.

H. Res. 134: Mr. HEFNER and Mr. QUILLEN.

H. Res. 351: Mr. SCHUETTE and Mr. BAKER.

H. Res. 380: Mr. DORNAN of California, Mr. DEWINE, Mr. JAMES, Mr. DE LUGO, Mr. WOLF, and Mr. JONTZ.

H. Res. 387: Mr. RAY, Mr. BALLENGER, Mr. HANCOCK, Mr. THOMAS of Wyoming, and Mr. BOEHLERT.